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NOMINATIONS OF SANTANU K. BARUAH; GEORGE M. GRAY; LYONS GRAY; H. DALE HALL; AND EDWARD McGAFFIGAN, JR.

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

ON

SANTANU "SANDY" J., BARUAH, TO BE ASSISTANT SECRETARY OF COMMERCE FOR ECONOMIC DEVELOPMENT

GEORGE M. GRAY, TO BE ASSISTANT ADMINISTRATOR, OFFICE OF RESEARCH AND DEVELOPMENT, ENVIRONMENTAL PROTECTION AGENCY

LYONS GRAY, TO BE CHIEF FINANCIAL OFFICER, ENVIRONMENTAL PROTECTION AGENCY

H. DALE HALL, TO BE DIRECTOR, FISH AND WILDLIFE SERVICE

EDWARD McGAFFIGAN, JR., TO BE MEMBER OF THE NUCLEAR REGULATORY COMMISSION

SEPTEMBER 22, 2005

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ONE HUNDRED NINTH CONGRESS
FIRST SESSION

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NOMINATIONS OF SANTANU K. BARUAH; GEORGE M. GRAY; LYONS GRAY; H. DALE HALL; AND EDWARD McGAFFIGAN, JR.

THURSDAY, SEPTEMBER 22, 2005

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 2:30 p.m. in room 406, Senate Dirksen Building, Hon. James M. Inhofe (chairman of the committee) presiding.

Present: Senators Inhofe, Chafee, Thune and Jeffords.

Also present: Senators Burr, Domenici and Smith.

Senator INHOFE. Senator Burr.

STATEMENT OF HON. RICHARD BURR, U.S. SENATOR FROM THE STATE OF NORTH CAROLINA

Senator BURR. Mr. Chairman, thank you very much. Senator Jeffords, thank you for this opportunity.

It is my pleasure to be here today to introduce Lyons Gray of Winston-Salem, NC and to enthusiastically endorse his nomination to be Chief Financial Officer of the Environmental Protection Agency.

Lyons currently heads the EPA's Environmental Financial Advisory Board, an outside panel that seeks to lower costs, increase investment and build capacity by creating partnerships with State and local governments and the private sector to fund environmental needs.

Lyons served for more than 12 years in distinction in the North Carolina General Assembly. As the co-chair of the House Finance Committee, he was responsible for a State budget of $14 billion, almost twice the annual EPA budget.

During Lyons' tenure in the State House, he was known on both sides of the aisle as a friend and defender of the environment. A lobbyist for the Sierra Club who worked with then Representative Gray in Raleigh recently commented in the *Winston-Salem Journal* that Representative Gray was usually a positive voice for the environment in the General Assembly.

Lyons also served for 9 years on the State Board of the Nature Conservancy and as a member of the Board of Visitors at the Nicholas School of the Environment at Duke University.

More recently, Lyons served as the president of the Downtown Winston-Salem Partnership, an organization that helped promote economic development in our shared hometown of Winston-Salem.

Through Lyons' vision, the Downtown Partnership has worked with the city and other city organizations to successfully revitalize our downtown with the help of EPA programs including brownfield clean-ups and redevelopment plans that have helped to bring life back to areas of our downtown that once housed furniture and textile manufacturing businesses.

Lyons comes to this position at a time when the EPA will be facing challenges in the wake of Hurricane Katrina and likely Hurricane Rita. Lyons is known for his vision, his leadership skills and his ability to bring diverse groups together to find solutions. His knowledge of how State government implements Federal funds will be greatly needed as we confront the environmental cleanup of the Gulf Coast.

Mr. Chairman, I look forward to the committee favorably reporting Lyons' nomination and I will be honored to cast my vote for him when the nomination is considered on the full Senate floor.

Senator INHOFE. Thank you very much, Senator Burr.

I agree with your remarks and I appreciate your coming here to share them with us.

Senator Domenici, did you want to do an introduction? What we are doing is for members who want to do that, to accommodate their schedules, go ahead and do that before we do our opening statements.

Senator DOMENICI. Mr. Chairman, I want to do what best accommodates you.

You have before you H. Dale Hall, Director of the U.S. Fish and Wildlife Service?

Senator INHOFE. That is correct.

Senator DOMENICI. Is it appropriate to speak in his behalf?

Senator INHOFE. Yes, it is.

STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR FROM THE STATE OF NEW MEXICO

Senator DOMENICI. I see him there in the front row and I am not going to bother you and the distinguished Ranking Member very much because this gentleman doesn't need an awful lot of introduction.

First of all, he is a professional but I know him because he has been in my State for a few years, so I have watched him under very difficult circumstances. When there are very divergent interests at play and inability to work with them ends up in a log jam, nobody wins, everybody loses, I found that he was able to remain true and loyal to the laws, in particular the one causing extreme confrontation, the Endangered Species Law, in our State a river and a minnow. He has been working for quite a bit of time with everybody, working on that. I must say not on his own but a tribute to this office with him as a leader, we have resolved most of them without extreme litigation.

In addition, I have found the people who work for him just think he is terrific. I think that means something. He is at a very high level.

The only thing I ask is why in the world he would leave Albuquerque to come up here and he isn't sure.

Senator INHOFE. That is because there was not a slot open in Tulsa.

[Laughter.]

Senator DOMENICI. I think you will never be sorry to quickly send him to the Senate floor and I hope we don't have any delays there. We need this position filled. Both of you know that.

Senator INHOFE. Senator Domenici, let me say to you that Mr. Hall came to Oklahoma when we had a hearing on a program, the Partnership in Wildlife Program that has been very, very successful, and we have been exposed to him because we are in the district too. I agree with your comments very much. I appreciate your sharing your comments with us.

Senator DOMENICI. Thank you for letting me.

Senator INHOFE. What we are doing, Senator Smith, is to accommodate your schedules because I know they are very busy, go ahead and make your introduction and then we will proceed with our hearing.

STATEMENT OF HON. GORDON H. SMITH, U.S. SENATOR FROM THE STATE OF OREGON

Senator SMITH. Thank you, Chairman Inhofe, Ranking Member Jeffords. I am honored to be here.

Thank you for giving me this time to introduce a fellow Oregonian and a friend, Sandy Baruah, who is the President's nominee to serve as the Assistant Secretary of Commerce for Economic Development.

I first met Sandy in 1993 while I was serving in the Oregon State Senate and he has always represented the best interests of my State. Sandy graduated from the University of Oregon and then earned his MBA from Allama University in our State.

After that, he joined Performance Consulting Group, a Portland-based corporate consulting firm with clients across the Nation, including Key Bank, Intel and Walt Disney World. In 2001, he was tapped by President Bush and his Administration to come to Washington to serve in a senior post at the Commerce Department. Since that time, Sandy has earned a reputation for outstanding work. It is no surprise to me and to others that the President has nominated him for this high honor that brings him before your committee today.

I should mention that this is Sandy's second tour of duty in Washington. During the first Bush administration, Sandy served in appointed positions with the Secretary of Interior and the Secretary of Labor. Additionally, he held various posts with our former colleague, Senator Bob Packwood. If Senator Packwood were here today, I know he would offer words of praise for Sandy as well.

I know Sandy firsthand, that he is committed to public service both here in Washington and in our home State. It is my pleasure to be here on his behalf to express my support, my friendship for him and to request my colleagues to confirm his nomination. I know he will serve the President and America well.

Thank you, Mr. Chairman.

Senator INHOFE. Thank you, Senator Smith.

Thank you for that fine introduction and we appreciate your presence here and that means a lot to us.

We will go ahead now and ask that you take your places at the table. I will have a brief opening statement and I think Senator Jeffords will also. Is that right, Senator Jeffords?

OPENING STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Good morning. We have a number of great people here, very significant positions that are to be filled.

We have Sandy Baruah. I have practiced that, Sandy, and I think I am saying it right.

Mr. BARUAH. Yes, you are, Mr. Chairman.

Senator INHOFE. Sandy Baruah is Nominated to be Assistant Secretary of Commerce for Economic Development. I might add he is following someone who has done an excellent job. We have had a chance to talk about that in my office and I have no doubt that you will carry on that great policy that we have had with your predecessor.

Dr. George Gray has been nominated to be Assistant Administrator of the Environmental Protection Agency's Office of Research and Development.

Lyons Gray has been nominated by the President to be the Chief Financial Officer of the Environmental Protection Agency.

Ed McGaffigan has been renominated to serve a third term on the Nuclear Regulatory Commission.

Dale Hall has been nominated by the President to be Director of the U.S. Fish and Wildlife Service. I think you know this, Dale. I think I recommended you to the President and as a result of the great experience that we have had, your fine leadership and your sense of fairness, you are equally popular with Democrats and Republicans in my State of Oklahoma.

I am also pleased to see Ed McGaffigan renominated to the Nuclear Regulatory Commission. Ed has been a Commissioner since 1996 and has played a key role in making that Commission a much more effective Agency.

In 1997, I held the first oversight hearing for the NRC in 10 years. At that time, I had become chairman of the Clean Air Subcommittee and we made several recommendations. Ed has been there during the transformation we helped promote and I look forward to seeing him there for another 5 years to help the NRC deal with the many challenges that lie ahead, and there are many. There is recognition now that with the energy crisis that is here, there is no way to survive this crisis without enhancing nuclear energy. I think everyone realizes that now.

Lyons Gray is the only one with whom I haven't had a chance to visit but we will correct that very soon. He has been nominated by the President to be the next CFO for EPA, a position to which Mr. Gray will bring both talent and experience. He has corporate management experience as well as public finance experience, both of which will serve him well as CFO.

George Gray has been executive director for the Center for Risk Analysis and a faculty member at Harvard University, School of Public Health. He has been nominated to be EPA's Assistant Administrator for EPA's Office of Research and Development. He previously served as an instructor in Risk Analysis at the University's

Department of Health Policy and Management. Earlier in this career, Dr. Gray was a research associate at the Center for Risk Analysis.

I don't think anyone doubts my commitment to sound science, something we said from the very first day I became chairman of this committee 2½ years ago. It is my hope to work with Dr. Gray to ensure the EPA is committed to decisions based on sound science and cost benefit analysis.

Finally, Sandy Baruah has been nominated to be the Commerce Department's Assistant Secretary for Economic Development. EDA will be playing a vital role in the reconstruction of the Gulf States following Hurricane Katrina. It will take both a devoted and creative leader of EDA to be effective in this task.

We appreciate all of your being here. I personally believe you are excellent nominees for the positions. The only question I have is there are two Grays here but there is also one in the audience. There must be a relationship. Would you share that with me.

Mr. LYONS GRAY. I am proud to introduce my cousin, Boyden, Mr. Chairman.

Senator INHOFE. Your cousin, Boyden. It never occurred to me you had a cousin. Now we know.

[Laughter.]

Senator INHOFE. Senator Jeffords.

OPENING STATEMENT OF HON. JAMES M. JEFFORDS, U.S. SENATOR FROM THE STATE OF VERMONT

Senator JEFFORDS. Thank you, Mr. Chairman.

I would like to join you in welcoming all the nominees this afternoon and thank them for their commitment to public service.

I have had a chance to meet with each of you. Mr. Hall educated me on catfish farming and Mr. McGaffigan on the challenges facing the Nuclear Regulatory Commission. I appreciate that help.

I think having the two Grays at the EPA might be a little confusing but hopefully you can work that out and I am sure you can.

I would also like to thank Sandy Baruah, who took the time to come to my hometown in Rutland, VT earlier this summer, who announced a $1 million grant to promote Vermont's wood products industry. Thank you so much and come again.

Mr. BARUAH. I appreciate the invitation.

Senator JEFFORDS. This innovative partnership with the Vermont Council on Rural Development is generating much excitement in my State. It also is a good example of EDA going the extra step to help revitalize our forest product industry. Thank you very much. I hope in your capacity at EDA we can continue to work together on development projects for Vermont.

We have some important nominations to consider this afternoon, so I will keep this short. Again, thank you for your willingness to serve and I look forward to hearing from each of you.

Thank you very much, Mr. Chairman.

[The prepared statement of Senator Jeffords follows:]

STATEMENT OF HON. JAMES M. JEFFORDS, U.S. SENATOR FROM THE STATE OF VERMONT

Thank you, Mr. Chairman. I would like to join you in welcoming all the nominees this afternoon, and to thank them for their commitment to public service.

I have had the chance to meet with each of you. Mr. Hall educated me on catfish farming and Mr. McGaffigan on challenges facing the Nuclear Regulatory Commission.

I think having the two Mr. Grays at the EPA might be a little confusing, but hopefully you can work that out.

I would also like to thank Sandy Baruah, who took the time to come to my hometown of Rutland, VT, earlier this summer to announce a $1 million grant to promote Vermont's wood products industry.

This innovative partnership, with the Vermont Council on Rural Development, is generating much excitement in my State. It is also a good example of EDA going the extra step to help revitalize our forest products industry.

I hope that in your new capacity at EDA, we can continue to work together on development projects for Vermont.

We have some important nominations to consider this afternoon, so I will keep this short. Again, thank you for your willingness to serve, and I look forward to hearing more from each of you.

Senator INHOFE. Thank you, Senator Jeffords.

Why don't we start over here with you, Mr. Baruah, and we will go across. Ed, you can be last. Do try to keep within the 5 minutes and your entire statement will be made a part of the record.

STATEMENT OF SANTANU "SANDY" K. BARUAH, NOMINATED TO BE ASSISTANT SECRETARY OF COMMERCE FOR ECONOMIC DEVELOPMENT

Mr. BARUAH. Thank you very much.

I will do better than the 5 minutes. With my statement submitted, let me simply introduce my wife, Lisa, sitting behind me.

Senator INHOFE. Hold your hand up, Lisa. We want to know who he is talking about. And your son?

Mr. BARUAH. And my son, Isaac, is with us. I am particularly happy that he is here. I know he is particularly happy to be here today because it is one less day of school.

I would like to thank Senator Smith for coming today. I appreciate his support.

I am certainly honored to be President Bush's nominee to serve the American people as the Assistant Secretary of Commerce. I appreciate the committee's consideration and the many courtesies you and your other members have extended to me.

I look forward to answering any questions about my background and perspective as it relates to the Department of Commerce and the Economic Development Administration.

Thank you very much.

Senator INHOFE. Thank you, sir.

Mr. Gray.

STATEMENT OF GEORGE M. GRAY, NOMINATED TO BE ASSISTANT ADMINISTRATOR, OFFICE OF RESEARCH AND DEVELOPMENT, ENVIRONMENTAL PROTECTION AGENCY

Mr. GEORGE GRAY. Mr. Chairman, Senator Jeffords, it is an honor to appear before you today as President Bush's nominee to be the Assistant Administrator for Research and Development at the EPA.

I am excited about the opportunity to enter public service and to apply the knowledge that I have gained in the last 20 years to help advance public health and the environment. I am eager to work with Administrator Johnson and to advance the mission of the EPA.

I am also proud to announce there are a few more Grays here, my wife, Ann; my son, Owen; and daughter, Evelyn are with us today.

Senator INHOFE. Please hold your hands up. I think I know which you are.

Thank you.

Mr. GEORGE GRAY. I want you to know first and foremost, I am a scientist. I am someone who has spent my career working to apply the principles of science, quantitative analysis and risk communication in public health. My interests have always been with the application of knowledge to decisions, how do we put information to work to do a better job.

This interest led me to graduate study in toxicology, the science that helps us identify and characterize human health environmental hazards. Next, I was awarded a fellowship in the Interdisciplinary Programs in Health at the Harvard School of Public Health where I learned about the range of scientific data and knowledge needed to form an important decisions. I also saw how important careful consideration of the science is to making good decisions in public health.

While I have studied this approach at the Harvard School of Public Health for the last 15 years, I believe my knowledge and training will enhance my ability to work with the dedicated scientists and professional in ORD to provide scientific and technological support for EPA's activities.

My work over the last 20 years has been like that in the Office of Research and Development, both multidisciplinary and interdisciplinary. ORD conducts research analysis on a wide range of potential hazards, from the health effects of biological or chemical toxins to water quality to homeland security. It takes a wide range of expertise to do this, people working together with different kinds of knowledge and different kinds of expertise. I believe that more and more our environmental challenges will require this kind of cooperation and collaboration among scientific disciplines.

Just to let you know that this is indeed the way I work, I want to talk briefly about a project I was involved in, the Harvard Tuskegee Mad Cow Study.

We were asked by the Department of Agriculture to look at what might happen to the United States if mad cow disease was introduced to the country. This project involved the integration of expertise from a variety of disciplines, from veterinary science to neurobiology to applied mathematics. It required collaboration with governments, both here in the United States and abroad, with nongovernmental organizations and with the industry.

Ultimately, this study provided useful information to inform policy decisions, guide research, and communicate BSE risks to the public. If I am confirmed, this spirit of integration and collaboration will guide my efforts at ORD.

I am also a teacher and I am proud of my contributions to education current and future environmental professionals. Doctoral students and students in my classes have gone on to work in academia, in government and in the private sector.

Teaching is also about communicating and I want to take a moment to talk about that because I believe communication is the key

to successful leadership, successful research, analysis and protection of human health and the environment. I will strive to work with all ORD stakeholders to identify important issues and their scientific bases; I want to help build understanding of ORD's mission and its actions; and to get useful scientific information to the hands of decision makers.

ORD has critical responsibility in EPA's mission and if confirmed, I will bring enthusiasm, I will bring knowledge and I will bring experience in supporting that role. At the same time, I will bring a fresh perspective to helping advance Administrator Steve Johnson's goals of using the best available scientific information to make decisions and working collaboratively to find effective solutions to environmental problems.

I will be happy to answer any questions you might have.

Senator INHOFE. Thank you very much.

Mr. Gray.

STATEMENT OF LYONS GRAY, NOMINATED TO BE CHIEF FINANCIAL OFFICER, ENVIRONMENTAL PROTECTION AGENCY

Mr. LYONS GRAY. Thank you, Mr. Chairman and Senator Jeffords. It is a privilege to appear before you today as the nominee for Chief Financial Officer of the Environmental Protection Agency. I would like to thank Senator Burr for his kind introduction.

I would also like to introduce my family sitting behind me, my wife, Connie; our daughters, Charlotte and Fraser; our son-in-law, Cameron; my cousin, Boyden; good friends, Jean Spaulding and Michael Curley; and the Jim Brady family.

It is a tremendous honor to have been nominated by the President for the position responsible for safeguarding public resources, both financial and natural ones. I would like to thank Administrator Johnson for his faith in recommending me for this key position.

EPA's staff are well known for their commitment to the Agency's mission of protecting human health and the environment. I share their commitment and I pledge to you that if I have the honor of being confirmed, I will ensure that the Agency's environmental efforts are supported by sound financial management on behalf of the American people.

I would like to tell you a bit about some of my experience I believe would be useful in the job for which you are considering me.

At the beginning of my career, I worked in sales and marketing in the private sector and I received an on-the-job education. With responsibility for introducing a new consumer product, I had to think through every aspect of the project from start to finish, from creation through delivery. This experience in corporate America taught me how to follow through on a project considering all the relevant financial issues along with product development and delivery. It gave me a solid foundation for every step I have taken since.

It prepared me to own my own business. My experience as a small business owner gave me an appreciation for the energy and business acumen that are needed to support a successful concern. If I am confirmed, I hope to bring the same energy and business sense to supporting EPA's successful operations.

I would be honored if confirmed to the CFO position because it would allow me to return to the public sector. It was my great privilege to serve for 13 years in the General Assembly of North Carolina and during that time, I was fortunate to serve as a member of the House Finance Committee and as its chair for 4 years. In that capacity, I participated in every aspect of the development and oversight of the $14 million budget for our State. I gained valuable experience in reconciling a range of priorities, all of them important with available resources.

I was closely involved in the State's budget process, especially the work of the conference committee in which differences were worked out between the State's House and Senate. This experience has given me a genuine appreciation for the challenges of decision-making when public priorities are in the balance.

If you honor me with confirmation, I look forward to working closely with you and the other Members of Congress who are charged with making similar hard and difficult decisions.

Most recently I have had the opportunity to work in the non-profit sector. This has allowed me to bring together what I have learned in both business and the State legislature for the benefit of my local community. As the president of the Downtown Winston-Salem Partnership, I led an advocacy group to re-energize and rebuild what I think of as one of America's downtown communities, although I admit it is because it is my hometown.

My responsibilities included the administrative leadership of the Downtown Foundation which raised funds to create a low interest loan program providing gap financing for new restaurants, entertainment venues and shops to get them up and running. Apart from the great personal satisfaction of giving back to my community, I also took away from this experience a greater understanding of how financial and environmental issues can be addressed together to help revitalize our American communities.

Finally, it has been my great privilege to serve for the past 3 years as chairman of the EPA's Environmental Financial Advisory Board to which Senator Burr referred. It is chartered under the Federal Advisory Committee Act and provides advice and analysis to the EPA Administrator on how to pay for the growing cost of environmental protection and how to increase investment in environmental infrastructure through leveraging of public and private resources.

I am proud of the Board's work on behalf of the agency, our principal client, and the financial expertise of the board's members, Michael Curley being one of them here in attendance, is truly excellent. The working relationship I have enjoyed with our DFO, Stan Meiburg, has been equally so.

If I am confirmed as CFO, I know I will have the pleasure of working with dedicated people who share a commitment to EPA's mission.

Mr. Chairman, public service is a gift we give back to our country and I am grateful for your time today and for the committee's consideration of my nomination. I would be pleased to answer any questions.

Senator INHOFE. Before going on to you, Mr. Hall, we have been joined by Senator Chafee. He has an acquaintance with one of our

nominees and I would like to recognize him to express himself at this time.

Senator CHAFEE. Thank you, Senator Inhofe.

I am here to support all of your nominations but in particular, George Gray whose brother is a prominent attorney in Rhode Island. Congratulations and best wishes.

Senator INHOFE. Thank you.

Mr. Hall.

STATEMENT OF H. DALE HALL, NOMINATED TO BE DIRECTOR, U.S. FISH AND WILDLIFE SERVICE

Mr. HALL. Thank you, Mr. Chairman and members of the committee.

It really is a great honor for me to be nominated by the President to be the Director of the Fish and Wildlife Service and for this committee to hear my qualifications to lead the Nation's premier fish and wildlife agency. If confirmed, I pledge to respectfully and responsibly reserve and promote our Nation's fish and wildlife conservation heritage.

I am a 27-year veteran of the Fish and Wildlife Service and for the past 4 years, have been the regional director in the southwest United States which includes Oklahoma, Texas, New Mexico and Arizona, but throughout my career, I have had the opportunity to work all over the United States in various regions on different issues.

The partnerships and relationships I have formed over those years have resulted in the support of my nomination by the Western Association of Fish and Wildlife Agencies, the International Association of Fish and Wildlife Agencies and the Southwest Tribal Fisheries Commission.

I have a Bachelor of Science Degree in Biology and Chemistry from Cumberland College in Williamsburg, KY and a Master of Science Degree in Fisheries Science from Louisiana State University, Baton Rouge, LA.

As a native of Harlan County, KY, I grew up in the arms of the Cumberland Plateau of the Appalachian Mountains where hunting and fishing was a part of life, not simply a recreational pursuit. This culture instilled in me an understanding that the Creator has given us the gifts necessary to sustain our lives but also the responsibility to ensure the care and the stewardship of those gifts.

During my career, I have had the good fortune to work in the lower Mississippi River Valley on bottom land, hardwood wetlands, the northwest on the forest plan and the issues there, the California Bay Delta, the Everglades, the Rio Grande and the Missouri River. In all of those efforts, one thing has come clear to me. The single most important lesson I have learned is that long-standing solutions to natural resource problems are not found in the use of governmental power alone. Rather, long-term solutions must always have a foundation built upon collaboration with all interested constituents.

Those interests are almost always in conflict and diverse but that diversity is the very source of long-term solutions. By listening to people's fears and concerns, truly listening and then responding to those, answers are found that would not otherwise be found.

I worked on the ground in fisheries, as Senator Jeffords mentioned a moment ago. I started out as a private catfish farmer in the Delta of Mississippi. Later in my career, I found myself as the Deputy Fisheries Officer for the U.S. Fish and Wildlife Service overseeing hatchery policies and fundings.

I have also worked with tribes and States across the country on the management and partnership and managing those resources.

I have been involved in the National Wildlife Refuge system and formation of refuges such as the Tensau River National Wildlife Refuge and I have also been involved in migratory birds and a myriad of other issues across the country.

Partnerships come from sportsmen, from fishermen and from private landowners. They are our most important constituents and have been the most long-standing conservationists. With them, we must recognize the new partners, the non-governmental organizations and the environmental organizations that work together with the sportsmen and the landowners who own 70 percent of the fish and wildlife habitat in the United States. If we are going to leave a long-term heritage for our future, we must understand that 70 percent of that potential rests in private hands and we must go to them and treat them as partners.

Finally, I would like to point out that the future of this Nation's natural resources is in the hands of our most trusted and most valuable asset, the youth of America. We must reach out, I believe, and if I am honored to be confirmed, I will support strong activities to bring classrooms to national wildlife refuges and bring our employees into the classrooms so that we have the kind of natural resource legacy passed on and understood that needs to be.

These children are who we work for and their children are who we work for. If I am honored to be confirmed, I will constantly try to live up to the privilege of serving that constituency.

Thank you, Mr. Chairman.

Senator INHOFE. Thank you, Mr. Hall.

Commissioner McGaffigan.

STATEMENT OF EDWARD McGAFFIGAN, JR., NOMINATED TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION

Mr. McGAFFIGAN. Thank you, Mr. Chairman. I will try to be very brief.

I appreciate the kindnesses shown to me by the members in my courtesy calls. I am a well-known commodity to the committee. I truly do appreciate the oversight that Senator Inhofe initiated after a 10-year break during my second year on the Commission. We have benefited from it, we have benefited as a commission from the energy legislation and I know both Senator Inhofe and Senator Jeffords were key players in having that legislation enacted back in August.

I have been away from the Commission for 3 months, but I have kept up and I am anxious to get back. I am honored to be nominated by the President.

I also want to express appreciation to Senator Reid of Nevada and Senator Bingaman, my former boss, for advancing me in the process of being a Democratic member of the Commission.

We don't have Democratic and Republican differences on the Commission. I used to joke when there was a different leadership, we were lucky that Senator Daschle and Senator Dole did not have positions on some of these highly technical issues. We do the best we can. I have 30 years of Federal experience. I was once a scientist a long time ago but not particularly relevant to NRC, in elementary particle physics.

I have teed up one issue in my prepared statement, the management challenge we face in the coming 5 years. There is a bow wave of new activity for the Commission and there is a bow wave of people leaving the Commission at the senior career level.

I would be happy to answer any questions. I appreciate the support of the committee and am prepared to answer any questions. Thank you.

Senator INHOFE. Thank you, Commissioner McGaffigan.

We have been joined by Senator Thune. Senator Thune, we have done brief opening statements and have now heard from each of the five nominees. Is there any statement you would like to make prior to our questions?

Senator THUNE. No statement, Mr. Chairman.

I am pleased to welcome all the nominees today and will look forward to working with them.

Senator INHOFE. I will start off and be fairly brief because I have extensive conversations with four out of the five of you and will correct the other one shortly.

Mr. Hall, as you probably know, I did personally go to the President on this because I watched you perform in the region. I am particularly impressed with our partnership in conservation programs that we have had. In fact, the field hearing we had in Tulsa brought in the landowners and they raved about what we can do working together as opposed to some bureaucratic mandate. That is what we want to do. I remember so well hearing the testimony of landowner after landowner and the successes they have had.

I do hear that we are not inclusive of the stakeholders in considering issues on the endangered species. I would ask if you have any thoughts on how you can bring those successes in partnership to that process?

Mr. HALL. I appreciate that Mr. Chairman and thank you for that question.

I believe that we have more opportunities than we are exercising to bring all parties that can contribute. If you look at the objective, the purposes of the Endangered Species Act, it is to conserve ecosystems and threatened and endangered species that depend on those ecosystems.

If we step and look again, as I pointed out in my opening comments, 70 percent of all fish and wildlife habitat in the United States is in private hands, we need to do more reaching out to those partners. What I have learned, and you alluded to in the comments we received, landowners want to work with us, they want to improve habitat, they want to have endangered and threatened species on their property. They simply don't want to be punished for it.

We need to work more with them in giving them some protections against regulation because they are willing to step and be volunteers.

Out of the 18 sections of the Endangered Species Act, using it as an example, only two sections have prohibitions or penalties. All other sections direct us to work with other people to try and find solutions before regulation is necessary. I believe working with private landowners, the State agencies, the tribes and other partners is the real approach to try and get there.

Senator INHOFE. I appreciate that and we have seen that in action.

Mr. George Gray, and we will have to do it that way since we have two Grays, on this committee, quite often we will be talking in terms of absolute numbers, x number of people are going to die and when you address this risk discussion, it would seem to me we would be much better at talking about ranges of risks. I would just ask you the question, do you believe the EPA should do a better job of clearly stating the range of uncertainty and what else can be done to better communicate that risk to the public?

Mr. GEORGE GRAY. Thank you, Mr. Chairman. That is an important and insightful question.

My answer in short is yes. One of the things I think is important for all of us who use science and want to make sure it is characterized adequately is to be suitably humble. We have to be humble about what we know and don't know.

Senator INHOFE. I love to hear that.

Mr. GEORGE GRAY. I think part of being humble is not acting like there is one single right answer that comes out of our processes, recognizing there are ranges. Those ranges are important for two reasons. One is the range helps us understand how well we know something and how big a problem we have, but also tells us where more information can help us learn more and make better decisions.

For both of those reasons, I think you are exactly right. We need to do a better job of actually quantifying the uncertainty in all of our estimates of risk.

Senator INHOFE. Thank you.

I have just been notified that we will have three consecutive votes that begin in 5 minutes but they will hold the first one open. It would be my desire, Senator Jeffords, if you agree, that we kind of hurry along our questions and be able to conclude this prior to dismissing for the vote.

Senator JEFFORDS. I will do my best.

Senator INHOFE. Commissioner McGaffigan, you are kind of a proven number but you also come with your experience recognizing, as you were nice enough to say, when we first started doing oversight in 1996, right now you will get into an aggressive area. We are going to have to have as we resolve the problems there with the energy crisis we have, nuclear energy is going to be an important part of that.

I would, first, ask you what we can do to assist you in this because this is going to be something that is going to take a lot of personnel. I would like to ask what assistance we can be to you in this effort?

Mr. MCGAFFIGAN. Mr. Chairman, you and Senator Jeffords, and particularly Senator Voinovich, in the Energy bill gave us just about every management tool that we could think of. Now I think the job is for us to make use of those tools.

I think the continued oversight either by you or by Senator Voinovich's subcommittee of our activities would be very useful. Are we using all the tools you have given us? We are going to be hiring 350 people next year. That means a year from now 10 percent of our work force, more than 10 percent, is going to be new to the Commission. We have to make sure they are trained well because we really do face a lot of additional activity as various applicants come forth for nuclear combined operating licenses.

Senator INHOFE. In deference to time, Mr. Lyons Gray, you are familiar with what we have done, the effort I have been involved in with discretionary grants. I would just ask if you would be fully cooperative in pursuing this so that we are getting grants to the places that should receive grants and in the best interest of our functions?

Mr. LYONS GRAY. Absolutely, Senator, and looking forward to working with you on that.

Senator INHOFE. That would be great.

Mr. Baruah, have you given any thought to what your role is going to be post-Katrina and now post-Rita?

Mr. BARUAH. Yes, Mr. Chairman. EDA can offer a range of options so it is really up to the Congress to decide what they would like us to do. We have played a major role in major disasters and we have many tools available ranging from infrastructure to strategy planning to various other tools. It is actually the Congress who tells us what we should do.

Senator INHOFE. That is good. I appreciate that.

Staff has reminded me I neglected to ask you the required two questions and I would ask each of you to respond to each of these two.

Are you willing to appear at the request of any duly constituted committee of Congress as a witness?

[All nominees respond in the affirmative.]

Senator INHOFE. Do you know of any matters which you may or may not have thus far disclosed that might place you in any conflict of interest if you are confirmed to this position?

[All nominees respond in the negative.]

Senator INHOFE. Senator Jeffords?

Senator JEFFORDS. Mr. Baruah, the United States lags far behind other nations in utilization of broadband technology. The private sector is not stepping up to the plate in many rural areas. What role do you think the public sector should play in wiring rural areas and in particular, what can EDA do to speed up the process?

Mr. BARUAH. Senator Jeffords, I agree with your emphasis on how important broadband deployment is to America's communities, especially America's rural communities.

In terms of the Federal lead, that is actually given to the U.S. Department of Agriculture which has a broadband deployment program. In addition to that, EDA can assist in broadband deployment and we have. We have done several broadband deployments. I

think just last year, we did one in rural Virginia and another in New Mexico as well.

So we have played a role and we are happy to work with rural areas to see if we have a unique resource that the USDA does not have in rural deployment of broadband.

Senator JEFFORDS. Thank you.

Mr. George Gray, do you believe based on the best available science, that climate change is a result of human activity?

Mr. GEORGE GRAY. Well, Senator, we know there is a lot of research going on looking at different factors involved in climate change. We know it is something that has always been changing, we know what some of the factors are and we don't know what all the others are. I think it is a situation in which we know certain contributions could come from human activity. We don't necessarily know the magnitude of those compared to the other factors but ongoing research is going to help us to understand and characterize that better.

Senator JEFFORDS. Mr. Lyons Gray, as you have discussed with my staff, I feel it is very important that this committee be given timely data and information on EPA's budget. Will you do all you can to see this is done?

Mr. LYONS GRAY. Yes, sir. My own philosophy is one of being open and candid and forthcoming and to the degree that we can, we will do our best to give you the timely information that helps you make decisions—tough decisions.

Senator JEFFORDS. Thank you. I look forward to that.

Mr. Hall, as a fisheries biologist and wetlands ecologist with extensive experience in various regions of the country including the Gulf Coast, I am interested in your insight on how we should be looking at the wetlands restoration in the Gulf Coast in the aftermath of Hurricane Katrina?

Mr. HALL. I know there are a lot of people looking at this issue but one of the things I find encouraging is the recognition that has surfaced of the value of wetlands in buffering storms like this. There have been a lot of discussions going on lately that has been in the literature over the years.

Having coastal marshes off Louisiana is not simply something that is really good for shellfish production, shrimp production and fish production and water fowl but it actually has served over time to be good storm buffers.

I believe as we move forward and if I am privileged to be confirmed, I would try and advocate that the creation of marshlands, barrier islands and other such structures that have historically been there to help the people in all aspects, both economic and natural resources, be considered part of the reconstruction for storm abatement, not just for mitigation.

Senator JEFFORDS. Thank you.

Mr. McGaffigan, it is good to see you again.

Mr. MCGAFFIGAN. It is good to be here, sir.

Senator JEFFORDS. When we met we discussed the Commission's ability to process a Yucca Mountain permit application and the Department of Energy's ability to produce one. For the NRC, processing any Yucca Mountain permit would require adding new expertise to the Commission that it has not traditionally had. Will

you share with the committee on that issue as to what we should do to perhaps rectify problems?

Mr. MCGAFFIGAN. I think the Commission has done a good job of anticipating the Yucca Mountain application. We have a group of people in San Antonio, TX, the Center for Nuclear Waste Regulatory Analysis, who are the experts along with our staff. They have been put together to aid the hearing.

We have also created a licensing support network that is a discovery tool. This will be an adjudicatory process, a full blown trial like in a district court, and there are 40 million pages of documents to be entered by various parties to the proceeding. I believe it will be the most complex administrative proceeding in the history of mankind if DOE gets the application to NRC sometime next year.

We have been preparing for this for a long time. We have a statutory mandate to try to complete the first hearing in 3 to 4 years. I do want to remind the committee that there is a second hearing on the license to receive and emplace waste. That second hearing will be another long haul.

What I have said privately is it was Admiral Watkins when he was Secretary of Energy who suggested a 10-year time scale from the first application to opening Yucca Mountain and that is probably about right which means if we get an application next year, it could well be 2016 before the second trial is over.

Senator JEFFORDS. Thank you.

Thank you, Mr. Chairman.

Senator INHOFE. Thank you, Senator Jeffords.

They are holding a vote for us now, so I think we have had an opportunity to hear from you. I appreciate your time, your coming, your willingness to serve and we will be looking forward to taking the next step in serving with you.

The hearing is adjourned.

[Whereupon, at 3:16 p.m., the subcommittee was adjourned.]

[Additional statements submitted for the record follow.]

STATEMENT OF SANTANU K. BARUAH, NOMINATED TO BE THE ASSISTANT SECRETARY OF COMMERCE FOR ECONOMIC DEVELOPMENT

I am pleased to appear before you as the President's nominee to become Assistant Secretary of Commerce for Economic Development. I am deeply honored to be President Bush's nominee for this post and grateful for the opportunity to serve. I also very much appreciate Commerce Secretary Gutierrez's leadership and his confidence and support.

Before I begin, please allow me to introduce the most important people in my life. My wife, Lisa, is with me today along with our son, Isaac, who is happy to be here today because it's one less day of school.

Today, I would like to give you a better sense of what I hope to accomplish as the Assistant Secretary of Commerce for Economic Development if given that opportunity. Let me begin by stating my strong commitment to the mission of the Economic Development Administration. Our mission at EDA is to "lead the Federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy." We do this by helping to create the right conditions for economic growth and expanded opportunity. We promote innovation. We foster entrepreneurship. We enhance competitiveness.

With the support of this committee and the Senate, and the professional staff of EDA, I am confident that I can build upon the strong record of accomplishment established by the previous Assistant Secretary, David A. Sampson, and support Secretary Gutierrez's commitment to excellence.

After 4 years at the Commerce Department as an EDA senior staff member—Deputy Assistant Secretary for Program Operations and Chief of Staff—I know that the

role of the Assistant Secretary can be broken down into three primary categories: policy, stewardship and leadership.

From a policy perspective, I intend to maintain EDA's focus on the creation and retention of higher-skill, higher-wage jobs in America's economically distressed communities. Under my leadership, if given the opportunity, EDA will continue to accomplish this by promoting leading-edge, market-based strategies, encouraging regional and comprehensive development approaches, and focusing on the critical role the private sector plays in providing opportunity and creating healthy vibrant communities.

From a stewardship perspective, it is never far from my mind that Administration appointees are only temporary custodians of the legacy we are asked to manage. As all good stewards, we should leave what was entrusted to us in better condition than we found it. I know that is the case of my predecessor. EDA is a more efficient and effective organization than it was 4 years ago. I am proud to have played a role in this accomplishment.

I am proud that EDA was among the first Federal programs to implement a robust Balanced Scorecard, and in fact was inducted into the Balanced Scorecard Hall of Fame in 2004. The successful development of this strategy and performance measurement tool has helped EDA achieve good ratings from the Office of Management and Budget's Program Assessment Rating Tool (PART).

Also, as you know, the Congress reauthorized EDA in 2004. During the past several years, EDA's job creation efforts have been greatly strengthened by a pattern of increased private sector leverage of Federal grant dollars. In fact, EDA's private sector leverage—the ratio of private sector dollars invested for every EDA investment dollar—has increased from 9-to-1 to 40-to-1 in the past 4 years. We understand that an economic development project does not begin to approach its potential until the private sector is ready, willing and able to invest in the enterprise—this is how jobs are created.

A large part of stewardship is management. In addition to my 4 years in a senior capacity at EDA, I have a background in management. Prior to joining President Bush's administration, I was a senior management consultant with Performance Consulting Group, a successful corporate management consulting firm with several Fortune 500 clients, such as Intel, KeyBank, U.S. Bank, Disney World and others. My prior government service includes staff positions with U.S. Senator Bob Packwood and service in the Presidential Administration of George H.W. Bush, with appointed positions in the office of the Secretary of Labor and the Secretary of the Interior.

From a leadership perspective, the Assistant Secretary has many responsibilities. From serving as an effective advocate of the President's agenda, to establishing the highest of ethical standards for the agency to emulate, to working cooperatively with the Congress, to reaching out and listening to the people and organizations touched by EDA's programs, and dealing openly, respectfully and honestly with EDA's career professional staff. These are all challenges that I do not take lightly, yet am confident that I am equal to. I believe my combination of experience in EDA, coupled with my public and private sector experience make me well qualified to lead EDA.

Leadership will be important as EDA addresses the important challenges ahead, such as assisting BRAC-impacted communities transition their economies, helping the Gulf Region rebuild their economy after the devastating impact of Hurricane Katrina, supporting President Bush's Strengthening America's Communities Initiative, and continuing to deliver excellent Federal services in an era of modest financial resources.

Once again, I am honored by President Bush's confidence in me and I look forward to earning the confidence of this committee and the U.S. Senate.

I have been richly blessed with family, friends and opportunity. I am especially thankful for Lisa, for her love and for all the sacrifices she has made to make my service in the Administration possible. It has been an honor for both of us. Thank you again for this opportunity to appear before you today, and for your consideration of my nomination. I would be pleased to respond to any questions you may have.

RESPONSES OF SANDY K. BARUAH TO ADDITIONAL QUESTIONS FROM SENATOR JEFFORDS

Question 1. The Economic Development Administration (EDA) may be ideally suited to take a proactive role in redeveloping areas such as the Gulf impacted by natural disasters. What role has EDA played in Hurricane Katrina relief efforts and looking out 6 months, what do you think EDA can and should do to get these devastated areas back on their feet?

Response. EDA has already made available over $8.8 million for strategy and planning from funds deobligated in Fiscal Year 2005 to assist in the redevelopment of Louisiana, Mississippi and Alabama. Since Hurricane Katrina struck the affected area, regional members of EDA's team have been on the ground assessing needs and developing plans with local officials and business people to begin the long process of rebuilding.

If Congress appropriates additional funds to EDA as part of the appropriations bill or a supplemental, those funds can also be used for capacity building, technical assistance and infrastructure development for the purpose of revitalizing the Gulf Coast Region.

EDA's disaster recovery program provides assistance to disaster impacted communities to achieve long-term economic recovery by augmenting the institutional capacity of local governments with strategic planning and technical assistance grants. EDA can also provide funds for new construction and/or pre-disaster improvements to commercial and industrial facilities and publicly owned infrastructure to support job retention and creation, private investment and long-term economic recovery. Finally, EDA can support locally directed mitigation efforts flowing from a strategy recovery planning process to safeguard jobs and investment from future disasters.

EDA has a local planning network of sub-regional economic development planning districts that work with key local officials and a 30 year history of long-term program partnerships with state and local governments. EDA has played a significant role in helping to fill program "gaps" by packaging assistance with other Federal partners in previous disasters.

Question 2. I am trying to figure out the impact the enactment of the proposed investment rate guidelines contained in the just published interim final rule will have on Vermont and the Nation. I understand that the Federal matching rate criteria for all EDA investments are changed in the just published interim final rule. Can you please provide maps and data that detail the current Federal-local match rates for EDA district planning grants under the current rules versus the interim final rule. In addition, can you provide a map showing by county or census tract the current Federal-local match rate for EDA public works assistance and one showing the Federal-local match rates for public works assistance under the interim final rule.

Response. The Investment Rate guidelines reflect the Administration's commitment to allocate greater resources to areas of greater economic distress. Indeed, EDA's authorizing statute, the Public Works and Economic Development Act of 1965, as amended ("PWEDA"), explicitly mandates this priority allocation:

> In promulgating rules, regulations, and procedures for assistance under this title, the Secretary shall ensure that . . . allocations of assistance under this title are prioritized to ensure that the level of economic distress of an area, rather than a preference for a geographic area or a specific type of economic distress, is the primary factor in allocating the assistance. PWEDA, Section 206.

The new Investment Rate provisions also reflect the reality of EDA's practice in determining grant rates over the past 4 years. For example, in fiscal year 2004 and fiscal year 2005, 36 percent of EDA projects received grant rates of less than 50 percent. As EDA's annual program appropriations have steadily declined since fiscal year 2001, EDA has focused on maximizing the leverage its assistance produces. In this respect, EDA's programs have been particularly effective by consistently producing higher and more beneficial economic outcomes across the Nation in spite of the application of lower grant rates.

Economic Development Districts each have a unique composition, making the determination of the appropriate distress level difficult. Determining a District's distress level requires an analysis and blending of the distress levels of the member counties and other political units. EDA is currently evaluating different methodologies.

Question 3. Given that the central mission of EDA is to lead the Federal Government's economic development agenda, please detail what you see as key jobs and experiences in your background that will enable you to serve effectively as head of an organization that has a diverse and varied role in delivering economic, community and infrastructure development resources?

Response. I have spent the last 4 years at the Commerce Department as an EDA senior staff member, first serving as the Deputy Assistant Secretary for Program Operations and now serving as Chief of Staff. It is in these two roles that I have gained first hand knowledge and experience delivering key development resources. Additionally, having served in the two roles at EDA, I have engaged with every substantive issue in which the bureau is involved, whether operational, policy-focused

or management-related. During my tenure at EDA, I have traveled extensively across America—30 states—to communities served by EDA. I have visited all of EDA's regional offices several times and have examined their operations. This has enabled me to witness first hand EDA's regional staff in action and to fully understand how EDA projects are developed and executed.

In addition to my 4 years in a senior capacity at EDA, I have a background in management. Prior to joining President Bush's Administration, I was a senior management consultant with Performance Consulting Group, a successful corporate management consulting firm with several Fortune 500 clients, such as Intel, KeyBank, Citizens Bank, Disney World and others. My prior government service includes staff positions with U.S. Senator Bob Packwood and service in the Presidential Administration of George H. W. Bush, with appointed positions in the office of the Secretary of Labor and the Secretary of the Interior.

Question 4. It is my understanding that 2 years ago, EDA headquarters underwent a fifty percent staff reduction to, in part, place more staff and resources at the regional and field levels. Now, I understand that EDA is undergoing or contemplating a reduction in field personnel. Please provide me with staffing levels for the regions and headquarters since fiscal year 2003. In addition, please provide me with details of any additional planned staff cuts in either the regions or headquarters and a justification for such cuts.

Response. EDA implemented a restructuring of its headquarters organization in March of 2004. Through this restructuring, EDA streamlined its headquarters organization with fewer supervisors and reduced staff levels. Employees with the requisite skills to support regional operations now staff headquarters more effectively and efficiently. The new headquarters structure enables EDA to deploy its human resources more effectively and efficiently to support an organization that is citizen-centered, results-oriented, and market-based. The staffing in headquarters was reduced to 71 authorized FTE, a reduction of 22 FTE (23 percent) from the on-board level in September 1999.

In January, 2003, EDA had 223 staff on board: 74 in headquarters and 149 in the regions. EDA will commence operations in fiscal year 2006 with 48 staff in headquarters and 122 staff in the regions. Fiscal year 2006 appropriations will determine the staffing level that EDA will be able to support in the future. In line with the President's Management Agenda, EDA is dedicated to keeping its resources close to the customer. If the House Mark is passed, EDA anticipates additional staff reductions. If the Senate Mark is passed, EDA will have sufficient funds to maintain the overall staff level achieved by the recent buyouts.

However, it is important to note that at the close of fiscal year 1999, EDA had 267 people—94 in HQ and 173 in the regions. EDA headquarters has shrunk by 49 percent, while our regions have shrunk by 29 percent. EDA cannot continue to operate using the structure and processes developed in the 1970's and 80's that require resources no longer available to us.

In fiscal year 2006, EDA's challenge is to look internally to determine how EDA can evolve to sustain its high level of customer service but continue to operate within available resources. EDA must focus its attention on utilizing automation and information technology, and target its resources on those steps of the process where human involvement will provide the most value. EDA will need to place its resources strategically to ensure that critical customer support is maintained while critical elements of our program are adequately managed and monitored. I look forward to working with you as we engage in this process.

Question 5. The interim final rule promulgated by the agency transforms the board makeup of district organizations from majority representation of public officials to majority representation of private sector officials. I understand that this requirement does not apply if state or local law requires that Economic Development District boards maintain majority public sector representation. Please identify for me those states that require Economic Development District boards to have majority public official representation.

Response. EDA has heard and understood clearly from Congress and public comments on the Interim Final Rule (IFR) that revision of this provision is of fundamental importance to EDA stakeholders. EDA has therefore committed to working with its stakeholders to produce a Final Rule that addresses these concerns while maintaining a commitment to the public-private partnership that constitutes the necessary foundation of successful economic development. To manifest this commitment, EDA published on September 30th in the Federal Register a notice that delays for 45 days the effective date of this provision in the IFR, as well as the provisions pertaining to Investment Rate determination for its Planning Investments. EDA is also extending the public comment period for the entire IFR during this pe-

riod. While EDA cannot commit to specific changes separate and apart from the regulatory process, the bureau pledges to work diligently with its stakeholders to understand and address their concerns.

In the short amount of time allotted, EDA researched state and local laws and consulted with EDA stakeholders to formulate the answer to this question. To the best of our knowledge, the following states require or enable majority public official representation for Economic Development District boards: Arkansas, Florida, Illinois, Kentucky, Louisiana (for regional planning commissions formed in urbanized areas with a population greater than 50,000 persons), Maryland, Minnesota, Nevada, New Mexico, South Carolina, South Dakota (where an administrative or separate legal entity is formed pursuant to an intergovernmental agreement), Tennessee, Texas, Virginia, West Virginia.

Please note that the same response is given to Senator Clinton No. 2 and Senator Voinovich No. 1.

Question 6. Under the proposed interim final rule, "EDA will fund a Planning Organization's or District's administrative expenses, so long as it can demonstrate that those expenses are attributable to developing and implementing their strategies. Does the agency feel expenses such as rent or insurance that are incurred during the routine operation of a planning organization or district are legitimate and necessary to the development of a Comprehensive Economic Development Strategy (CEDS) and would thereby be an allowable expense under the planning grant program?

Response. As the quoted provision (IFR Section 303.5) states explicitly, EDA recognizes that incurrence and reimbursement of administrative expenses such as insurance and rent will necessarily occur as part of its Planning Investments. The legitimacy of any Planning Investment expenses will be determined: (i) in accordance with applicable Federal cost principles; (ii) pursuant to an agreed scope of work for direct costs; and (iii) for indirect costs, as those costs are anticipated and integrated as part of a comprehensive CEDS budget.

Please note that the same response is given to Senator Clinton #4.

RESPONSES OF SANDY K. BARUAH TO ADDITIONAL QUESTIONS FROM SENATOR CHAFEE

Question 1. The President has sought to expand the Economic Development Administration (EDA) by consolidating other economic programs like Community Development Block Grants (CDBG) and Economic Development Initiative into EDA. This has run into a lot of opposition on Capitol Hill. I am concerned particularly about CDBG, which is based at HUD and has a specific focus on community. Where does the President's plan for expanding EDA currently stand?

Response. Let me begin by reiterating what I have shared with your colleagues over the last few weeks: I have been nominated to be the Assistant Secretary for Economic Development. Subsequently, if confirmed, the operations and policies of the Economic Development Administration (EDA) will be my focus. If, by an act of Congress, the Strengthening America's Communities Initiative (SACI) came to pass, the President would make a separate nomination for that post.

President Bush's SACI proposal is not an expansion of EDA or any other existing Federal program. His fiscal year 2006 budget recommends the consolidation of funding for 18 community and economic development grant programs (including EDA and HUD's CDBG) into an entirely new program to be housed at the Department of Commerce. If the initiative is enacted, EDA would close out operations as the new entity is established.

SACI is a bold proposal that, for the first time in a generation, reforms the way the Federal Government addresses the critical community and economic development needs of America's rural and urban areas. As presented in the President's fiscal year 2006 budget, SACI would carry over the vast majority of grant authorities that exist in the current 18 community and economic development programs. The Administration understands the popularity of the efforts supported by HUD's CDBG program; those efforts will likely still be eligible under SACI as proposed.

Question 2. As the new Director, how would you go about leading an agency in transition? Further, I have heard that there are a number of senior EDA civil servants that have left the agency in the recent past. What are you doing to make sure the level of expertise and competence at the agency remains high?

Response. As the Assistant Secretary for Economic Development responsible for the administration of the Economic Development Administration (EDA), I will concentrate on EDA's mission to lead the Federal agenda for economic development by promoting innovation and competitiveness. During a time of tight Federal budgets,

EDA's challenge will be to maintain program performance and customer service levels with reduced fiscal and human resources. EDA's leaders and managers will need to be flexible and innovative in order to accomplish these goals and to keep EDA personnel energized and motivated.

EDA faces special challenges this year, including carrying out the requirements of Executive Order 12788 to assist communities impacted by BRAC. It is also likely that EDA will be called upon to expand our economic recovery efforts in the Gulf Coast.

Although a number of civil servants left headquarters during the headquarters restructuring, EDA ensured that those employees who remained maintained EDA's high level of service. EDA is ensuring that existing staff are cross-trained and positioned to absorb the functions performed by retiring staff members. In addition, EDA will continue to re-examine our processes and organization structures in order to best utilize human capital and to maintain our well deserved reputation for high levels of customer service.

RESPONSES OF SANDY K. BARUAH TO ADDITIONAL QUESTIONS FROM SENATOR BAUCUS

Question 1. What resources do you believe EDA will need to help communities affected by the BRAC process?

Response. In 1992, EDA was provided $50 million to respond to the BRAC rounds of 1988 and 1991. These funds were primarily used for reuse strategy development and planning. In 1993, EDA was provided $80 million, and in 1994, EDA was appropriated another $80 million, for strategy development, planning, technical assistance and infrastructure implementation projects. In fiscal year 2006, EDA will assist BRAC communities to the extent its resources allow, and again, will focus on strategy development and planning. The President's Budget for fiscal year 2007 is still in development and funding for BRAC impacted communities is part of these budget discussions.

Question 2. What strategies do you have for revitalizing rural communities? Do you believe the current private sector leveraging ratios are appropriate to execute such strategies?

Response. Yes, we believe that the current private sector leveraging ratios for our applicants are appropriate. Currently, EDA's target leveraging ratio for investments is 22 private sector dollars for each EDA dollar invested (22 to 1). In recent history, the actual ratio for EDA's investment portfolio has been approximately 40 to 1—nearly twice EDA's target. Furthermore, historically and currently, between 50 percent to 60 percent of all EDA investments are made in rural areas. The target and actual ratios of private sector leverage, combined with the percentage of investments made in rural communities, demonstrate that the private sector leveraging ratios required by EDA do not preclude rural communities from becoming investment partners. Additionally, all six EDA regions have met 95 percent or more of their targets on the EDA Balanced Scorecard for this measure, indicating that the goal is achievable throughout the country.

EDA is keenly focused on the economic development needs and challenges facing rural communities and maintains several partnerships with domestic and international thought leaders on rural development. We appreciate the unique challenges facing rural communities. Difficulty raising investment capital, lower tax bases and unique infrastructure needs all play a major role in informing our approach to rural applicants. It is our intent to continue our emphasis on rural economic development and improve upon it by encouraging rural applicants to take advantage of their competitive advantages and to work in regional partnerships to access greater financial, human and political resources.

EDA works closely with Dr. Mark Drabenstott, Director of the Center for the Study of Rural America and Vice President of the Federal Reserve Bank—Kansas City. EDA also works closely with Dr. Michael E. Porter, the Bishop William Lawrence University Professor at the Harvard Business School. Dr. Porter founded the Institute for Strategy and Competitiveness and his work on such topics as clusters of innovation and regional competitiveness have become the foundation for much of EDA's strategy for assisting rural communities. Furthermore, in order to assess and analyze the special needs of rural communities, and improve on existing approaches to rural economic development, EDA has recently released a Federal Funding Opportunity notice requesting research proposals to address Rural Clusters of Innovation. We anticipate the award of a grant or grants in the near future.

Question 3. How much money has EDA spent promoting the Strengthening America's Communities Initiative?

Response. EDA has incurred expenditures associated with the Strengthening America's Communities Advisory Committee, which was established pursuant to a February 9, 2005 request letter from the White House Domestic Policy Council to the Secretary of Commerce under the authority of the Federal Advisory Committee Act, as amended ("FACA") (5 U.S.C. App. 2).

The objectives and duties of the Committee are to provide advice and recommendations to the Secretary, and to develop a comprehensive written report to help inform the Administration and shape the policy parameters of the President's Strengthening America's Communities Initiative. The Committee's report provides new and innovative thinking on the future of economic and community development and asks how the Federal Government can best adapt its programs and approach to the challenges and opportunities faced by American communities and regions in the 21st Century worldwide economy.

Costs related to the Advisory Committee during fiscal year 2005 totaled $135,002. Other costs associated with SACI include staff travel and per diem, a satellite broadcast funded through an information dissemination grant, publication and miscellaneous expenses totaling approximately $100,000.

Question 4. If the administration's budget again proposes the Strengthening America's Communities Initiative, will EDA continue to solicit funding proposals until Congress acts on the SACI proposal?

Response. EDA cannot speak for the President in advance of his budget request to Congress that will occur February 2006. If funds are appropriated for EDA's programs, we will of course fulfill our responsibilities under law. The Department of Commerce and EDA will continue to support and advocate initiatives proposed by the President.

RESPONSES OF SANDY K. BARUAH TO ADDITIONAL QUESTIONS FROM SENATOR CLINTON

Question 1. Why did the agency reference the Strengthening America's Communities Initiative (SACI) in the opening of the interim final rules? Is there any connection between these rules and SACI? What will be your role in promoting SACI?

Response. The mention of SACI appears in the introduction to EDA's Interim Final Rule (IFR), not in the IFR itself. This appearance was an explicit recognition of this Presidential initiative. If the SACI proposal were enacted by Congress, it would consolidate funding for 18 existing programs, including EDA and therefore eventually eliminate EDA program funding. In spite of this possibility, the introduction to the IFR cites several reasons for the promulgation of amended regulations. The fourth specific reason states that, "it would be necessary for new Investments pursuant to appropriations for Fiscal Year 2006 that Congress may enact."

To be clear, I have been nominated by the President to serve as the Assistant Secretary of Commerce for Economic Development. If confirmed, I recognize that my role will be to manage EDA and to be a steward of its programs and resources—to position EDA for the future. As an appointee, my role is also to contribute positively to the policy formulation process, to help shape new initiatives as requested by the President and Secretary of Commerce and to advance the President's policy agenda.

Question 2. The interim final rule promulgated by the agency transforms the board makeup of district organizations from majority representation of public officials to majority representation of private sector officials. I understand that this requirement does not apply if state or local law requires that Economic Development District boards maintain majority public sector representation. Please identify those states that require Economic Development District boards to have majority public official representation.

Response. EDA has heard and understood clearly from Congress and public comments on the Interim Final Rule (IFR) that revision of this provision is of fundamental importance to EDA stakeholders. EDA has therefore committed to working with its stakeholders to produce a Final Rule that addresses these concerns while maintaining a commitment to the public-private partnership that constitutes the necessary foundation of successful economic development. To manifest this commitment, EDA published on September 30th in the Federal Register a notice that delays for 45 days the effective date of this provision in the IFR, as well as the provisions pertaining to Investment Rate determination for its Planning Investments. EDA is also extending the public comment period for the entire IFR during this period. While EDA cannot commit to specific changes separate and apart from the reg-

ulatory process, the bureau pledges to work diligently with its stakeholders to understand and address their concerns.

In the short amount of time allotted, EDA researched state and local laws and consulted with EDA stakeholders to formulate the answer to this question. To the best of our knowledge, the following states require or enable majority public official representation for Economic Development District boards: Arkansas, Florida, Illinois, Kentucky, Louisiana (for regional planning commissions formed in urbanized areas with a population greater than 50,000 persons), Maryland, Minnesota, Nevada, New Mexico, South Carolina, South Dakota (where an administrative or separate legal entity is formed pursuant to an intergovernmental agreement) Tennessee, Texas, Virginia, and West Virginia. Please note that the same response is given to Senator Jeffords #5 and Voinovich #1.

Question 3. There has been significant discussion that the interim final rule will eliminate the existing functions and operations of economic development district organizations, which would appear to conflict with the intent of reauthorization legislation enacted last year. δ302.4 (Title 13) of the current Federal regulations for EDA is almost entirely stricken in the interim final rule. The section specifically provided economic development districts with the ability to do such things as coordinate and implement economic development activities in the district, assist local governments in applying for grant assistance and carry out economic development related research, planning, implementation and advisory functions. It seems that the only remaining allowable operation of districts under the interim rule is the ability to contract out for services. If it is the intention of the agency to preserve the existing operation and activities of districts, can you explain why these functions and responsibilities were eliminated in the rule?

Response. None of the District Organization activities listed in the question are prohibited in the IFR. EDA intends through the IFR that District and other Planning Organizations will continue to conduct these and other activities as contemplated in a comprehensive, well-considered and feasible Comprehensive Economic Development Strategy (CEDS), written by the Planning Organization. The CEDS must contain, among other things, a quantified plan of action for implementing the CEDS as well as performance measures by which to evaluate the organization's CEDS implementation.

EDA did not include in its IFR the list of functions and responsibilities in its former regulations in order to encourage each Planning Organization to determine independently, creatively and critically the activities it will undertake through CEDS implementation. Economic Development Districts throughout our nation face radically different economic challenges which demand different responses. For example, the challenge of gradual but substantial out-migration from rural North Dakota demands a different response from the challenge of substantial annual population inflows of immigrant labor into California's Central Valley. Rather than providing a federally mandated "one size fits all" checklist of activities that might be interpreted as the standard for satisfactory performance of a District Organization, EDA believes that critical and continuous local evaluation and re-evaluation of a regionally tailored CEDS will produce more efficient—and more effective—allocation of each District Organization's resources, leading to beneficial economic outcomes for each District.

Please note that the same response is given to Senator Voinovich #3.

Question 4. I understand that EDA will fund a Planning Organization's or District's administrative expenses, so long as it can demonstrate that those expenses are attributable to developing and implementing their strategies" (CEDS). Does the agency feel expenses such as rent or insurance that are incurred during the routine operation of a planning organization or district are legitimate and necessary to the development of a Comprehensive Economic Development Strategy (CEDS) and would thereby be an allowable expense under the planning grant program?

Response. As the provision (IFR Section 303.5) states explicitly, EDA recognizes that incurrence and reimbursement of administrative expenses such as insurance and rent will necessarily occur as part of its Planning Investments. The legitimacy of any Planning Investment expenses will be determined: (i) in accordance with applicable Federal cost principles; (ii) pursuant to an agreed scope of work for direct costs; and (iii) for indirect costs, as those costs are anticipated and integrated as part of a comprehensive CEDS budget.

Please note that the same response is given to Senator Jeffords #6.

Question 5. How does EDA plan to monitor and implement the new rules, in light of the recent 50 percent staff reduction in its headquarters office and now additional reductions of 50 percent at the regional and field office level?

Response. EDA's staff levels have decreased from 434 employees in 1985 to 170 or less in 2006—61 percent less. In 1999, EDA was authorized at 268 FTE, but had insufficient resources to support that staff level, and consequently initiated extremely austere budget controls and a reduction of staff through attrition. Additionally, in 2004, EDA executed a headquarters restructuring which further reduced headquarters staffing and increased efficiency. As funds have continued to decline, EDA has continued staff reductions through attrition and just recently, through another buyout. A total of 28 staff members chose to take a buyout and retire, a 14 percent reduction.

EDA's structure and processes were developed in past decades when the bureau had more extensive resources. In fiscal year 2006, EDA's challenge, and my challenge should I be confirmed, is to look internally to determine how EDA can evolve to sustain its high level of customer service but continue to operate within its available resources. EDA must focus its attention on utilizing automation and information technology, and target its resources on those steps of the process where human involvement will provide the most value. EDA will need to strategically place its resources to ensure that critical customer support is maintained while critical elements of our program are adequately managed and monitored. I look forward to working with you as we engage in this process.

Question 6. In fiscal year 2005, Congress authorized $27 million, a $3 million increase, for the planning program. The extra funds were to be directed to existing and unfunded economic development districts, per the 2004 reauthorization act. Did EDA allocate these additional funds to EDDs? Can the agency provide a list of the organizations that received extra funding or new funding?

Response. For fiscal year 2005, the additional planning funds were allocated to each Regional Office which had discretion on how to utilize the additional funds. EDA Regional Offices used these funds in a variety of ways, including increases to current EDDs and Indian Tribes, funding other planning organizations and the awarding of various short term planning grants.

Please see Attachment A for detailed information by region.

Attachment A

Use of Additional $3 Million in Planning Funds

Seattle Regional Office

SHORT TERM PLANNING	
Central Puget Sound EDD	$ 5,000
Western AZ COG	$ 2,000
Yuba-Sutter EDD	$ 4,000
South Tucson, AZ	$ 5,000
PBDC	$ 4,000
City of Seattle	$ 96,000
State of Hawaii	$ 45,000
King County	$ 32,865

PARTNERSHIP:	
CAAG	$ 3,000
Palouse	$ 3,000
SOREDI	$ 4,000
NACOG	$ 3,000
Region IV	$13,000
Lummi Tribe	$41,000
Makah Tribe	$ 4,000
Panhandle Area Council	$14,000
Spokane Tribe	$ 1,008
Colville Tribes	$ 1,222
Quinault Indian Tribe	$ 3,000
Umatilla	$ 7,000
Quileute	$ 5,000
Swinomish	$ 2,000
NE Oregon EDD	$ 2,000
Southeast ID COG	$10,000
SAGE	$ 7,000
Clearwater EDD	$14,000
Nez Perce Tribe	$ 3,000

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Cowlitz-Wahkiakum EDD	$ 4,000
Central Sierra EDD	$ 2,000
Conf Tribes of Warm Spgs	$ 2,000
SWAMC	$ 4,000
Kawerak, Inc.	$ 2,000

ADDITIONAL PARTNERSHIPS

Duck Valley	$40,000
NCA Tribal ED Consortium	$55,000
Coquille Indian Tribe	$40,000
Navajo Nation	$76,992

Atlanta Regional Office

PLANNING PARTNERS

Three Rivers Planning and Development District, MS	$ 75,000
North Carolina Southeast Region, NC	$100,000
Memphis Chamber Foundation, TN	$150,000
Alabama Association of Regional Councils, AL	$ 99,523
South Carolina Department of Commerce, SC	$100,000

Austin Regional Office

SHORT TERM PLANNING

Webb County (Laredo, TX),	$411,741

Philadelphia Regional Office

SHORT TERM PLANNING

Lake Champlain/Lake George RPB/EDD, NY	$ 86,000
EDC of Northern Vt EDD	$100,000
Region 4 PDC/EDD, WV	$100,000
Pioneer Valley PC EDD	$ 75,920
Puerto Rico Planning Board CEDS	$ 75,000
REDDI PC, PA	$100,000
Rhode Island Dept of Admin. CEDS	$ 75,000

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WA . Colville Tribes . . $ 43,000 . $ 1,222 . . $ 45,000¶
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WA . Quileute . . . . $ 35,000 . $ 5,000 . . $ 40,000¶
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ID . Southeast ID COG . . . $ 56,000 . $10,000 . . $ 66,000¶
ID . SAGE . . . . . $ 67,000 . $ 7,000 . . $ 74,000¶
ID . Clearwater EDD . . . $ 60,000 . $14,000 . . . $ 74,000¶
ID . Nez Perce Tribe . . $ 34,000 . $ 3,000 . . $ 37,000¶
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CA . Central Sierra EDD . . . $ 56,000 . $ 2,000 . . . $ 58,000¶
OR . Conf Tribes of Warm Spgs . . $ 35,000 . $ 2,000 . . . $ 37,000¶
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Denver Regional Office

SHORT TERM PLANNING

University of Montana, Bozeman, MT	$78,000
University of Montana, Bozeman MT	$ 50,000
Planning & Development District III (Yankton, SD)	$24,570
Four Corners School of Outdoor Education, Monticello, UT	$92,000

Chicago Regional Office

PLANNING PARTNERS INCREASE

BI-State Regional Comm	IL	$ 8,263
Blackhawk Hills RC&D	IL	$ 8,263
Greater Egypt RPDC	IL	$ 8,263
Greater Wabash RPC	IL	$ 8,263
South Central IL RPDC	IL	$ 8,263
Southeastern IL RPDC	IL	$ 8,263
Southern Five RPDDC	IL	$ 8,263
Southwestern IL Metr RPC	IL	$ 8,263
Two Rivers Reg Cncl PO	IL	$ 8,263
Indiana 15 RPC	IN	$ 8,263
Kankakee-Iroquois RPC	IN	$ 8,263
Region 3A Dev RPC	IN	$ 8,263
River Hills RPC	IN	$ 8,263
Southeastern IN RPC	IN	$ 8,263
Southern IN Dev Comm	IN	$ 8,263
West Central Indiana EDD	IN	$ 8,263
Central Upper Peninsula	MI	$ 8,263
East Central MI PDRC	MI	$ 8,263
Eastern Upper Peninsula	MI	$ 8,263
Inter-Tribal Cncl of MI	MI	$ 8,263
NE MI Cncl of Govts	MI	$ 8,263
NW MI Council Govt	MI	$ 8,263
Southcentral MI Plg Cncl	MI	$ 8,263

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Southwestern MI Comm	MI	$ 8,263
Tri-Cnty Reg Plg Comm	MI	$ 8,263
West MI Shoreline RDC	MI	$ 8,263
West Michigan RPC	MI	$ 8,263
Western Upper Peninsula	MI	$ 8,263
Arrowhead Reg Dev Comm	MN	$ 8,263
East Central RDC	MN	$ 8,263
Headwaters Reg Dev Comm	MN	$ 8,263
Mid-Minnesota Dev Comm	MN	$ 8,263
Minnesota Chippewa Tribe	MN	$ 8,263
Northwest RDC	MN	$ 8,263
Region Five Dev Comm	MN	$ 8,263
Region Nine Dev Comm	MN	$ 8,263
Southwest Reg Dev Comm	MN	$ 8,263
Upper MN Valley RDC	MN	$ 8,263
West Central Initiative	MN	$ 8,263
Buckeye Hills RDD	OH	$ 8,263
Eastgate Reg Cncl of Gvt	OH	$ 8,263
Northeast Four Cnty RPDO	OH	$ 8,263
OH Mid-Eastern Govt Assn	OH	$ 8,263
Ohio Valley Reg Dev Comm	OH	$ 8,263
Bay-Lake Reg Plan Comm	WI	$ 8,263
East Central WI RPC	WI	$ 8,263
Great Lakes Inter-Tribal	WI	$ 8,263
Mississippi River RPC	WI	$ 8,263
North Central WI RPC	WI	$ 8,263
Northwest Reg Plan Comm	WI	$ 8,263
Southwestern WI RPC	WI	$ 8,263
West Central WI RPC	WI	$ 8,263
TOTAL		**$2,782,517**

RESPONSES OF SANDY K. BARUAH TO ADDITIONAL QUESTIONS FROM SENATOR VOINOVICH

Question 1. The interim final rule promulgated by the agency transforms the board makeup of district organizations from majority representation of public officials to majority representation of private sector officials. I understand that this requirement does not apply if state or local law requires that Economic Development District boards maintain majority public sector representation. Please identify those states that require Economic Development District boards to have majority public official representation.

Response. EDA has heard and understood clearly from Congress and public comments on the Interim Final Rule (IFR) that revision of this provision is of fundamental importance to EDA stakeholders. EDA has therefore committed to working with its stakeholders to produce a Final Rule that addresses these concerns while maintaining a commitment to the public-private partnership that constitutes the necessary foundation of successful economic development. To manifest this commitment, EDA published on September 30th in the Federal Register a notice that delays for 45 days the effective date of this provision in the IFR, as well as the provisions pertaining to Investment Rate determination for its Planning Investments. EDA is also extending the public comment period for the entire IFR during this period. While EDA cannot commit to specific changes separate and apart from the regulatory process, the bureau pledges to work diligently with its stakeholders to understand and address their concerns.

In the short amount of time allotted, EDA researched state and local laws and consulted with EDA stakeholders to formulate the answer to this question. To the best of our knowledge, the following states require or enable majority public official representation for Economic Development District boards: Arkansas, Florida, Illinois, Kentucky, Louisiana (for regional planning commissions formed in urbanized areas with a population greater than 50,000 persons), Maryland, Minnesota, Nevada, New Mexico, South Carolina, South Dakota (where an administrative or separate legal entity is formed pursuant to an intergovernmental agreement) Tennessee, Texas, Virginia, West Virginia.

Please note that the same response is given to Senator Jeffords #5 and Senator Clinton #2.

Question 2. Section 300.2 of the interim final rule defines Private Sector Representative as a senior management official or executive holding a key decision-making position in a for-profit enterprise. It is my understanding that for-profit enterprises are ineligible to receive direct EDA public works or other assistance. In addition, it is my understanding that eligible recipients of EDA assistance are restricted to Indian tribes, state and local governments and not-for-profit organizations. In addition, since it is local governments that have the responsibility of maintaining local infrastructure, there seems to be a fundamental contradiction in mandating that for-profit enterprises control the governance structures of both district organizations and strategy committees of planning organizations. This appears to be a contradiction. Can you explain this? Further, since local governments will no longer serve as majority representatives on the boards of these organizations, will the private sector be responsible for providing the local matching funds for EDA planning assistance and public works investments?

Response. EDA has heard and understood clearly from Congress, public comments on the IFR and others that revision of this provision is of fundamental importance to EDA stakeholders. EDA has therefore committed to working with its stakeholders to produce a Final Rule that addresses these concerns while maintaining a commitment to the public-private partnership that constitutes the necessary foundation of successful economic development. To manifest this commitment, EDA published on September 30th a Federal Register notice that delays for 45 days the effective date of this provision in the IFR, as well as the provisions pertaining to Investment Rate determination for its Planning Investments. EDA is also extending the public comment period for the entire IFR during this period. While EDA cannot commit to specific changes separate and apart from the regulatory process, the bureau pledges to work diligently with its stakeholders to understand and address their concerns.

In response to the specific questions above, PWEDA explicitly states that Economic Development Districts are eligible recipients of EDA assistance, in addition to the entities listed in the question. EDA's IFR defines those District Organizations as public or non-profit organizations formed under inter-governmental agreements, State enabling legislation or a State's non-profit organizational statutes. The presence of private sector representatives on the District Organization's governing body, even in a majority, does not change the organizational character and purpose of that organization.

Moreover, any board member, whether a private sector representative or public official, generally has a fiduciary duty to the organization, as set forth in that organization's enabling legislation, organizational statutes or organizational documents. Public or private sector representatives, even if they constitute a majority of the governing body, are required to fulfill that fiduciary duty in spite of any duty they have to the outside business or governmental entity they represent.

Every District Organization maintains the flexibility to generate its matching share from any source it deems appropriate (including contributions from for-profit entities), so long as the matching share is available as needed and is not conditioned or encumbered in any way that would preclude its use consistent with the requirements of EDA Investment Assistance.

Finally, it is important to recognize that the most effective economic development strategies are market-based and private sector-led. At the end of the day, the private sector must be ready, willing and able to invest in a community in order for economic growth to occur. Close cooperation and buy-in from the private sector are needed to ensure that development efforts are best positioned to leverage the power of the private sector.

Question 3. There has been concern that the interim final rule will eliminate the existing functions and operations of economic development district organization, which would appear to conflict with the intent of reauthorization legislation enacted last year. I understand that EDA feels it is in complete compliance with the law. However, δ302.4 (Title 13) of the current Federal regulations for EDA is almost entirely stricken in the interim final rule. The section specifically provided economic development districts with the ability to coordinate and implement economic development activities in the district, assist local governments in applying for grant assistance and carry out economic development related research, planning, implementation and advisory functions. It seems that the only remaining allowable operation of districts under the interim rule is the ability to contract out for services. If it is the intention of the agency to preserve the existing operation and activities of districts, can you explain why it was necessary to strike these provisions outlining district core functions and responsibilities?

Response. None of the District Organization activities listed in the question are prohibited in the IFR. EDA intends through the IFR that District and other Planning Organizations will continue to conduct these and other activities as contemplated in a comprehensive, well-considered and feasible Comprehensive Economic Development Strategy (CEDS), written by the Planning Organization. The CEDS must contain, among other things, a quantified plan of action for implementing the CEDS as well as performance measures by which to evaluate the organization's CEDS implementation.

EDA did not include in its IFR the list of functions and responsibilities in its former regulations in order to encourage each Planning Organization to determine independently, creatively and critically the activities it will undertake through CEDS implementation. Economic Development Districts throughout our nation face radically different economic challenges which demand different responses. For example, the challenge of gradual but substantial out-migration from rural North Dakota demands a different response from the challenge of substantial annual population inflows of immigrant labor into California's Central Valley. Rather than providing a federally mandated "one-size-fits-all" checklist of activities that might be interpreted as the standard for satisfactory performance of a District Organization, EDA believes that critical and continuous local evaluation and re-evaluation of a regionally tailored CEDS will produce more efficient—and more effective—allocation of each District Organization's resources, leading to beneficial economic outcomes for each District.

Please note that the same response is given to Senator Clinton #3.

RESPONSES OF SANDY K. BARUAH TO ADDITIONAL QUESTIONS FROM SENATOR BOND

Question 1. Within the EDA's Interim Final Rule, Section 301, which includes the investment rate process for determining the Federal and local match for planning assistance, how will the Census Bureau's American Community Survey (ACS) prove to be an adequate and efficient unit for determining the economic distress levels? If ACS contains the capability to base the need for planning assistance by determining the investment rate for the Economic Development Districts (EDD), how will EDA ensure that the Economic Development Districts do not receive a dramatic increase in their share of the Federal/local match when they may actually qualify for a larger Federal investment? It is important to note that many EDDs may not have

the capacity to access ACS and efficiently determine that EDD's lack of economic viability.

Response. The ACS does not in and of itself contain the capability to determine investment rates for planning or other EDA investment assistance. Rather, the ACS provides a technologically advanced data base of U.S. demographic data, continually updated and maintained by the U.S. Census Bureau to sustain statistical integrity. Where available, EDA personnel will use ACS demographic data to determine more precisely the economic distress levels of a particular region. This is intended to ensure that EDA determines its investment rates with reference to the most accurate economic data available. Where ACS data is not available, EDA personnel will use the most reliable Federal data available, from the U.S. Census Bureau, the Bureau of Economic Analysis, the Bureau of Labor Statistics, the Bureau of Indian Affairs or other Federal source. Absent reliable data from any of these sources, an applicant will need to provide the most recent economic data available through the government of the State in which the project's region is located. EDA's regional office staff will be available to assist stakeholders in the use of the ACS where necessary.

Question 2. Within the existing regulations for EDA it is required that 20 percent of the governance board for and Economic Development District consist of private sector representatives. The EDA Interim Final Rule suggests that the district organizations and planning committees must have a majority of private sector representatives. Why must the governance board of an EDD which has proven to be efficient alter their current status to fit these regulations? Who will appoint these additional private sector representatives? What would happen to the representation of the local officials? As you are aware, the EDA reauthorization Act of 2004 states that it is necessary for local officials to maintain an ample representation. Why do you feel that there is a need to alter this representation?

Response. EDA has heard and understood clearly from Congress, public commentators on the IFR and others that revision of the District Organization private sector representation provision is of fundamental importance to EDA stakeholders. EDA has therefore committed to working with its stakeholders to produce a Final Rule that addresses these concerns while maintaining a commitment to the public-private partnership that constitutes the necessary foundation of successful economic development. To manifest this commitment, EDA has on September 30 published a Federal Register notice that delays for 45 days the effective date of this provision in the IFR, as well as the provisions pertaining to Investment Rate determination for its Planning Investments. EDA is also extending the public comment period for the entire IFR during this period. While EDA cannot commit to changes that it may make to these provisions separate and apart from the regulatory process, it will engage in extensive discussions with its stakeholders to understand and address their concerns.

Finally, it is important to recognize that the most effective economic development strategies are market-based and private sector-led. At the end of the day, the private sector must be ready, willing and able to invest in a community in order for economic growth to occur. Close cooperation and buy-in from the private sector are needed to ensure that development efforts are best positioned to leverage the power of the private sector.

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS

ROOM 410 DIRKSEN BUILDING WASHINGTON, DC 20510

INFORMATION

REQUESTED OF PRESIDENTIAL NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to the Honorable James M. Inhofe, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Marty Hall: Deputy Staff Director) as soon as possible.

Name of Nominee: Santanu "Sandy" K. Baruah

Business Address: U.S. Department of Commerce
Economic Development Administration
1401 Constitution Avenue, N.W., Suite 7800
Washington, D.C. 20230

Business Phone: (202) 482-5081

Home Address:

Home Phone:

UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: BARUAH *(Last)* SANTANU (SANDY) *(First)* K. *(Middle)*

Position to which nominated: Assistant Secretary of Commerce for Economic Development

Date of Nomination: 6 September 2005

Date of birth: 3 April 1965 *(Day) (Month) (Year)* **Place of birth**: Washington, D.C.

Marital status: Married **Full name of spouse:**

Name and ages of children:

Education:

Institution	*Dates attended*	*Degrees received*	*Dates of degrees*
University of Oregon	'83 – '88	B.S	'90
University of Virginia	'90	N/A	N/A
Willamette University*	'93 – '95	M.B.A.	'95

* located in Salem, Oregon

Employment record:

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

Re-Elect Senator Bob Packwood, Office Manager. Portland, Oregon. 1985 – 1986.
George Bush for President, Field Director. Portland, Oregon. 1988.
U.S. Senate Committee on Finance, Staff Assistant. Washington, D.C. 1989.
U.S. Department of the Interior, Confidential Assistant. Washington, D.C. 1989 – 1990.
Interstate Commerce Commission, Special Assistant. Washington, D.C. 1990 – 1991.
U.S. Department of Labor, Legislative Affairs Officer. Washington, D.C. 1991 – 1993.
Performance Consulting Group, Senior Consultant. Washington, D.C. 1995 – 2001.
U.S. Department of Commerce, Deputy Assistant Secretary and Chief of Staff.
Washington, D.C. 2001 – Current.

Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

None.

Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	*Office held (if any)*	*Dates*
City Club of Portland, Subcommittee Chairman		('86 – '94, '97 – '02)
Oregon Quality Award, Board of Examiners		('99)
Dorchester Conference, Board of Directors		('99 – '01)
Oregon Republican Leadership Institute, Executive Board		('97 – '01)

Qualifications:

State fully your qualifications to serve in the position to which you have been named.

Since 2001, I have served the President Bush and the American people in senior roles at the Commerce Department's Economic Development Administration (EDA). I am extremely honored and humbled that President Bush has nominated me to now lead EDA and I pledge to work tirelessly to advance the cause of effective, responsive, and compassionate economic development polices and practices.

For four years, I served as a principal advisor and senior staff member to David Sampson during his tenure as Assistant Secretary. During these years, a great deal was accomplished at EDA to improve the management of the agency, increase process efficiency, quantify and improve the impact of grant dollars, and advance the cause of leading edge economic development. For example:

- EDA's has increased its effectiveness in leveraging private sector investment from $9 for every EDA dollar invested to over $40 for every EDA dollar invested.
- EDA has significantly streamlined its headquarters operations, eliminating duplicative roles, re-aligning functions, and is recognized within the Department of Commerce and the Office of Management and Budget for good management.
- EDA has successfully implemented a Balanced Scorecard strategy and performance measurement tool, and was inducted into the Balanced Scorecard Hall of Fame in 2004.
- EDA has increased its partnership with other Federal agencies, such as working with DOD on BRAC-impacted communities and DOL on better integrating workforce development and economic development efforts.

I am proud to have played key management, policy, and outreach roles that have contributed to these results. I intend to build upon this sound record of results. Also, in my service with EDA I have traveled extensively to EDA investment sites and regional offices – covering 30 states. I am very familiar with the "on the ground" work the agency's professional staff performs.

Prior to my current service to the Bush Administration, I served as a corporate management consultant, assisting medium- and large-sized firms improve business practices, communications, and efficiency. I will bring the "lessons learned" from this work to the role of Assistant Secretary. In addition, I have served on the staff of a U.S. Senator and as Congressional liaison in former President Bush's Administration. These experiences have made me sensitive to the important oversight role the Congress plays regarding Federal programs.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

N/A. Current Federal official.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

I do not plan to return to any previous employer upon completing Federal service.

3. Has anybody made a commitment to you for a job after you leave government?

No.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Yes.

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No.

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

Schedule C Appointee: U.S. Department of the Interior (1989 – 1990)
- resigned to accept higher level appointment at Interstate Commerce Commission
Schedule C Appointee: Interstate Commerce Commission, Special Assistant (1990 – 1991)
- resigned to accept higher level appointment at Department of Labor
Schedule C Appointee: U.S. Department of Labor (1991 – 1993)
- resigned due to change in Presidential Administration
Schedule C/SES Appointee: U.S. Department of Commerce (2001 – Current)
- currently serve as a non-career SES appointee

Financial Statement:

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF-278, Schedule A.

None.

2. Are any assets pledged?

N/A.

3. Are you currently a party to any legal action?

No.

4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes.

5. Has the Internal Revenue Service ever audited your Federal tax return? if so, what resulted from the audit?

For calendar year 1993, an IRS review (not formal audit) discovered that I overpaid Federal income tax (approximate: $2000). For calendar year 2002 an IRS review (not formal audit) discovered that I underpaid Federal tax (approximate: $4000). This amount was not disputed and was repaid to the IRS.

Potential conflicts of interest:

1. Describe any financial or deferred compensation agreements or other continuing of interest: dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None.

2. List any investments, obligations, liabilities, or other relationships that might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

Please see attached ethics agreement.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None.

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

Please see attached ethics agreement. Should a conflict arise, I will consult with the Department of Commerce Ethics Officer and act in accordance with that guidance. In all matters, I will scrupulously follow the law and work diligently to avoid even the appearance of conflict of interest.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

Please see attached ethics agreement. The attached memorandum from me to the Department of Commerce's Ethics Officer, Barbara S. Fredericks, was prepared for me by the Department's Office of General Counsel. This document is on file with the Department and addresses potential conflicts of interest known at this time. Should a conflict arise, I will consult with the Department of Commerce Ethics Officer and act in accordance with that guidance.

Political affiliation and activities:

List all memberships and offices held in, or financial contributions (in excess of $1,000), and services rendered to any political party or election committee during the last 10 years.

Bush-Cheney (2004). Contributor.
Republican National Committee (2004). Volunteer.
Scott Bruun for Oregon State Representative (2004). Contributor.
Bush-Cheney (2000). Contributor/Volunteer County Chair.
Volunteer for several candidates seeking State or Federal office in Oregon. (1980 – 2004).

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written.
(Please list first any publications and/or speeches that involve environmental or related matters.)

Article on NAFTA and Free Trade published in Willamette University magazine in either 1994 or 1995.

Additional Matters:

1. If there is any additional information that you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

I believe the Federal Government can play an important role in helping to spur economic activity at the local and regional level, especially in areas of our country that are experiencing fundamental economic change due to shifting trade patterns, changes in Federal policy, natural or man-made disasters, sudden changes to key regional industries, and those areas with long-term economic challenges.

In today's economy where American cities and regions must be competitive to thrive in the world-wide marketplace, the Federal Government has a responsibility to foster innovation and entrepreneurship. My experience with EDA has also taught me that the Federal Government can do a better job in coordinating among the various departments and programs. The development challenges of today and tomorrow no longer make a distinction between rural and urban development issues, nor is the line between economic and community development the bright clear line it once was considered.

I agree with President Bush that, "the role of government is to create conditions in which jobs are created." I believe the Federal Government can be a force for good and can make a meaningful and positive difference in people's lives. If I am honored to be confirmed by the United States Senate, you have my pledge that I will come to work each day with this important goal in mind.

Thank you.

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes.

AFFIDAVIT

Santanu (Sandy) K. Baruah _____ ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 15th day of September, 2005 .

Sandra E. Lambright
Notary Public

Sandra E. Lambright
Notary Public, District of Columbia
My Commission Expires 01/01/08

UNITED STATES DEPARTMENT OF COMMERCE
Economic Development Administration
Washington, D.C. 20230

SEP 07 2005

MEMORANDUM FOR: Barbara S. Fredericks
Assistant General Counsel
for Administration

FROM: Santanu (Sandy) Baruah

SUBJECT: Ethics Agreement

If appointed to the position of Assistant Secretary for Economic Development, Economic Development Administration, I will take the following actions to avoid a conflict of interest.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any other person whose interests are imputed to me, unless I am permitted to do so pursuant to 18 U.S.C. § 208(b)(1) or (2). I understand that the interests of the following persons are imputed to me: my spouse, minor children, or any general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I will recuse myself from personal and substantial participation in any particular matter that will have a direct and predictable effect on the ability or willingness of Sun America Life Insurance Company or Jackson National Life Insurance Company to pay benefits associated with the fixed annuities I have with each of those companies, unless I first obtain a written waiver or qualify for a regulatory exemption.

With respect to my spouse's employment, I will not participate in a particular matter involving specific parties to which my spouse's employer, Long & Foster Realtors (Bethesda), or a current client of my spouse, is a party, or represents a party, unless I am permitted to participate under ethics regulations. I also will not participate in a particular matter involving specific parties that will have a direct and predictable effect on my spouse's employment, unless I am permitted to do so pursuant to a regulatory exemption or conflict of interest waiver.

In the event my participation in a matter from which I am disqualified is important to the Government, I will seek advice from an ethics official on means to resolve a conflict of interest, such as by divestiture or by obtaining a conflict of interest waiver.

cc: Secretary Carlos M. Gutierrez

STATEMENT OF GEORGE M. GRAY, PH.D., NOMINATED TO BE THE ASSISTANT ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY, OFFICE OF RESEARCH AND DEVELOPMENT

Mr. Chairman and members of the committee, it is an honor to appear before you today as President Bush's nominee to be Assistant Administrator for Research and Development for the United States Environmental Protection Agency (EPA). I am excited about the opportunity to enter public service, to work with Administrator Johnson and to advance the mission of EPA. I am also proud to introduce my wife Ann and my two children, Owen and Evelyn, who are here with me today.

I am a scientist and I have spent my career working to apply the principles of science, quantitative analysis and risk communication in public health. My interests have always been with the application of science, putting knowledge to work to help make better decisions. This interest led me to graduate study in toxicology, the science that helps us identify and characterize human health and environmental hazards. Next, I was awarded a fellowship in the Interdisciplinary Programs in Health at the Harvard School of Public Health where I learned about the range of scientific data and knowledge needed to inform important decisions. I also saw how important careful consideration and characterization of scientific information is in public health. I have studied and taught this approach at the Harvard School of Public Health for over 15 years. I believe that my training and experience will enhance my ability to work with the dedicated scientists and professionals in ORD to advance its charge of providing scientific and technological support for EPA's activities.

My work over the last 20 years has been, like the task of the ORD, both multidisciplinary and interdisciplinary. The ORD conducts research and analyses on a wide range of potential hazards from the health and ecological effects of biological and chemical hazards to water quality to homeland security. It takes the range of expertise in ORD, including biologists, engineers, physical scientists, mathematicians and physicians, to understand and characterize risk management solutions. I believe that more and more our environmental challenges will require cooperation and collaboration among scientific disciplines.

My approach to addressing important public health and environmental concerns is to bring together the best information and people, from multiple disciplines, to provide an integrative solution. For example, I led the Harvard/Tuskegee BSE (Mad Cow) study commissioned by the USDA in 1998. Our goal was an evaluation of the potential for BSE to spread in the United States if it were introduced. This project involved integration of expertise from many disciplines from veterinary science to neurobiology to applied mathematics. It required collaboration with governments (U.S. and abroad), industry, and non-governmental organizations. Ultimately, our study provided useful information to inform policy decisions, guide research, and communicate BSE risk to the public. This spirit of integration and collaboration will guide my efforts at ORD.

The EPA Office of Research and Development is organized around the risk assessment/risk management paradigm. I have extensive knowledge of risk assessment and the careful evaluation of science that is critical for sound decisions about human health and the environment. This understanding has given me opportunities to contribute to the interaction of science and government decisionmaking while serving on the National Advisory Environmental Health Sciences Council, the advisory body to the National Institute of Environmental Health Sciences and the Food and Drug Administration's Food Advisory Committee, Contaminants and Natural Toxicants Subcommittee.

I am also a teacher and proud of my contribution to educating current and future environmental professionals. Doctoral students whom I have advised and students from my classes have gone on to work in academia, government, and the private sector. Several come from or joined the EPA, including the National Center for Environmental Assessment and Region V. Since 1995 I have developed and directed a mid-career short course on risk that regularly has a dozen or more class members from EPA with participants from FDA, USDA, NRC, and OSHA and numerous foreign countries. The rigor, balance, and practicality that characterize this course are the same attributes that will guide my efforts at ORD.

Teaching is also about communicating, and I believe that communication is key to successful leadership, research, analysis, and protection of human health and the environment. I will strive to work with all of ORD's stakeholders to identify important issues and their scientific basis, to build understanding of ORD's mission and actions, and to get useful scientific information into the hands of decision makers. These stakeholders include legislators, the public, other parts of the government, the scientific community, the private sector and nongovernmental organizations.

ORD has a critical responsibility in EPA's mission and, if confirmed, I will bring enthusiasm, knowledge and experience to supporting that role. At the same time, I will bring a fresh perspective to helping advance Administrator Steve Johnson's goals of using the best available scientific information to make decisions and working collaboratively to find effective solutions to environmental problems.

Thank you very much for your consideration and I would be happy to answer any questions.

RESPONSES OF GEORGE GRAY TO ADDITIONAL QUESTIONS FROM SENATOR JEFFORDS

Question 1. The EPA's Office of Research and Development (ORD) has had a controversial multi-million dollar contract to enhance it "strategic communications." Some have called this a waste of funds that should be devoted to research and others have questioned the legality and propriety of using tax dollars on "corporate image enhancement." Do you think this was a good use of government funds? And if confirmed, what actions would you take with respect to this contract?

Response. Communicating the results of Federally-funded research is very important to all audiences, including via both technical journals and other media. Effective communication of research results enables policymakers—from Agency regulators to individual consumers—to make informed choices. I am not familiar with the contract you ask about, but, if confirmed, I will look into this and other ORD communications activities to ensure they make appropriate and effective use of federal funds.

Question 2. Do you plan to solicit corporate contributions to support ORD research and what limitations, if any, do you think are appropriate in seeking corporate participation in ORD research?

Response. While I am not an expert on the Federal Technology Transfer Act, I believe this enacted legislation encourages the Federal government to enter into Cooperative Research and Development Agreements (CRADAs) with industry, consortia, academia, trade associations, and state and local agencies. Where mutually beneficial, if confirmed, I intend to fully utilize this authority while assuring that research is peer reviewed and meets high ethical standards.

Question 3. Are you familiar with a recent GAO report on the lack of safeguards within EPA against conflicts of interest in soliciting corporate research joint ventures? If so, what is your response to this report? What steps do you intend to take to prevent conflicts of interest?

Response. I am not familiar with this GAO report, but, if confirmed, I will work to ensure there are appropriate safeguards within EPA to protect against conflicts of interest in all respects, not just in the soliciting of joint research ventures.

Question 4a. In a submission to the Office of Management and Budget on the subject of Peer Review procedures, you opposed a policy that required the disqualification of reviewers that had a conflict of interest:

> "I prefer the notion of disclosure of potential conflicts of interest, including work as an expert witness and institutional funding, to strict rules of disqualification in the required agency guidelines (Section 4(b)). Complete and widespread disclosure will allow interested parties to make judgments about the appropriateness of reviewers. Although I recognize that it will sometimes be necessary and appropriate, disqualification has the potential to raise questions of agency bias in the choice of experts."

Do you intend to advocate suspending current conflict of interest requirements for EPA advisory committees?

Response. I have no plans to change any of the current, widely accepted conflict of interest requirements for EPA advisory committees.

Question 4b. Can you provide an example of where an exclusion of an advisory panel member for conflict of interest created the impression of "agency bias in the choice of experts"?

Response. Not having participated in any such agency decision, I cannot provide an example of where the exclusion of an advisory panel member for conflict of interest reasons created the impression of Agency bias in the choice of experts.

Question 4c. You concede that it is sometimes "necessary and appropriate" to exclude experts based upon conflicts of interest. Please describe when, in your judgment, such exclusion is needed.

Response. I believe it is appropriate to exclude a panel member based upon conflict of interest when one could reasonably assume that the conflict in question is likely to bias the panel member's review. Also, in borderline cases it may be most

prudent to exclude a reviewer if the same technical expertise can be provided by another panel member who does not have a conflict of interest.

Question 4d. Please explain why your more selective use of conflict-based exclusions does not raise greater concerns about "agency bias"?

Response. Many, if not all, reviewers will have some potential conflicts, for example in terms of having received some federal or industry funding for their work. After all, it is in part through such funding that they are able to conduct the research that enables them to become experts. I believe the most important qualification for a peer reviewer is that he or she is technically well qualified to ably serve in this important capacity. Complete and widespread disclosure of potential conflicts of interest, including work as an expert witness and institutional funding, allows agencies to select the most technically qualified people to be peer reviewers.

Question 5. According to internal employee surveys, there is a growing disconnect between scientists and managers within the research arm of the U.S. Environmental Protection Agency.

What steps would you take to rectify this situation?

Response. I am not familiar with the employee survey you cite, but, if confirmed, I will promote effective communication throughout ORD and across EPA, not just between scientists and managers.

Question 6. Please describe what measures of success you would want your tenure at ORD to be judged.

Response. If I am confirmed, I would like my tenure at ORD to be marked by ORD being recognized for conducting relevant, high quality, cutting edge research in human health and ecology and that the results of this research informed environmental decisions both at EPA and elsewhere.

Question 7. In the past, you have supported centralizing peer review authority, perhaps in an office such as the Office of Science and Technology Policy. Is this your current view?

Response. I don't have a position on this matter, but I will look into ORD's and EPA's current peer review procedures, including the practicality and value of a centralized peer review authority.

Question 8. In 1998, you testified in a House Hearing on the Science of Risk Assessment. You stated that "it is conservatism in risk assessment that can make us sorry." You are now being nominated to an agency whose mission includes the protection of sensitive subpopulations.

Do you agree that it is appropriate for EPA to set standards that are protective of these subpopulations and are there processes that can improve how these subpopulations are accounted for in risk assessment?

Response. I believe standards can be protective of vulnerable populations, while at the same time being informed by assessments that clearly communicate scientific uncertainties and probabilities. If confirmed as the AA for ORD, I commit to providing the Administrator and other EPA policymakers with the best risk assessment information I can, including the risks to different subpopulations and a full appreciation of the uncertainties inherent in the assessment. I will also work with the policymakers to set standards consistent with our existing environmental statutes.

Question 9. At another House hearing in 2003, you stated that "policy is influencing EPA's science undermining the credibility of both the science and the decisions." However, you also recommended that the problems with Peer Review and Information Quality Guidelines could be solved by establishing a centralized body, perhaps in the Office of Science and Technology Policy, to choose experts to 'referee' the process to ensure that peer review comments are addressed appropriately and that the best analysis is made to support important decisions.

Could you please explain how establishing a body within the White House would reduce political influence on science and what you would do if confirmed as head of ORD to shield EPA's scientists from political pressures?

Response. No matter the organization and structure, care must be used to select peer reviewers that are technically qualified with no or disclosed conflicts of interest. Scientists' independence to interpret data and publish findings is crucial to maintaining scientific integrity. If confirmed as the AA for ORD, I commit to allowing ORD scientists to publish their findings consistent with the office's already rigorous peer review policy.

Question 10. What will you do to improve the timely availability of scientific information for decision makers without jeopardizing the quality and credibility of agency analysis and how will you do it in a way that is useful for the regulatory programs?

Response. One of the reasons I am interested in the position of AA for ORD is Administrator Johnson's personal commitment to ensuring strong science informs EPA decisions. In addition to conducting cutting-edge research, ORD has the responsibility to ensure scientific information is properly characterized in a timely manner for Agency policymakers. It does so both by serving on the Agency workgroups that formulate environmental policy options and by reviewing the scientific basis for the Agency's final decisions. However, to be relevant, scientific information should be provided to decision makers in a timely manner. If confirmed, I will work closely with colleagues across the agency to ensure ORD is involved early in the decisionmaking process and continues to perform this critical decision support function.

Question 11. In order to assure the public that the trading program for mercury the Administration has issued is actually working, the Agency will need to devote considerable resources toward developing a system to monitor changes in mercury emissions, deposition, fish tissue concentrations and human and wildlife exposures. In addition, when it issued the regulation, EPA committed to monitoring "hot spots" or areas with high mercury fish tissue levels. While ORD doesn't run monitoring programs, ORD has a key role to play in designing such a system and in developing techniques and protocols for monitoring. However, the mercury budget for ORD is being dramatically cut back in FY2006 and is almost zero after FY2006. Will you commit to investigate the commitments for spending on mercury research and development and maintaining a mercury research budget adequate to support these activities?

Response. I am not familiar with the Agency's budget for mercury research in FY 2006 or beyond. However, I am aware that ORD's mercury research program has greatly contributed to our understanding of mercury emissions and controls, deposition in waters, and uptake in fish. While it is not ORD's role to conduct monitoring, I agree that any mercury monitoring program must be carefully designed and if ORD can contribute to that design, it should. If confirmed, I will look into the ORD mercury research budget, and, consistent with other budget priorities, look to see where it can continue to make contributions.

Question 12. When EPA was developing the mercury regulation for power plants, it did not look at the cardiovascular impacts of mercury exposure, even though others have found those impacts to be substantial. Specifically, research indicates that methyl mercury attenuates the cardio-protective impacts of fish oils. EPA staff had been preparing to convene scientists doing research in this area to advice the Agency on the appropriate use of this new information. That was abruptly cancelled by EPA political management citing lack of time. But now, EPA is reconsidering the rule and still no plans have been made to hold this meeting. Can you assure me that you will authorize career scientists in the Agency to convene a meeting of researchers who have published in this area to further advise the Agency?

Response. If confirmed, I will look into this issue, recognizing that any potential for cardiovascular effects should be examined within the context of the entire mercury health effects database, and balanced against the cardiovascular benefits of eating fish.

Question 13. There is some very interesting research that EPA's ORD in Steubenville, Ohio, showing very high mercury deposition near power plants. ORD management seems to be delaying the publication of this research by insisting on an extra level of peer review (in addition to the usual internal EPA peer review and external prepublication review) before the work can be submitted to a journal. If the work is to be considered as part of the reconsideration process, it needs to be published. Will you assure me that this work will not be subject to extraordinary review simply to delay its publication?

Response. If confirmed, I will look into this issue. I am a firm believer in the importance of independent expert review. While assuring that necessary research is provided in a timely manner to decision makers.

RESPONSES BY GEORGE GRAY TO ADDITIONAL QUESTIONS FROM SENATOR CLINTON

Question 1. Can you please provide detailed information about your science background, in terms of both education and your professional career?

Response. See Attached Curriculum Vitae.

Question 2. What areas of environmental science do you think ORD should focus on over the next several years?

Response. There are many important areas of research I think ORD should focus on, and if confirmed, I anticipate I will learn of others when I become more familiar with ORD's research plans. That said, some examples of research I believe ORD, along with other Agencies, should contribute to are: particulate matter—sources, effects, and controls; drinking water and water quality; using genomics and other techniques to test the potential impacts of new chemicals; using available observational data to inform national, regional, and local environmental decisions; emerging issues such as nanotechnology and decision support tools; and maintenance of the Integrated Risk Information System (IRIS) database.

Question 3. What research areas do you think EPA should focus on in order to improve the Agency's emergency response capabilities?

Response. Since September 11, 2001, ORD has developed unique expertise in the areas of building contamination and protecting water. I believe ORD should not only continue these areas of focus, but, after Katrina, should work with other Federal agencies to see how it can assist in responding to natural disasters in other ways as well. For example, the Katrina experience reinforces the need for addressing risks from microbial pathogens.

RESPONSES OF GEORGE GRAY TO ADDITIONAL QUESTIONS FROM SENATOR BOXER

Question 1. Do you believe EPA should consider human dosing experiments with pesticides or other chemicals for regulatory purposes? If so, what safeguards and constraints would you support?

Response. There are instances where human studies improve our understanding of the potential effects associated with regulated substances. Any research conducted by the government or considered by the government should meet very strong ethical standards, including the Common Rule, which identifies safeguards and constraints.

Question 2. Do you believe there should be different rules governing EPA's performance or support of chemical experimentation on humans versus research conducted by industry? What is your rationale for any differences?

Response. I believe all research should meet high ethical standards. As I stated above, it is my understanding that all Federal agencies, and those researchers conducting studies supported by Federal agencies, must abide by the Common Rule.

Question 3. Do you support EPA conducting or supporting studies similar to the controversial CHEERS study recently canceled by EPA?

Response. I understand that Administrator Johnson cancelled the study. Protecting the health of children is important to me, and I am interested in engaging in a dialogue on different approaches for improving our understanding of risks to children.

Question 4. Do you agree that the financial and other incentives proposed in the CHEERS study could provide a powerful inducement for subjects to continue pesticide use around infants, particularly when subjects are recruited in economically disadvantaged areas?

Response. I am not familiar with the financial and other incentives proposed as part of the cancelled CHEERS study. In general, I believe that observational studies should include a protocol for informing participants who are found to be experiencing high exposures. Any compensation for participation should be established at a level appropriate for the effort and not one that might encourage potentially harmful behavior by study participants.

Question 5. Do you believe EPA should increase its reliance on chemical tests, including pesticide testing, on human subjects, rather than rely on animal or other models?

Response. Epidemiologic, clinical, and animal studies, together with modeling, all contribute to our understanding of the potential effects associated with pollutants and inform environmental policymaking. I am very encouraged about EPA's computational toxicology efforts, which are devoted to using genomic and bioinformatics techniques to reduce testing in both animals and humans.

Question 6. Do you believe that human tests must be statistically valid to be useful and must involve a sufficient number of subjects to be scientifically sound?

Response. All studies must be carefully designed to test their hypothesis within the statistical precision needed to use the study results. The number of subjects needed relates to the confidence which is desired to conclude that the effect being tested for is real.

Question 7. Have you ever been involved in a human subject experiment involving chemical testing? If so, please describe.

Response. While in graduate school, I volunteered to be a subject in several studies of responses of the respiratory system to air pollutants.

Question 8. Recently, EPA proposed new rules governing human testing. The proposal allows EPA to consider testing on pregnant women and children in some cases. How do you reconcile this with the ban on the use of these individuals as subjects passed by Congress earlier this year?

Response. While I have not yet reviewed EPA's proposed new rules governing human testing in great detail, it is my understanding that the proposal would not allow intentional dosing of children and pregnant women. If confirmed, I will ensure that ORD's programs and practices are consistent with the laws established by Congress.

Question 9. Several EPA scientists have spoken out against EPA's human testing policies. If confirmed, would you encourage ORD scientists to internally voice their concerns and publicly voice those concerns?

Response. If confirmed as the AA for ORD, I would encourage ORD scientists to share with me their concerns on any matters, so that we could work together to address them.

Question 10. Do you think neglected or abused children should be available for use as subjects of chemical tests? Do you believe that there are any concerns about consent by such children?

Response. It is my understanding that the proposed rule does not allow intentional dosing of any children and pregnant women. Human studies should meet high ethical and scientific standards, including guidelines for consent.

Question 11. Do you believe EPA's proposed rule on intentional pesticide dosing should be broadened to include prisoners?

Response. Any human studies should meet high ethical and scientific standards. I look forward to further reviewing the proposal, and if confirmed, will carefully consider public comments on the proposal before providing specific recommendations for changes to the rule.

Question 12. In 1998, you testified before the House Science Committee's Subcommittee on Energy and Environment. In this testimony, you were critical of the use of assumptions that protect public health during the risk assessment process. EPA uses health-protective assumptions when implementing many federal public health and environmental statutes. For example, the Safe Drinking Water Act integrates the use of safety factors to protect pregnant women and children during the process of setting drinking water standards. Please explain whether you agree with using conservative assumptions that protect public health when there is uncertainty during a standard setting process under the Safe Drinking Water Act, Federal Insecticide, Fungicide and Rodenticide Act and other public health and environmental statutes. If you do not agree, please explain your rationale.

Response. If confirmed as the AA for ORD, I commit to providing the Administrator and other EPA policymakers with the best risk assessment information I can, including a full appreciation of the uncertainties inherent in the assessment. Wherever possible, risk assessments should be based on data and rely on other techniques only when data isn't available. In the absence of data, other techniques are available including expert elicitation, probability analyses, and modeling, in addition to making assumptions, conservative and otherwise. Whenever risk assessments are presented to policymakers, it is critical that risk assessors make known the assumptions and uncertainties in their assessments and their impact on the assessment's results.

Question 13a. The U.S. Supreme Court's decision in *Whitman* v. *American Trucking*, 200 U.S. 321 (2001) cemented the principle that executive agencies may not require public health and environmental protections to meet cost-benefit analysis standards when the underlying statute does not require such analysis. Crucial protections to public health and environmental quality can be severely undercut when agencies inject speculative cost considerations at multiple points during a regulatory process.

Do you agree with the principle established in American Trucking? If not, why not?

Response. I agree with the principle established in American Trucking that executive agencies may not require public health and environmental protections to meet cost-benefit analysis standards when the underlying statute does not require such analysis.

Question 13b. Do you commit to ensure that neither you nor any of your subordinates support a position that conflicts with the holding in American Trucking?

Response. As stated above, I agree with the principle established in American Trucking, and if confirmed, will lead ORD accordingly.

Question 14. On July 25, 2005, the Wall Street Journal reported that a growing body of scientific evidence demonstrates that tiny doses of even common chemicals raise extremely serious health concerns for children and developing fetuses. If confirmed, do you commit to examining the health effects on children and developing fetuses of potential endocrine disrupting chemicals, including perchlorate, bisphenal A, atrazine and phthalates? If not, why not?

Response. It is my understanding that ORD has a long-standing, productive research effort devoted to endocrine disrupting chemicals (EDC). If confirmed, I will look into the ORD EDC research budget, and, consistent with other budget priorities, look to see where it can continue to make contributions.

Question 15a. In March of this year, the Environmental Protection Agency revised their cancer risk guidelines. These guidelines allow the use of a formal process for outside parties to review EPA's initial determinations of the likelihood that a substance causes cancer. The guidelines refer to this process as "expert elicitation."

Do you commit to ensuring that all such reviews are transparent and free of conflict of interests?

Response. As stated above, I believe expert elicitation can be an important contributor to risk assessment where data are not available. It is also my understanding that the Agency has used expert elicitation. Therefore, if confirmed, I will look into the Agency's existing expert elicitation procedure and see how it addresses the issues of transparency and conflict of interest.

Question 15b. Do you also commit to ensure that public health officials and experts without ties to industries that may have a conflict of interest are the preferred types of individuals to conduct such reviews? If not, why not?

Response. The best people to serve as experts on an expect elicitation panel are those who are technically well qualified to do so. I believe it is appropriate to exclude a panel member based upon conflict of interest when one could reasonably assume that the conflict in question is likely to bias the panel member's review. Also, in borderline cases it may be most prudent to exclude a reviewer if the same technical expertise can be provided by another panel member who does not have a conflict of interest.

Question 15c. Please describe the specific steps that you will take to ensure that the public [h]as an opportunity to substantively comment on the full range of options considered by any panel of private experts during the so called, "expert elicitation" process.

Response. If confirmed, I will look into the Agency's existing expert elicitation procedure and see how it addresses the opportunity for the public to comment during the expert elicitation process. It is my understanding that the current process allows for the public to see the different options considered by the panel, without attribution of any option to a given panel participant.

Question 16a. The media has reported that this administration has allowed political officials to dictate the presentation or suppress the dissemination of scientific information on global warming, endangered species, mercury emissions and other vital public health and environmental threats. You have an extensive history of working with industries, on behalf of, and in support of policies advocated by polluting industries. These same industries are or may be subject to regulations that rely on data produced by the EPA office that you are now nominated to lead.

Do you commit to ensure that politics does not play a role in the development of the Office of Research and Development's research plan or the office's presentation or dissemination of information? If not, why not?

Response. If confirmed, I commit that ORD's research plans will be consistent with EPA's overall research and development priorities and laws passed by Congress.

Question 16b. Do you commit to take concrete steps to protect EPA scientists from intimidation? If not, why not? If you do, please describe the steps that you will undertake to foreclose on such conflicts of interest.

Response. If confirmed, I will encourage ORD scientists to "call it like they see it," consistent with ORD's established peer review policy.

Question 16c. Do you also commit to ensure that individuals who sit on the National Academies of Sciences review panels do not have conflicts of interests with industries that could be impacted by analysis conducted by such panels? If you do,

please describe the steps that you will undertake to foreclose on such conflicts of interest. If you do not, please explain why you think it is appropriate for individuals with actual or potential conflicts of interest to serve on such panels.

Response. I believe it is up to the National Academy of Sciences to select the members who serve on their review panels, consistent with their conflict of interest procedures.

Question 17a. The mission of the Office of Research and Development is to perform research, provide technical support, integrate the work of the office's scientific partners and to provide leadership in addressing emerging environmental matters and other issues. The office's mission is not to establish policy or advocate for particular policy positions.

Do you commit to not promote particular policy positions in your role as the head of EPA's Office of Research and Development? If not, why not?

Response. If confirmed as the AA for ORD, I will leave the policy choices vested in EPA's program offices, e.g., the selection of a maximum contaminant goal (MCG) or maximum contaminant level (MCL) for a drinking water contaminant, to the appropriate program office. However, I will promote particular policy positions on science policy issues, e.g., Cancer Guidelines.

Question 17b. Do you commit to immediately alert my office and other members of Congress about attempts by industries, including entities who you are or were affiliated with, that urge you to advocate for a particular policy position? If not, why not?

Response. Should I be placed in the position of being urged by any advocate—industry, NGO, or other—to promote a particular program office policy position, I will advise them that their efforts would be best spent elsewhere. I will report any unethical or illegal conduct to appropriate federal officials.

Question 18a. The EPA's Integrated Risk Information System (IRIS) is a key resource for EPA regulatory decisions and is widely used by regulatory agencies in this and other countries. However, a recent report by the Center for Progressive Reform notes that IRIS's assessments are incomplete for a large number of chemicals regulated under the Clean Air, Safe Drinking Water and the Emergency Planning and Community Right to Know Acts. For example, IRIS is missing information on more than one-fifth of the Clean Air Act's hazardous air pollutants. The IRIS data on the other hazardous air pollutants is on average almost 12 years old.

Do you commit to laying out a plan to speed up the review of IRIS assessments as head of ORD?

Response. I believe the Integrated Risk Information System (IRIS) is a key resource for EPA and other policymakers, and, if confirmed, will look into the schedule for completing future assessments and plans for revising the IRIS process. I also believe that to be relevant, scientific information must be provided to decision makers in a timely manner.

Question 18b. Please explain whether you agree or disagree that this plan should include an internal review process of eight months to one year and single or two-stage review process for internal and external peer review, rather than the current three-stage review process?

Response. I am not yet prepared to comment on the details of the IRIS process. However, I am aware that the Agency is considering revising its IRIS process, and, if confirmed, look forward to learning more about, and contributing to, the Agency's plans.

Question 18c. Do you commit to focusing the review of new chemicals on substances that are a high priority for EPA's regulatory programs, including hazardous air pollutants under the Clean Air Act?

Response. It is my understanding that the Agency process for selecting chemicals to undergo an IRIS review already does this, consistent with available resources. If confirmed, I will work to ensuring the chemicals selected for IRIS review are those that are high priorities for EPA's regulatory programs.

Question 18d. The Department of Defense recently suggested that EPA should make its IRIS review process even more lengthy and convoluted than it currently is by including DoD and other federal agencies in multiple levels of review prior to the document even being distributed by the public. Including these federal agencies in this fashion could not only further draw out the review process, it could also terribly distort the review process because some federal agencies—including DoD—have hundreds of billions of dollars of known liabilities at toxic waste sites. These sites are polluted with chemicals that undergo IRIS review which could strengthen or weaken cleanup standards.

Do you commit to preserving the integrity of the IRIS review process by rejecting DoD and other agencies' efforts to integrate themselves into EPA's IRIS review process prior to public review?

Response. As stated above, I am aware that the Agency is considering revising its IRIS process, and, if confirmed, look forward to learning more about, and contributing to, the Agency's plans. While it is good government for federal agencies to coordinate with one another, it must not compromise environmental safeguards or EPA's own decision-making authority.

Question 18e. Do you commit to ensure transparency when any commenter with a conflict of interest comments on an EPA IRIS document?

Response. Clearly, all commenters have particular interests, and I agree that for the sake of sound development of public policy in a democratic society, interests and their potential impacts on decisions should be appropriately identified and made transparent. If confirmed, I look forward to learning more about, and contributing to, the Agency's IRIS process, including how conflict of interest issues are handled.

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ROOM 410 DIRKSEN BUILDING WASHINGTON, DC 20510

INFORMATION

REQUESTED OF PRESIDENTIAL NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to the Honorable James M. Inhofe, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Marty Hall: Deputy Staff Director) as soon as possible.

Name of Nominee: George M. Gray

Business Address: Harvard Center for Risk Analysis
Harvard School of Public Health
718 Huntington Ave.
Boston, MA 02115

Business Phone: 617-432-4341

Home Address:

Home Phone:

UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Gray (Last) George (First) Michael (Middle)

Position to which nominated: Assistant Administrator for Research and Development, Environmental Protection Agency

Date of Nomination: 28 July, 2005

Date of birth: 24 May, 1963 (Day) (Month) (Year) **Place of birth:** Detroit, MI

Marital status: Married **Full name of spouse:**

Name and ages of children:

Education:

Institution	Dates attended	Degrees received	Dates of degrees
University of Michigan	09/81 – 05/85	B.S. (Biology)	05/85
University of Rochester	09/85 – 08/89	M.S., Ph.D. (Toxicology)	10/89

Employment record:

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

Executive Director, *Harvard Center for Risk Analysis;* ***Lecturer,*** *Department of Health Policy and Management, Harvard University School of Public Health, Boston MA. 1999-date*

Instructor in Risk Analysis, *Department of Health Policy and Management, Harvard University School of Public Health, Boston MA. 1994 – 1999*

Research Associate, *Center for Risk Analysis, Harvard University School of Public Health, Boston MA. 1991-1994*

Research Fellow, *Program in Environmental Health and Public Policy, Interdisciplinary Programs in Health, Harvard University School of Public Health, Boston, MA. 1989-1991*

Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

William F. Neumann Award (Exemplary scholarship and citizenship) Toxicology Program, University of Rochester, 1989

IPH Fellowship, Environmental Health and Public Policy, Department of Environmental Health, Harvard School of Public Health 1989-1991

Outstanding Presentation in Risk Assessment "Non-Cancer Dose-Response Evaluation for Benefit-Cost Analysis" Society of Toxicology, Risk Assessment Specialty Section, Annual Meeting, 2001

Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office Held (if any)	Dates
Society for Risk Analysis	Councilor (2004 – 2007)	1993 – Present (intermittent)
Society of Toxicology		1985 – Present (intermittent)
Environmental Literacy Council	Executive Board	1995 – Present
International Food Information Council Foundation	Board of Trustees	1997-Present
Foundation for Research on Economics and the Environment	Board Member	2003 - Present
Annapolis Center	Board of Directors	1995 - 2000

Qualifications:

State fully your qualifications to serve in the position to which you have been named.

I would be honored to have the opportunity to serve the public interest as the Assistant Administrator for Research and Development (ORD) in the Environmental Protection Agency. I am a Ph.D. toxicologist and I have spent my career working to apply the principles of science, quantitative analysis, and risk communication in public health. My training and experience will enhance my ability to work with the dedicated scientists and professionals in ORD to advance its mission of providing scientific and technological support for EPA's activities.

My approach to addressing important public health and environmental concerns is to bring together the best information and people, from multiple disciplines, to provide an integrative solution. For example, I led the Harvard/Tuskegee BSE (Mad Cow) study commissioned by the

USDA in 1998. Our goal was an evaluation of the potential for BSE to spread in the United States if it were introduced. This project involved integration of expertise from many disciplines from veterinary science to neurobiology to applied mathematics. It required collaboration with governments (US and abroad), industry, and non-governmental organizations. Ultimately, our study provided useful information to inform policy decisions, guide research, and communicate BSE risk to the public. This spirit of integration and collaboration will guide my efforts at ORD.

The EPA Office of Research and Development is organized around the risk assessment/risk management paradigm. I have extensive knowledge of risk assessment and the careful evaluation of science that is critical for sound decisions about human health and the environment. In addition, my research and my interactions with risk managers in both government and the private sector have given me insights into important factors that influence decisions about health and environmental hazards.

My experience and combination of scientific knowledge and risk analytic expertise has resulted in recognition from my peers in the form of significant advisory and leadership roles. These include service on the National Academy of Sciences/Institute of Medicine Committee to Review the WIC Food Packages (2004 - 2005); the Food and Drug Administration, Center for Food Safety and Applied Nutrition (CFSAN) Food Advisory Committee, Contaminants and Natural Toxicants Subcommittee (2003 – Present); and the Department of Health and Human Services, National Advisory Environmental Health Sciences Council (2002 – present). In addition, I have been elected a Councilor of the Society for Risk Analysis (2004-Present) and was chosen for the Society of Toxicology Risk Assessment Task Force (1998-2001).

ORD has a critical responsibility in EPA's mission and I will bring enthusiasm, knowledge and experience to supporting that role.

Future Employment Relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

I will sever all connections with my present employer if confirmed by the Senate.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

I have no plan to resume employment with my current or any previous employer after completing government service.

3. Has anybody made a commitment to you for a job after you leave government?

No one has made a commitment to me for a job after I leave government.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Not Applicable

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

I have no known limitations on my willingness or ability to serve for the foreseeable future.

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

Not Applicable

Financial Statement:

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF-278, Schedule A.

None

2. Are any assets pledged?

Not Applicable

3. Are you currently a party to any legal action?

No

4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes, I have filed a joint return each of the last 10 years

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

Our tax return has never been audited by the Internal Revenue Service

Potential conflicts of interest:

1. Describe any financial or deferred compensation agreements or other continuing of interest: dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other relationships that might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

I have served on the National Advisory Environmental Health Sciences Committee and the Food and Drug Administration Food Advisory Committee, Contaminants and Natural Toxicants Subcommittee.

I have received research support from the EPA and the USDA.

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

I will work with the EPA Designated Agency Ethics Official and the Office of Government Ethics to address any potential conflict of interest, or appearance of a conflict of interest, that may arise.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

See attached letter to Kenneth Wernick, EPA Senior Counsel for Ethics.

Political affiliation and activities:

List all memberships and offices held in, or financial contributions (in excess of $1,000), and services rendered to any political party or election committee during the last 10 years.

None

Published Writings:

List the titles, publishers and dates of any books, articles, or reports you have written.
(Please list first any publications and/or speeches that involve environmental or related matters.)

1. Environmental or Related Matters

PEER-REVIEWED PUBLICATIONS

- König, A., Cohen, J., Bouzan, C., Connor, W., Kris-Etherton, K.P., Gray, G., Lawrence, R.S., Savitz, D.A., and Teutsch, S. Fish consumption and coronary heart disease: A quantitative assessment of the dose response relationship. American Journal of Preventive Medicine (in press)
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- Cohen, J.T., Bellinger, D.C., Connor, W., Kris-Etherton, K.P., Lawrence, R.S., Savitz, D.A., Shaywitz, B.A., Teutsch, S.M., and Gray, G.M. A Quantitative Risk-Benefit Analysis of Changes in Population Fish Consumption. American Journal of Preventive Medicine (in press)
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- Evans, J.S., Graham, J.D., Gray, G.M., Sielken, R.L., Jr., and Smith, A.E. (1993) The Likelihood of Alternative Carcinogenic Potencies: Uncertainty Analysis of Chloroform. Proceedings of the First International Conference on the Safety of Water Disinfection , ILSI Press, Washington, D.C.
- Gray, G.M., and Graham, J.D. (1993) Optimal use of "Toxic Chemicals" Risk in Perspective (Volume 1, Number 2). Harvard Center for Risk Analysis, Boston, MA
- Graham, J.D., and Gray, G.M. (1992) Air Toxics: Characterizing the Risks. in Toxic Air Pollutants from Mobile Sources ,Air and Waste Management Association, Pittsburgh, PA, 43-52

OP-ED ARTICLES

- Op-Ed "The EPA's Risky Business" Washington Times, October 7, 1998 (EPA chloroform risk assessment)
- Op-Ed "Mad Cow Panic is Worse Risk" The Boston Herald, March 13, 2001
- Op-Ed "Keep Risk in Perspective" USA TODAY, February 12, 2001 (mad cow disease)
- Op-Ed "Confronting Mad Cows and Other Risks" Bozeman Daily Chronicle, January 28, 2004

TEACHING/SPEECHES/OTHER PUBLIC LECTURES FROM 01/98 TO PRESENT
(Reconstructed to the best of my knowledge from calendar records)

Organization	Month/Year
Proctor & Gamble	02/98
International Council on Metals and the Environment	05/98
Canadian Food Inspection Agency	05/98; 03/02; 12/02; 06/03
Michigan State University Center for Food Safety and Toxicology	06/98
Harvard Institute for International Development	06/98; 06/99
Farm Bureau Federation	07/98; 05/99; 01/00
Foundation for Research on Economics and the Environment	08/98; 08/00; 08/01; 09/03
Synthetic Organic Chemical Manufacturers Association	09/98; 03/01
American Water Works Association Research Foundation	09/98
US Department of Agriculture	09/98; 10/01
Akzo-Nobel	11/98
Tuskegee University	12/98; 02/00
University of Florida	02/99
International Society for Regulatory Toxicology and Pharmacology	06/99; 10/00
CERES Food Forum	07/99; 03/04
National Alliance for Food Safety	10/99
US Chamber of Commerce	11/99
Bridging Radiation Conference	12/99
HSPH TB Conference	12/99
Arizona State Univesity Genetics and Law Conference	04/00
MA Continuing Legal Education Conference on Environment	04/00
NEPI Conference	05/00
MIT Knight Science Fellows	05/00
Polaroid	05/00
Chlorine Chemistry Council Ethics Dialogue	07/00
OECD Risk Conference	09/00
Briston-Myers Squibb	11/00
General Electric Fund	01/01; 02/02; 02/03
Mercatus Center Capitol Hill Campus	02/01
DuPont	03/01; 11/02

National Food Processors Association	04/01; 05/04
Massachusetts Chemical Technology Alliance	05/01
Marshall Institute	06/01; 03/04
Kinship Conservation Institute	06/01; 06/02; 06/03; 06/04
International Food Information Council	07/01
Boston University SPH BSE Meeting	09/01
American Meat Institute	10/01
University of Michigan WTO Workshop	11/01
Society of Toxicology Genome Workshop	11/01
TransAtlantic Dialogue on the Precautionary Principle	01/02
Consumer Federation of America	03/02
Food and Drug Administration	05/02; 08/03; 10/04; 04/05
University of Wisconsin Food Safety Institute	05/02
Harvard School of Public Health Risk Symposium	06/02
University of MN Nutrition Conference	09/02
University of WV Food Safety Conference	10/02
University of MD/JIFSAN Acrylamide Conference	10/02; 04/04
Orlando Food Safety Conference	11/02
Amercian College of Toxicology Meeting	11/02
Union of Risk Management for Preventive Medicine	03/03
Institute of Food Technologists	03/03
Wyeth	04/03
Harvard School of Public Health Visiting Committee	11/03
Harvard School of Public Health First Thursday Lunch Seminar	02/04
American Scientist Café Scientifique	02/04
Harvard Health Publications	03/04
Erasmus University Precautionary Principle Meeting	04/04
National Cattlemen's Beef Association	04/04; 01/05
National Fisheries Institute	04/04
University of Rhode Island Food Safety Meeting	10/04
Harvard School of Public Health Dean's Leadership Council	10/04
Coca-Cola	11/04
Society for Risk Analysis Annual Meeting plenary session	12/04
University of Michigan Environmental Health Sciences Department	03/05
Brooklyn Law School Judges Seminar	04/05
International Conference on SPS Risk Assessment Methodology	08/05

TESTIMONY

- Testimony before Joint Hearing of U.S. House of Representatives Committee on Government Reform and Agriculture Committee on USDA BSE Surveillance Plans (July, 2004)
- Testimony before U.S. House of Representatives, House Committee on Resources, Subcommittee on Energy and Mineral Resources in hearing on impact of science on public policy (February, 2004)
- Testified before U.S. House of Representatives Committee on Government Reform Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs on H.R. 2138 bill elevating EPA to cabinet status (June, 2003)
- Testified before U.S. House of Representatives Committee on Agriculture, Subcommittee on Department Operations, Oversight, Nutrition and Forestry on implementation of the Food Quality Protection Act of 1996 (August, 1999)
- Testified before U.S. House of Representatives Committee on Science, Subcommittee on Energy and Environment on "The Science of Risk Assessment: Implications for Federal Regulation" (July, 1998)
- Testified before U.S. House of Representatives Committee on Small Business on the use of sound science and risk analysis in federal agency regulations (April, 1997)
- Testified before U.S. House of Representatives Committee on Commerce, Subcommittee on Health and Environment on H.R. 1627, the Food Quality Protection Act of 1995 (June, 1995)

2. Other Topics

PEER-REVIEWED PUBLICATIONS

- Gray, G.M., and Ropeik, D. (2002) Risk Communication and Dealing with the Dangers of Fear. Health Affairs 21(6):106-116
- Habtemariam, T., Tameru, B., Nganwa, D., Ayanwale, L., Ahmed, A., Oryang, D., AbdelRahman, H., Gray, G., Cohen, J., Kreindel, S. (2002) Application of Systems analysis in Modeling the Risk of Bovine Spongiform Encephalopathy (BSE). Kybernetes 31:1380-1390.
- Gray, G.M., Allen, J.C., Burmaster, D.E., Gage, S.H., Hammitt, J.K., Kaplan, S., Keeney, R.L., Morse, J.G., North, D.W., Nyrop, J.P., Stahevitch, A., and Williams, R. (1998) Principles for Conduct of Pest Risk Analyses: Report of an Expert Workshop. Risk Analysis 18:773-780
- Gray, G.M., and Macara, I.G. (1989) Serum-stimulated Phosphatidylinositol Turnover is Enhanced in 3T3 Cells with Active pp60v-src. Oncogene 4:1213-1217
- Gray, G.M., Wei, C., and Macara, I.G. (1989) Specific Desensitization of the Epidermal Growth Factor Receptor by pp60vsrc. Journal of Cellular Biochemistry 40: 271-278
- Gray, G.M., and Macara, I.G. (1988) The pp60v-src Tyrosine Kinase Desensitizes Epidermal Growth Factor Binding to 3T3 Fibroblasts by Two Distinct Protein Kinase C Independent Mechanisms. Journal of Biological Chemistry 263:10714-10719
- Macara, I.G., and Gray, G.M. (1987) Vanadate-Activated Calcium Influx in A431 Cells Is Dependent on the Plasma Membrane Potential. Journal of Cellular Biochemistry 34:125-128

BOOKS, CHAPTERS, REPORTS AND MONOGRAPHS

- Joshua T. Cohen, Keith Duggar, George M. Gray, Silvia Kreindel, Hatim Gubara, Tsegaye HabteMariam, David Oryang, Berhanu Tameru (2003) A Simulation Model for Evaluating the Potential for Spread of Bovine Spongiform Encephalopathy to Animals or to People in Prions and Mad Cow Disease (I. Krull, ed.) Macell Dekker, Marcel Dekker, New York, NY
- Courtney, A.K., Porretta, M., Cohen, J.T., Gray, G.M., Kreindel, S., and Gallagher, D.L. (2003) Bovine Spongiform Encephalopathy: Risk Assessment and Governmental Policy in Microbial Food Safety in Animal Agriculture (M.E. Torrence and R.E. Isaacson, eds.) Iowa State Press, Ames IA
- Joshua T. Cohen, Keith Duggar, George M. Gray, Silvia Kreindel, Hatim Gubara, Tsegaye HabteMariam, David Oryang, Berhanu Tameru (2001 and 2003) Evaluating the Potential for Spread of BSE in the United States. Report to US Department of Agriculture
- Macara, I.G., Gray, G.M., Gaut, J., Coco, A., Wingrove, T., Faletto, D., and Wolfman, A. (1989) Growth Factors, Oncogenes, and Protein Kinase C. in Cell Calcium Metabolism , (G. Fiskum, ed.) Plenum Publishing Corp. 249-254
- Macara, I.G., and Gray, G.M. (1988) Characterization of the Epidermal Growth Factor- and Vanadate-Activated Calcium Influx in A431 Cells. in Growth Factors, Tumor Promoters, and Cancer Genes , Alan R. Liss, Inc. 233-238
- Macara, I.G., Gray, G.M., Gaut, J., Coco, A., Wingrove, T., Faletto, D., and Wolfman, A. (1987) Growth Factors, Oncogenes, and Protein Kinase C. Current Communications in Molecular Biology, Cold Spring Harbor Laboratories , Cold Spring Harbor, NY

Additional Matters:

1. If there is any additional information that you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

None at this time.

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes

Gene Gray 6 September, 2005

AFFIDAVIT

_____ **ss**, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 6th day of September, 2005

Notary Public

SUZANNA KRMZIAN
Notary Public
Commonwealth of Massachusetts
My Commission Expires
November 24, 2006

George M. Gray personally appeared before me and proved his/her identification through satisfactory evidence, which were MA DR License and swore or affirmed the attached document's contents are truthful and accurate to the best of his/her belief on this 6 day of September, 2005

Notary Signature

Kenneth J. Wernick
Senior Counsel for Ethics
Designated Agency Ethics Official
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Mr. Wernick:

The purpose of this letter is to describe the steps that I intend to take to avoid a conflict of interest or loss of impartiality if I am confirmed and appointed as the Assistant Administrator, Office of Research and Development of the United States Environmental Protection Agency. These steps are as follows:

Consistent with the prohibitions of 18 U.S.C. 208(a), unless I obtain a waiver under section 208 or qualify for a regulatory exemption under section 208(b)(2), I will not participate personally and substantially in any particular matter in which I, or any person or organization whose interests are imputed to me, have a financial interest if the particular matter will have a direct and predictable effect on the financial interest.

If confirmed and appointed as the Assistant Administrator, Office of Research and Development of the United States Environmental Protection Agency, I will not accept any outside earned income. Within ninety days of my confirmation as the Assistant Administrator, Office of Research and Development of the United States Environmental Protection Agency, I will resign from the following positions:

Lecturer, Harvard University
Instructor, Kinship Conservation Institute/Property and Environment Research Center
Board Member, the Environmental Literacy Council
Board Member, Foundation for Research on Economics and the Environment
Trustee, International Food Information Council Foundation
Councilor, Society for Risk Analysis

For one year after I cease to serve in these positions with these entities, I will not participate in any particular matter involving specific parties in which any of these entities is a party or represents a party if the circumstances would cause a reasonable person with knowledge of the relevant facts to question my impartiality in the matter, unless my participation is specifically authorized pursuant to 5 C.F.R 2635.502(d).

If confirmed and appointed as the Assistant Administrator, Office of Research and Development, I will issue directions to my staff that any matters that may raise a potential conflict of interest are not to be referred to me and are to be decided, without my participation, by my deputy.

Finally, I understand that my obligation to comply with ethics laws and regulations is ongoing and will require vigilance regarding any changes in my financial interests, the financial interest of persons and organizations imputed to me under the ethics laws and regulations, and other outside interests. I will keep the Agency's ethics officials informed about any new or changing interests and will take all appropriate steps to avoid or remedy potential conflicts.

Sincerely,

George M. Gray

STATEMENT OF LYONS GRAY, NOMINATED TO BE THE CHIEF FINANCIAL OFFICER OF THE ENVIRONMENTAL PROTECTION AGENCY

Mr. Chairman, Senator Jeffords, and members of the committee, it is a privilege to appear before you today as the nominee for Chief Financial Officer of the U.S. Environmental Protection Agency. I would like to thank Senator Burr for his kind introduction, and I would like to introduce to you my family who are here with me today: my wife, Connie; our two daughters, Charlotte and Fraser; and our son-in-law, Cameron.

It is a tremendous honor to have been nominated by President George W. Bush for a position responsible for safeguarding public resources—both financial resources and natural ones. I'd also like to thank Administrator Steve Johnson for his faith in recommending me for this key position. EPA staff are well-known for their commitment to the Agency's mission of protecting human health and the environment. I share their commitment, and I pledge to you that if I have the honor of being confirmed, I will ensure that the Agency's environmental efforts are supported by sound financial management on behalf of the American people.

I would like to tell you about some of my experience that I believe would be useful in the job for which you are considering me.

At the beginning of my career, I worked in sales and marketing in the private sector, and I received an on-the-job education. With responsibility for introducing a new consumer product, I had to think through every aspect of the project from start to finish, from creation through delivery. This experience in corporate America taught me how to follow through on a project, considering all the relevant financial issues along with product development and delivery, and it gave me a solid foundation for every step I've taken since.

It prepared me to own my own business. My experiences as a small business owner gave me an appreciation for the energy and business acumen that are needed to support a successful concern. If I am confirmed, I hope to bring the same energy and business sense to supporting EPA's successful operations.

I would be honored if confirmed to the CFO position because it would allow me to return to the public sector. It was my great privilege to serve for 13 years in the General Assembly of the State of North Carolina. During that time, I was fortunate to serve as a Member of the House Finance Committee and as its Chair for 4 years. In that capacity, I participated in every aspect of the development and oversight of the $14 billion budget for the State of North Carolina and gained valuable experience in reconciling a range of priorities—all of them important—with available resources. I was closely involved in the State's budget process and especially with the work of the conference committee in which differences were worked out between the State's House and Senate. This experience has given me a genuine appreciation for the challenges of decisionmaking when public priorities are in the balance. If you honor me with confirmation, I look forward to working closely with you and the other Members of Congress who are charged with making similar hard decisions.

Most recently, I have enjoyed the opportunity to work in the nonprofit sector, and this has allowed me to bring together what I have learned in both business and the State legislature for the benefit of my local community. As President of the Downtown Winston-Salem Partnership, I led an advocacy group to re-energize and rebuild what I think of as one of America's greatest downtown communities—although I admit that is because it is my home town. My responsibilities included the administrative leadership of a Downtown Foundation which raised funds to create a low-interest loan program which provided gap financing to get new restaurants, shops, and entertainment venues up and running. Apart from the great personal satisfaction of giving back to my community, I also took away from this experience a greater understanding of how financial and environmental issues can be addressed—together—to help revitalize American communities.

Finally, it has been my great privilege to serve for the past 3 years as Chairman of EPA's Environmental Financial Advisory Board, chartered under the Federal Advisory Committee Act. The Board provides advice and analysis to EPA's Administrator on how to pay for the growing costs of environmental protection and how to increase investment in environmental infrastructure through the leveraging of public and private resources. I am proud of the Board's work on behalf of the Agency, our principal client. The financial expertise of the Board's members is truly excellent, and the working relationship I have enjoyed with our Designated Federal Official, Stan Meiburg, has been equally so. If I am confirmed as CFO, I know that I will have the pleasure of working with dedicated people who share a commitment to EPA's mission.

Mr Chairman, public service is a gift we give back to our country. I am very grateful for your time today and for the committee's consideration of my nomination. I would be pleased to answer any questions.

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ROOM 410 DIRKSEN BUILDING WASHINGTON, DC 20510

INFORMATION

REQUESTED OF PRESIDENTIAL NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to the Honorable James M. Inhofe, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Marty Hall: Deputy Staff Director) as soon as possible.

Name of Nominee: Lyons Gray

Business Address: 601 West 4th Street; Suite 201

Winston-Salem, NC 27101

Business Phone: 336-722-3252

Home Address:

Home Phone:

UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Gray (Last) Lyons (First) (NMN) (Middle)

Position to which nominated: Chief Financial Officer, Environmental Protection Agency

Date of Nomination: September 6, 2005

Date of birth: 28 (Day) Oct (Month) 1942 (Year) **Place of birth:** Winston-Salem, NC

Marital status: Married **Full name of spouse:**

Name and ages Of Children:

Education:

Institution	Dates attended	Degrees received	Dates of degrees
University of North Carolina @ Chapel Hill	1962 – 1967		
Gresham's School Holt, Norfolk, England	1961 - 1962		
Wooster School	1958 - 1961	Diploma	1961

Employment record:

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

Position	Employer	Location	Dates
Sales Representative	RJ Reynolds Tobacco Co.	Detroit, MI	1967 – 1969
Marketing Assistant	RJ Reynolds Tobacco Co.	Winston-Salem, NC	1969 – 1970
Assistant Brand Manager	RJ Reynolds Tobacco Co.	Winston-Salem, NC	1970 – 1972
Brand Manager	RJ Reynolds Tobacco Co.	Winston-Salem, NC	1972 – 1975
Director of National Accounts	RJ Reynolds Tobacco Co.	Winston-Salem, NC	1975 – 1979
Vice President	Intl. Consultant Corp.	Baltimore, MD	1979 – 1981
President	Triangle Campers Inc.	Winston-Salem, NC	1981 – 1983
President	Salem Systems, Inc.	Winston-Salem, NC	1983 – 1991
State Representative	North Carolina General Assembly	Raleigh, NC	1989 – 2002
President	Downtown Winston-Salem Partnership	Winston-Salem, NC	2003 – 2005

Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Award	From	Date Received
Doctor of Laws (Honoris Causa)	Campbell University	2001
Distinguished Legislator Award	North Carolina Recreation and Parks Society (NCRPS)	1995
Governor's Conservation Achievement Award	NC Wildlife Federation and the National Wildlife Federation	1995
Alzheimer's Association Award	Alzheimer's Association from eleven Counties in North Carolina	1991
Legislative Award	The Sierra Club	1999
Guardian of Small Business	National Federation of Independent Business	1996 , 1997
Honorary Membership Award	North Carolina Speech, Hearing & Language Association	1996
AIDS Care Service Award	The AIDS Care Service Council	1996
Chairman's Award	The North Carolina Nature Conservancy	1995

Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)		Dates
Lettie Pate Whitehead Foundation, Inc.	Trustee, Vice-Chairman		1977- Current
AIDS Care Service	Director		1990 – Current
The NC Nature Conservancy	Trustee		1996 – Current
Salem Academy & College	Trustee	(Second Term) (First Term)	2002 – Current 1974 – 1979
Utilities Commission Of Winston-Salem / Forsyth County	Vice-Chairman	(Second Term) (First Term)	2003 - Current 1985 - 1995
Bowman Gray School of Medicine	Board of Visitors		1975 – 1998
Winston-Salem Chamber of Commerce	Director	(Second Term) (First Term)	2004 – Current 1991 – 1994
Winston-Salem State University Foundation	Vice-Chairman		1988 – 1994
Prodigal's Community	Fundraiser Co-Chair		1985 - 1991
Pee Dee-Yadkin River Valley Basin Commission	Commission Member		1984 – 1992
The Nature Science Center	Trustee		1978 – 1983
American Red Cross Forsyth County Chapter	Director		1975 – 1979
Winston – Salem Coliseum and Convention Center	Director		1973 - 1979
Southeastern Center for Contemporary ART (SECCA)	Co-Chair Capital Campaign		1981 - 1987
North Carolina School of the Arts Foundation	Trustee President		1972 - 1987 1984 - 1987
Salvation Army Boys Club	Member Advisory Cabinet		1974 - 1977
Institute of Government	Participant		1995
Institute of Government	Director and Vice-Chairman		1999 – Current

Memberships (Continued):

Organization	Office held (if any)	Dates
Board of Visitors for Nicholas School of the Environment, Duke University	Member	2002 – Current
Board of Advisors to the NC TASC	Member	2002 – Current
Environmental Financial Advisory Board Washington, DC	Chairman	2002 - Current
Vote for America North Carolina	N.C. Co-Chairman	2003 - 2004
Piedmont Triad Airport authority	Commissioner	2004 - Current

Qualifications:

State fully your qualifications to serve in the position to which you have been named.

Whether in public service or the private sector, I have worked for many years to bring sound, practical solutions to environmental problems in our state and nation.

With a wide background in charitable, public and civic work, I believe I have the ability to lead the Finance office at the Environmental Protection Agency. Vision, integrity, trust, openness and candor are characteristics that I employ at all levels. I also have an ability to bring people together to achieve maximum results.

I will work diligently to make you proud of the Office of the Chief Financial Officer of the EPA.

I consider public service an honor and privilege.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.
Yes

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.
No

3. Has anybody made a commitment to you for a job after you leave government?
No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?
There is no fixed term.

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?
There are no known limitations on my service.

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.
None

Financial Statement:

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF-278, Schedule A.

Legislative Retirement System of North Carolina, Raleigh, NC (defined benefit) – currently being received - $733 per month, $8,796 per year.

R.J. Reynolds Tobacco Company retirement plan, Winston-Salem, NC (defined benefit) – beginning November 2007.

Medical insurance coverage benefits, state of North Carolina – currently being received - $286 per month, $3,432 per year.

2. Are any assets pledged?
No

3. Are you currently a party to any legal action?
No

4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes

5. Has the Internal Revenue Service ever audited your Federal tax return? if so, what resulted from the audit?

Yes, for 1987 or thereabouts, which resulted in a minor balance due (less than $100).

Potential conflicts of interest:

1. Describe any financial or deferred compensation agreements or other continuing of interest: dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

See the attached ethics agreement letter.

2. List any investments, obligations, liabilities, or other relationships that might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

See the attached ethics agreement letter.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

I will take all of the necessary steps to ensure that there are no conflicts of interest, or appearance of conflict of interest. I will seek the advice and counsel of the agency general counsel's office as well as the agency ethics official in any potential circumstances.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

I will take all of the necessary steps to ensure that there are no conflicts of interest, or appearance of conflict of interest. I will seek the advice and counsel of the agency general counsel's office as well as the agency ethics official in any potential circumstances.

LYONS GRAY

WINSTON-SALEM, N.C. 27104-3022

Kenneth J. Wernick
Senior Counsel for Ethics
Designated Agency Ethics Official
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Mr. Wernick:

The purpose of this letter is to describe the steps that I intend to take to avoid a conflict of interest or loss of impartiality if I am confirmed and appointed as the Chief Financial Officer of the United States Environmental Protection Agency. These steps are as follows:

Consistent with the prohibitions of 18 U.S.C. 208(a), unless I obtain a waiver under section 208 or qualify for a regulatory exemption under section 208(b)(2), I will not participate personally and substantially in any particular matter in which I, or any person or organization whose interests are imputed to me, have a financial interest if the particular matter will have a direct and predictable effect on the financial interest.

If confirmed and appointed as the Chief Financial Officer of the United States Environmental Protection Agency, I will not accept any outside earned income. Within ninety days of my confirmation as the Chief Financial Officer of the United States Environmental Protection Agency, I will resign from the following positions:

Director, Aids Care Service
Director, Winston-Salem Chamber of Commerce
Commissioner, Winston-Salem/ Forsyth County Utilities Commission
Trustee, Salem Academy and College
Director, UNC-Chapel Hill, Institute of Government Foundation
Trustee, Old Salem, Inc
Vice Chairman, Piedmont Triad Partnership
Director, Piedmont Triad Airport Authority
Director, Duke University: Nicholas School of the Environment
Director, North Carolina State University: Institute of Emerging Issues
Director, The Winston-Salem Alliance

For one year after I cease to serve in these positions with these entities and for any entity from which I have resigned in the past year, I will not participate in any particular matter involving

specific parties in which any of these entities is a party or represents a party if the circumstances would cause a reasonable person with knowledge of the relevant facts to question my impartiality in the matter, unless my participation is specifically authorized pursuant to 5 C.F.R 2635.502(d).

I am the sole member and manager of Lyons Gray, LLC, a privately-owned limited liability company that provides consulting services. Upon confirmation, I will place Lyons Gray, LLC in an inactive status. Other than to pay any necessary fees and taxes required in order to keep Lyons Gray, LLC in existence, I will no longer provide any professional services to the company or receive compensation for professional services except for those services provided prior to my entry into federal government service. The company will remain in an inactive status during my tenure as Chief Financial Officer of the Environmental Protection Agency. I will continue to sublease its current office space in Winston-Salem, North Carolina but there will be no indication that Lyons Gray, LLC is an active tenant. Furthermore, I will not participate personally and substantially in any particular matter that would have a direct and predictable effect on the financial interests of Lyons Gray, LLC unless I first obtain a written waiver or qualify for a regulatory exemption.

The only client of Lyons Gray, LLC is Blue Cross/Blue Shield of North Carolina. For one year after I cease to provide services to Blue Cross/Blue Shield of North Carolina, I will not participate in any particular matter involving specific parties in which Blue Cross/Blue Shield of North Carolina is a party or represents a party if the circumstances would cause a reasonable person with knowledge of the relevant facts to question my impartiality in the matter.

Regarding my pension from the State of North Carolina, I understand that under the regulatory exemption set forth at 5 C.F.R. §2640.201(c)(2), section 208 does not prohibit me from participating personally and substantially in particular matters of general applicability such as rulemaking, affecting the State of North Carolina pension plan where the disqualifying financial interest in the matter arises because of my participation in the plan. However, I will not participate personally and substantially in any particular matter involving the State of North Carolina as a specific party if the matter has a direct and predictable effect on the ability or willingness of the State of North Carolina to honor its pension obligations.

I have a defined benefit pension plan with the R. J. Reynolds Tobacco Company, and therefore, pursuant to 18 U.S.C. 208, I will not participate personally and substantially in any particular matter that will have a direct and predictable effect on the ability or willingness of the R.J. Reynolds Tobacco Company to honor its pension obligations, unless I first obtain a written waiver or qualify for a regulatory exemption.

I will remain in my position as Vice Chairman of the Board of Trustees of the Lettie Pate Whitehead Foundation. I will receive no earned income as a result of this position. Consistent with the prohibitions of 18 U.S.C. 208(a), unless I obtain a waiver under section 208 or qualify for a regulatory exemption under section 208(b)(2), I will not participate personally and substantially as Chief Financial Officer in any particular matter which will have a direct and predictable effect on the Foundation. Further, as Vice Chairman of the Board of Trustees, I will not participate in any decisions that concern how the assets of the Foundation are invested.

If confirmed and appointed as the Chief Financial Officer, I will issue directions to my staff that any matters that may raise a potential conflict of interest are not to be referred to me and are to be decided, without my participation, by my deputy.

Finally, I understand that my obligation to comply with ethics laws and regulations is ongoing and will require vigilance regarding any changes in my financial interests, the financial interest of persons and organizations imputed to me under the ethics laws and regulations, and other outside interests. I will keep the Agency's ethics officials informed about any new or changing interests and will take all appropriate steps to avoid or remedy potential conflicts.

Sincerely,

Lyons Gray

Political affiliation and activities:

List all memberships and offices held in, or financial contributions (in excess of $1,000), and services rendered to any political party or election committee during the last 10 years.

Party Affiliation	Office Held	(over $ 1,000)
Bush / Cheney 2004	Co-Chair Northwest North Carolina	$ 1,000
Richard Burr for U.S. Senate 2004		$ 1,000
N.C. Republican Party	Executive Committee 1989 - 2002	

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

I have not given any speeches or written any articles involving the environment.

Speeches given by me during my service as a state legislator were not written. I used 3 x 5 cards for notes; they have been destroyed.

Additional Matters:

1. If there is any additional information that you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.
   No

2. Do you agree to appear before all Congressional Committees which seek your testimony?
   Yes

Lyons Gray

AFFIDAVIT

Lyons Gray ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 14th day of Sept., 2005

Notary Public

Becky M. Holbrook

OFFICIAL SEAL
Notary Public, North Carolina
COUNTY OF FORSYTH
BECKY M. HOLBROOK
My Commission Expires 1-18-2009

STATEMENT OF H. DALE HALL, NOMINATED TO BE THE DIRECTOR OF THE U.S. FISH AND WILDLIFE SERVICE

Mr. Chairman and members of the Committee, it is a great honor for me to be nominated by President Bush to be Director of the U.S. Fish and Wildlife Service. I am also honored to be here today before this Committee as it considers my nomination to lead the Nation's premier fish and wildlife conservation agency. If confirmed, I pledge to respectfully and responsibly preserve and promote our nation's fish and wildlife conservation heritage.

I am a 27-year career employee of the Fish and Wildlife Service. Since 2001, I have been the Director of the Service's southwest region which includes the States of Oklahoma, Texas, New Mexico and Arizona. During my career with the Fish and Wildlife Service, I have worked all over the United States, in different regions, with State game and fish agencies, Tribes and non-governmental organizations on a myriad of issues. The partnerships and relationships that I have forged over the years have resulted in the support of my nomination by the Western Association of Fish and Wildlife Agencies and the International Association of Fish and Wildlife Agencies.

Given my background, I bring certain qualifications, insights, and perspective to this position that I believe will benefit both the American public and the resources we are charged with conserving.

I have a Bachelor of Science degree in biology, with a minor in chemistry, from Cumberland College in Williamsburg, Kentucky, and a Master of Science degree in Fisheries Science from Louisiana State University in Baton Rouge, Louisiana. As a native of Harlan County, Kentucky, I grew up wrapped in the arms of the Cumberland Plateau of the Appalachian Mountains in a culture that both respected and loved the natural resources and bountiful riches it provides for its people. Because of this, hunting and fishing have always been an important part of my life, not simply recreational pursuits. In my community, much of our food came from the fish and wildlife that lived in and around the Cumberland River. This culture instilled in me an understanding that the Creator gave us the gifts necessary to sustain our lives, but also the responsibility to ensure the care and stewardship of those gifts.

During my career, I have had the good fortune to work in the Lower Mississippi Valley on bottomland hardwood and floodplain conservation, in the Pacific west on the Northwest Forest Plan and California Bay/Delta partnerships, on Everglades restoration

efforts, finding solutions to water management in the Rio Grande Valley, and in moving efforts forward toward the restoration and management of the Missouri River. Through my work, the most important lesson I have learned is that long-standing solutions to natural resource problems are not found in the exercise of governmental power alone. Rather, long-term solutions must always have a foundation built on collaboration with all interested constituents. Those interests are almost always diverse and that diversity can sometimes create significant challenges to finding a sustainable resolution. However, it has been my experience that when these challenges are approached with respect for all views, and a willingness to listen to the fears and concerns of others, positive outcomes result. I have found that the public truly cares about fish and wildlife resources and will develop and implement creative solutions to problems. However, this can only happen when we, as regulators, understand that we do not possess all the answers. I believe in the old adage that says "real power can only be realized when it is shared and allowed to grow." By sharing power with our citizens, the future success of our nation's fish and wildlife resources is without limit.

My career has afforded me the opportunity to work on the ground with fish culture on private facilities and in policy development for the Service's National Fish Hatcheries, and with our State and Tribal partners in the management of those fisheries. For example, I was intimately involved with a Louisiana Parish Police Jury in the establishment of the Tensas National Wildlife Refuge, and as Deputy Regional Director and Regional Director with such exceptional groups as the Friends of Ding Darling National Wildlife Refuge and the Friends of Bosque del Apache National Wildlife Refuge. I was also actively involved in acquiring project lands for the restoration of the Everglades and worked with partners at the South Florida Water Management District. My involvement in the resolution of the California Bay/Delta Accord allowed active and frequent interaction with agricultural, environmental, hunting and urban interests in pursuit of a long-term solution to Central Valley water management. These experiences have allowed me to participate in and understand the work of the Service at all levels of the organization, and to work with a variety of interests in natural resource management.

For the last 14 years, I have been extensively involved in the implementation of the Endangered Species Act. The onslaught of lawsuits and procedural actions, rather than the direction of all available resources to management and improvement of habitat, has been a significant obstacle to achievement of the stated purposes of the Endangered Species Act. If confirmed, I will devote significant energy to addressing much needed policy direction and partnerships with other Federal land management agencies, States, Tribes, private land owners and non-governmental organizations.

I cannot overstate the important role of regulation in the conservation of species and their habitats. However, I believe we should also maintain flexibility in our regulatory scheme as we commit to work with our partners to further the country's conservation goals while respecting individual rights. Too frequently, command and control regulation is invoked, which is often the result of a heavy litigation workload. However, we must continue our efforts to find the higher plane of cooperative partnership.

I believe that one of the least recognized partners throughout our history has been the sportsmen and women of the United States. These passionate stewards have always been willing to "foot the bill" to ensure that we have healthy populations of game species, beginning with their role in waterfowl stamps, Sport Fish and Wildlife Restoration Acts in which they advocated a tax on themselves, and, currently, with our "waterfowl" joint ventures. Another steadfast partner in conservation has been the private land owner. Approximately 70 percent of all fish and wildlife habitat in the United States is in private hands. If we are to leave a legacy of conservation for future generations, we must engage these land owner stewards, the hunting and fishing community, Tribes, and others. Through this approach, I am extremely optimistic about the future of our natural resources.

Finally, we must understand that the future of this Nation's natural treasures resides with our most important asset: the youth of America. We have significant opportunities to reach out to schools to educate young people about their natural resource heritage. My first exposure to natural resource management was as a 7th grader in Harlan County, Kentucky, when a Kentucky "Conservation Officer" visited our school and talked to us about our natural resource heritage. Until then, I had no idea that such a heritage existed. I am committed to increasing classroom visits to our National Wildlife Refuges, while working with our partners to find innovative means to bring the excitement of nature to our children. With the help of this Administration, the Congress, our State Game and Fish agency partners, and, most important, our citizen stewards, I believe a bright future awaits.

Thank you, Mr. Chairman, and members of the Committee for considering my qualifications for this position. I will be happy to answer any questions you may have.

RESPONSES OF H. DALE HALL TO ADDITIONAL QUESTIONS FROM SENATOR JEFFORDS

Question 1. As you know, this Committee is currently looking at ways to improve the Endangered Species Act. One important requirement of the Act is that the best available science be used in making listing decisions. During your career with the Fish and Wildlife Service you have had to make decisions based on best available science. There has been concern raised regarding your policy on genetics in endangered species activities. Can you explain that policy and your justification for not using genetics in listing decisions?

Response. The policy guidance I issued focused on how the Region could apply new genetic information to a species that is already listed. The guidance recognizes that the Service has legal requirements to answer specific questions identified in the law prior to invoking any regulatory criteria. Nothing prevents recovery teams from determining that a newly identified genetic population merits protection or creates previously unidentified threats to the survival of the species. However, by law, the recovery process cannot be used to create a new listed entity or delisting criteria that have not gone through the analysis to answer the specific questions of the law. The Service as a whole is working to develop national policy guidance on the use of genetics in listing and recovery.

Question 2. The national fish hatchery program has been critically underfunded in recent years. We have 2 fish hatcheries in my state and they are important for aiding in the recovery of Atlantic salmon. What is your view of the hatchery program and what will you do as Director of the Fish and Wildlife Service to continue the operation of these vital hatcheries?

Response. Earlier in my career, I served as the Deputy Assistant Director for Fisheries in the Service's Washington office, where I became very familiar with the

operations of our national fish hatcheries. The National Fish Hatchery System is critical to the nation's recovery and restoration of native aquatic species, including Atlantic salmon. The System also plays a vital part in the management of the nation's recreational fisheries. Although the System faces challenges, we are making progress in addressing annual and deferred maintenance requirements by focusing on mission critical water structures identified in the System's five year plan. The Service is working closely with its partners to develop a strategic plan, establish priorities, and focus funding on the most critical operational needs while also fulfilling constituent needs. One such plan, with our partners at the National Fish Habitat Initiative, would enhance and restore aquatic habitat to ensure that fish reared on national fish hatcheries are placed in healthy habitats.

Question 3. In July 2002, you signed a Memorandum of Understanding with the state of Arizona relating to the Fish and Wildlife Service and the State's role in implementing the Endangered Species Act (ESA). What authorities have been delegated to the state of Arizona? What provision under the ESA provides the regional director with this authority?

Response. The ESA Memorandum of Understanding does not delegate any authorities to the State of Arizona. The MOU recognizes the Arizona Department of Game and Fish as a partner in the management of fish and wildlife in the State, and, as such, the MOU is a tool that allows us to work more closely with that agency. The authority to work with the Arizona Department of Fish and Game comes from Section 6 of the ESA, which deals with Cooperation with the States, and provides for management, cooperative, and funding agreements with the States to protect and recover listed species.

RESPONSES OF H. DALE HALL TO ADDITIONAL QUESTIONS FROM SENATOR BAUCUS

Question 1a. Every year the State of Montana recommends summer reservoir operations that will minimize the impacts of drafting Libby and Hungry Horse dams in Montana on endangered bull trout and other resident fish, and that will contribute to recreation in the area. These recommendations are formally submitted to the "Regional Forum" process called for under the National Marine Fisheries Service Biological Opinion for listed salmon and steelhead. Each year, Montana's request is denied, apparently in response to objections from representatives of the U.S. Fish and Wildlife Service—Region 1 in Portland, Oregon. This furthers the perception that Montana's native fish are getting the short end of the stick relative to salmon when it comes to the management of the Columbia River Basin. Also, I am concerned that Region 1, which does not encompass the state of Montana, apparently has veto authority over proposals originating in Montana, without the input of Region 6.

Additionally, these proposed changes to flow operations at Libby and Hungry Horse dams were adopted by the Northwest Power and Conservation council in its 2003 Mainstem Amendments to the Columbia River Basin Fish and Wildlife Program. These changes are also consistent with the recommendations made by the Bull Trout Recovery Team in its Recovery Plan. Again, these proposed operational changes have continually been denied, despite the fact that the potential benefits of flows from Montana reservoirs on the survival of salmon downstream are extremely difficult to measure.

How would you address and resolve this apparent conflict between the needs of different endangered species in the same river system? Do you believe that one endangered species should be given a priority over another?

Response. The recovery of multiple listed species in a river system as large and diverse as the Columbia River Basin is an extremely complicated endeavor involving numerous stakeholders, including two different regions of the Service, other Federal, State and local agencies, Tribes, power users, conservation organizations, private landowners and many other entities. Despite these complexities, I am committed to finding effective and efficient approaches to recover all endangered species in this important river system.

The Service considers the bull trout population in Hungry Horse Reservoir, as well as Lake Koocanusa, to be stable. In fact, bull trout populations in these impoundments are increasing to the point where, in 2003, the State of Montana requested the Service ease angling restrictions for bull trout on these waters to provide for recreational fishing opportunities.

The Service recognizes the need to ensure that current and future reservoir management in the Montana portion of the Upper Columbia River Basin address instream flow needs for bull trout. We also appreciate the need to consider Montana reservoir operations within the larger context of the recovery of other endangered

species, principally salmon, steelhead, and Kootenai white sturgeon, and the respective water needs for these species.

Accordingly, Regions 6 and 1 have coordinated on this issue at field and regional levels to ensure that our recommendations for reservoir operations to support bull trout recovery in Montana complement the overall water management scheme for the suite of endangered fishes in the Columbia system downstream from Montana. If I am confirmed as Director, I will make it a priority to ensure that all Service Regions work together to ensure effective and balanced conservation for cross-regional species.

Question 1b. The concentration of staff and resources in Region 1 means that Montana issues are often handled by Region 1 staff who do not necessarily have knowledge of local conditions or of the true needs of resident species in Montana. Will you investigate the continued disparities in funding and staffing between Region 6 and Region 1, both in general and relative to the conflict between salmon and Montana resident fish? If necessary, will you advocate for the re-allocation of funding and/or staff resources between Region 1 and Region 6 so that the needs of Montana's resident species are adequately addressed, particularly relative to the needs of salmon?

Response. Regions 1 and 6 work closely together on species of mutual concern, including salmon and other fish species that occur within both regions. The Service has worked to improve our recovery program, including the establishment of a process whereby high priority recovery needs of species can better be allocated and addressed by Service Regions. As we move into the upcoming fiscal year, I will work to ensure that the allocation of funding and staff resources is adequately balanced to recover high priority species, including cross-regional species.

RESPONSES OF H. DALE HALL TO ADDITIONAL QUESTIONS FROM SENATOR CHAFEE

Question 1. What have been your most proud accomplishments during your tenure as Director of the U.S. Fish and Wildlife Service's Southeast Region? How will these experiences assist you in your new capacity as Director of the Fish and Wildlife Service should the Senate approve your nomination?

Response. I am very pleased with the accomplishments of our outstanding employees in the southwest. We have significantly improved our relationships with the State Game and Fish Agencies resulting in excellent working partnerships throughout the Region. Our work with the Tribes of the southwest has also been very rewarding and has resulted in very strong relationships. However, the most important accomplishments of the Region have been improved communication and partnerships with counties, municipalities, and private land owners. We have worked very hard at building trust, the single most important ingredient in working with the public. I believe that good government is rooted in integrity and trust. This has been and continues to be our constant goal.

Question 2. As you know, U.S. Fish and Wildlife Service issues in the West are often quite different than those in the New England region where land values are high, population pressures on delicate ecosystems are abundant, and our National Wildlife Refuges are often smaller in size, but of no less import. As the new Director, how would you work to balance differences between the regions, whether in terms of funding, land acquisition and management, or staffing decisions?

Response. If confirmed as Director, I will work with the Service Directorate to ensure that allocations of funding and staffing are balanced and fully consider workload, performance, and priorities. Many opportunities avail themselves in the east to touch urban populations and educate our youth. I will work to address opportunities and priorities throughout the country.

Question 3. How important do you believe the role of science is in decision-making processes related to implementation of the Endangered Species Act.

Response. The role of science in decision-making under the ESA is absolutely essential. We must be honest about what we know, what we think we know, and what we don't know. Scientific integrity must then be brought to the questions of the law rather than the law being taken to meet the science. In my view, it is as unethical to ignore applicable science as it is to "stretch" science by saying "since we don't know, let's use the law to protect until we do know." If we are to succeed under the ESA, the reputation of the Service must be one of honesty and truth.

Question 4. In a letter from the Public Employees for Environmental Responsibility (PEER) to the EPW Committee regarding your nomination, you were criticized for instructing staff in the Southeast Region to omit genetic data from decisions re-

lated to threatened and endangered species protection and recovery. Would you explain what may have generated this criticism, and what your general position is on genetic data being used to make decisions related to the implementation of the Endangered Species Act?

Response. The policy guidance I issued did not instruct biologists to ignore genetics. Rather, it focused on how the Region could apply new genetic information to a species that is already listed. The guidance recognizes that the Service has legal requirements to answer specific questions identified in the law prior to invoking any regulatory criteria. Nothing prevents recovery teams from determining that a newly identified genetic population merits protection or creates previously unidentified threats to the survival of the species. However, by law, the recovery process cannot be used to create a new listed entity or delisting criteria that have not gone through the analysis to answer the specific questions of the law. The Service as a whole is working to develop national policy guidance on the use of genetics in listing and recovery.

Question 5. As this Committee continues to take a hard look at reauthorizing the Endangered Species Act, we have heard a great deal about the important role cooperative partnerships play in recovering federally-listed species. As Southeast Regional Director, what has been your experience with cooperative partnerships for bringing Federal agencies, States and local governments, landowners and the nonprofit community together to resolve differences and move toward the common goal of recovering species?

Response. The Endangered Species Act has 18 sections, only two of which identify prohibitions or penalties for violations. If the purpose of the Act (conservation of ecosystems and species) is to be accomplished, we must look to the largest reservoir of opportunity. In the United States, approximately 70 percent of all fish and wildlife habitat is in private ownership. In my years of implementation of the ESA, I have witnessed private land owners harvest trees before full attainment of their economic viability, mow fields to remove wildlife forage and plant pastures in non-native grass, all to avoid the possibility that a listed species may come onto their property. In my experience, these land owners want to have as much natural diversity on their property as possible, but they are concerned about the impacts of the ESA on their property.

Our efforts in the southwest, and across the country, have been directed at addressing these concerns and giving willing land owners both protections against regulation and incentives to improve their property for imperiled species. In the southwest, we have partnerships with Arizona ranchers that cover nearly three quarters of a million acres; agreements with private land owners; partnerships with State land agencies and other Federal agencies in New Mexico to protect lesser prairie chickens and sand dune lizards; and numerous partnerships with land owners in Oklahoma that are restoring wetlands and grasslands at an impressive pace.

I believe there is an unlimited potential to work with private, State and Tribal land owners to head off listings and recover those species currently listed under the ESA. Regulation can only ensure that habitat is not destroyed; it cannot require that habitat be improved. However, voluntary participation by land owners ensures that every acre under an agreement is improved for the benefit of fish and wildlife species. Accordingly, long term success rests with active cooperative partnerships where regulation is used as a measure of last resort for those that choose to disregard the law.

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS

ROOM 410 DIRKSEN BUILDING WASHINGTON, DC 20510

INFORMATION

REQUESTED OF PRESIDENTIAL NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to the Honorable James M. Inhofe, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Marty Hall: Deputy Staff Director) as soon as possible.

Name of Nominee: H. Dale Hall

Business Address: U.S. Fish and Wildlife Service, P.O. Box 1306
Albuquerque, NM 87103

Business Phone: 505/248-6282

Home Address:

Home Phone:

UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Hall (Last) Henry (First) Dale (Middle)

Position to which nominated: Director, U.S. Fish and Wildlife Service

Date of Nomination: July 19, 2005

Date of birth: 03 (Day) 11 (Month) 1949 (Year) **Place of birth:** Harlan, KY

Marital status: Married **Full name of spouse:**

Name and ages of children:

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Cumberland College	1972-1974	B.S.	08/1974
Louisiana State University	1975-1977	M.S.	12/1979

Employment record:

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

09/1977-09/1978 – Eden Fisheries, Yazoo City, MS and Farm Fish, Inc, Louise, MS
Catfish Farm Manager

09/1978-08/1982 – U.S. Fish and Wildlife Service, Field Biologist, Vicksburg, MS

08/1982-10/1983 – U.S. Fish and Wildlife Service, Outer Continental Shelf Coordinator, Houston, TX

10/1983-04/1984 – U.S. Fish and Wildlife Service, Assistant Field Supervisor, Houston, TX

04/1984-11/1987 – U.S. Fish and Wildlife Service, Field Supervisor, Houston, TX

11/1987 – 01/1991 – U.S. Fish and Wildlife Service, Deputy Assistant Director (Fisheries), Washington, D.C.

01/1991-06/1997 – U.S. Fish and Wildlife Service, Assistant Regional Director (Ecological Services), Portland, OR

06/1997- 07/2002 – U.S. Fish and Wildlife Service, Deputy Regional Director, Atlanta, GA

07/2002-Present – U.S. Fish and Wildlife Service, Regional Director, Albuquerque, NM

Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Department of the Interior, Meritorious Service Award, 1996

U.S. Fish and Wildlife Service Ten Most Outstanding Merit Pay Employees, 1986

Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
None		

Qualifications:

State fully your qualifications to serve in the position to which you have been named.

I have a Bachelor of Science degree in Biology/Chemistry and a Master of Science degree in Fisheries Biology. I have experience in the private sector and 27 years of experience in the U.S. Fish and Wildlife Service. Over those years, I have been directly involved in large scale issues such as: development of the Multiple Parameter Approach to Jurisdictional Wetlands Determinations; Northwest Forest Plan development; California Bay/Delta Accord settlement; Everglades Restoration Program, Middle Rio Grande Water Management Plan development; Missouri River Biological Opinion development (2003); and Lower Colorado River Multi Species Conservation Program agreement (2005). Through involvement in all these activities, I have developed an understanding of how to, and the importance of, finding agreement and solutions to complex issues among disparate viewpoints.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

I am presently employed by the United States Government. I have no other obligations.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

I have no such current plans.

3. Has anybody made a commitment to you for a job after you leave government?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

N/A

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

None

Financial Statement:

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF-278, Schedule A.

Retirement benefits under the Civil Service Retirement System

2. Are any assets pledged?

No

3. Are you currently a party to any legal action?

No

4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes

5. Has the Internal Revenue Service ever audited your Federal tax return? if so, what resulted from the audit?

No

Potential conflicts of interest:

1. Describe any financial or deferred compensation agreements or other continuing of interest: dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other relationships that might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

Career Federal Employment

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

I am aware of none. If a presently unknown conflict arises, I will recuse myself.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

Under the potential for a conflict of interest, or the appearance of a conflict of interest, I will recuse myself from any involvement in the decision at hand.

Political affiliation and activities:

List all memberships and offices held in, or financial contributions (in excess of $1,000), and services rendered to any political party or election committee during the last 10 years.

None

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

Hall, H.D. 1979. The Spacial and Temporal Distribution of Ichthyoplankton of the Upper Atchafalaya Basin, Louisiana. M.S. Thesis. Louisiana State University.

Hall, H.D. 1985. Transposing Wetlands Characteristics to Wetlands Values: The 404(b)(1) Analysis. National Wetlands Assessment Symposium. June 17-20.

Hall, H.D. and V.W. Lambou. 1990. The Ecological Significance to Fisheries of Bottomland Hardwood Systems: values, detrimental impacts, and assessment: the report of the fisheries workgroup. In: Ecological Processes and Cumulative Impacts, as illustrated by Bottomland Hardwood Wetland Ecosystems. Edited by James G. Gosselink, Lyndon C. Lee, and Thomas A Muir. Pp 481-531.

Hall, H.D. 2005. Strategies and Pitfalls in Endangered Species Act Compliance; Regulation Or Partnership: There is a Choice. 23rd Annual Water Law Conference, San Diego, CA. Feb. 24-25.

Additional Matters:

1. If there is any additional information that you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

_____

_____

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes _____.

AFFIDAVIT

H. Dale Hall _____ **ss**, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

H Dale Hall

State of New Mexico
County of Bernalillo

Subscribed and sworn before me this 11th day of August, 2005 by H. Dale Hall.

Notary Public Donna M. Shoemaker

OFFICIAL SEAL
Donna M. Shoemaker
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 6/3/2006

California WATERFOWL

Conserving California's waterfowl, wetlands, and waterfowling heritage.

September 20, 2005

The Honorable James Inhofe, Chair
Environment and Public Works Comte.
410 Dirksen Senate Office Building
Washington, DC 20510

The Honorable James Jeffords, Ranking Member
Environment and Public Works Comte.
456 Dirksen Senate Office Building
Washington DC 20510

Via facsimile

Dear Chairman Inhofe and Ranking Member Jeffords;

The California Waterfowl Association (CWA) is pleased to offer our strong support for the President's nomination of Dale Hall to serve as Director of the U.S. Fish and Wildlife Service.

Our Association had the pleasure of working closely with Mr. Hall during his tenure as Assistant Regional Director for the U.S. Fish and Wildlife Service in Region 1. During this period, CWA had the opportunity to work directly and successfully with Mr. Hall on a wide variety of difficult and highly controversial issues ranging from Klamath Basin water supplies to the California Bay/Delta water agreement. We found that Mr. Hall has rare and keen understanding of resource issues, as well as an uncommon ability to bring differing interests together to jointly solve difficult environmental concerns.

The California Waterfowl Association believes that Mr. Hall's proven abilities would be a significant asset to the Service and we respectfully request your approval of his nomination when he comes before your committee later this week.

Sincerely,

Bill Gaines, Director
Government Affairs

cc: The Honorable Dianne Feinstein
The Honorable Barbara Boxer

California Waterfowl Association

4630 Northgate Blvd
Suite 150
Sacramento, CA 95834

TEL: (916) 648-1406
FAX: (916) 646-1665
www.calwaterfowl.org

CWA is a 501 (c)(3) nonprofit organization (94-1149574)

OKLAHOMA FARM BUREAU
LEGAL FOUNDATION
2501 N. STILES • OKLAHOMA CITY, OK 73105-3126 • 405-523-2300

September 22, 2005

Honorable James M. Inhofe
Chairman
U.S. Senate Committee on
Environment and Public Works
410 Dirksen Senate Office Building
Washington, D.C. 20510

Honorable James M. Jeffords
Ranking Member
U.S. Senate Committee on
Environment and Public Works
456 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Inhofe and Ranking Member Jeffords,

On behalf of the Oklahoma Farm Bureau, I am writing to support the nomination of H. Dale Hall to become the next Director for the U.S. Fish and Wildlife Service.

For the past three years, Hall has served as Regional Director for the Service's Region 2 office based in Albuquerque, New Mexico. This region encompasses four states including Oklahoma. Overall, Hall has served nearly thirty years in the Service. Hall not only provides a wealth of experience from a career with the Service, most importantly, Hall provides a welcome perspective to implementing the programs of the Service.

In August 2004, President George W. Bush issued an executive order calling for federal agencies charged with the responsibility of implementing the nation's environmental and conservation statutes to engage in cooperative conservation with private landowners. Hall not only will seek to carry out the President's order, he has long appreciated the need and value of working with private landowners seeking to provide positive incentives to conservation.

As this Committee and the Committees of jurisdiction in the U.S. House of Representatives are currently considering changes to the federal Endangered Species Act, it is crucial that positive incentives rather than mandates become the new model of conservation. Hall's nomination strikes the appropriate balance between protecting our valued species and natural resources and realizing the importance of private property ownership.

The Oklahoma Farm Bureau supports Hall's nomination and would look forward to continuing to work with him as Director. We respectfully request your support for this important nomination and appreciate the opportunity to provide these comments for the record.

Sincerely,

Steve

Steve Kouplen
President
Oklahoma Farm Bureau
Oklahoma Farm Bureau Legal Foundation

Association of California Water Agencies
Leadership Advocacy Information Since 1910
ACWA

September 12, 2005

The Honorable James Inhofe, Chair
Environment and Public Works Comte.
410 Dirksen Senate Office Building
Washington, DC 20510

The Honorable James Jeffords, Ranking Member
Environment and Public Works Comte.
456 Dirksen Senate Office Building
Washington, DC 20510

Via facsimile and mail

Dear Chairman Inhofe and Ranking Member Jeffords,

The Association of California Water Agencies (ACWA) is pleased to support the President's nomination of Dale Hall to serve as Director of the U.S. Fish and Widlife Service.

Mr. Hall has set a new standard for access and for FWS integrity among ACWA's water agency members in the southwest region. He has also built a strong record of achievement, highlighted by the Multi-Species Conservation Plan for the Lower Colorado River and other accomplishments.

Mr. Hall possesses valuable on-the-ground experience as a Deputy Regional Director, as an Assistant Regional Director for Ecological Services and as Deputy Assistant Director for Fisheries in Washington, DC. We welcome the chance to work with him, the rest of the Bush Administration and Congress should he be confirmed.

We respectfully request your approval of this nomination.

Sincerely,

David L. Reynolds
Director of Federal Relations

cc. The Honorable Dianne Feinstein
The Honorable Barbara Boxer

Association of California Water Agencies 910 K Street, Suite 100, Sacramento, California 95814-3577 **916/441-4545** FAX 916/325-4849
Hall of the States 400 N. Capitol St., N.W., Suite 357 South, Washington, D.C. 20001-1512 **202/434-4760** FAX 202/434-4763
www.acwanet.com

State of New Mexico
OFFICE OF NATURAL RESOURCES TRUSTEE

Bill Richardson
Governor

Jim Baca
Trustee

Rebecca de Neri Zagal
Executive Director

Senator James Inhofe
410 Dirksen Senate Office Bldg.
Washington, DC 20510-6175

Dear Senator Inhofe,

I am Jim Baca, State Natural Resource Trustee for the State of New Mexico. I have previously served as Mayor of the City of Albuquerque, Director of the U.S. Bureau of Land Management, Department of the Interior, and as New Mexico Commissioner of Public Lands for two terms.

I am writing to support Dale Hall's nomination to be the Chief of the Fish and Wildlife Service, Department of the Interior.

I have had the pleasure of working with Dale since the start of 2003 when I became the Natural Resource Trustee. My staff and I have worked closely with Dale and his staff in this Region on numerous Natural Resource Damage cases in the State of New Mexico. I have found Dale's leadership to be flawless as we have tried to work together on complex and large cases. More than once, Dale has helped iron out difficulties between state, federal and responsible parties in our settlement negotiations.

I think Dale's abilities are exactly what the Fish and Wildlife Service needs right now as more and more Endangered Species listings and cases are filed. I think Dale can find a way to reach settlement on many of these listings by working with all the parties involved.

I can not think of anyone more qualified than Dale to take this work on.

Sincerely yours,

Jim Baca

Jim Baca

Cc: Senator Jeff Bingaman
Senator Pete Domenici

610 Gold Avenue SW, Suite 236 • Albuquerque, New Mexico 87102
(505) 243-8087 • Fax: (505) 243-6644

August 24, 2005

Honorable Senator James M. Inhofe
Chairman, Senate Committee on
Environment and Public Works
410 Dirksen Senate Office Building
Washington, D.C. 20510-6175

Honorable Senator James M. Jeffords
Ranking Member, Senate Committee
on Environment and Public Works
456 Dirksen Senate Office Building
Washington, D.C. 20510-6175

Dear Senators Inhofe and Jeffords:

I write in support of the Western and International Associations of Fish and Wildlife Agencies endorsement of President Bush's nomination of Dale Hall as Director of the U.S. Fish and Wildlife Service.

Mr. Hall has a distinguished record of service in the conservation of the Nation's fish and wildlife resources. I am confident that Mr. Hall will continue the commitment of close cooperation and collaboration with state fish and wildlife agencies that was set by his predecessor.

The Midwest Association of Fish and Wildlife Agencies is pleased and proud to support this nomination and urges rapid Senate confirmation.

Sincerely,

Steven A. Gray, President
Midwest Association of Fish and Wildlife Agencies

cc: MAFWA Directors
John Baughman, IAFWA Executive Vice-President
Larry Kruckenberg, WAFWA Secretary

WESTERN ASSOCIATION OF FISH AND WILDLIFE AGENCIES

DEAN HILDEBRAND
President
c/o North Dakota Game and Fish Department
100 N. Bismarck Expressway
Bismarck, North Dakota 58501-5095
(701) 328-6305

LARRY L. KRUCKENBERG
Secretary
c/o Wyoming Game and Fish Dept.
5400 Bishop Blvd.
Cheyenne, WY 82006
(307) 777-4569

DUANE SHROUFE
First Vice President
Phoenix, AZ

JOHN COOPER
Second Vice President
Pierre, SD

LORIS "RYAN" BRODDRICK
Third Vice President
Sacramento, CA

STEVE BARTON
Treasurer
Boise, Idaho 83707

August 17, 2005

Honorable Senator James M. Inhofe
Chairman, Senate Committee
on Environment and Public Works
410 Dirksen Senate Office Building
Washington, D.C. 20510-6175

Honorable Senator James M. Jeffords
Ranking Member, Senate Committee
on Environment and Public Works
456 Dirksen Senate Office Building
Washington, D. C. 20510-6175

SENT VIA FAX
Original Sent Via USPS

Dear Senators Inhofe and Jeffords:

It is an honor and pleasure for the Western Association of Fish and Wildlife Agencies to write in the strongest possible support of President Bush's nomination of Mr. H. Dale Hall as Director of the U. S. Fish and Wildlife Service.

The Association, founded in 1922, is a quasi-governmental organization of public agencies charged with the protection and management of fish and wildlife resources in the western part of the United States and Canada. Currently there are 23 member agencies. The Association has been a key organization in the promotion of the principles of sound resource management and the strengthening of federal, state and private cooperation in protecting and managing fish and wildlife and their habitats in the public interest.

The Association's support of Mr. Hall is based on his distinguished record of service to the Nation with regard to management of wildlife resources. The breadth and details of Mr. Hall's public service are reflected in his resume, and we are confident they will be fully evident to Congress in forthcoming hearings. However, the Association would like to emphasize a few elements herein.

Mr. Hall's credentials as a scientist and as a manager of resources and relationships have been honed through resolving a myriad of complex issues, especially, but not only, in the West. Whether on spotted owl issues in the Northwest or fisheries issues in the Southwest, Mr. Hall

has been exemplary in ensuring that common sense solutions are found that balance resource needs with human needs, within the letter and the spirit of the law. Even within the arena of implementing the Endangered Species Act, he has demonstrated on a daily basis what consensus means, and that it can be achieved. Moreover, where consensus cannot be achieved, his professionalism has enabled disagreement to be explored without becoming fractious. The underpinning of his approach is science, with the clear understanding that the human dimension also matters, on an individual as well as a societal level.

In every position that he has held, Mr. Hall has always been available for open and candid discussion, and always has been both willing and able to listen to disparate viewpoints from the full spectrum of interested and affected parties, while working toward well-reasoned decisions that represent the best possible balance. In a frequently contentious world, Mr. Hall has been a safe harbor for achieving solutions that best serve the public interest.

The western state wildlife agencies have had the pleasure of working with Mr. Hall for many years now, and unanimously endorse his nomination on the basis of our collective experience. We know from case history that he walks the walk of collaborative conservation, and that the crucial federal/state partnership is more to him than just a slogan. His commitment to productive engagement and closure have been essential ingredients in resolving, or a least making substantive progress on, too many key local, regional, national, and international issues to recount herein. Suffice to say that his breadth of experience, knowledge, skills, energy, leadership, and impeccable personal and professional integrity are the epitome of what we would hope for in the pivotal position for which he has been nominated. The Director of the U. S. Fish and Wildlife Service helps set the tone for national dialogue on natural resources, and the Nation can unquestionably do no better than to have Mr. Hall in that position.

In closing, the Association wholeheartedly endorses Mr. H. Dale Hall's nomination as Director of the U. S. Fish and Wildlife Service. We look forward to Congressional vetting of his nomination, and trust that meaningful opportunities will arise for us to testify to that support.

Sincerely,

Dean Hildebrand
President

DH/LLK:cc

cc: WAFWA Directors and Committee Chairs
Larry Kruckenberg WAFWA Secretary
John Baughman IAFWA Executive Vice President

International Association of Fish and Wildlife Agencies

Representing Fish and Wildlife Agencies since 1902

Hall of the States, 444 North Capitol Street, NW, Suite 544, Washington, DC 20001
Telephone (202) 624-7890 ♦ Fax (202) 624-7891 ♦ E-mail: iafwa@sso.org ♦ Web Page: www.iafwa.org

August 24, 2005

Honorable James Inhofe, Chairman
Senate Committee on Environment and Public Works
SD-410 Dirksen Senate Office Building
Washington, DC 20510

Honorable James Jeffords
Ranking Member
Senate Committee on Environment and Public Works
SD-456 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Inhofe and Senator Jeffords:

I wish to share with you the strong and enthusiastic support of the International Association of Fish and Wildlife Agencies (IAFWA) for the nomination of H. Dale Hall to be Director of the U.S. Fish and Wildlife Service (FWS). Dale is a 27 year career veteran of the FWS, is currently Regional Director of the Southwest Region, and has held leadership positions in several other FWS offices. As such, we have known and worked closely with him and can attest to his extensive knowledge of and experience with a broad range of fish and wildlife conservation issues. Dale has distinguished his career by building strong relationships with state fish and wildlife agencies, has extensive knowledge of the state's authorities and responsibilities for fish and wildlife, and is committed to a true partnership between the states and the federal government in wildlife conservation. He is thus particularly well suited to continue to enhance that relationship which his predecessor so significantly improved.

Dale Hall is a degreed fisheries professional, a lifelong hunter and angler, has a proven record of increasingly complex career assignments in natural resources, and an outstanding record of accomplishment. He has successfully led large numbers of people in a decentralized organization, which is critical to success in leading an organization that is as field-oriented as the U.S. Fish and Wildlife Service. Dale has demonstrated his commitment to both our natural resources and our citizens through his years of public service. He is a thoughtful, innovative and deliberative decision-maker who seeks common sense and practical solutions to complex problems and in ways that advance both conservation and the needs of our citizens.

The Nation, our fish and wildlife resources, and our citizens would be well served by having Dale Hall as Director of the U.S. Fish and Wildlife Service; therefore IAFWA respectfully urges expeditious Committee action reporting his nomination to the floor for consideration by the Senate.

Thank you for your timely attention to this important nomination.

Sincerely,

Terry R. Crawforth

Terry R. Crawforth
President, IAFWA

STATEMENT OF EDWARD MCGAFFIGAN, JR., NOMINATED TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION

Mr. Chairman, Ranking Member Jeffords, Members of the Committee on Environment and Public Works, it is a great honor to appear before you as President Bush's nominee for the Nuclear Regulatory Commission (NRC).

As you know, this will be my third term on the Commission, if the Senate approves my nomination. I have appeared before this Committee and its Subcommittee on Clean Air, Climate Change, and Nuclear Safety on many occasions since Chairman Inhofe reinstituted regular NRC oversight hearings in July 1998. I believe that NRC has benefited greatly from that oversight, and I look forward to continued vigorous oversight, should I be confirmed.

Mr. Chairman, I want to thank the Committee for the NRC-related legislation that was included in the Energy Bill enacted last month. This was the most far-reaching package of NRC provisions in more than two decades. They provide the Commission with tools to improve the safety and security of civilian nuclear facilities and more importantly, the personnel tools to manage what I see as the most significant management challenge facing the Commission in the years ahead: managing generational change.

NRC recently announced that it plans to hire 350 new employees in fiscal year 2006. This will be a combination of experienced and entry level hires and will constitute more than 10 percent of NRC's total workforce in September 2006. This trend will continue for several years further as NRC faces twin bow waves, a bow wave of retirements estimated at about 7 percent of our workforce per year (about 220 people/year), and a bow wave of new work primarily related to applications for the design certification of advanced reactors and for combined operating licenses for new reactors (about 100–150 people/year).

I can show you the first bow wave visually. The chart attached to my statement shows the age distribution of NRC's permanent employees on April 30, 2005 compared to September 30, 2000. Note that the peak population between the ages of 50 and 55 in 2000 has essentially moved 5 years to the right. There is good news in the chart. NRC has been hiring young people over the past 5 years, and we are often quite successful in hiring experienced mid-career (mid-40's) individuals who find the challenge of NRC's work combined with the Federal benefits package attractive at that stage of their lives.

I cannot show you the second bow wave because there is so much uncertainty about it. GE in late August submitted its application for certification of the design of the Economic and Simplified Boiling Water Reactor (ESBWR). Areva has indicated that it will apply for design certification for the Evolutionary Power Reactor (EPR) as soon as possible.

Various utilities and groups of utilities have expressed interest in submitting combined operating and construction authorization licenses (COLs) within the next 2 to 3 years. The Energy Bill has created strong financial incentives for the first movers toward COL applications. The Commission will also face complex license applications for facilities such as the Duke/Cogema mixed oxide (MOX) fuel fabrication facility in late 2006, and could receive an application for construction authorization for the proposed Yucca Mountain repository as soon as April 2006.

The bottom line is that the Commission will need to manage a large number of very important licensing activities over the next 5 years in a timely and efficient manner while losing many experienced staffers to retirement, including most of the senior career leadership of the agency. Senator Voinovich took the lead in granting the Commission every statutory personnel change the Commission requested in the Energy Bill. This Committee and the Appropriations Committee have supported the additional resources in fiscal year 2006 that the Commission requested. Now the job is the Commission's to manage this generational change at NRC, and to ensure that NRC emerges as strong or stronger to meet the challenges of the future. I hope to be part of the Commission as it faces these challenges. We have met similar challenges in the past in areas such as reactor license renewal, transfer of reactor licenses, and certification of dual-purpose spent fuel casks. To be successful this time, the Commission will need to ensure that funds for training new staff are protected against competing resource needs.

Mr. Chairman, I would like to add a brief comment on the NRC career staff. They are the Nation's nuclear safety and security watchdogs. They bring unmatched scientific, engineering and legal expertise to bear to ensure safety and security at our civilian nuclear facilities. They are often criticized, sometimes sharply and personally, by those who do not prevail in NRC's regulatory processes, for making decisions or recommending actions consistent with the law, NRC's regulations, and sound engineering judgment. Perhaps no regulator will ever be loved, except by his

or her family, but I would urge those interest groups who launch ad hominem attacks on the NRC and especially the staff to refrain in the future.

Finally, Mr. Chairman, I will conclude on a personal note. I am the son of an Irish immigrant with four grades of education. He came to this country in the early 1920's, survived the Depression, volunteered at age 36 for the U.S. Army at the start of World War II, served in Europe, returned home to meet my mother, herself the daughter of Irish immigrants, marry her and raise a family by doing manual labor for the Boston Gas Company. He died far too soon from cancer in 1969, but by the time he died he had a son at Harvard, a daughter at Manhattanville, and a second son who would later enter West Point. I am grateful to my mother and my father (and my mother's father who lived with us until his death in 1970) for always encouraging us to dream big dreams and for teaching us that in this great country acting on those dreams with open eyes can make them possible.

Mr. Chairman, I look forward to the Committee's questions.

RESPONSES OF EDWARD MCGAFFIGAN, JR., TO ADDITIONAL QUESTIONS FROM SENATOR JEFFORDS

Question 1. When we met, we discussed the need for the Nuclear Regulatory Commission (NRC) to bring on at least 350 employees next year to keep up with attrition due to retirements. Do you think this can be accomplished, especially when the Commission is competing with private industry?

Response. Yes, I do, but it is going to be a significant challenge. I should clarify that the need for 350 new employees in FY2006 is not just due to retirements. About 220 of the new employees will replace staff retirements. The remainder are additional employees to meet the NRC's expanding workload, particularly on advanced reactors.

The NRC can compete for both young graduates and mid-career employees with the tools provided by Congress in the Energy legislation. NRC is recognized as one of the best places to work in the Federal government.

Sustaining this level of hiring for four or five years will be an even greater challenge. But NRC must meet the challenge. Ensuring that all these new employees are fully trained and able to carry out their responsibilities is in my view the Commission's highest budget priority.

Question 2. The NRC handles very complicated technical issues, and ones that deal with the control and regulation of nuclear materials. You have considered several of these, and the next few years will bring several more challenges. Much has been made of your response to the Princeton spent fuel study, which ultimately led to the Congressionally requested National Academy Report on spent fuel, and to the security legislation that was recently signed into law. Could you share your views about the type and scope of peer review you believe is needed when studies show that nuclear materials may be vulnerable to terrorist attacks?

Response. I continue to believe that the Alvarez, et al study (the Princeton study) was a deeply flawed report, to which the passage of time has not been kind. To my knowledge there has been no effort in the Congress to embrace the study's fundamental recommendation, namely that the nation should launch a massive and costly effort to remove all spent fuel more than five years cooled from spent fuel pools and place the fuel in dry casks.

The National Academy of Sciences report was a much more balanced effort. The Commission provided its comments on the Academy report to the Congress earlier this year in unclassified and classified forms. I endorse those comments.

I should note that I regret that NRC got into a needlessly contentious battle with the Academy over classification of the Academy's study. When the issue finally rose to the Commission level early this year, the Commission was able to provide guidance that resolved the issue, I believe to everyone's satisfaction.

As a general matter, I am a very strong believer in peer review. When classified, safeguards, or sensitive material is involved, the peer review process has to be limited to those with appropriate clearances and need-to-know. The Pentagon, the Department of Energy and other security and law enforcement agencies have faced this issue for decades. The National Academy of Sciences is one way to get scientific peer review on classified matters. NRC's Advisory Committees on Reactor Safeguards and Nuclear Waste provide another. The use of existing mechanisms in other agencies, such as the JASONs, is a third possibility.

Question 3. As you know, there has long been tension at NRC over the need to inform the public about safety issues and the need to control access to safeguards information. The NRC approved a new policy on March 29, 2004 on security-related information. Commission voting records show that you differed with the rec-

ommendations of NRC staff when they recommended a more flexible policy on releasing security information to the public. At least some of your objections appear to stem from a concern that it might be costly and time-consuming to provide this information to the public.

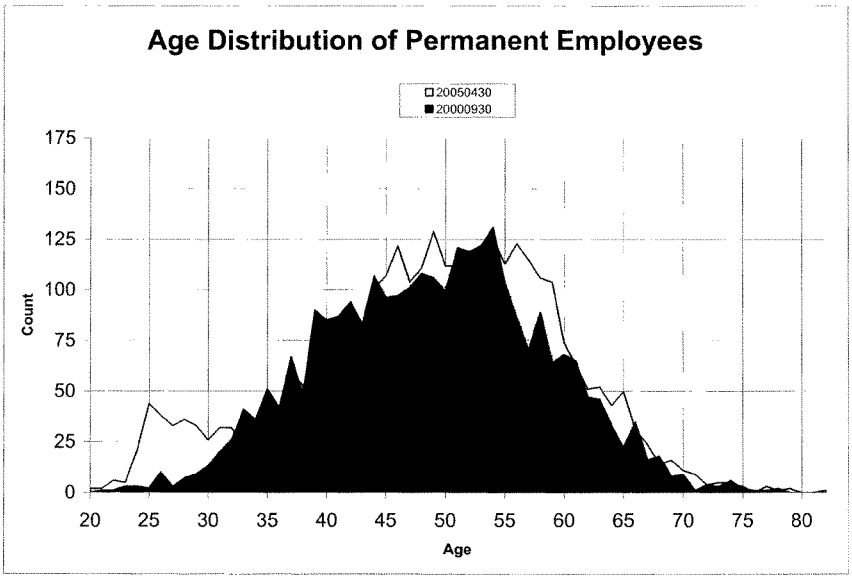
For example, you wrote in your explanation of the reasons why you rejected the staff's recommendation, that "the staff will be pressed to reveal more information and to assure the public that despite these [security] deficiencies, the plant should not be shut down. Congressmen will feel compelled to write letters. Reporters will feel compelled to seek safeguards information. This will be a fool's errand, carried out time and time again, consuming staff and Commission resources in large quantities."

Do you view this solely as a question of resources and do you believe that NRC should limit public disclosure of even non-safeguarded security information because it might generate public or Congressional questions?

Response. I do not see any conflict between keeping the public informed about safety issues, as opposed to security issues, and the need to control access to safeguards information under Section 147 of the Atomic Energy Act. Our reactor oversight process is by far the most open, transparent and timely evaluation of safety performance of any Federal safety agency.

On security issues, there is a tension in keeping the general public informed, but no tension in keeping the Congress or State homeland security officials informed. I believe that the Commission, especially Chairman Diaz, has demonstrated a willingness in recent years to discuss the most sensitive security matters with the Congress. We have had two meetings with the Committee on Environment and Public Works in S-407 of the Capitol and many more with individual Members or groups of Members and appropriately cleared staff. We have kept the States fully and currently informed about any security deficiencies identified at the plants either through our baseline inspections or force-on-force exercises.

I do not regard the issue of how open to be on plant-specific security issues to be a resource issue. The paragraph you cite from my vote only was included to rebut the claim that the staff proposal would save resources. Earlier in my vote I had expressed my fundamental problem with the staff proposal, namely that it would make information available to terrorists about security deficiencies at particular sites that every other agency of the Federal government protects from public disclosure, and rightly so. The option which the Commission chose provides full information on plant-specific security matters to Members of Congress and State homeland security officials. It was being implemented successfully by the NRC staff as of my June 30, 2005 departure from the Commission.


Age Distribution of Permanent Employees
20050430
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Age

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ROOM 410 DIRKSEN BUILDING WASHINGTON, DC 20510

INFORMATION

REQUESTED OF PRESIDENTIAL NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to the Honorable James M. Inhofe, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Marty Hall: Deputy Staff Director) as soon as possible.

Name of Nominee: Edward McGaffigan, Jr.

Business Address: 11555 Rockville Pike, MS: O-16C1

Rockville, MD 20852-2738

Business Phone: 301-415-1800

(Note: Retired June 30, 2005 - mail and calls still received at business address and phone above)

Home Address:

Home Phone:

UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: McGaffigan, Jr. (Last) Edward (First) (NMN) (Middle)

Position to which nominated: Member (Commissioner), U.S. Nuclear Regulatory Commission

Date of Nomination: July 28, 2005

Date of birth: 8 December 1948 (Day) (Month) (Year) **Place of birth:** Boston, Massachusetts

Marital status: Widower **Full name of spouse:**

Name and ages of children:

Education:

Institution	Dates Attended	Degrees Received	Dates of Degrees
Boston Latin School	9/60 - 6/66	High School Diploma	June 1966
Harvard College	9/66 - 6/70	A.B.	June 1970
Calif. Institute of Technology	6/71 - 6/74	M.S.	June 1974
Harvard University - JFK School of Government	9/74 - 5/76	M.P.P.	June 1976

Employment record:

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

Teaching Assistant, graduate-level particle physics courses, Cal Tech, supervisor Murray Gell-Mann, 9/72-6/74.

Consultant, Physical Sciences Department, Rand Corporation, Santa Monica, CA, wrote report on Japanese science and technology for ARPA, supervisor Victor Gilinsky, 6/74-9/74.

Summer Intern, Arms Control and Disarmament Agency, Washington, DC, prepared report on qualitative constraints in SALT III, supervisor Robert Rochlin, 6/75-9/75.

Teaching Assistant, graduate-level statistics and econometrics course, Kennedy School, Harvard University, supervisor David Wise, 9/75-5/76.

Foreign Service Officer, Department of State, 5/76-2/83; Staff Assistant, Politico-Military Bureau, supervisor George Vest, 7/76-1/77. Handled paper flow in bureau.

Special Assistant, Under Secretary of State for Security Assistance, Science & Technology, supervisor Lucy Benson, worked on nuclear non-proliferation matters for Joseph Nye, 1/77-8/77.

Russian Language Training, Foreign Service Institute, 9/77-6/78.

Science Officer, American Embassy, Moscow, handled US-Soviet bilateral science exchanges, including energy and atomic energy agreements, reported on Soviet energy and non-proliferation policies, supervisor Robert Houston, 7/78-4/80.

Special Assistant to Marshall Shulman, Senior Advisor to Secretary Muskie on Soviet Affairs, handled arms control and defense issues, 5/80-1/81.

Assistant Director for International Affairs, White House Office of Science and Technology Policy, also member of National Security Council Staff, on detail 2/81-2/83, supervisor George Keyworth, handled international science and technology cooperation and export control matters for OSTP and NSC.

Legislative Assistant, Senator Jeff Bingaman, 2/83-3/89. Assisted Senator Bingaman on Armed Services Committee matters. Also worked on government-wide personnel and acquisition reform, science and technology matters in the civilian agencies, and export control and non-proliferation issues.

Legislative Director, Senator Jeff Bingaman, 3/89-5/91. Handled all of the above plus directed the rest of the legislative staff and the Senator's overall legislative work.

Senior Policy Advisor, Senator Jeff Bingaman, 5/91-8/96. Continued to handle defense, foreign policy, science and technology, acquisition and non-proliferation matters. Also handled budget resolution and any other matter on which the Senator from time to time would ask me to help.

Commissioner, U.S. Nuclear Regulatory Commission, 8/96-6/05.

Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Harvard National Scholarship, 1966 - 1970.

Elected to Phi Beta Kappa ("Junior Twelve") May 1969.

Received A.B. in physics Summa Cum Laude.

National Science Foundation Fellowship, 1971 - 1974.

Sheldon Travelling Fellowship, 1970 - 1971.

Millikan Fellow, 1971 - 1974.

Harvard National Graduate Fellow, 1974 - 1976.

Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
American Physical Society	None	1977-present
American Association for the Advancement of Science	None	1978-1996 (not continuous)
Washington Metro Chapter of Huntington's Disease, Society of America	None	1988-present
Chesterbrook Swimming and Tennis Club	None	1995-1998

Qualifications:

State fully your qualifications to serve in the position to which you have been named.

I served on the Commission from August 28, 1996 to June 30, 2005. During that time I developed a detailed knowledge of the agency's programs and policies, and the challenges the agency will face in the years ahead. I am proud of the series of regulatory improvements, both safety- and security-related, that occurred during my previous terms on the Commission. I also would bring to the Commission a solid technical background, sound judgment and extensive first-hand knowledge of a variety of government processes derived from almost 30 years government experience, including 13-1/2 years on Senator Bingaman's staff and 2 years on White House staff.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

N/A

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

No

3. Has anybody made a commitment to you for a job after you leave government?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Yes, subject to any health issues that may arise.

b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

N/A

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

Foreign Service Officer. I resigned from the Foreign Service in February 1983 to become the defense legislative assistant to Senator Bingaman.

Nuclear Regulatory Commission. I retired on June 30, 2005 at the end of my second term on the Commission.

Financial Statement:

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF-278, Schedule A.

None

2. Are any assets pledged?

No

3. Are you currently a party to any legal action?

No

4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes

5. Has the Internal Revenue Service ever audited your Federal tax return? if so, what resulted from the audit?

No

Potential conflicts of interest:

1. Describe any financial or deferred compensation agreements or other continuing of interest: dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other relationships that might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

Not applicable

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

See attached letter from Stephen G. Burns, Acting General Counsel and Acting Designated Agency Ethics Official, to Marilyn Glynn, Acting Director, Office of Government Ethics, dated August 8, 2005.

Political affiliation and activities:

List all memberships and offices held in, or financial contributions (in excess of $1,000), and services rendered to any political party or election committee during the last 10 years.

I am a member of the Democratic Party. I have held no offices and made no contributions in excess of $1,000.

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

"Science and Technology in Japan: A Brief Analytic Survey," Rand Report No. R-1736-ARPA, November 1975, co-authored with Paul Langer.

I have given numerous talks over the past two decades on defense and technology issues. I believe most were never published, but some did show up in summary reports on conferences. The only ones I am aware of are untitled remarks to EIA Technology and Budget Conference, 11nd Annual Report, March 30-31, 1993, pages 61-62, and a talk entitled, "A Market Shakeout in R&D" included in the AAAS Science and Technology Policy Yearbook, 1992.

"U.S. Commercial Satellite Export Control Policy: A Debate" coauthored with Brian Dailey in a book entitled, "Fighting Proliferation: New Concerns for the Nineties," 1996.

I have also ghost-written speeches and papers for my bosses throughout my career prior to the NRC, but my name is not on those documents.

Since coming to the NRC in 1996, I have a large voting record as a Commissioner. My votes are publicly available, but do not constitute a publication or article.

Additional Matters:

1. If there is any additional information that you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

None

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes

AFFIDAVIT

Edward McGaffigan Jr. **(Edward McGaffigan, Jr.) ss**, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 8 day of August, 2005.

CIRCE E. MARTIN NOTARY PUBLIC MONTGOMERY CO. MD.

Circe E Martin
Notary Public

CIRCE E. MARTIN
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires March 1, 2007

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

OFFICE OF THE
GENERAL COUNSEL

August 8, 2005

The Honorable Marilyn Glynn, Acting Director
United States Office of Government Ethics
1201 New York Avenue, N.W.
Suite 500
Washington, D.C. 20005-3917

Dear Ms. Glynn:

As the Acting Designated Agency Ethics Official for the Nuclear Regulatory Commission, I reviewed the enclosed Executive Branch Personnel Public Financial Disclosure Report (Standard Form 278) submitted by Edward McGaffigan, Jr., who has been nominated by President George W. Bush for the position of Commissioner of the Nuclear Regulatory Commission.

Based on my review, I have determined that the report is complete and discloses no likely conflicts of interest under applicable statutes and regulations. Accordingly, I signed the enclosed report.

Sincerely,

Stephen G. Burns
Acting General Counsel and
Acting Designated Agency Ethics Official

Enclosures: Standard Form 278

cc: Edward McGaffigan, Jr., with enclosure

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