

wrong standard and admitted it was the first time he had worked on a FISA request;

(3) Notwithstanding Assistant FBI Director John Lewis's request to the Attorney General for the FISA warrant, the Attorney General did not check on the matter after assigning it to her inexperienced subordinate.

After DoJ's decision not to forward the FBI's request for a FISA warrant, which could have been reversed with the submission of further evidence, the FBI investigation languished for 16 months with DoE permitting Dr. Lee to continue on the job with access to classified information.

On the eve of the release of the Cox Committee Report that was expected to be highly critical of DoE, DoE arranged with Wackenhut, a security firm with which the DoE had a contract, to polygraph Dr. Lee on December 23, 1998 upon his return from Taiwan. According to FBI protocol, Dr. Lee would have been questioned as part of the post-travel interview. However, the case agents were inexplicably unprepared to conduct such an interview. Ultimately, the polygraph decision was coordinated between DoE and the FBI's National Security Division. The selection of Wackenhut to conduct this polygraph was questioned by the President's Foreign Intelligence Advisory Board and criticized as "irresponsible" by the FBI agent working Dr. Lee's case.

The FBI's investigation was thrown off course when they were told Dr. Lee had passed the December 23, 1998 polygraph which the Secretary of DoE announced on national TV in March 1999.

A review of the Wackenhut polygraph records by late January contradicted the Department of Energy's claims that Dr. Lee had passed the December 1998 polygraph; and a February 10, 1999 FBI polygraph of Dr. Lee confirmed his failure. In the interim from mid-January, Dr. Lee began a sequence of massive file deletions which continued on February 10, 11, 12 and 17 after he failed the February 10, 1999 polygraph.

It was not until three weeks after the February 10, 1999 polygraph that the FBI asked for and received permission to search Dr. Lee's computer which led to his firing on March 8, 1999. A search warrant for his home was not obtained until April 9, 1999. Those delays are inexplicable in a matter of this importance.

The investigation of Dr. Lee demonstrates the need for remedial legislation to:

1. Require that upon the personal request of the Director of the FBI, the Secretary of State, the Secretary of Defense or the Director of Central Intelligence, the Attorney General will personally review a FISA application submitted by the requesting official.

2. Where the Attorney General declines a FISA application, the declination must be communicated in writing to the requesting official, with specific recommendations regarding additional investigative steps that should be taken to establish the requisite probable cause.

3. The official making a request for Attorney General review must personally supervise the implementation of the Attorney General's recommendations.

4. Explicitly eliminate any requirement that the suspect be "presently engaged" in the suspect activity.

5. Require disclosure of any relevant relationship between a suspect and a federal law enforcement or intelligence agency.

6. Require that when the FBI desires, for investigative reasons, to leave in place a suspect who has access to classified information, that decision must be communicated in writing to the head of the affected agency, along with a plan to minimize the potential harm to the national security. National se-

curity concerns will take precedence over investigative concerns.

7. The affected agency head must likewise respond in writing, and any disagreements over the proper course of action will be referred to the National Counterintelligence Policy Board.

Mr. SPECTER. Mr. President, how much time do I have that I am yielding back?

The PRESIDING OFFICER. The Senator has 3 minutes of his 7 minutes.

Mr. SPECTER. I only asked for 4, but I yield back the remainder of my time. I thank my distinguished colleague, Senator HUTCHINSON from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

#### EXTENSION OF MORNING BUSINESS

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that subsequent to the UC of the Senator from California, the morning business period be extended until 5 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUTCHINSON. I thank the Chair.

(The remarks of Mr. HUTCHINSON pertaining to the introduction of S. 2215 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### TIMBER AND AGRICULTURE ENVIRONMENTAL FAIRNESS ACT

Mr. HUTCHINSON. Mr. President, I have heard from hundreds of private landowners, forest owners, and farmers in Arkansas who are greatly concerned about the Environmental Protection Agency's attempt to rewrite portions of the Clean Water Act.

I know the Senator from Idaho has been very much involved in this issue, has had hearings on this, and has been a leader in determining exactly what the EPA intends to do.

In August of last year, as the occupant of the chair knows, the EPA proposed a regulation which requires States to renew their efforts to fully implement a so-called voluntary total maximum daily load, or TMDL, program.

The States, in conjunction with the EPA, would establish TMDLs for water bodies statewide. If States fail to meet those TMDL guidelines, the EPA would then have the authority to enforce the new water quality standards. I believe that is what this agency had in mind all along.

Should the EPA be successful in carrying out their plans, this regulation will have a direct impact on two of my State's most important industries: agriculture and timber. Agriculture and forestry activity, which the EPA currently treats as potential "non-point source" polluters, could be regulated as point source pollution.

A regulation requiring foresters, private landowners and farmers to obtain discharge permits for traditional forestry and agriculture activities is costly, overly burdensome and unnecessary.

I believe this is yet another deliberate attempt to circumvent the Clean Water Act and legislate through regulation. Rewriting TMDL requirements and redefining point source pollution should be addressed when Congress, the elected representatives of the people, reauthorizes the Clean Water Act.

Arkansas has put forth a tremendous effort to implement statewide Best Management Practices and other water quality regulations.

If my State is required to establish and enforce expanded federal, one-size-fits-all TMDL standards, it must redirect already limited funds and resources away from successful State implementation programs and hand them over to bureaucratic EPA procedures and oversight.

These are some of the reasons why landowners in Arkansas are so upset. In early January I spoke at a meeting in El Dorado, AR, where 1,500 people attended to voice their concerns.

A few weeks later, 3,000 people attended a similar meeting in Texarkana, AR. Although the public comment period for this proposed regulation is over, a third meeting scheduled for later this month is expected to draw similar crowds.

The thousands of people who attend these meetings have families, busy schedules, and many other responsibilities, but they are willing to sacrifice their time to learn more about this proposed regulation and how it will affect their livelihood.

One of the core issues motivating Arkansans to attend public meetings by the thousand is *trust*. Ultimately, the people of my State do not trust the EPA. In other words, the EPA has not earned the trust of my constituents.

Clearly, the EPA has done an incredibly poor job communicating their proposal to those whom it will affect the most. During my time in public service, I have never seen this kind of public outcry to anything the EPA has done.

In response to the reaction from foresters, private landowners and farmers, private landowners and farmers in Arkansas, I have introduced S. 2139, the Timber and Agriculture Fairness Act.

My bill consists of two simple parts: First, it exempts silviculture operations and agriculture stormwater discharges from EPA's National Pollutant Discharge Elimination System permitting requirements; and, second, it defines nonpoint source pollution relating to both agriculture stormwater discharges and silviculture operations.

This two-prong approach, I believe, is the sensible way to winning back the trust of Arkansans and the American people.

We must remind ourselves that we have a Government "of the people, by