

**GRILES, OTIS, ROBERSON, BROWNELL,
AND WOOD NOMINATIONS**

**HEARING
BEFORE THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE**

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

ON

THE NOMINATIONS OF J. STEVEN GRILES, NOMINEE TO BE DEPUTY SECRETARY OF THE INTERIOR; LEE SARAH LIBERMAN OTIS, NOMINEE TO BE GENERAL COUNSEL OF THE DEPARTMENT OF ENERGY; JESSE HILL ROBERSON, NOMINEE TO BE ASSISTANT SECRETARY FOR ENVIRONMENTAL MANAGEMENT OF THE DEPARTMENT OF ENERGY; NORA MEAD BROWNELL, NOMINEE TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION; AND PATRICK HENRY WOOD III, NOMINEE TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION

MAY 16, 2001



Printed for the use of the
Committee on Energy and Natural Resources

U.S. GOVERNMENT PRINTING OFFICE

75-052 DTP

WASHINGTON : 2001

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

COMMITTEE ON ENERGY AND NATURAL RESOURCES

FRANK H. MURKOWSKI, Alaska, *Chairman*

PETE V. DOMENICI, New Mexico	JEFF BINGAMAN, New Mexico
DON NICKLES, Oklahoma	DANIEL K. AKAKA, Hawaii
LARRY E. CRAIG, Idaho	BYRON L. DORGAN, North Dakota
BEN NIGHTHORSE CAMPBELL, Colorado	BOB GRAHAM, Florida
CRAIG THOMAS, Wyoming	RON WYDEN, Oregon
RICHARD C. SHELBY, Alabama	TIM JOHNSON, South Dakota
CONRAD BURNS, Montana	MARY L. LANDRIEU, Louisiana
JON KYL, Arizona	EVAN BAYH, Indiana
CHUCK HAGEL, Nebraska	DIANNE FEINSTEIN, California
GORDON SMITH, Oregon	CHARLES E. SCHUMER, New York
	MARIA CANTWELL, Washington

BRIAN P. MALNAK, *Staff Director*

DAVID G. DYE, *Chief Counsel*

JAMES P. BEIRNE, *Deputy Chief Counsel*

ROBERT M. SIMON, *Democratic Staff Director*

SAM E. FOWLER, *Democratic Chief Counsel*

CONTENTS

STATEMENTS

	Page
Allard, Hon. Wayne, U.S. Senator from Colorado	7
Allen, Hon. George, U.S. Senator from Virginia	4
Boucher, Hon. Rick, U.S. Representative from Virginia	9
Brownell, Nora Mead, Nominee to be a Member of the Federal Energy Regulatory Commission	12
Burns, Hon. Conrad, U.S. Senator from Montana	26
Campbell, Hon. Ben Nighthorse, U.S. Senator from Colorado	1
Griles, J. Steven, Nominee to be Deputy Secretary of the Interior	18
Murkowski, Hon. Frank H., U.S. Senator from Alaska	1
Otis, Lee Sarah Liberman, Nominee to be General Counsel of the Department of Energy	16
Roberson, Jesse Hill, Nominee to be Assistant Secretary for Environmental Management of the Department of Energy	17
Warner, Hon. John, U.S. Senator from Virginia	2
Wood, Patrick Henry III, Nominee to be a Member of the Federal Energy Regulatory Commission	14

APPENDIX

Responses to additional questions	49
---	----

**GRILES, OTIS, ROBERSON, BROWNELL,
AND WOOD NOMINATIONS**

WEDNESDAY, MAY 16, 2001

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The committee met, pursuant to notice, at 9:52 a.m. in room SD-366, Dirksen Senate Office Building, Hon. Frank H. Murkowski, chairman, presiding.

**OPENING STATEMENT OF HON. FRANK H. MURKOWSKI,
U.S. SENATOR FROM ALASKA**

The CHAIRMAN. We are going into the second part of the hearing. We have five presidential nominees before us. First is Patrick Henry Wood, who has been nominated to be a member of the Federal Energy Regulatory Commission. Since I gather that no one is going to be introducing—well, I notice that nobody is introducing Patrick Wood III, so I will defer the order to accommodate the Senators who are going to introduce some of the nominees. We seem to have some confusion associated with this, but nevertheless we have Senators here and they are a voice to be heard from.

So I would ask Senator Wayne Allard to introduce Jesse Hill Roberson. Jesse has been nominated to be Assistant Secretary for Environmental Management, Department of Energy. Senator Allard, please proceed.

[A prepared statement from Senator Campbell follows:]

PREPARED STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR
FROM COLORADO

Thank you Mr. Chairman. I am honored and pleased to be here at this hearing to consider the nominations of all these folks nominated to serve in the administration. They are all overwhelmingly qualified and the right people for their respective agencies.

Before I focus on the nomination of Steve Griles, I want to briefly comment on the FERC nominees, especially since the ongoing problems in California are not going away. Both of you are going into a job that needs to be executed efficiently and completely. The FERC has a big role that is crucial to the West and I believe that you both will do a fine job. I support both of your nominations.

Now, moving on to the Griles nomination, I believe that Steve Griles will complement the team in place and that he is the right person for this job. Steve's experience will help accelerate and improve work at the Department of the Interior and across the nation as well. He already has worked eight years at Interior where he made the hard decisions about managing our lands. He demonstrated then that he could resolve conflicts and get the job done.

Steve Griles has been a powerful voice for promoting and enhancing our land management policies. He has an institutional knowledge as well as extensive experience in lands issues. Also, Steve understands the Western ethic of land use and conservation which was questioned and ignored by the previous administration. Steve

is an outstanding professional who will do great things as Deputy Secretary of the Interior.

His demonstrated abilities will enable him to excel in his new capacity, if confirmed as we all know he will be, as Deputy Secretary of the Interior. I strongly support and applaud Steve Griles' nomination and soon to be confirmation as our next Deputy Secretary of the Interior.

Thank you Mr. Chairman.

Senator ALLARD. Mr. Chairman, I would be willing to yield to my colleague from Virginia, Senator Warner. He has got a commitment there as chairman of Armed Services that he has to be at, and I can join that meeting a little bit later. But I think if it suits the committee, I would be happy to—

The CHAIRMAN. I would be happy to accommodate Senator Warner.

STATEMENT OF HON. JOHN WARNER, U.S. SENATOR FROM VIRGINIA

Senator WARNER. I thank my colleague.

The CHAIRMAN. Senator Warner, you have been a victim of the alphabet. That is all there is to it.

Senator WARNER. Not to worry about a thing.

The CHAIRMAN. Allard and Allen and Warner, and that is how they rolled it in.

Senator WARNER. Fine. Let me just point out my only regret is I did not stay on this committee. If I had I would have been in that chair right now where you are.

[Laughter.]

The CHAIRMAN. Well, I wonder if I would be given the same treatment. I am sure I would.

So Senator Warner is here to introduce Lee Sarah Liberman Otis.

Senator WARNER. No, I am here to introduce Steven Griles and Mrs. Otis.

The CHAIRMAN. Lee Sarah Liberman Otis.

Senator WARNER. Right.

The CHAIRMAN. And J. Steven Griles. Please proceed, Mr. Senator.

Senator WARNER. What I will do is ask unanimous consent that my statement may be placed into the record.

The CHAIRMAN. Without objection.

Senator WARNER. I point out I know both of these individuals. I commend the President and indeed the Secretary for submitting to the Senate two eminently qualified individuals. When I came to the Senate 23 years ago, one of my earliest recommendations to the then President was Steven Griles to take a position in the Department of the Interior, and I have known this man these many years and I have unqualified recommendation for this committee and the Senate as a whole.

Now, Mr. Chairman, I find in today's *Washington Post* a very constructive article on page A21 entitled "Symbol of a Shift at Interior." As I read through it, it is my judgment that this article simply indicates the shift towards an individual who has had great experience and success in the private sector. In my humble judgment, I say to the chair and the members of this committee, if the United States is going to work itself out of this energy crisis it will, yes,

have a framework of leadership from the Executive Branch, but it will be the private sector in the end that will work to get us out.

I think our nominee is prepared to answer each and every question as it relates to that article and others that will be propounded by this committee.

With that, I depart and leave it to my distinguished colleague George Allen. Good luck. You are on your own.

[The prepared statement of Senator Warner follows:]

PREPARED STATEMENT OF HON. JOHN WARNER, U.S. SENATOR FROM VIRGINIA

Mr. Chairman, Ranking Member Bingaman, and members of the Committee, it is my distinct honor this morning to join my colleague from Virginia, Senator George Allen, in introducing J. Steven Griles, nominated to be Deputy Secretary of the Interior and Lee Liberman Otis, for your consideration as General Counsel for the Department of Energy.

LEE LIBERMAN OTIS

With your permission Mr. Chairman, I will begin with Mrs. Otis. I had the pleasure of meeting with Mrs. Otis in my office on Monday to discuss her nomination and the challenges she will face at the Department of Energy. I am pleased to report she is a Virginian with a distinguished record of public service and impeccable credentials.

I understand Mrs. Otis has several family members here including her husband Bill, and her stepmother Nadine. I welcome her entire family here today to the Committee.

Because Mrs. Otis has a long history of accomplishments, I will merely relay the highlights to you. She clerked for Supreme Court Justice Antonin Scalia. She served as Associate White House Counsel for the first President Bush. And she has served in this body as Chief Counsel to the Immigration Subcommittee of the Senate Judiciary Committee and as Counsel to Senator Abraham.

It is fortunate Mrs. Otis' background is so impressive, because she will need to draw upon her vast experience when grappling with the enormous challenges facing the Department of Energy. When Mrs. Otis and I met on Monday, I relayed to her my fear that this nation may once again be facing an energy crisis.

I don't need to explain this to the members of this distinguished committee, as you are all energy experts, but I wanted you to know Mrs. Otis aware of the magnitude of the problem and is enthusiastic about the challenge. I am confident these issues will be examined in great detail during this hearing.

Mr. Chairman, thank you for the opportunity to introduce Lee Liberman Otis. I enthusiastically recommend her and urge her speedy confirmation.

Now, Mr. Chairman, with your permission, I will turn to Steve Griles.

J. STEVEN GRILES

I have known Steve Griles since 1979 when I began my service in the Senate. I can say with confidence that Steve is a man of unquestioned integrity and impeccable character.

Steve has a large and wonderful family, many of whom are with him today. I welcome to the Committee his mother Elsie, daughters Kimberly and Maegan, sons Timothy and Matthew and brothers Joe and Dwayne.

Steve is an outstanding Virginian who brings to the position a wealth of experience in both State and Federal government and the private sector.

In 1981, with my strong support, Steve came to Washington where he served in various positions at the Department of the Interior.

In 1985, I had the pleasure of introducing Steve to this Committee as President Reagan's nominee for Assistant Secretary of Lands and Minerals Management.

After four successful years in that position, Steve returned to the private sector as Senior Vice President for a Virginia based natural resource company.

In the last 6 years Steve has built his own energy and environmental consulting firm where he has concentrated on renewable energy projects and other forms of energy production.

Mr. Chairman, I strongly recommend to the Committee the nomination of Steve Griles, a man of unquestioned integrity, superb judgment and exceptional knowledge.

I know he will do a good job for the American people, and I urge the Committee to recommend his confirmation.

Thank you Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Warner.

We will hear from Steven Griles, who is the nominee for the Department, the Secretary of the Interior, as the Deputy Secretary, in a few minutes, as well as Lee Sarah Otis as General Counsel for the Department of Energy. We will now move to accommodate either Senator relative to the next nominee. Gentlemen.

**STATEMENT OF HON. GEORGE ALLEN, U.S. SENATOR
FROM VIRGINIA**

Senator ALLEN. I would ask Wayne or the chairman. I understand you have several panels. Ms. Otis is on the first panel, Mr. Griles is on the second panel. If you would permit me—

The CHAIRMAN. There is just one panel, I might add. We are probably going to add a chair or two, but we think we can do it. But go ahead, whichever.

Senator ALLEN. Well, I have to be over in the Commerce Committee to introduce another fine Virginian.

The CHAIRMAN. Well then, I would suggest, Senator Allen, you proceed.

Senator ALLEN. Do you suggest, Mr. Chairman, that I introduce both Mr. Griles and Ms. Otis at this moment?

The CHAIRMAN. I would suggest that might be appropriate.

Senator ALLEN. Okay. Well, first I want to thank Senator Allard and thank the chairman, Senator Bingaman, and all the members of the committee.

First let me talk about Ms. Otis. It is a privilege to introduce her. She is here with her husband, Bill, her sister and her nieces.

The CHAIRMAN. Would you be recognized, please. Stand up.

Senator ALLEN. They are back there somewhere.

The CHAIRMAN. Stand up.

Oh, you have got a whole family.

Senator ALLEN. A whole passel of Otises and Libermans with us.

The CHAIRMAN. Good.

[Applause.]

Senator ALLEN. I am pleased to join with Virginia's senior Senator, John Warner, in introducing both these individuals. Now, the role of Ms. Otis is particularly important in Energy these days as General Counsel. She will certainly work very hard and capably to formulate and implement a much-needed national energy policy, and I think she will balance the Nation's needs for more energy production with also conservation of our resources, and, most importantly, also look to innovations in technology to help meet our needs.

As you see, Ms. Otis received her bachelor's degree in English from Yale, her French baccalaureate from Elysee Francais, before earning her law degree from the University of Chicago. She has an extensive record in clerking for judges, outstanding judges, and professorships at George Mason and Georgetown Law Schools.

You all probably most recently know that Ms. Otis worked as Chief Counsel to the Senate Judiciary Committee, Subcommittee on Immigration, and thanks to her efforts H-1B visa waivers for

non-immigrant visas were raised, and that is very important to technology companies, not just in Virginia but across the country.

During my term as Governor, I was very fortunate to have her serve on our Virginia Advisory Council on Self-Determination and Federalism. I know she will bring steady principles, great diligence and determination and drive to her work at the Department of Energy. She will continue now to contribute to the people of America, especially now that we are at this vitally important crossroads and challenging time for the Department of Energy.

So I am very pleased to present and introduce her and give her my wholehearted endorsement.

Now, so far as Steve Griles is concerned, Steve Griles is a long-time good friend. The first time I talked to him was on a train years ago. I was in the House of Delegates and got to know Steve Griles, and he was telling me about his term and service previously in the Department of the Interior.

This is a man who loves the West, and I look at this committee and the furthest east anyone is from is Nebraska and South Dakota. He is a man who loves the resources of the West, the beautiful monuments.

Senator DORGAN. Senator Allen, California.

Senator FEINSTEIN. California, do not forget California.

Senator ALLEN. What did I say? I said the furthest east on this committee was Nebraska.

Senator CRAIG. We consider California—

Senator ALLEN. What did you say, furthest west? I meant furthest east. If I said furthest west, I am sorry. Thank you. I meant furthest east.

Senator CRAIG. George, California is just unique to itself.

[Laughter.]

Senator ALLEN. No, I made a mistake and thank you for correcting me. I was dropped in California, so I should know. I was almost born in Sioux City.

But at any rate, now, Steve is I think, Steve Griles is one of the very best choices out of outstanding choices that President Bush has made. I have known him. He is always a person who worked well, not just at the Federal level, but the State level, with the Virginia Department of Conservation. He has a great reputation. His professional reputation is one of a problem solver, and it can be illustrated by the letters of support which I would like to have put into the record from people with the Chesapeake Bay Local Assistance Board, the Outdoors Foundation, the Virginia Land Trust, and board members, a former board member of the Nature Conservancy, as well as on the board of trustees for the Chesapeake Bay Foundation.

I would like those letters to be put into the record.

The CHAIRMAN. Put into the record as noted.

[The material referred to follows:]

TIDEWATER CONSULTING INCORPORATED,
Tallahassee, FL, May 9, 2001.

Senator FRANK MURKOWSKI,
Dirksen Building, Washington, DC.

DEAR CHAIRMAN MURKOWSKI: I write in support of the nomination of J. Steven Griles for the position of Deputy Secretary of the U.S. Department of the Interior. By way of introduction I am a former member of the board of Audubon of Florida, and was most recently Environmental Policy Coordinator for Governor Jeb Bush, and served as his "Everglades Czar." I speak, however, for myself.

When asked to evaluate his suitability for this post, I investigated his background and spoke with him personally. I was particularly pleased at his prior work in and commitment to the Everglades. I believe that he has a background that will bring balance and an orientation that will serve the administration, the citizens and the environment well. His work, in and out of government, will bring balance in his duties.

We have worked very hard to build bridges between the business and environmental communities here in Florida. Our success was highlighted in the signing by Governor Bush of Florida's Everglades set in 2000. Sugar barons, environmentalists, compelling agencies bends and partisan politicians all who put aside former differences for common good flanked him. You need more of this in D.C. I believe Mr. Griles will help bring this attitude change.

Yours truly,

J. ALLISON DEFOOR, II.

Senator FRANK MURKOWSKI,
Chairman, Senate Energy and Natural Resources Committee, Dirksen Building, Washington DC.

DEAR CHAIRMAN MURKOWSKI: We are writing to express our support of the nomination of J. Steven Griles for the position of Deputy Secretary of the United States Department of the Interior. Like Steve, we are Virginians who are deeply concerned about conservation. We have devoted a significant portion of our lives to ensuring that our children will enjoy the environmental treasures that we were fortunate enough to inherit. The signatories of this letter represent over 100 years of dedication to issues ranging from the restoration of the Chesapeake Bay to the preservation of Virginia's agrarian heritage and protection of much needed open and untamed spaces.

Today, Virginia benefits from the numerous contributions Mr. Griles made both while serving in the Commonwealth's Department of Conservation and in the private sector. During his tenure in state government, Virginia expanded and added numerous state parks, including the Chappokes Plantation State Park, the Sky Meadows State Park, the False State Park, the Grayson Highlands State Park, and the Leesylvania State Park.

While with the Commonwealth, Mr. Griles worked with conservation groups to change regulations to protect the environment from "bad actors" in the coal industry. He made significant efforts to initiate reclamation of abandoned mine sites and to eliminate environmental loopholes that led to scarring of the landscape and polluted runoff. Ultimately, Mr. Griles' leadership resulted in the strengthening of Virginia's environmental laws to protect streams and rivers from mining activities through the enactment of Virginia's Surfacing Mining and Reclamation Act.

At the United States Department of the Interior, these state accomplishments were mirrored through the reformation of the Coal Surface Mining and Reclamation Act, the expansion of federally designated wilderness areas by 16 million acres, protection of the Rio Grande River, and acquisition of the West Water Canyon on the Colorado River, among other significant environmental gains. Mr. Griles exhibited a high level of corporate responsibility for the environment while at United Company in southwest Virginia.

There are those who have chosen to use intolerant rhetoric and apply negative labels to Mr. Griles in an effort to taint public perception. There are some who will never acknowledge that a person's career can accommodate both public and private sector service. However, like most Americans, we prefer to take a more deliberative approach when considering an issue of such importance. It is after such deliberation that we are pleased to support the nomination of J. Steven Griles for this post.

Sincerely,

James C. Wheat, III, Former Member of Board of Trustees, the Nature Conservancy, (Va. Chapter, Member of Board of Trustees, the Chesapeake Bay Foundation; Paul Ziluca, Chairman, Virginia Outdoors

Foundation; Linda Porter, Past President, Virginia Land Trust, Board of Directors, Virginia Land Trust; T. Gaylon Layfield, III, Vice Chair-Board of Trustees, the Chesapeake Bay Foundation; Louis Clifford Schroeder, Sr., Chair-Chesapeake Bay Local Assistance Board, Commission for the Future of Virginia's Environment, Chesapeake Bay Partnership Council, Vice-Chair, Va. Oyster Reef Foundation.

Senator ALLEN. He is one who I always looked at as an adviser on conservation and mining issues when I was running for Congress, when I was running for Governor, and also in the U.S. Senate. This is a man with a great deal of credibility, a great deal of experience that he will bring as Deputy Secretary.

Most importantly, Mr. Chairman and members of the committee, he will love his job. If someone loves their job, that is infectious, that is contagious. I know he has a great personality and I strongly and proudly recommend Steve Griles, a fellow Virginian. He will bring vitality, experience, knowledge, and integrity to this very important leadership position.

So thank you very much.

The CHAIRMAN. Thank you, Senator Allen. I appreciate that statement.

Senator ALLEN. Later Rich Boucher will also be speaking on behalf of Mr. Griles. I know that as well.

The CHAIRMAN. Are there any questions for the Senators before we call on Senator Allard?

[No response.]

The CHAIRMAN. If not, you are excused. There is a mailman going to get you on the way out. But outside of that—that does not require an answer here. It might require your glasses to read it.

But in any event, Senator Allard, would you care to proceed since you are the last one that is on the list? It says the first shall be last, and that pertains to you. Please proceed.

STATEMENT OF HON. WAYNE ALLARD, U.S. SENATOR FROM COLORADO

Senator ALLARD. Mr. Chairman, thank you very much, and Senator Bingaman, members of the committee. Thank you for having me here today to introduce and recommend a person who I believe is an exceptional and deserving nominee to be the next Assistant Secretary for Environmental Management at the Department of Energy, Ms. Jesse Roberson. Ms. Jesse Roberson is sitting here on my right.

Jesse has 17 years of private and public sector experience in the nuclear field, with an emphasis on environmental cleanup and restoration, low level waste management, nuclear reactor operations, and project management and safeguards and security. Currently, Ms. Roberson is the board member of the Defense Nuclear Safety Facilities Board, referred to as the DNSFB. The DNSFB is the oversight body which ensures the nuclear health and safety activities at all of DOE's nuclear weapons complex. She has been a board member since January 2000.

Prior to being a board member, Ms. Roberson was with the Department of Energy. In her 10 years at the Department, she was at the Rocky Flats environmental technology site in Golden, Colorado, and the Savannah River site in Aiken, South Carolina. It was

during her time at Rocky Flats that I met and befriended Ms. Roberson. In 1996, she became the manager of the Department of Energy's Rocky Flats field office. She was ultimately responsible for the integration and performance of all environmental cleanup activities at Rocky Flats.

Before becoming the site manager, Rocky Flats was scheduled for a 2015 cleanup and closure date, but once she stepped in as manager she, along with Kaiser Hill, put into place a more robust and vigorous plan to close the site at the end of 2006. I can say unequivocally that without her leadership this ambitious plan would never have been a reality.

While I believe Ms. Roberson's credentials and experience alone speak for her qualifications to become the next Assistant Secretary for Environmental Management at the Department of Energy, she has also received numerous awards and honors and in 1998 she was recognized as one of the top 25 newsmakers in the construction industry with the 1997 Newsmaker Award by Engineering News Record.

Now, in 1997 Fort Valley State University awarded her the platinum achievement award for outstanding leadership in the field of education. Plus, the Girl Scouts Mile High Council awarded Jesse the woman of distinction award. In 1996 Ms. Roberson was honored with the black engineer of the year award for professional achievement in government and the NAACP scientific achievement award by the Conicue County Branch.

Mr. Chairman, I would like to insert into the record an April 3, 2001, *Denver Post* editorial entitled "Roberson a Top Flight Pick."*

The CHAIRMAN. Without objection.

Senator ALLARD. If you will indulge me, I would like to quote one line from the editorial: "The Department's environmental management job in fact is one of the toughest positions on the Federal Government. There likely is not a better person around to tackle the task, however, than Jesse Roberson."

That statement sums up my feelings regarding Ms. Roberson. I have worked with her for many years and have seen her make many tough and sometimes not always popular decisions. However, she stood her ground, took care of business, and got the job done. This editorial shows that Jesse worked with the State and local communities to accomplish this task. She kept everyone involved informed, and as a matter of fact Governor Bill Owens strongly supports Jesse's nomination as well.

Due to her efforts of cooperation at Rocky Flats, today our local communities are the biggest supporters of the closure activities at Rocky Flats. Not all closure sites, I might add, can claim this.

Mr. Chairman, given Jesse's extensive experience and qualifications, I strongly recommend her swift approval for the position of Assistant Secretary for Environmental Management at the Department of Energy. I am very proud to call Jesse a friend and hope to soon call her Madam Assistant Secretary.

Again, thank you for allowing me to be here today and to speak on behalf of Jesse.

The CHAIRMAN. Thank you very much, Senator Allard.

* Retained in committee files.

We welcome you, Jesse Hill Roberson, as the nominee to be Assistant Secretary for Environmental Management of the Department of Energy. Thank you very much. Actually, we will hear from our friend from across the park, Representative Rick Boucher from Virginia's Ninth District, who will be introducing Mr. Griles. Mr. Griles is going to be well introduced, having been introduced by George Allen and Senator Warner as well.

Please proceed. Nice to have you over on our side of the fence. Please.

**STATEMENT OF HON. RICK BOUCHER,
U.S. REPRESENTATIVE FROM VIRGINIA**

Mr. BOUCHER. Thank you very much, Mr. Chairman. I am honored to be here this morning for the purpose of introducing to the committee Steven Griles, whom the President has nominated to be the Deputy Secretary of the Interior. I can say that Steve and I have known each other and we have worked together since we were both in our late twenties. At that time I was beginning my public service as a member of the Virginia State Senate and Steve at that time was an Assistant Director of the Virginia Department of Conservation and Natural Resources and was performing admirably in that work.

Our work together began when I noticed an absence in the State of Virginia of any State laws regulating the environmental effects of oil and gas project development. The oil and gas industry in those days was just beginning its operations in Virginia and some environmental controls were necessary. As a member of the State Senate, I proposed the first comprehensive State program to provide those environmental controls, and in the effort we really needed help from the Virginia Department of Conservation and natural resources. Steve Griles provided that critical assistance and was a champion of our effort, and with the work that he and I did together we were able to pass a landmark law which still regulates oil and gas development in the State of Virginia.

In later years when Steve was called upon to serve in the U.S. Department of the Interior, we stayed in contact. I was elected to the U.S. House of Representatives in 1982 and we have been in very close association since that time. Steve has provided helpful advice on a variety of matters as I have undertaken my work in the Congress.

The advice that he has offered over the years has always been based on a deep knowledge of the subject matter and a balancing of various competing policy considerations. He has always been objective, he has always been thoughtful, he has always been well-balanced in the positions that he has taken.

The congressional district that I represent contains all of Virginia's coal production and my constituents highly value conservation and the environment. The advice and suggestions that I have been privileged to receive from Steve Griles over the years have been invaluable to my ability to work through a wide range of difficult policy choices that frequently confront members of Congress who report mining regions across the United States. That advice has been helpful. Those suggestions have been material to some of

the successes I have been able to achieve, and I thank Steve very much from what he has done in that area.

I am pleased to count Steve Griles among my friends. I respect his judgment, I respect his integrity, I respect his commitment to public service and the balance that he brings to his work, and I strongly recommend his confirmation by the Senate as Deputy Secretary of the Department of the Interior.

Mr. Chairman, I am pleased to note today that Steve has a large and a wonderful family, and many members of that family are here in the room. I would like to welcome to the committee Steve's mother Elsie, his daughters Kimberly and Meagan, his sons Timothy and Matthew, and his brothers Joe and Dwayne.

Thank you, Mr. Chairman, for permitting me to make these comments on behalf of Steve Griles. I wonder if they could be recognized, his family. Please stand up. There they are.

[Applause.]

The CHAIRMAN. Have you concluded, Representative Boucher?

Mr. BOUCHER. Yes.

The CHAIRMAN. I want to thank you very much for that very warm statement. I might add I neglected to note that you are of the Democratic persuasion, which we appreciate because obviously those on my left are of the same persuasion. But I did want to make that known because I overlooked it in your introduction.

Is that the extent of your remarks?

Mr. BOUCHER. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

I believe that we are ready for the panel. Let me call you up in the order that I have you: Patrick Henry Wood III, and we have appropriate signs that at least we can read, if we do not put any water cups in front of it. Mr. Wood has drawn the seat on my far right.

Norma Mead Brownell. Please come on up. Then Lee Sarah Liberman Otis, Jesse Hill Robertson—Roberson, excuse me; I am sorry—who has been up before; Mr. J. Steven Griles, and I guess that is it.

I would suggest that we offer the two FERC nominees an opportunity to present their statements, followed by the two DOE nominees, followed by Steve Griles, if that is in agreement, unless you have other demands on your time.

Maybe we would start with Nora Brownell. Ms. Brownell has been nominated to be a member of the Federal Energy Regulatory Commission, commonly known and regarded as "FERC." I asked her why she was anxious for this opportunity to serve and she looked rather startled because I followed it by asking, I wonder why anybody would want to accept that responsibility.

But she will proceed to tell us why. But we are very pleased to have you here and please proceed, Ms. Brownell.

Ms. BROWNELL. Thank you, Mr. Chairman, Senators. I recognize that our time this morning is constrained, so I will ask that my statement be entered into the record and I will make only a few brief comments.

The CHAIRMAN. Without objection.

Do any of you have family that were not introduced that are here?

Ms. BROWNELL. We do.

The CHAIRMAN. Patrick Wood, please introduce your family.

Mr. WOOD. Mr. Chairman, my wife Kathleen, my parents and sister and uncle are here from Texas.

The CHAIRMAN. Would you please stand up and be recognized.

[Applause.]

The CHAIRMAN. Ms. Brownell.

Ms. BROWNELL. Mr. Chairman, my children, my brothers, and the first friends are here, and I am appreciative of their support.

The CHAIRMAN. Please stand up and be recognized.

[Applause.]

The CHAIRMAN. Ms. Otis.

Ms. OTIS. Thank you, Mr. Chairman. I think the Virginia Senators were kind enough to recognize my family, so I will not inflict all of their names on you. But I would like to ask them to stand.

The CHAIRMAN. Ms. Roberson.

Ms. ROBERSON. Thank you, Mr. Chairman. I would like to introduce my daughter Jessica.

[Applause.]

The CHAIRMAN. Jessica, how are you.

Mr. Griles, I believe we have introduced your folks.

Mr. GRILES. Yes, sir.

The CHAIRMAN. It is going to be necessary that I swear you in, so if you would care to stand. The rules of the committee which apply to all nominees require they be sworn in in connection with their testimony. Please raise your right hands.

Do you solemnly swear that the testimony you are about to give to the Senate Committee on Energy and Natural Resources shall be the truth, the whole truth, and nothing but the truth.

Mr. WOOD. I do.

Ms. BROWNELL. I do.

Ms. OTIS. I do.

Ms. ROBERSON. I do.

Mr. GRILES. I do.

The CHAIRMAN. I am going to ask each of you a couple of questions and you can respond right down the line. Before you begin your statement, I will ask you three questions addressed to each nominee before the committee. Will you be able to appear before this committee and other congressional committees to represent departmental positions and respond to issues of concern to the Congress?

Mr. Griles.

Mr. GRILES. Yes, sir.

The CHAIRMAN. Ms. Roberson.

Ms. ROBERSON. Yes, sir.

The CHAIRMAN. Ms. Otis

Ms. OTIS. I will.

The CHAIRMAN. Ms. Brownell.

Ms. BROWNELL. Yes.

The CHAIRMAN. Mr. Wood.

Mr. WOOD. Yes, sir.

The CHAIRMAN. Are you aware of any personal holdings, investments, or interests that could constitute a conflict or create the ap-

pearance of such a conflict should you be confirmed and assume the office to which you have been nominated by the President?

Mr. GRILES. No.

Ms. ROBERSON. No, sir.

Ms. OTIS. My holdings have been reviewed by the Ethics Office in Energy and the Office of Government Ethics and we have worked out an ethics agreement that should cover it.

Ms. BROWNELL. My investments, personal holdings, and other interests have been reviewed by both myself and the appropriate ethics counselors with the Federal Government. I have taken the appropriate action to avoid any conflict of interest. There are no conflicts of interest or appearances thereof to my knowledge.

The CHAIRMAN. Mr. Wood.

Mr. WOOD. My investments, personal holdings, and other interests have also been reviewed by myself and by the appropriate ethics counselors within the Federal Government. I've taken appropriate action to avoid any conflicts of interest and there are no conflicts of interest or appearances thereof to my knowledge.

The CHAIRMAN. Let me ask the last question. Are you involved or do you have any assets held in blind trusts? Mr. Griles?

Mr. GRILES. No, Mr. Chairman.

The CHAIRMAN. Ms. Roberson.

Ms. ROBERSON. No.

The CHAIRMAN. Ms. Otis.

Ms. OTIS. No, sir.

The CHAIRMAN. Ms. Brownell.

Ms. BROWNELL. No, sir.

The CHAIRMAN. Mr. Wood.

Mr. WOOD. No, sir.

The CHAIRMAN. Please proceed. We would appreciate—we will take your statements, enter them into the record as if read. You may proceed as you see fit.

TESTIMONY OF NORA MEAD BROWNELL, NOMINEE TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION

Ms. BROWNELL. Thank you. I'll keep my comments brief. I'm honored to come before you this morning. We are at a time in history which is almost unparalleled. At a time of enormous growth, we are faced with uncertainty and stress in our energy markets. Our neighbors in the West are suffering as we grapple with developing energy policy that ensures reliability, efficiency, and accessibility.

We need both short-term and long-term solutions. This is about the continued economic development of our country, about the wellbeing of its citizens and the stewardship of our resources. I believe we can and we must move forward with thoughtful, innovative—thoughtfulness, innovation, and urgency. If confirmed, I commit to do just that.

[The prepared statement of Ms. Brownell follows:]

PREPARED STATEMENT OF NORA MEAD BROWNELL, NOMINEE TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION

Chairman Murkowski, Senator Bingaman, and distinguished members of this Committee, I am deeply honored to appear before you today. I would like to thank Senators Specter and Santorum for their work on my behalf and their leadership

on behalf of the citizens of Pennsylvania. I am also very honored by the President's confidence in me and thank him for nominating me to the Federal Energy Regulatory Commission.

As my biography indicates, I am member of the Pennsylvania Utility Commission and president of NARUC, the National Association of Regulatory Utility Commissioners. Prior to joining the Commission, I was Executive Vice President of Meridian Bank. I managed our corporate affairs department, which included community and economic development. While in that position, I observed first hand the value of successful economic development for communities and the citizens who live there.

In the interest of full disclosure, I am a believer in free markets. Free markets bring innovation and efficiency that monopolies never have and never will. In Pennsylvania, while we transition ourselves to a fully functioning electric market, we are beginning to see these benefits manifest themselves in new generation and investment in new technology. However, markets do not happen overnight. They require monitoring to ensure that they have a chance to develop and grow.

In the Pennsylvania market, we view electric competition as an economic development issue, pure and simple. We have resisted the inclination to argue over jurisdiction. We have avoided framing issues in contexts such as environmentalists versus industry or incumbents versus marketers. As we approached our transition to competitive retail markets in Pennsylvania, we wanted a policy that would bring certainty and reliability and attract the investment we need to maximize benefits for all Pennsylvanians.

I also point to some benefits that are not immediately measured in price. Free markets bring innovation and efficiency that monopolies never have and never will. Pennsylvania's model was created with several principles in mind:

- First, everyone must benefit;
- Second, markets are fragile and must be nurtured over time;
- Third, demand and capacity must be kept in balance;
- Fourth, the independent service operator must be truly independent;
- And, finally, market transparency is essential.

Guided by these principles, competition is steadily moving ahead in the Keystone State. Let me share some statistics.

- More than 750,000 customers are purchasing their energy from a competitive supplier.
- Over 20,000 megawatts of new generation is expected to come on line in the next four years.

New fossil generation will not and should not solve all of our energy problems. The advent of electric choice in Pennsylvania has taught us that customers want the opportunity to purchase environmentally friendly power. In fact, more than 10% of the shopping customers have chosen a green energy provider.

The marketplace has responded to this consumer demand by investing in wind generation. By the end of 2001, Pennsylvania will feature 5 wind farms with a generating capacity of 84 MW, or enough to power 31,000 homes. In Pennsylvania, through our restructuring process, we were able to facilitate the development of sustainable energy by infusing over \$70 million in new money to support sustainable energy. Our goal is to leverage those dollars with other investments to make Pennsylvania a center for energy technology.

Lessons learned from other states have also taught us that customers will accept a demand side response program when they are reimbursed for energy they do not use. Both environmentally friendly energy and demand side response programs are good for the environment and good for the marketplace. If confirmed, I will continue to support the development of sustainable energy in addition to programs that promote new technologies.

During my association with NARUC, I have had the opportunity to work with my colleagues across the country as we have attempted to deal with the issues in today's markets. I have the utmost respect for my colleagues in other states as, time after time, they have worked through regional differences and looked beyond purely parochial interests to arrive at consensus positions on very controversial and complex issues. This ability to move toward solid, well-grounded resolutions is desperately needed today. I hope to continue to work with NARUC and its members as well as other stakeholders. Should I be confirmed, I will work with my colleagues toward solutions which reflect unique regional situations.

While serving on the Pennsylvania Commission, I have had the opportunity to implement and direct similar processes of consensus advancement. However, this effort was not initiated within a system that was known for consensus building efforts. In order to move to a market-based system, the Pennsylvania Commission revamped

the way it used to do business. Simply put, markets will not wait for a nine-month rate case. Nor will markets pause while litigants pursue years of trial and appellate litigation.

Recognizing this, Pennsylvania demanded and received parties' good will in pursuing consensus and settlements wherever and whenever possible. We pursued swift and relatively inexpensive informal issue resolution. This is contrasted to formalized litigation which had been both time and resource intense. The Commission also examined the settlements proposed to ensure that the public interest was actually advanced. We succeeded in moving into the transition phase in a timely manner and with well thought out initiatives. We succeeded without lengthy appellate litigation. And we succeeded by re-engineering the manner in which we expected parties to bring issues to us and the way our agency conducted issue resolution.

As I worked through the complex issues surrounding electric and gas restructuring in Pennsylvania, my approach was one of inclusion. By that I mean that I listened to and worked with a wide array of interests and constituencies. The goal was always the same: to provide the best service for Pennsylvania's consumers. But in order to get there, I believed that I must take into account the interests of as many stakeholders as possible.

There is no question that we are faced with very real problems. As a FERC commissioner one of my primary goals would be to reach out to the various stakeholders to seek input on how to solve regional and national problems. I still believe that today. Having worked through the highly complex details of restructuring in Pennsylvania's electric industry and the extraordinary technical nuances of telecommunications, I can tell you that one simply cannot be guided by a focus group of one. The more complex the issues are, the steeper the learning curve is and the greater the need for innovative thinking.

If confirmed, I look forward to working with Chairman Hébert, Commissioners Massey and Breathitt and my fellow nominee, Pat Wood, to address these extraordinary problems. Thank you for the opportunity to appear before you today. I am prepared to answer any questions you may have.

The CHAIRMAN. That is the extent of your statement? We appreciate your brevity. Thank you.

Mr. Wood, can you match that?

[Laughter.]

The CHAIRMAN. If you do, you might get our vote.

TESTIMONY OF PATRICK HENRY WOOD III, NOMINEE TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION

Mr. WOOD. Mr. Chairman, if confirmed for this position I will look forward to serving this Nation with the same collegiality, vigor, and purpose that I have served the people of Texas in my current position.

[The prepared statement of Mr. Wood follows:]

PREPARED STATEMENT OF PATRICK HENRY WOOD III, NOMINEE TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION

Chairman Murkowski, Senator Bingaman, and members of the Committee, I am honored to be here today as a nominee for the Federal Energy Regulatory Commission (FERC). I would like to express my appreciation to President Bush for his trust in me. It has been a privilege to serve him and the people of Texas for the past six years at the Public Utility Commission of Texas. And, if confirmed for this position, I look forward to serving the nation with the same collegiality, vigor and purpose I have brought to utility regulation in my native state.

I bring some relevant experience with me. As the Chairman of the Texas PUC, I have worked to implement the Federal Telecommunications Act of 1996, which has opened up our local telephone monopolies. With two superb colleagues, I have also presided over Texas' transition from a fully regulated electric power market to a competitive wholesale and retail marketplace.

Texas is unique in that electric providers serving some 86 percent of Texans are in the Electric Reliability Council of Texas (ERCOT), and thus under the retail and wholesale jurisdiction of the Texas PUC. In other parts of Texas, as in all other parts of the nation, wholesale electric jurisdiction is under the FERC. In ERCOT,

this situation has allowed the Texas PUC to move forward to address the identical market opening issues that the FERC is addressing.

The absence of jurisdictional ambiguity has allowed Texas to move assertively in setting up its wholesale electric market. Our ability to formulate a market vision and then implement detailed rules on market structure was unfettered. Early on, Governor Bush asked my fellow commissioners and me to set out clear and predictable incentives so that companies would be confident about investing in Texas. Our policies on streamlined generation siting, regional transmission planning, expedited transmission licensing, transmission cost responsibility and retail cost recovery have stimulated an extraordinary investment in new, clean power plants and record investment in new transmission projects. Our market-based approaches toward distributed generation, renewable energy, demand-side bidding and conservation have garnered significant attention.

Texas is on the verge of opening its retail markets to competition. One potential blemish is the insufficient number of retailers who have announced plans to serve customers in the non-ERCOT regions of Texas. It discourages me that the basic wholesale market infrastructure is not in place outside ERCOT to allow Texas customers there to benefit from retail electric competition. Congress mandated wholesale electric competition in 1992. It is within FERC's power to establish robust regional wholesale electric markets, and I am committed to getting them in place across the nation this year.

Workable wholesale markets require a number of key ingredients: adequate generation (including a reserve margin), adequate transmission, the ability for at least some customers to respond to prices, a timely and accurate settlement system, standardized rules/protocols and a vigilant market cop walking the beat.

Earlier in my career, I was legal advisor to FERC Commissioner Jerry Langdon. In 1992, the FERC promulgated Order No. 636, which completed the transition to a competitive natural gas market. I have been proud to have been a part of that effort. Recently, as constraints in the gas delivery system are starting to abound, some have questioned whether competitive natural gas markets are still working well. I applaud the aggressive approach the FERC has taken in recent months to overcome this infrastructure lag. I recognize that staying on top of the supply, delivery and demand situation in the broad energy marketplace is a continuing obligation of the FERC.

Hydroelectricity is a key part of the electric power picture in some regions of the country. Of the three substantive areas of FERC responsibility, this is the one in which I have the least direct professional experience. Nonetheless, with the substantial numbers of transmission line certificates I have worked with in recent years at the Texas PUC, I am intimately familiar with the process of working with expert agencies in a timely manner to address environmental concerns in the licensing process.

There is simply no substitute for investment in pipelines, in transmission lines, in power supplies (both big and small) and in demand-side resources. The energy industry is the heart of our economy and should not be immune from the benefits that new technology and market forces have unleashed in the telecommunications industry. In the short seventeen years since major parts of the phone industry were opened up to competition, the explosion of entrepreneurial innovation has transformed our entire culture. Can the loosened electron be any less?

The demands of the nation require that states and the FERC work aggressively to get ahead of the investment curve, leaving jurisdictional arguments aside. There is plenty of work for everyone to do. A broad net must be cast, including environmental regulators, siting authorities, and state legislators.

Traditional regulation requires regulators to serve as substitutes for a market. Speaking from direct experience in that world for the last decade, it is inefficient, wasteful, subject to erratic changes and rife with bad incentives. But, if we are to supplant a century of traditional regulation, it ought to be with a better system. Wholesale energy markets are in their infancy, and it is important to get them firmly established on a strong foundation. I have a record of doing just that, but more importantly, that record is one based on broad industry-wide collaboration.

A regulator's job isn't to know the answers; it's to get the people that do know them a place at the table and to have the good sense to learn from them. My job for the past six years has been to serve as a catalyst for people from all sides of my state's electric power industry to work together, address the full range of issues and work through the many necessary details to implement a market. Throughout this transition, my chief role has been to keep everyone's eye on the ball: a competitive market that delivers benefits to all customers. If that is not the result, then we go back to the table.

Today the nation faces extraordinary challenges on the energy front. Every industry participant has to understand that our mutual benefit from solving these problems together far exceeds any individual benefits if we fail to comprehensively address them. And working together to implement a comprehensive solution is what we shall do.

Chairman Hébert and Commissioners Breathitt and Massey have faced daunting issues over the past year. If confirmed, I look forward to joining their team with my close friend Nora Brownell, as we work with Congress and the Administration to address our nation's energy concerns.

I appreciate this opportunity to testify before you today and will be happy to answer any questions you may have.

The CHAIRMAN. The balance of your statement will be entered into the record.

Mr. WOOD. Thank you, sir.

The CHAIRMAN. Well, it is rather refreshing to hear the statements of the two FERC nominees, and we hope you'll be able to make decisions that concise, succinct, and lasting.

Ms. Otis, would you care to go next?

**TESTIMONY OF LEE SARAH LIBERMAN OTIS, NOMINEE TO BE
GENERAL COUNSEL OF THE DEPARTMENT OF ENERGY**

Ms. OTIS. Thank you, Mr. Chairman. It's a great honor to be here as President Bush's nominee as General Counsel of the Department of Energy. Having just come from the Senate, I'm well aware of the importance of mutual respect and cooperation between the Executive Branch and the authorizing committees and I very much want to work with this committee on the very important matters that will be coming before it concerning the energy challenges facing this country.

Thank you very much for convening this hearing.

[The prepared statement of Ms. Otis follows:]

**PREPARED STATEMENT OF LEE SARAH LIBERMAN OTIS, NOMINEE TO BE GENERAL
COUNSEL OF THE DEPARTMENT OF ENERGY**

Mr. Chairman and members of the committee:

It is a great honor to be here before you today as President Bush's nominee for General Counsel of the Department of Energy. I would like to thank Secretary Abraham for his confidence in recommending me for this position. And I very much appreciate the Chairman's convening of this hearing.

The Administration and this Committee have already spent a good deal of attention and effort on the various urgent energy-related challenges facing our nation. As a nominee awaiting action by this body, I have not been involved in these discussions to date. Over the coming months, however, I am sure the Administration and this Committee will continue to discuss how to move forward together on these matters. My recent experience as chief counsel to an authorizing Subcommittee here in the Senate, as well as my past experience providing legal advice in the executive branch, will help me in providing legal assistance in connection with these discussions. I look forward to working with all of you on these important questions.

Indeed, in that connection, I do want to note one point. Having just spent a very rewarding four years as chief counsel of an authorizing Subcommittee here in the Senate, I am keenly aware of the importance of cooperation and mutual respect between the executive branch and authorizing Committees. I worked hard to foster that kind of cooperation in my prior position. I intend to do the same at the Energy Department should I be fortunate enough to be confirmed.

Recent general counsels have also spent significant attention and effort in assisting the Department in its efforts to clean up its legacy sites. This is plainly a monumental task, involving 113 sites in 30 states covering over two million acres. The Secretary has made clear that while he is pleased with the progress that has been made since the program was established, he believes that a time horizon of 70 years for completion of this work—which is what Department officials have informed him is what current projections call for—means that this is just taking too long. He wants to see the Department move significantly faster in completing the cleanup of

remaining sites. If she is confirmed, the task of determining how to do this will principally fall to my colleague on this panel, Ms. Roberson, working with other senior officials at the Department. But I do want to assure her and all of you that if I am confirmed, I pledge to work not only reactively but proactively with her and other interested parties, including Members of this Committee and State and local officials, in this challenging endeavor.

Finally, as this Committee no doubt knows, the Office of General Counsel is known both within and without DOE for its high standards of professionalism. If I am confirmed, I shall endeavor to perpetuate those standards and to work with the hard working and talented lawyers there to produce nothing short of the highest quality legal product.

With that, I would be pleased to respond to your questions.

The CHAIRMAN. Thank you very much, Ms. Otis.
Ms. Roberson.

TESTIMONY OF JESSE HILL ROBERSON, NOMINEE TO BE ASSISTANT SECRETARY FOR ENVIRONMENTAL MANAGEMENT OF THE DEPARTMENT OF ENERGY

Ms. ROBERSON. Thank you, Mr. Chairman and Senator Bingaman and other members of the committee. It is a privilege to appear before you today as the President's nominee——

The CHAIRMAN. Why do you not pull that mike a little closer so we can hear you.

Ms. ROBERSON. Thank you.

The CHAIRMAN. Thank you.

Ms. ROBERSON. As the President's nominee for Assistant Secretary for Environmental Management at the Department of Energy. I thank the President and Secretary Abraham for their support and look forward to serving under Secretary Abraham in this critical position.

I also thank you, Mr. Chairman, and your staff for moving rapidly on my nomination. I pledge to work closely with this committee and all of the Congress in meeting the many challenges our Nation faces in managing the capability of our nuclear complex.

I am committed to safety, to our workers, to the public, and to the environment. After all, safety is the net goal of all of our efforts in the cleanup program. Getting the cleanup done more quickly and more efficiently is a key way to advance safety. It is incumbent upon us to manage the often hazardous work of DOE so that we maintain an increased safety margin as we do it. I know this can happen and must be done.

Finally, I commit to informing and consulting with the Congress, the States, and individual citizens of our policies and decisions. Nothing that I do will be a surprise to you or other DOE stakeholders. Openness, accessibility, and accountability are core values to me personally, and they are certainly critical to the success of our efforts.

Perhaps I can summarize my thoughts by saying I intend to learn, to communicate, to encourage, and to act, and finally, devote my fullest energies to the task every day that I serve in this position.

Thank you, Mr. Chairman.

[The prepared statement of Ms. Roberson follows:]

PREPARED STATEMENT OF JESSE HILL ROBERSON, NOMINEE TO BE ASSISTANT
SECRETARY FOR ENVIRONMENTAL MANAGEMENT OF THE DEPARTMENT OF ENERGY

Good morning, Mr. Chairman, Senator Bingaman and other Members of the Committee.

It is a privilege to appear before you today as the President's Nominee to be the Assistant Secretary for Environmental Management at the U.S. Department of Energy. I thank the President and Secretary Abraham for their support, and look forward to serving under Secretary Abraham in this critical position. I also thank you, Mr. Chairman, and your staff, for moving rapidly on my nomination. I pledge to work closely with this Committee and all of Congress in meeting the many challenges our nation faces in managing the cleanup of DOE's nuclear complex.

I come before you today with a comprehensive understanding and deep respect for the magnitude of the task I am undertaking. I am a child of the formal south, born and raised in Alabama, and educated in Tennessee. My formal training is as a nuclear engineer, educated at the University of Tennessee. Over the last 20 years I have worked in many facets of the nuclear business: as a project engineer for Georgia Power, as a contractor and subsequently a federal manager at the Savannah River Site in South Carolina. Finally, I served as head of environmental cleanup and then Manager at Rocky Flats in Colorado. Currently I am a Member of the Defense Nuclear Facilities Safety Board, overseeing and advising the Department of Energy nationally on nuclear safety. I have been a production manager, a reactor operator, an environmental cleanup manager and an independent safety advisor. I have worked in the field and in Washington. I consider myself well versed in the complexities and challenges presented by this program. Closing and managing the environmental legacy of the cold war nuclear production is an awesome national responsibility.

I am not daunted by the task, however. Rather, I am eager and anxious to get on with the challenge. I share Secretary Abraham's impatience with 70-year schedules and mind-boggling budget outlooks. The challenge of this program is great, but it does not mean taking three generations to see results. I do not want to leave this for my daughter's children to figure out. We can and we must do better.

Mr. Chairman, I plan to acquire deep understanding of the technical strengths and weaknesses of the existing environmental program. I need to know successes, failures, where the program has inspired public confidence, and where it has disappointed public expectations. But make no mistake, cleaning up this complex will mean tough decisions. To be effective, the Assistant Secretary needs to step up to the plate and take on the hard questions. Neither the Department, the Congress, nor the nation will be served by anything less.

I recognize fully that hard decisions like these will not please everyone. Nonetheless, decisions must be made and carried out. I will challenge the employees in my charge from top managers, to the hands-on employees in the field to satisfy our commitments.

I am committed to safety—to our workers, to the public, and to the environment. Safety is the goal of all of our efforts and it must inform our work at every step. Getting the cleanup done more quickly and more efficiently is a key way to advance safety. It is incumbent on us to manage the often-hazardous work of DOE so that we maintain and increase safety as we do it. I know this can, and must be done.

Finally, I commit to informing and consulting with the Congress, the States and individual citizens of my policies and decisions. Nothing I do will be a surprise to you or to other DOE stakeholders. Openness, accessibility and accountability are core values to me personally. They are critical to the success of our effort, especially when the time comes to make the tough decisions.

Perhaps I can summarize my thoughts today by saying that I intend to learn, communicate, encourage and act, and finally devote my fullest energies to the task every day that I serve in this position.

Mr. Chairman and other Members of the Committee, I will be pleased to answer any questions you may have.

The CHAIRMAN. Thank you very much, Ms. Roberson.
Please, Mr. Griles, please proceed.

**TESTIMONY OF J. STEVEN GRILES, NOMINEE TO BE DEPUTY
SECRETARY OF THE INTERIOR**

Mr. GRILES. Mr. Chairman, Senator Bingaman, members of the committee: It's really an honor to have this opportunity to appear before you today as Deputy Secretary of the Interior nominee. I

wanted to—I'm going to summarize this statement with a couple of points that I'm going to pull from it.

Secretary Norton when she was confirmed and has now adopted at the Department of the Interior a protocol that's known as the Four C's: consultation, cooperation, and communication, all in the service to the shared national idea of conservation. My role as the Secretary has defined it will be to ensure that the Secretary's mandate is to be applied to all aspects of the Department's activities.

Mr. Chairman, if I could for a moment, I just want to add a personal perspective. As a native Virginian from Southside, my dad taught me how to fish and hunt. When he used to walk through the fields and streams and all, he taught me a lot about how to handle a gun safely and how to hook and cast a line. He taught me about how to look at the ripples of the water when fish are feeding. He taught me how to track the quarry of an animal and he taught me, more important, the judgment to know when to shoot, what was right, and which prey was fair game.

I spend a lot of time each summer with my kids hiking the Appalachian Trail. We ski the West. We enjoy our national parks. We have been to a lot of them. My family has been introduced to you today.

My point in all of saying this is we've rafted the Colorado River, fished the Snake River, and I've been to the beautiful State of Alaska and spent time there. We have an obligation to protect and preserve this national wealth of America, but not without that obligation—more importantly and more sacred than those of us who have the privilege that I have, to have 18 years of serving in government prior to this, and with this new opportunity to serve in this new government that is before us today, we have a responsibility to provide for economic security for our Nation.

Those two goals of conservation, economic security, are not incompatible. If I am not—if I am confirmed, I pledge a commitment to do exactly that, to bridge those two obligations, to protect the land and our resources and to provide for rational careful management of those resources for our citizens now and in the future.

I look forward to your questions, Senators.

[The prepared statement of Mr. Griles follows:]

PREPARED STATEMENT OF J. STEVEN GRILES, NOMINEE TO BE DEPUTY SECRETARY
OF THE INTERIOR

Mr. Chairman, Senator Bingaman and Members of the Committee, it is a privilege and an honor to appear before you today as the President's nominee for Deputy Secretary of the Interior. President Bush and Secretary Norton have paid me the highest compliment by recommending me for this position. As a son of Virginia, having been raised in Southside, my parents taught me the value of conserving our natural resources—and protecting them for our children. More than 30 years ago, in my first job with the Virginia Department of Conservation, these common sense values helped me with each decision I made.

The Virginia Department of Conservation was responsible for the oversight of numerous state programs including management of the Commonwealth's parks, forests and mining activities. During my tenure some of the Department's many accomplishments were creating five new state parks, creating Virginia's litter control and prevention program, and leading the effort for Virginia to secure state administration of the Federal Coal Surface Mining and Reclamation Act.

I ended my service with the Commonwealth of Virginia to join the Department of the Interior in 1981. I originally served as the Deputy Director of the Office of Surface Mining, Reclamation and Enforcement. I held several other positions within the Department before being confirmed by this Committee and the full Senate for

the position of Assistant Secretary of Land and Minerals Management in 1985. Two of the more significant achievements during this time period at Interior were directly related to my close working relationship with members of Congress. Let me briefly explain.

As this Committee is well aware, energy and mineral laws and regulations are complex. Occasionally the laws enacted to address these complexities result in the unintentional creation of loopholes—paths for “bad actors” to circumvent the spirit and intent of the law. In other cases, there is the opportunity for outright fraud. I took these challenges and worked as a common sense problem solver. I was privileged to work in a bi-partisan manner with the late Congressman Mo Udall to eliminate the abuse of the Coal Surface Mining and Reclamation Act known as the “two-acre exemption.” I also had the honor of working closely with Senator Dale Bumpers to secure the passage of amendments to the Mineral Leasing Act that eliminated fraud in onshore oil and gas leasing. As in Virginia, I also worked to protect our most treasured unspoiled landscapes and recommended the increase of federally designated wilderness areas by more than 6 million acres.

At the time I left the Department of the Interior in 1989, I had spent my entire professional career in public service. I looked forward to taking my extensive experience from government and use it to foster better partnerships between public and private groups to work in concert to solve many of our Nation’s most serious and challenging problems. While in the private sector, I have had the opportunity to work with all forms of energy production. For example, I have worked closely with one of the largest renewable energy companies in America—specializing in geothermal, solar and wind energy. I have worked to secure additional electrical generation capacity in California, and I have extensive experience working with coal bed methane development in the West. In that effort, I was successful in securing additional funds to hire more Bureau of Land Management personnel to review and inspect coal bed methane development, not only to issue permits but also to ensure environmental protection.

My combined public and private sector experience has afforded me the opportunity to gain different, and very valuable, perspectives to the issues that the Department of the Interior now faces. I realize the decisions relating to our nation’s parks, wildlife, minerals and lands are complex. In addition, I am keenly aware of the Department’s special obligation to American Indians, Alaska natives and the citizens of our territories. There are no easy solutions to the problems confronting the Department’s leadership—but I look forward to tackling problems and finding solutions through collaboration and partnerships.

Over the years, I have had the good fortune of working with this Committee on many critical issues. I’ve learned a great deal about how government works with the private sector. I’ve learned the importance of community input. But just as importantly, I have learned the value of listening to all interested parties before making decisions. This is crucial to ensuring the public’s interests are served. The decision making process must include a visible and participatory process where all parties have a seat at the table.

The issues and challenges facing the Department of the Interior are many and varied. The Department has the mandate to balance many interests and needs, and to be exceptional stewards of our precious lands for the sake of our children and for future generations of Americans.

Under Secretary Norton, the Department of the Interior has adopted a protocol known as the FOUR Cs: Consultation, Cooperation, and Communication, all in the service to the shared national idea of Conservation. My role as Deputy Secretary will be to ensure that the Secretary’s mandate is applied to all aspects of the Department’s activities.

If confirmed, I pledge to work in a forthright, bi-partisan and cooperative manner with this Committee, and with all members of the House and Senate. I pledge to listen to your interests and hear your concerns. It’s my commitment to you that I will represent President Bush, the Department of the Interior and the American public to make sure that when we leave office, our water will be cleaner, our environment will be safer, and our public lands will be in better condition than when we found them.

Thank you again for the opportunity to appear before you, and if there are any questions, I would be pleased to try to answer them.

The CHAIRMAN. Thank you very much, Mr. Griles. We’re going to proceed with questions to the nominees and we’ll proceed in the order that members have come to the committee, and we’ll limit.

We have a timer on over here for about 7 minutes. Is that agreeable with you, Senator Bingaman?

Senator BINGAMAN. Yes.

The CHAIRMAN. I'd like to ask the two FERC nominees a question relative to our interest in assisting California. And I know Senator Feinstein, who's on our committee, is vitally interested in some relief, and I pledged to work with her to find a tangible way to provide that relief. But I want to make sure that that relief is realistic and is forthcoming in the addition of new power generating facilities that will actually be built and financed.

I think we have a little difference of opinion on the concept of wholesale rate caps and what it will or will not do without the assurance that those caps are at a level, if indeed there's any effort to seek relief through wholesale rate caps, that they're at a level that we've seen exist, say, in Texas or, for that matter, Pennsylvania, which are in the area of 1,000 or thereabouts.

My concern is that we have the commitment from the financial community who are going to finance these power generating units that they actually will be completed. It's one thing to receive a permit; it's another thing to have unconditional financing commitments. It's my understanding that at least some that we've made some inquiries on have suggested that the financing is conditional upon the assurance that there's a reasonable rate of return.

My concern is if we explore wholesale price caps and these caps are so tight that they don't provide in the minds of the investor some degree of certainty on the reasonable rate of return we might find ourselves in a condition where we do have wholesale caps, but we don't have the relief that we need in the building of the new facilities.

Now, at a hearing yesterday that we conducted we heard that the State of California and the California local gas distribution companies, specifically PGE and Sempra, have opposed the construction of a new natural gas pipeline to California. Now, FERC is in charge of authorizing these pipelines. This one specific was the Kern River. We also are concerned about California having adequate supplies of natural gas.

So my question to you is what are your views independently on this dilemma of how we can protect California from unreasonable price gouging, which has occurred and which FERC is investigating with diligence, I think, which was noticeably missing under the makeup of FERC prior to the new administration. I don't mean to be partisan on that, but I think it's a reasonable observation that, even with the limited makeup of FERC with two Democrats and one Republican, they are moving expeditiously to try and bring these matters to a halt, and they're initiating investigations and so forth.

So my question is broad in one sense, but more definitive in another, of what your views are on how to address this legitimate dilemma in California?

Ms. BROWNELL. Senator Murkowski, you've identified a series of very complicated issues that don't lend themselves to a simple answer, which I know that you and your colleagues have been really focused on in the last number of months. We need to do everything we can to expedite the development of infrastructure in California

and indeed throughout the country. We need to move forward expeditiously at FERC and we need to send the assurances to the financial community that there will be an adequate rate of return.

Rate caps are one of many things that need to be considered, but need to be considered, as you've indicated, in an extremely cautious way. We don't want to do anything to upset the balance in the investment community, whose capital is critically needed to move forward with infrastructure, powerplants, and a number of other additions. So that I think that I would be very cognizant, as we have been in Pennsylvania, of achieving a balance of certainty in the market, a clear set of rules, expedited treatment, at the same time sending messages to the investment community that there will be expectations of fair rates of return and there will be expectations of judicious treatment of applications.

We have financed and under construction in Pennsylvania about 15,000 megawatts of new generation that should come on line over the next couple of years. So we've seen that, sending the right economic signals, markets can and do work.

The CHAIRMAN. Mr. Wood.

Mr. WOOD. Mr. Chairman, I would only add to that a critical component that is also under FERC's jurisdiction of electricity is the supply of natural gas. I do applaud the action that FERC has taken in recent months to really accelerate the delivery of gas through the interstate grid to California and to other States. I also recognize that there's also a role for the State to play, and California in particular regulates its own pipelines inside the State's borders in some cases. So it's important that we on the FERC and the State commissioner colleagues in California and Pennsylvania and other States work together to make sure that the full delivery system is dependable.

I think that's one issue that has shown up more lately, is that there are some constraints and some aspects of the gas transmission system that are under strict scrutiny right now and need to continue to be looked at closely. I know there are some pending matters at the commission looking at these issues specifically, that we look forward to, if confirmed, getting to the bottom of.

The CHAIRMAN. One of the opportunities that we had when FERC Chairman Hébert was with us was in his example of cost of service accounting or cost of service as a method of determining, if you will, how to price, and they brought in boxes of detailed information, indicating the complications it would be for FERC to do this. It's certainly a suggested way. The practical aspects of that obviously are the responsibility of FERC.

Some suggested, well, that's their job anyway, regardless of how many boxes you bring in here. Would you conclude by commenting on your evaluation of the practicality of that methodology being looked at?

Mr. WOOD. Certainly. Cost of service ratemaking is something that regulators can do and have done for probably a century. Doing that on a monopoly industry is a different process than doing it on somebody that's open to the market. So taking a market participant and then putting a cost of service regulation on them, yes, it's doable. I think, quite honestly, in the amount of time it would take

to establish a fair rate we might well have enough powerplants to kind of negate the whole point in the first place.

But I should admit, yes, it is doable. But it is, I think as was probably demonstrated here by Chairman Hébert, it is no small task from a regulatory perspective.

The CHAIRMAN. Well, you may respond to this. My time is up. But it has been suggested, and I don't think we know, how gigantic a task it would be, but I think I've got a feeling for it because there are different costs associated with your ability to produce power depending on what your source of energy is, the cost of that, all kinds of factors.

So am I not correct in suggesting that it's different in many, many of the mixes that come in in the generation of energy? Can you tell us a little bit why it's impractical and what you would suggest as a more practical methodology?

Ms. BROWNELL. As Commissioner Wood indicated, it could be done, but the reality is in transforming markets and in moving forward it's important that we develop new tools to respond to market development issues. Cost of service would not, as Commissioner Wood indicated, respond to the crisis in California possibly in a timely enough manner to really bring that short-term relief that we're looking at.

Certainly I think the commission in its recent orders has been extremely forward-looking and innovative in using a number of tools, including closer market scrutiny, to respond to the issues that they're confronting. No regulation can, of course, replace the supply or develop the supply that we need in the very short-term future. What we can do, however, is make sure that we're sending the signals that get that supply to the market as quickly as possible.

So cost of service has worked, but the reality is in these kinds of changing times and evolving times we need to develop a number of new tools to respond to those.

The CHAIRMAN. My time is up.

Senator Bingaman.

Senator BINGAMAN. Well, thank you all very much for being here.

Let me just follow up on this issue that we've been talking about. There's a 1975 case out of the Court of Appeals here in the District of Columbia, where the court makes an interesting statement. They say of the commission's—this is talking about the Federal Power Commission, which is the predecessor to FERC. It says: "Of the commission's primary task there is no doubt. That is, to guard the consumer from exploitation by noncompetitive electric power companies."

Would you agree with that statement, that that is the primary task of FERC?

Ms. BROWNELL. Yes.

Mr. WOOD. I would.

Senator BINGAMAN. I guess that would lead to sort of a philosophical type question: Do you see competitive markets as a tool that can, using the court's phrase, "guard the consumer from exploitation," or do you see those competitive markets as an end in themselves, regardless of what effect they have on the consumer?

Mr. WOOD. Senator Bingaman, regulators have regulated in the past, including now, because monopolies existed. Whether they were natural monopolies or legislated monopolies, they were monopolies, and to protect the consumer regulation was put in place, folks like Nora and I were drafted to do the job in our States.

I think there was a general consensus on many of the economically regulated industries in the late seventies here in Congress and in the early eighties that substituting market forces where possible would allow regulation to back out of the way. So the surrogate for regulation would be a workably competitive market. At that point and not before would be the step where the regulator could step back. So competition first, then ultimately deregulation where it's feasible.

So I think, yes, sir, markets are not the end; they are a means by which the customer continues to be protected against undue exercise of market power.

Senator BINGAMAN. Thank you.

Ms. BROWNELL. Senator, I would agree. I would also point out what we have discovered in our States as we've moved to competitive markets, and that is that these are transitions which happen slowly, and there are certainly oversight responsibilities to the consumer to ensure that in this transition they are not being taken advantage of and their needs are being met.

We have played a very active role and I think commissions everywhere will not abandon the consumer. Indeed, their first responsibility will be consumer oversight, consumer education, and consumer empowerment.

Senator BINGAMAN. So let me just conclude with one other question. When the Federal Power Act declared that unjust and unreasonable wholesale rates are unlawful and directs FERC to monitor that and where they determine that there are unjust and unreasonable wholesale rates FERC is directed to go ahead and set just and reasonable rates. Do either of you have a problem with that responsibility which you would be taking on?

Mr. WOOD. No, sir.

Ms. BROWNELL. No, sir.

Senator BINGAMAN. Thank you very much.

Let me ask Mr. Griles a few questions if I could. You have had a very successful practice representing oil and gas and coal companies and various others before the Congress and regulatory agencies in recent years, and certainly that is in the finest tradition of advocacy in this town. But what I'm concerned about is trying to determine what assurance you can give us that the public interest and the interests of the public in seeing its resources protected and its laws and its regulations strictly enforced. What assurance can you give us that that interest will now be your primary and only concern and that you can avoid a conflict as a result of the prior representation that you've been engaged in, which as I say has been quite honorable in the private sector, but certainly would be a problem if it continued now that you're taking on these public duties?

Mr. GRILES. Well, Senator, thank you. I have had the honor to work with you personally on some legislative efforts and we have

been successful in doing that, and thank you for your help in those areas.

Senator, I spent 18 years prior to my leaving government in public service. It is an honorable profession. It is one which we enter into with a sacred trust that we have to honor and we have to raise the public trust above all other issues. In that regard, I have recused myself on all the recusal forms and identified all prior clients and I have worked with the Government Ethics Office to make sure that there is no misunderstanding or mistake about what I will and will not do.

I will not be involved in any activities or any clients, any of the issues, that I have been associated with in terms of my prior private practice. But I think, Senator, you know, it's an honor to be in public service. Each of the Senators sitting here and all your staff are in public service. I'm entering back into that profession because it is an honorable profession, and I will do my utmost and assure you not only to prevent the appearance of any improprieties or conflicts in terms of my prior associations and will do my best to uphold that honor for which we all are serving, sir.

Senator BINGAMAN. Well, thank you.

Let me ask about some actions that occurred toward the end of your tenure as Assistant Secretary of the Interior for Lands and Mineral Management. The Minerals Management Service at that time adopted a final rule that allowed coal companies to deduct black lung taxes, abandoned mine fees, and State and local severance taxes from the value of the coal that they paid royalty on to the government. As I understand it, that final rule was adopted and then when Secretary Lujan came into office 10 months later he reversed that.

I don't know if you can give us insight as to what role you had in that rule, what your view is on the decision to reverse it or to adopt it initially. I think it was signed by your deputy, James Cason.

Mr. GRILES. Senator, it's been more than 12 years ago and the facts are not—in terms of the exact nature of which rule you're speaking of. The issue of the deductibility of State severance taxes and the black lung taxes and all was something that Secretary Hodel himself was directly involved in and he made that decision based on presentations that were made and information that was provided to him. It was a call of the Secretary of the Interior at that time, Don Hodel.

The implementation of that occurred. I was not involved in the implementation or the signing of that rule. In fact, I recused myself, Senator, in the fall of 1988 from any of those kinds of activities as I was seeking outside employment. That regulation was signed by, as you say, Mr. Cason in the acting capacity in concert with the Secretary of the Interior, for which I was not involved in.

Senator BINGAMAN. My time is up, Mr. Chairman. Thank you.

The CHAIRMAN. Thank you, Senator Bingaman.

In the order, Senator Burns on my far right.

**STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR
FROM MONTANA**

Senator BURNS. Well, I just want to congratulate the folks here before us today for public service. I think we discussed in our private meeting some of the concerns I had, and most of it is the relicensing of some of our dams and power generation and hydro. We've been very slow in doing that. The process has been very slow and painstaking, and I think there'll be further discussions on maybe it might take some actions of Congress in order to facilitate relicensing and to accelerate that licensing if we possibly could.

As you know, around 15,000 megawatts of hydroelectric capacity in California alone will be up for relicensing in the next 15 years. Now, that constitutes 4 to 8 percent of their production, and right now they're not in any mood of losing any of their capacity to generate electricity in California. So that concerns a lot of us with the relicensing.

So I thank the chairman and I have no questions for the folks at FERC or with anybody else. We've pretty much talked over those situations as we met in our office, and we appreciate you coming by and answering and responding to those. I thank the chairman.

[The prepared statement of Senator Burns follows:]

PREPARED STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR FROM MONTANA

Thank you, Mr. Chairman, for the opportunity to address the Committee this afternoon. I welcome the nominees to this hearing and thank them for giving us the opportunity to engage in this discussion today. As we fill these positions people who will set the course for the future, I am glad to say we have very capable people. After learning more about each of them I am confident that their combined knowledge and experience will serve the American people well.

There is no doubt that today we will hear a lot of different opinions today on the role of the Departments of the Interior, Energy, and the Federal Electric Regulatory Commission.

These are subjects very close to my heart, because my home state of Montana contains so much public land managed under the Department of the Interior. Additionally, the challenges of balancing the interests of people, wildlife, and different types of land use are becoming harder all the time. Montanans are affected very deeply by decisions regarding federal land, because they are the ones trying to make a living on that land, or live next to it, or use it for recreation.

Montana also has a vital stake in the development of a sound domestic energy policy. Since we are a net producer of energy, and have access to large reserves of energy resources, the decisions about how these resources can be used could make or break our economy. Right now it's a struggle to keep many of our industries afloat, and with the added pressure of region-wide electricity shortages and what looks to be an upcoming drought, things are looking to get even tighter as we move through the year. I am interested to see how the FERC nominees will propose to address these challenges in Montana and elsewhere.

I know from experience that it is very possible for the Department of the Interior to be a one-way street and hand down regulations unilaterally. I know that with our new Secretary Norton in place, this will not be the case. She needs a Deputy Secretary who can help to manage the Interior as an fair and balanced agency. Tough decisions will need to be made, and we need someone who is confident in making them. I support Steve Griles because he brings outstanding credentials to the job. Having served in a number of high level positions within the Department of the Interior, and in the private sector, his knowledge regarding public lands policy will serve him well. He will look for answers to the hard questions, and I am confident he will do a great job.

There are a few specific issues I would like to mention to note how important they are in Montana, and also for many other states. When we look at public lands, energy development and access to public land are vital to Montanans. These issues will be coming up again and again over the next few years, and I look forward to

working with my colleagues in the Senate and with all our nominees today to craft sound policy with respect to maintaining a reliable supply of domestic energy and making sure our public lands are available to the public.

When you look across this country, you see high prices for petroleum, for natural gas, and electricity. This means high fuel prices, and pressure on families who are trying to heat their homes, and manufacturing companies that have to shut their doors because they simply cannot afford to keep the power running. There is no way we can form a comprehensive energy policy for this country without looking at the whole picture. This means that the nominees we have in front of us today will need to work together to ensure that all the sides of this issue are addressed. This will include everything from access to energy resources on public land, siting new energy production, transmission and pipelines, and streamlined licensing procedures.

These examples that I have mentioned are complicated problems, that will require well thought out answers, and I am confident the nominees we are listening to today have what it takes. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Thomas, and then followed by Senator Johnson, who I guess—Senator Feinstein would be after that.

Senator THOMAS. Thank you, sir.

Mr. Griles, this newspaper thing says “represents the movement of pro-industry and anti-regulation conservatives.” How do you respond to that?

Mr. GRILES. I’m not sure how you respond to the *Washington Post*, Senator, and I don’t know that today is my day to try. Senator, I’ve had a long history of public service. I have my own personal views about how government should work. It should work for all people. It should protect our resources and it should provide for economic opportunity.

And I think, Senator, as we look at all the issues the Department of the Interior is faced with, as I said in my opening statement, we have to have cooperation and communication and we have to have compliance with all the rules and regulations, and we have to do that under the ethic that is called conservation. That’s my objective. That’s what the Secretary has announced and that’s what I’ll try to achieve with her as we move forward.

Senator THOMAS. When you talk about the mission of the Department of the Interior, I presume you talk about conservation, you talk about preservation of the environment, but also multiple use of those lands and resources; is that a fair statement?

Mr. GRILES. Yes, Senator. We have—the crown jewels of America are under our protection. Those national parks must be protected and we will protect them. We also have the unique opportunity of managing multiple use lands that have been designated as multiple use by the Bureau of Land Management, and they need to be managed in a multiple use fashion.

Within the Bureau of Land Management, we also have wilderness areas. We have beautiful areas that have been designated as monuments under the Bureau of Land Management. We have all lands for all people, and that’s how we must manage them, to protect those that ought to be protected to the highest degree, and those which can be used in a multiple use purpose, we should allow that use with some conservation principles being applied.

Senator THOMAS. How important to you is the concept of access, so that people who are the owners of these lands, the owners of the park and so on, the first responsibility is to protect the resource, but isn’t there a second responsibility, to allow people to have access, for instance on managed and cleaned-up snow machines, for example?

Mr. GRILES. Obviously, access to our beautiful parks, which I have, as indicated, had the opportunity to experience, is very, very important. We are in some instances loving our parks to death, and we need to make sure that the health or the future of those parks, that they're preserved.

Some of the issues that you're alluding to are in litigation, specifically on the snowmobile question, and I think it would probably be best if I didn't speak direct to that issue. But we need to assure that our parks are protected, but they're enjoyed by all Americans.

Senator THOMAS. With respect to FERC, I understand FERC is a regulatory agency, but do you feel like there's any value—you talk about, you know, what needs to be done and the fact that you need transmission and a grid. Do you feel like there's any role for FERC to have suggestions as to how we fill the needs for energy needs? Or do you just—is your job just to regulate ideas that other people have?

Ms. BROWNELL. Senator, that's a good question. Certainly in Pennsylvania as commissioners we see it as our responsibility to be resources to our legislatures, to our executive branch, to the people that we serve. So that we play an active role in talking through issues, in trying to design new solutions to new problems. We see ourselves as problem solvers and resources, and I think within the bounds, of course, by which we're guided, we would certainly—I would certainly see it, my role, to be working with you and others to come up with solutions.

We're in a new world, in a new market, with a lot of challenges, so we all better be as creative as we can.

Mr. WOOD. I think the only thing that I would add to that, Senator Thomas, is yes, there is a clearinghouse role. Certainly with the Department of Energy and the commission, there is probably some overlap there and I think probably some ability to synchronize a little bit better where appropriate the role of the commission and of the Department. But in doing some kind of future planning about not only where the grid is, but where are powerplants being located, where are sources of fuel, do we have the infrastructure to get those fuels to the appropriate markets, generally participants in the market will respond in an appropriate way as to where those ought to be. But I think we also need to kind of have a fallback provision that if they don't, is there some kind of nudge where we direct investment to a certain area so that infrastructure problems don't kind of meet a train crash?

So yes, I think there's probably not a dominant role, but certainly a supportive role, a very active, vigilant role, that the regulatory commission would and should play in monitoring the health of the energy markets.

Senator THOMAS. It's a great change, as you well know better than I, in the electric industry, for example, where it used to be if I was a distributor and a generator I would build a transmission line to serve my needs. Now we're talking about merchant generators and we're talking about moving on a national grid. So there needs to be some input.

One of the interesting things for all of you is, and I'm glad the Vice President is doing it, when we talk about energy it's not just the Energy Committee any more. It's also Interior, it's also the reg-

ulatory people, it's also EPA, all of whom have very important roles to play in where we go. Just the miles of transmission, for example, are not the issue. It also has to do with the voltage. It makes a lot of difference on how much you can carry.

So I hope that you regulate, of course, which is your task, but also are willing to give some advice and counsel as to how we set up energy policy and a distribution system that'll work for us.

Thank you.

Senator BINGAMAN [presiding]. I believe Senator Feinstein is next.

Senator FEINSTEIN. Thanks very much, Mr. Chairman.

There are probably no two appointments that I will have an opportunity to ask questions of in this entire administration that are more important to the State of California than the two FERC commissioners, because you can make the difference between life and death. It sounds overly dramatic, but it isn't.

California effectively stands at a precipice. So your answers to these questions are very important to me. Let me begin. California's peak demand last week—my yellow light already went on and I didn't have a chance to ask the question yet.

Senator BINGAMAN. I agree. I think we'll ignore that. It's back to green, as you can see.

Senator CRAIG. Jeff, I'm controlling the dial.

Senator BINGAMAN. I see.

[Laughter.]

Senator FEINSTEIN. Oh, that's what it is.

California's peak demand last week reached 32,000 megawatts. Its normal summer peak is 45,000 to 47,000 megawatts. Yet last week we had rolling blackouts and we had electricity selling at \$1900 a megawatt hour. How do you explain that and how could FERC address it?

Mr. WOOD. I'm not sure I know how to explain that, Senator Feinstein. I think if confirmed I'll have the opportunity to address that and explain it. I also read with interest the reports of the megawatt hour price for a non-emergency market sale as well. I think that, of course, you know, it is difficult with these pending matters that I definitely would like a chance to vote on without having to recuse myself before the commission.

The commission, as you know, initiated the proceeding last summer when the San Diego complaint was filed and that began a series of related complaints that I think I don't need to belabor the committee with—I think you know as well as I do—it's led to an order in the recent past 3 weeks that the commission has passed that said, here's how we're going to get back to just and reasonable rates. I'm not sure under the terms of that order if that sale that you refer to is captured or not. I think we will have the opportunity very soon to look into the fact as to whether it is or not and do something about it.

But Senator Bingaman's question was really the core and it's one I believe that you and I had the opportunity to visit about, Senator FEINSTEIN. unjust and unreasonable rates. The commission found in fact that under certain circumstances, in their December order, there were unjust and unreasonable rates being charged in California. They began a plan to do something about getting them to just

and reasonable levels, and again that's a work kind of under construction as we speak and it's one I look forward to getting all the facts from the whole arena.

Certainly I could react to a news story, but I don't know that that would be what you would want in a prudent regulator. I think it's important for us to get to the bottom of the full story there and find out why in fact a \$1900 per megawatt hour sale fits under the "just and reasonable" rubric.

So I wish I could give you a detailed answer based on facts and knowledge. I don't have the full amount of both, but I do look forward, if confirmed, to getting to the bottom of that and a number of the other issues that are very important to you and your home State.

Senator FEINSTEIN. Mrs. Brownell.

Ms. BROWNELL. Senator, I would add in addition to the things that Pat outlined, it's clear that there is something very broken. In addition to what is obviously a serious supply problem, there are other factors at work that are not fully understood by us because we're not in possession of all the facts. We need to be aggressive and we need to act with a sense of urgency to bring transparency to the transactions that are going on throughout the West, to take whatever steps are necessary to respond to things that we find that may in fact not be appropriate.

And we appreciate the risk at which your constituents find themselves and commit to moving as quickly as we possibly can if we're confirmed. We need to end the uncertainty and tragedy that's occurring for all of the constituents of California and indeed throughout the West.

Senator FEINSTEIN. Thank you.

Yesterday natural gas was selling for \$11.52 in southern California and \$3.31 in the San Juan Basin. I understand that before FERC issued Order 637 in February 2000 the transportation cost to move gas from San Juan to southern California could not exceed 70 cents. At one point last December the differential was more than \$40. What accounts for that in your view?

Ms. BROWNELL. Senator Feinstein, you've hit I think upon an ingredient in the dysfunctionality that we do not fully understand. In fact, both Pat and I have asked a lot of questions and have been unable to get answers that are satisfactory to us. Clearly, there is information at the FERC that may shed some light on that. But I can't explain that. It really doesn't make sense, and without being in full possession of the facts I can assure you that that is one aspect that will not go ignored.

There are many factors moving in a market and we can't afford to ignore any one of them. We need to have a full understanding of exactly what's going on with each contributing segment of the market.

Mr. WOOD. I think the only thing I would add, Senator, I mentioned that in response to Chairman Murkowski's question. I think there is a big piece of the puzzle, not just at the lack of generation facilities, which is indeed a very big concern—and I was pleased actually the day we visited to go through the data of the different plants that are out there and coming on line—but the fuel that runs those plants and how that actually gets to California and how

it goes from the price it comes out in Texas or San Juan, for example, to an end point in California.

There are some constraints on the system. I've been made aware of those. But the interplay between a regulated rate of a regulated pipeline, whether that's a FERC-regulated line or a California PUC-regulated line, and you add to that a market price of a gas commodity, the math doesn't add up. I think, as she has said, we're looking—we've been asking really excessively—not excessively, but a lot—of different players in the market: Where's the money going? Which pocket is it in? Who's got it? And I'm not sure I've got the right answer to the question, but I think that is the salient question that I would look to get an answer at pretty quick when we get over there, if confirmed.

Senator FEINSTEIN. Just so everybody knows, the FERC order essentially took off the transportation cap on the transportation of natural gas, and that's when the prices exploded.

My next question is, how would you address the issue of bundled transactions in the grey market? Would you support greater transparency of these transactions?

Mr. WOOD. Again, that's the core. This Order 636—637, as I understand it, would apply to just a limited range of transactions in the very short-term market. But there are still these other ones, as you labeled them, the grey market, where you get just a delivered price, this is what you're paying to get gas at your burner tip. It includes whatever the gas costs me to buy it, whatever the gas costs me to transport it, and whatever else I want to add on here to give you a final price.

The unbundling of that price certainly gives the market participants some knowledge about what each component of their product is costing them, and I think there's probably a fair argument to be made for transparency. Where in a totally competitive market, like the price of a car, you don't get the price of the door and the seat and the steering wheel, but you do get a final delivered price, this has a monopoly price stuck in the middle, whether that's FERC-regulated or CALPUC-regulated. That's a regulated rate, and I think there's a good argument to be made that the customer deserves to see what that rate actually is, and if there is some markup there then it's at least shown to him or her what that markup would be.

Ms. BROWNELL. I would only add, Senator Feinstein, that markets don't work without transparency. All of the participants need to have the confidence that they're getting the right information in real time, so they can respond with buying decisions and risk decisions. So I would encourage any effort to bring transparency to markets because that's the only way they work.

Senator FEINSTEIN. Thank you very much.

Thanks, Mr. Chairman.

The CHAIRMAN. You bet, Senator.

Senator Cantwell is next.

Senator CANTWELL. Thank you, Mr. Chairman. To the various panelists, thank you for being here. I'm going to submit questions to Ms. Roberson and Ms. Otis in regard to Hanford clean-up issues and direct my questions to the FERC nominees.

Like Senator Feinstein, our State has grave concerns about the actions or lack thereof that FERC is taking, and if I could ask you specifically about your beliefs about the prices currently being charged in Washington State: do you think that they are reasonable or not.

Mr. WOOD. Not have full knowledge, Senator Cantwell, of exactly what the charges are, certainly it would be difficult for me to say that they're——

Senator CANTWELL. They're 11 times what they were a year ago.

Mr. WOOD. And I know that the hydro power is really a lot lower than it was, and I'm not sure where in fact the megawatts are coming from at all. So it would be useful for me to know which powerplants are actually being called upon to deliver that kind of power. I think that is really what the FERC has initiated that West-wide inquiry about a few weeks ago, so it gives us the opportunity to, if there are unjust and unreasonable rates being charged, not just in California but across the West, including Washington, Oregon, Idaho, that we've got really the hook to go back in and look at those rates if they are in fact unjust and unreasonable, which I think is what your question implies, that we have the ability to restore those to a just and reasonable level.

But I think it would really depend on——

Senator CANTWELL. About 75 percent is normally coming from hydro and then, obviously, the problem arises if you're buying in the spot market. I mean, we can get into the question about what FERC thinks should be done about the level of reserves, but the fact is consumers are now being held ransom because we've had one of the worst droughts in 30 years, and utilities are increasingly going out on the market. And I want to get to Ms. Brownell in a second about her dysfunctionality, because I want to know whether you think the market is dysfunctional or not.

But we really have a situation where we have had a unique environmental situation with a drought, the worst in 30 years, and are being forced to go out and buy power on the spot market, which has got us looking at 11 times the wholesale prices from 1 year ago.

Mr. WOOD. Again, not knowing anything else other than 11 times, yes, that sounds high. But compared to hydroelectricity, which is very relatively low-cost power, again I'd have to know.

Senator CANTWELL. Well, if ratepayers are seeing a proposed 200 percent rate increase, it's pretty hard—even if rates are at a starting point that may be lower than other places. And 40 to 50,000 jobs are being estimated as the economic loss in the State. That's significant.

I don't know, Ms. Brownell, if you want to address that?

Ms. BROWNELL. Well, I would simply add that our job is to determine whether rates are just and reasonable, and we are committed to getting all of the facts to make that determination. And if in fact the facts lead us to the conclusion that those rates are not just and reasonable, there's going to be prompt and serious response to that.

If you want me to respond now, too, to your question of dysfunctionality, markets require a number of things to actually work and markets——

Senator CANTWELL. I'm sorry, were you referring to the market when you used that term?

Ms. BROWNELL. Yes. The critical thing that markets require is that supply and demand be in balance. So just from that regard alone, there's a dysfunctional market.

I think the second point, however, I would make is that in a period of transition you really don't have markets. They don't happen overnight, and there are a number of issues that need to be dealt with in order to respond to and create a sufficient wholesale market in which people can have confidence and a sufficient retail market where people have choice.

So that there are a lot of issues that I think recent orders of FERC have begun to address that will bring all the pieces of the puzzle, as we say, together. One of the problems with some kinds of responses is that the pieces in the end, if you do them without looking at them as a whole, in the end don't fit together, and I think we've seen some of the impact of that.

So that's what I meant by a dysfunctional market.

Senator CANTWELL. Do you think that the section 206 investigation that was ordered West-wide is broad enough to answer those questions about why we have a dysfunctional market, because it's limited in what it's investigating.

Ms. BROWNELL. I think that alone might not get all the answers that you need, but there is a series of actions that the FERC has taken, I think, that will bring us more answers and more clarity. If it doesn't or if, when and if we are confirmed, we get there and we determine that in fact more information is needed, certainly I think I would be the first to ask for that. And I know my colleagues join me in that.

Senator CANTWELL. Well, I would love to hear Mr. Wood's comment on that?

Mr. WOOD. I think that the scope of the inquiry appears to be pretty broad. I think what you might be referring to is that the remedies that are proposed, I think they're limited to just certain periods of time, might not be broad enough if the FERC found in fact something was—I was just reading the comments of parties the other day that responded to this inquiry and I think the concern from some of the parties said, well, if you find something that is not functional, to use Nora's term, have you actually put the parties on their 60-day notice that you're going to go do something about it?

I'm not sure that that part is as broad as perhaps may be necessary.

Senator CANTWELL. I'm most specifically referring to the real time trades of 24 hours or less.

Mr. WOOD. Because that's what the comments referred to as well, stage one, two, and three emergencies, which might well be 24-7 this summer or into the fall. That may not cover the full period of time. If in fact there's more power on the grid than 7 percent extra, then that would not be covered by the scope of the remedy phase in the order.

So that would need—that would require that the order then be re-issued to broaden it to the full term if necessary.

Senator CANTWELL. Well, I appreciate your comments and interest in an expeditious pursuit of these issues. There are some communities that have already witnessed a 40 percent increase in rates and BPA is proposing somewhere between a 100 and 200 percent rate increase to take place in October. So a very expeditious action by new FERC members would be very helpful to the State of Washington and to the economy, and I appreciate, Ms. Brownell, your comments about the electricity markets.

I know my time is almost up, but I appreciated, Mr. Wood, your comments about the relicensing process for hydro. You do qualify your statements as not having a lot of experience with it, but indicating that you do want those environmental and licensing process issues addressed in a timely manner. Perhaps we could submit a question to you on furthering that, because the process of taking many, many years to relicense these projects is costing us. We need more efficient policy, and it is a very difficult issue to balance. But I appreciate FERC's attention to that issue as well and will submit a question on that. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN [presiding]. Thank you very much, Senator Cantwell.

I have checked the order again in response to a challenge. I am told that Senator Craig is next, followed by Senator Dorgan, and, for reasons that are unknown to me, Senator Wyden appears to have been the last one to have shown up.

Senator WYDEN. Mr. Chairman, I am certainly not filing any challenges to my friends, but I think I was the first one to show up. I am definitely going to respect the chair's ruling.

Senator CRAIG. This is a tough question, Mr. Chairman.

The CHAIRMAN. Well, I do not know. We have two clerks here that supposedly are pretty good at counting their fingers. But I apologize if you were here first and you should go ahead.

Senator WYDEN. No, absolutely not. For purposes of today, because I have two friends here, I am definitely going after Senator Craig and Senator Dorgan.

Senator DORGAN. Mr. Chairman, I might have greeted both of them as they arrived.

[Laughter.]

Senator DORGAN. But maybe not.

The CHAIRMAN. I won't say we have bigger fish to fry, but—I would suggest you promptly move, Senator Craig. What we're going to try and do is, we have a vote that is probably coming up in about 20 minutes, so maybe we can handle everybody. Is that fair enough?

Senator Craig.

Senator CRAIG. Gentlemen, thank you. I'll be quick. Let me congratulate all of you for having been nominated. Obviously, by that action the President believes in you and trusts that you will execute your responsibilities in the necessary and appropriate ways.

Both of our FERC nominees I've had the opportunity to visit with at length on a variety of issues. I asked the FERC about a month ago to come to the West and they did, and they held a hearing in Boise, Idaho, and 11 States testified. 11 States' power authorities, commissioners, some governors; almost all of them agreed that the

market in the West was broken and in many ways dramatically dysfunctional, based primarily on what California had done and was doing or failing to do, but also other contributing factors: transmission, adequacy of transmission, certainly the high profile of a drought in the West and the less capable hydro system this season than last.

Now, of all of that, your responsibility rests with only about 50 percent of it, because 50 percent of it in general are the publics and about 50 percent are the privates, and of course your relationship to the wholesale market is clear by law, and what you can do there I think is understandable. Do you believe that under the just and reasonable clause in our deregulating of wholesale rates you have the adequate authority to move in the wholesale markets to bring some stability? Either of you can respond to that, or both.

Mr. WOOD. Senator Craig, I think certainly with the limitations that you put out there, that are facts, that there are a significant number of non-jurisdictional entities that are part of the wholesale market out West. California, the Northwest, really across the country, there are significant holes in the Swiss cheese. It is a challenge to make the just and reasonable mandate for the whole market work as easily as probably it could.

I think the commission in its order in April attempted to reach to the people that, while they're not jurisdictional to FERC, they use FERC jurisdictional transmission. That was a technique that the FERC also used to reach a broad market to regulate the gas markets 10 years ago. So clear authority is always welcome. I mean, I've asked for that at the State level for 6 years now and we've gotten it. It does make things move quicker when you don't have to spend 10 years in the courts trying to wrangle it out.

But whatever the will of the Congress is, we'll make it work, and I think the current law has been around a long time and has been tested quite a bit.

Ms. BROWNELL. Senator, I would merely add that in Pennsylvania we found where we don't have jurisdiction—and we have fairly broad jurisdiction—we've been able to forge relationships with entities and work to resolve problems. We, for example, do not regulate coops, but we have a very strong relationship with them, often work with them to solve problems with other entities.

So it would appear, of course, there are limitations, but I think we can overcome those limitations by reaching out to others to work with them. I think we all agree that a solution is the responsibility of many and we need to reach those many. I applaud the commission from their visit to Boise and we would hope to be doing more of that.

Senator CRAIG. Thank you both.

We've talked about hydro. My colleague from Montana mentioned it. I think you all sense the importance of it in the process that you have some control over in the relicensing, but not all. There may well be an effort here to help shape that to some degree, while still allowing all the stakeholders to play, as they should.

I know that the administration plans to be expressing to some degree an importance of that, and largely because the licensing process has at least historically diminished the generating capability of the hydros, and oftentimes has driven their costs up. And in

the West, with 15,000 megawatts at play, a 10 or 12 percent reduction in that production system, generating system, over the next 15 years by a licensing process would in itself be damaging. It would simply have to be replaced by much more expensive energy resource. Do you not agree?

Ms. BROWNELL. Absolutely. The importance of hydropower has never been clearer than it is today, and nothing should take 3, 4 years and that expense, particularly when we need every megawatt. So we agree that the process needs to be expedited and we will do whatever we can to be part of that.

Mr. WOOD. Senator Craig, just to add, I understand that the FERC office that deals with this has a more recently policy of trying to squeeze more megawatts out of these relicenses than possible. So getting that is important, but also maintaining the ability to do operational—the beauty of hydro is it's there when you need it. So it can really—if you've got a runup of heat in Boise or in Sioux Falls or anywhere, you can follow that electric demand with very finely precise, tuned hydroelectricity generated power, and that's unique, and that needs to be certainly a top priority for maintaining hydro.

Senator CRAIG. Thank you both.

Jesse, we've not forgotten you, nor Lee. You two will play a very valuable role in my State, as DOE has a large presence there, with a national laboratory. It also has a large responsibility to the State and the citizens of the State of Idaho, Ms. Roberson, as it relates to environmental management.

It is my belief at this time that the President's suggested budget misses the mark by about a billion dollars as it relates to commitments and milestones within the agreements established by the Department of Energy with its laboratories across the country. The Secretary is doing a bottom-up, top-down review of this to try to understand why environmental management is so expensive.

What is your understanding as it relates to the objectives of the approached review? And it appears that it's going to be your responsibility to help carry that out once confirmed and in place.

Ms. ROBERSON. Yes, Senator Craig, it would be my responsibility to conduct that review on behalf of the Secretary. Some of the elements that I understand the review is intended to look at involve application of DOE orders and requirements, and identifying opportunities that simplify that application. It will look at the sequencing of work. It will look at opportunities, try to identify opportunities for better integration across the complex, specifically in the waste management area.

Those are some of the elements that the review would take into consideration. Obviously, the goal of the review is to find opportunities to accelerate cleanup and meet our commitments, and that would certainly be my goal.

Thank you.

Senator CRAIG. So are milestones legally binding commitments by the Department? And if they are and they fail to meet them, wherein lies the problem?

Ms. OTIS. Yes, Senator. I have not—I should say, I have not reviewed all the agreements that the Department has entered into, so I am hesitant to comment on exactly what the legal status is of

each of them. I think that the one in your State is somewhat unique in that it is a consent decree, but they are legally binding in the following sense: that they represent the things that, if the Department does them, the State will refrain from taking enforcement actions against the Department, and therefore they're certainly very important in obtaining compliance.

Senator CRAIG. Thank you both.

Steve, I'm out of time. It isn't that I've forgotten you. It's just that you need to remain relaxed and comfortable. Thank you.

The CHAIRMAN. What I would suggest is that, we've got—the first bell has rung, but that's 15 minutes, and maybe between the two of you you can split that time. My intention, unless anybody wants a second round, is that this would conclude the hearing. Is that fair enough?

Senator DORGAN. Fair enough.

The CHAIRMAN. Fair enough. Well, we have Senator Smith. Senator Smith can conclude the hearing.

Please proceed, Senator Dorgan.

Senator DORGAN. Mr. Chairman, thank you very much.

Mr. Griles, because I don't have a substantial acquaintance with your background, let me ask. I know that Senator Bingaman asked you a series of questions for responses. Let me ask that you do respond, at least in writing, with respect to the story that appeared today. I know you indicated this in the *Washington Post*, but I think it's important. The story raises at least four or five, I think, significant issues.

It raises issues with three people who worked with you at the time. Just as one member of this committee, I think it's important for you to give us a written response to it so that we understand your perspective on what is alleged in the article. If you would do that, I would be appreciative.

Mr. GRILES. Senator, I welcome the opportunity to do that and will definitely do that. When we are in the positions we've been in, policy disputes arise. There are differences of opinion and I have had those. I would like to give you something in writing on those and I will do that, sir.

Senator DORGAN. I appreciate that. One final point. The story indicated you helped coordinate the State of Virginia's lawsuit against the new Federal mining law. Now you are being asked to enforce the same law which you opposed. And you also indicated, times change, things change. Give me your perspective about the law that you will now be required to enforce.

Mr. GRILES. Senator, that issue is one that arose in 1978, 1979, when I was a career State employee employed by the Commonwealth of Virginia. My effort, at the request of the Department of Conservation, was to pull together a program that responded to the Surface Mining and Control Act. I'm not a lawyer. I didn't argue the case, I wasn't part of the case. I was a State employee, a career State employee, providing information to the elected officials of the Commonwealth, the Governor and the attorney general.

Senator DORGAN. But is that answer suggesting that your heart really wasn't in the challenge, or were you a part of the challenge because you felt, as did the State of Virginia, that the new Federal mining law should be overturned?

Mr. GRILES. I never felt that the Surface Mining Act should be overturned. The challenge that the Commonwealth initiated was over several specific provisions of the statute. Those statutory provisions have been found constitutional.

In 1981, I entered into service to the Federal Government. My primary role in 1981 through 1983 was to enforce that very statute, and we rewrote some of those regs, but we also I think put in place the mechanisms and the organization today that have resulted in this program working much better than it did 20 years ago, Senator.

Senator DORGAN. Mr. Griles, if you will just put in writing the response I would appreciate it. I think all of us will be advantaged by that.

Let me ask—thank you very much. Let me ask the two nominees for FERC a question. I have been critical of FERC, some would probably say unfairly critical. I have said that they are doing a wonderful imitation of potted plants while we have this massive energy problem developing, especially on the West Coast, but particularly in California.

I hope we can put some people down in this regulatory body that really want to follow the trail and be involved in cases where the market system doesn't work. Let me ask the two nominees whether you think FERC has been a vigilant market cop because, I think, Mr. Wood, you have used the term the FERC needs to be a vigilant market cop walking the beat. Sometimes markets are perverted, sometimes they don't work. In those cases you need a referee.

Do you think in your judgment, has FERC been a vigilant market cop the last couple of years with respect to the energy situation in California?

Mr. WOOD. I think it's difficult to judge somebody without walking in their shoes. If I'm confirmed, I'll be glad to answer that one a year from now after we have to walk it. But I will say, in my role as the regulator in Texas we have parallel jurisdiction to FERC. It's a unique anomaly of the electric grid. In setting up a market for the first time in an industry that's been regulated for 100 years, there are a lot of opportunities for error and for oversight.

Senator DORGAN. How about manipulation?

Mr. WOOD. I'm talking about on the part of the regulator. Certainly—that's what we've got to oversee. Having sufficient authority to remedy that I think is important. I think the Federal law has given that to the FERC. So that's an important thing, do you have the power to do something about it once you catch it, yes.

Senator DORGAN. The question I'm raising, are they using that power, in your judgment?

Mr. WOOD. I think they have started to use it. Certainly the December order—the October—I think from October forward the FERC has put the Western markets on notice that they can go back and do just about anything they need to to right what may be wrong. So I think we saw the runup shortly before that. I think it was a relatively prompt response. I know there's been—I acknowledge there's been some difference of opinion as to whether some of the response has been appropriate, and I think that's always fair on any decision.

But they did move relatively fast. The San Diego news hit the California newspapers about the time a complaint got going at FERC. So perhaps something could have been done in advance of that, but I really don't want to judge somebody on that issue because I do think that they were moving relatively swiftly and have been so since last summer.

I think the broad question is could something have been done prior to then, and I think I'd like to look into that once I get there, if confirmed. But there is never too much you can do in a transitioning market. I think there's no A-plus grade you can get in this job.

Senator DORGAN. But one can try to avoid failure, right?

Mr. WOOD. Certainly.

Senator DORGAN. Ms. Brownell.

Ms. BROWNELL. Senator, I would merely add that earlier I spoke of a sense of urgency and I feel a sense of urgency, as I believe my colleagues do. One of the clear lessons immediately apparent in the Pennsylvania market when we opened it is that markets don't wait for the classic responses that we've designed in regulation. So what we need to do is, as I spoke of earlier, bring new solutions, bring expedited solutions, and, frankly, bring mediated solutions so that we don't have to waste time in endless litigation while the constituents suffer from uncertainty, blackouts, and high prices.

Senator DORGAN. Just one final question. Would you agree that when you have no price transparency and you have very large traders and companies selling from unregulated markets into regulated markets with really no opportunity to understand what the pricing practices are, that you're really blindfolded in your ability to evaluate what your responsibilities are there?

Ms. BROWNELL. Senator Dorgan, as I said earlier, transparency is what makes markets work. So I will be committed to getting that transparency and working with my colleagues and with you and the legislature to ensure that that happens.

Senator DORGAN. Would you agree that FERC has been rather timid in doing that in the last couple of years, especially with respect to California?

Ms. BROWNELL. Senator, I would be reluctant to be a Monday morning quarterback. As Pat said, when you're in a transition market you're learning new things every day. The reality is it's quite clear to all of us that the transparency issue is one that has to be dealt with expeditiously.

Senator DORGAN. My time is up. I think that these are important issues. I will support your nominations. I reserve the right to receive Mr. Griles' response. I don't make a judgment about it one way or the other, but I appreciate your willingness to do that.

I will support your nominations, but I hope you are tigers when you get down there. I mean, the whole purpose of this agency is to be helpful and protective of the consumers and make sure markets work, and these markets are broken. They simply are not working.

Thank you very much.

The CHAIRMAN. Senator Wyden. I'm sure Exxon will be happy to hear there's a tiger in the tank.

Senator WYDEN. Mr. Griles, as you know, there's enormous environmental opposition to your appointment, and in response to that opposition what you've essentially said is you've changed. You've changed your outlook. I've heard that when we talked and on other occasions. I'd like you to describe specifically how you've changed and how you would bring that changed outlook to the extremely important position that you would have if confirmed.

Mr. GRILES. Senator Wyden, first I want to thank you for having a chance for me to spend some time with you yesterday or the day before and discuss viewpoints on how we move forward.

Change is a matter of perspective as well as age, and as one looks at issues. My viewpoint on all of these issues are that with communication, cooperation, and consultation we can change the debate. You and I talked about specific examples in the West where we have an opportunity—

Senator WYDEN. But you said you had changed. I want to hear how you've changed, because certainly these examples from the past don't reflect to me that the environmental view will get equal treatment with the industry view. You, to your credit, said: I hear that argument; I've changed. I'd like you to tell me how you've changed and how that would be implemented in the day to day work that you do at the Department.

Mr. GRILES. Senator, I believe that in terms of myself what I am indicating to you is the change that is necessary is consultation and communication, that I believe I understand how to do that. I have had a valuable experience of learning, of 18 years of public service, 12 years of private sector, and in that time I have learned that through listening and bringing people together better solutions can occur.

I will promise you that's my objective in the future. I will make that the commitment that I bring to this job. Is that a change? I hope that if that's what we need to do, and I think that's the only way we can make public policy work, Senator.

Senator WYDEN. I'm not ready to support your candidacy unless—and I'm going to take a third crack at this question—if you're telling me: Senator, I didn't consult with the environmental side like I should have in the past and I'm going to change and do a better job of working with those people so that we have a more balanced approach in the future. That strikes me as a change and gives me a rationale to vote for your candidacy.

But if you just tell me the world has changed and, by gosh, if I get on down there I'm going to try to change, too, that doesn't cut it. Are you telling me that you're changing in terms that you didn't consult with the environmental side enough in the past and you want to do more of that in the future?

Mr. GRILES. Senator, I have indicated to you in my private conversation that over the last 3 weeks I have consulted with and met with a huge number of environmental groups, and my objective is to make sure—and I committed to them, as I committed to you—that my door would be open. Have I changed my viewpoint on that? I don't think I ever had a viewpoint that I didn't consult, but it's clear from the viewpoint that's been expressed by some that I didn't consult enough, and I have changed my viewpoint. I will consult as much with you as with them in order to assure that their

message and their needs are understood and are communicated to the Secretary.

Senator WYDEN. Any other changes that you would bring to the Department from your past? As I told you, I'm looking to have you give me a rationale to support your candidacy. I'm not there yet and you're going to have to give me some evidence that you would look at these issues in a different way.

As you know, Senator Craig and I wrote a precedent-setting bill with respect to forestry, probably the most important forestry law for the Forest Service in the last 30 years, because we took some fresh approaches. When you talk about changes, you've indicated to me on the consultation question that you would be willing to look at that differently. Are there any others so as to give me some reasons to support your candidacy?

Mr. GRILES. Well, Senator, as I said to you on the consultation question specifically, as well as looking at how one views these issues, we have to set up not a—we have to set up a process of consultation that is in fact true. We have to allow the local people of the West, particularly on a lot of the issues that concern you and Senator Craig and others, an opportunity to be involved in that consultative process.

It can't be just—it has to be real. It has to be listened to. The Bureau of Land Management is a good example, where I think with the need for energy we need to set up a process in the West on these very critical areas which are going to be coming under review, as energy development. We've got to have the local environmental groups, we've got to have all the efforts put together, so that the consultative process is real and it's not transparent.

Senator WYDEN. What you're telling me, though, is that other than consultation you're going to do business the way you did it in the past with respect to your basic approach. I want you to know that's not going to be good enough. We'll have more time between now and the committee vote and the floor vote. My door is open to you. But if the only change is that you're willing to talk to environmental folks, that's not going to be enough for me. My door is open to you.

One question for you, if I might, Ms. Roberson. As colleagues have said, there's going to be a big cut in the cleanup budget and a number of us are very troubled with it. We've got a \$10 million cut at the plutonium finishing plant. That means four metric tons of unstable plutonium that's stored there.

Now, at the Defense Nuclear Safety Board you criticized the Department for the slow progress in fixing a pretty significant nuclear safety problem. I guess my question is were you wrong to criticize the Department or is the Department wrong now to propose funding cuts that would address the problem?

Ms. ROBERSON. Senator Wyden, I would say that as a part of the Defense Nuclear Safety Board I don't believe we were wrong. The Board looks at the conduct of the work and I think provided insight into opportunities resulting from better planning and sequencing of the work to get that done. I believe that the Board was correct, and if confirmed I would work to make sure that we satisfy the concerns raised by the Board.

Senator WYDEN. I don't have any specific questions now for the FERC appointees. I want it understood, as we talked about in the office, that I believe that with energy being traded as a commodity it's time to lift this veil of secrecy around this country's energy markets. You've got Enron and a variety of these marketers, Enron, Reliant, a variety of them buying and selling energy constantly, and yet a lot of folks are in the dark with respect to transmission, outages, and the like.

Both of you indicated to me that you would be generally supportive of the legislation I'm going to introduce that would open up these markets, lift the veil of secrecy, and make it possible for folks to get information. So I think I'm going to quit while I'm ahead with you two at FERC and just repeat the fact that I heard you say that in the office and I'm appreciative of it.

Mr. Griles, I think you know the challenge for you in the days ahead. I want it clear I am not prepared to support your appointment as of now, but I will leave it open, particularly on the question if you can give me further concrete examples of how you would change the way you do business other than in the consultation arena, which I would be the first to say is a welcome approach.

My colleague is here and I think he's going to wrap it up.

Senator SMITH [presiding]. Thank you, Senator Wyden.

May I extend my welcome to each of you and my congratulations for your nominations. I look forward to supporting it. Mr. Griles, I visited with you yesterday and I talked briefly about the plight of the Klamath farmers, and I have been deeply frustrated with how to help them, because the crisis that has literally turned off their water is not just nature, it's literally the operation of Federal law under the Endangered Species Act.

I believe when we get this tax issue behind us the President is going to send up a supplemental appropriation, an emergency appropriation, that I hope that the first item on it will be real dollars to help some real folks in need in the Klamath Basin.

Can you assure me that that will be the case?

Mr. GRILES. Senator, I assure you that if confirmed in this position that request will be included in some discussions at Interior.

Senator SMITH. If ever there was a case of equity to help some people in California and in Oregon, it's this one. It's the most amazing story. But in any event, there's a lot of human suffering as a result of the two biological opinions, one from Commerce, one from Interior, one to save the short-nosed sucker and the other to save the coho salmon, that leave birds and farmers out of the equation. I'm not sure that that was what was ever intended.

But in any event, I hope that you'll be mindful of the Klamath situation and liberal only in the sense that you'll help them.

I want to welcome our nominees to FERC. You're coming in at the best of times and the worst of times. I'll bet not one in a thousand Americans could tell you what "FERC" means, but I would predict to you that the end of summer nearly every American will know what the FERC means. I think we're in for an interesting experience, and a lot of people are going to look to you for answers.

I think before I arrived others questioned you and I understand you both acknowledged that in the Northwest the spot market in the middle of April 2000, the spot market for a kilowatt was \$16,

and that you acknowledged today that it is \$287. I wonder if you think that that's just and reasonable, in that farmers, small businesses, seniors, families on fixed incomes, should they regard a 1700 percent increase, should they regard that as just and reasonable?

Ms. BROWNELL. Senator, the experience that your constituents—farmers, small businesses—are having with the volatility in these energy markets is painful. It's clear, I think, as we indicated earlier, that the market is dysfunctional. We talked about various ways in which we need to get the information as soon as possible to make the determination of what is just and reasonable and what is not.

Certainly the FERC has made a good start at that. I think we've concluded with the input from you and your colleagues that we need more information to look at broader issues and we will do that.

It is not just and reasonable to cause people economic harm.

Senator SMITH. Are you open to expanding your current 206 investigation to cover all the Western United States? It's already been done for California and I believe it includes some kind of a price cap, a circuit breaker mechanism not unlike that of Pennsylvania and Texas. Is that a fair evaluation?

Mr. WOOD. I would say that probably it's a little bit less of a circuit breaker and a little bit more of a real-time, day before tuning of what would be the acceptable price for the next day. So it is a bit more customized for the market.

The question you asked right before that, Senator Smith, was broadening the 206 inquiry. FERC in late April did broaden it. Ms. Cantwell asked me a question a moment ago about the nature of how broad it would be. I think one of the open questions there is, if some of the problems that have been seen in California are kind of structural things that we see out West, that those really are in fact unjust and unreasonable, has FERC put the parties on notice that it can go after those transactions and examine those and perhaps order some refunds?

I think that what was proposed as a remedy there might be narrower than the full universe of transactions. Certainly I would be open to considering whatever breadth is necessary to provide that market stability and to establish some long-term signals about what kind of investment's needed and where it's needed, as well as some short-term appropriate pricing that is consistent with the Federal law.

Senator SMITH. I just have a belief that your active engagement of this issue on a broader basis in the Western United States will send a signal also to generators that, don't gouge here, be careful, because this will generate emotions that may not translate into good policy. So my fear, for those who want deregulation, is that they're pricing themselves back into re-regulation. So this is a perilous time for everyone in the energy business because, frankly, turning on a light switch and filling your tank up with gasoline—that doesn't have anything to do with you, but energy companies it does—these are not, these are not luxuries to the American people. They count on them, and they count on them to be affordable.

I think those who would gouge do so at the peril of their own interests long term. So I think you can perform a great public service just by being aggressive in this.

That brings me to my next question, which is the rehearing on the December 15 order. That may have been asked by an earlier colleague. I was tied up in the Foreign Relations Committee, but wanted to be here to ask these questions. Are you going to attend that rehearing on the whole issue of the December 15 order?

Mr. WOOD. Unless it's voted before we take office, yes, sir, we would sit for the rehearing of that. And it's actually I think just a paper—I don't know that there's actually a formal hearing for it. But we would be able to vote on the different petitions that people have raised to maybe change that order or to reaffirm that order. That would be something that should still be open and it is open today. If it's not voted on between now and the time we, if confirmed, join the commission, then yes, we would.

Senator SMITH. I think that's important if people are going to have the opportunity to benefit by any finding you might have of unjust and unreasonable. So I would encourage strongly the FERC to participate in that and to broaden it to include States beyond California.

Do you—both of you, do you support electricity reliability legislation? I have introduced some to enhance reliability of the high voltage transmission grid. Are you familiar with that and do you support such a thing?

Mr. WOOD. Is this from the last session, Senator Smith?

Senator SMITH. Yes, it is. Senator Gorton introduced it in the last session, and I.

Mr. WOOD. Certainly the concept of empowering either the commission or whoever Congress wants to be empowered to enforce reliability standards is a good thing. One of the experiences that I've had in our own market in Texas is that if you have the reliability standards being done at a different location or a different group of people than the market opening is done, then you might get some conflict and it really is probably counterproductive.

So yes, sir, certainly the concept of giving some responsible outside entity the ability to enforce reliability standards, to encourage them to be adhered to by all the market participants, is important. I just would suggest, sir, that maybe combining that function with where the commission's going with these regional transmission organizations, you would put reliability, market operations, long-term planning, which I think is a big issue here today, not just for transmission but for generation—siting that in one entity or one type of entity, like the FERC is moving toward with the regional transmission groups, is probably a good way to go.

I think certainly you've identified a key problem here. It's one thing to have standards. It's another one to make them really stick. Yes, sir, anything that can be done to make those stick is going to be very important in a competitive market.

Senator SMITH. You're from Texas and, Ms. Brownell, you're from Pennsylvania. These are two States that are held up as models of how to deregulate. But I think it would be important to have on the record that as part of your deregulation you actually do have a price cap mechanism, a circuit breaker it's called.

Ms. BROWNELL. We do.

Senator SMITH. Can you describe how that works and how that might be applicable to FERC in this very crucial time?

Mr. WOOD. I'll start, because we actually borrowed ours from FERC had approved for the Pennsylvania market. My colleague in the Texas commission, Commissioner Walsh, had been concerned that in the opening years of a market there could be some, whether it's a computer glitch as we had seen in the New England power pool, where power went up to \$6,000 a megawatt just because of a way that the computers registered people—and I don't know all the details. But it was really kind of almost a gaming opportunity that was exploited.

Senator SMITH. Is some of that gaming going on now?

Mr. WOOD. In New England or just everywhere?

Senator SMITH. In the West.

Mr. WOOD. We'll find out.

Senator SMITH. I think it is. I think you understand the issue. I hope you'll pursue it aggressively, because I think some real gaming's going on.

Mr. WOOD. What we tried to do on the thousand dollar per megawatt hour cap was for a 2-year period set a cap that would basically be a circuit breaker if something really was awry. We've got prices in our market, \$40, \$50, \$80 at the peak, so \$1,000 is quite well above what would be permitting good incentives for people to build new powerplants and the like.

Senator SMITH. Could it be lower than \$1,000 without discouraging investment?

Mr. WOOD. Well, we actually calculated this. Based on the price of gas—we wanted to make sure that peakers, which are these units that run maybe three days a year, that those guys—they have to recover their costs over those three days. So we wanted to make sure that it was set at a level such that those peakers found Texas a good place to invest.

So we looked at the price of gas, we looked at what their fixed costs were, and actually calculated. It was about \$900 something, or it was either \$1,100 and we rounded down or \$900 and we rounded up. But we did say \$1,000, but it was actually based on a calculation of keeping the kind of powerplants that we need to fill all of the space in Texas, keeping those on line.

Senator SMITH. Is there any reason why the FERC could not provide such a mechanism for the whole country?

Mr. WOOD. I think it has moved forward to do that where it's been suggested.

Senator SMITH. Not only is that common-sense policy as we transition from a regulated to a deregulated environment, doesn't that just make a whole lot of sense in order to protect the concept?

Mr. WOOD. Again, it is a different price cap, I think, than the price cap that has been talked about in D.C.

Senator SMITH. I grant that it is a different one, but I'm raising it simply to say that those who would just ideologically reflexively say no price cap are denying the fact that they already exist. They're there in States that have deregulated, and I'm just simply saying, if for no other reason than political protection, an aggressive FERC ought to establish one and defend the folks on fixed in-

comes, the small business, the seniors, so many folks who are, frankly, very subject to being gouged by those who would game this market.

I don't know where the ideology comes in. It seems to me we have price caps. We just have to make sure that they are enforced and work.

Yes, Ms. Brownell; can you talk about Pennsylvania?

Ms. BROWNELL. Yes, Senator Smith. I can just add a little bit because Pat described the model. The reality is the existence of that price cap, which was agreed upon by the market participants actually, I think has served to send a signal to the market that we are looking and that there are controls and framework in place.

It's interesting that in the last year or so, 2 years, we've only seen prices reach that price cap in a period of heat wave and it's only happened once and only happened for a couple of hours. So clearly it has worked in Pennsylvania. We also have the benefit, of course, of excess capacity, so that the supply and demand balance also helps in the market.

Senator SMITH. Absolutely.

Well, I just, I hope—if I agree to vote for you, will you promise to take the Texas and Pennsylvania models to the FERC? That's really important to me because I would like to be able to go home and say the FERC's going to work, they're showing up, they're putting in place mechanisms to make sure you folks don't get gouged. Can you make that commitment?

Mr. WOOD. My history is why I'm here. I mean, Governor Bush appointed me to the Texas commission to—my mandate was: Pat, get to a market. So that's what we've done, and that's what I think we need to do here, not because a market is the end point, but because market is a replacement for the C-plus grade that we get for regulation for the last 80 years.

So there's a lot to take. I think, quite frankly, we based so much of what we did on their good State's effort that there's a lot of similarity here. But yes, sir, that's who I am and that's my professional background, is what we have done in our State's market. I recognize, lest everybody start cringing, not everything in Texas is exportable to the national model, but there's a lot that is, and I look forward to making sure that we optimize the best practices of the whole country, what is the best model for our country.

Senator SMITH. Am I mistaken? It's my understanding that it was then-Governor Bush who signed this deregulation bill in Texas; is that right or am I wrong?

Mr. WOOD. Absolutely.

Senator SMITH. He signed it, with a circuit breaker price cap model?

Mr. WOOD. We added that at the administrative agency. The statute was not that detailed, so we've added that.

Ms. BROWNELL. Senator, you absolutely have our commitment. We believe that markets can and should work and they should work for the benefit of all consumers. They should bring new products and innovation to market. And we are going to do and have done in our own States whatever it takes to make that happen, including I think the issue of transparency, which you and some of your colleagues have brought up.

We need to have—we need to have credibility in those markets for people to feel comfortable.

Senator SMITH. Well, thank you. I look forward to supporting you, all of you, on the floor of the Senate, and I wish you the very best. You're here at an auspicious time and at a time when you can do a whole lot of good for our country, and I think for our President as well. I think he may not like the model Senator Feinstein and I are working on, and I grant that.

I don't want to discourage new investment. I know markets can work. I know that personally. But I also know that energy, unlike green peas, is a necessity. I wish green peas were a necessity. They're a luxury. But I really think it's important that we not lose sight of the fact that people need it and they can't go without it and there is an expectation that the Government will do something to intervene to make sure that those most vulnerable amongst us are not victimized by a few who can game the system to enormous profit, to the enormous harm of folks on fixed incomes.

I have been asked to announce at the conclusion of this hearing that all additional questions for the record should be submitted to the Chief Counsel's office by 5 p.m. this afternoon. I thank you all and wish you all well, and we are adjourned.

[Whereupon, at 11:56 a.m., the hearing was adjourned.]

APPENDIX

RESPONSES TO ADDITIONAL QUESTIONS

May 17, 2001.

Hon. FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Enclosed you will find my responses to your written questions following my confirmation hearing before the Senate Energy and Natural Resources Committee on May 16th.

If I can be of further assistance, please let me know.

Sincerely,

J. STEVEN GRILES,
Deputy Secretary-Designate.

[Enclosures]

RESPONSES TO QUESTIONS FROM SENATOR WYDEN

Question 1. Mr. Griles, I asked you at your confirmation hearing to provide me with actual examples of how you and your approach to natural resource management have changed since your tenure with the Reagan Administration from one of exclusion to one of inclusion. I also asked how you intend to work at the Department of the Interior within the context of those changes. I need to know how you plan to create an open, transparent, inclusive work environment so that allegations, such as those raised by the May 16, 2001 Washington Post article about you, could have no standing under the Bush Administration. Please provide those examples of change and your plan for implementing them in writing.

Answer. As I have gotten older, and perhaps wiser, I have learned that the process used to reach a public policy decision is critical to ensuring that the underlying decision is both correct and sustainable. By engaging local communities, interested stakeholders, and state entities in a real and substantial dialogue early in the decision making process, an individual can maximize the likelihood that the final product will be a sound, broadly supported, public policy decision. Thus, I intend to reach out to a wide variety of groups to ensure that interested parties are brought into the decision making process as early as possible.

Specifically, and as I indicated in my meeting with you, I believe this type of decision making will be needed as policy is developed in the area of oil and gas development. For example, in the over thrust belt where controversy exists associated with wildlife values and other special considerations, we will set up a process where all affected groups will be involved in developing a consensus on how to resolve the issues and move forward.

Question 2. Mr. Griles, if there was ever an area that needed collaborative problem solving, it's natural resources. Senator Craig and I proved, by the county payments legislation, that the impossible can be achieved if you get everyone talking together—the industry, the environmental community, the local folks and the government—and work out a compromise. Senator Craig and I passed the first major natural resources legislation in 20 years, unanimously in both the House and the Senate.

How would [you] use this sort of collaboration at the Department of the Interior and what sort of priorities would you address using it?

Answer. Collaborative problem solving is the model I intend to use in developing natural resources policy. Moreover, as the Secretary explained to Departmental staff in her first address to them, the Department must dedicate itself to collaboration, consultation and communication, all to achieve our conservation goals—the so called “4C’s”. I will dedicate myself to fulfilling the Secretary’s directive. As I stated during the confirmation hearing, I have always supported including all affected parties in

the decision making process. If confirmed, I will use this model for developing management plans for lands managed by the Department.

Question 3. The previous administration, in response to a GAO Report regarding the fees collected for uses of federal lands, responded by proposing to dramatically increase the right-of-way fees for fiber optic telecommunications. Even more troubling than the size of these fee increases, which could have slowed or in some cases halted the expansion of high-speed telecommunications services to some parts of our country, was the close-door process utilized by the Bureau of Land Management and other agency counterparts to develop these new regulations and fees.

In the meantime, I understand that the BLM has proceeded this year with what it is calling "market data collection", by approaching private sector fiber optic cable builders and network owners, and asking them to share their prices, data, and rights-of-way rental agreements. This also is proceeding outside any normal rule-making process. Nobody knows what that data will be used for.

Are you committed to the development, in cooperation with Congress and impacted stakeholders, to a fair, open, regulatory process which recognizes not only the value of federal lands, but the need to promote the development of a robust national telecommunications infrastructure? Will you commit now to seeing that at a minimum, that regulatory process proceeds on the basis of valuing fiber optic rights-of-way over federal lands based on the impact on the land, rather than extracting taxes for the commerce traveling through that cable?

Answer. My general view is that regulatory processes should be fair, open and developed in cooperation with the Congress and impacted stakeholders. As you may be aware, in my agreement letter to the Department of the Interior, I agreed to recuse myself for a period of one year from my appointment from any particular matter involving specific parties in which any of my clients is or represents a party. Some of my former clients were in the fiber optics industry. In light of my recusal, I will seek the guidance of the Department's ethics office before participating in regulatory matters directly affecting the fiber optics industry. I remain committed to ensuring that consultation with all affected parties and stakeholders is meaningful and that those interests are considered in any regulatory process developed on my watch.

RESPONSE TO QUESTION FROM SENATOR FEINSTEIN

Question. What is the administration position on oil and gas drilling offshore the California coast?

Answer. The Administration supports the current moratoria on leasing offshore the California coast. The Administration will continue with the current process to evaluate plans for exploration and/or development of the few existing leases off California. I understand that an extensive environmental review of these plans is underway and will provide a full opportunity for comment by State and local governments and the public.

RESPONSE TO QUESTION FROM SENATOR CRAIG

GEOLOGIC MAPPING

Question. The budget request for FY 2002 cuts the funding for the geologic mapping program within the U.S. Geological Survey. The State Map part of this program produced 311 new geologic maps in 2000 and has committed to producing 1,300 maps in 2001.

What are your views on the importance of geologic mapping? Would you reconsider the proposed funding cuts to this program?

Answer. Geologic mapping is the essential scientific foundation on which land-use and resource-use decisions are based. Geologic maps are fundamental for understanding where our future energy, mineral, and groundwater resources will come from. Modern digital geologic maps, and many derivative maps that can be made from them, are the best way to display and understand the information decision-makers need to address complex natural resource, environmental, and hazard issues, as well as public health, land management, and emergency response issues facing industry, governments, and communities across the Nation.

I understand that the USGS considers the National Cooperative Geologic Program to be a model for Federal, State, and university partnerships. While budgetary limitations require the Administration to make difficult choices about funding levels for all Federal activities, I recognize that this is a viable and important program and I look forward to working with you to see that such partnerships are maintained to the degree possible within available resources.

RESPONSES TO QUESTIONS FROM SENATOR AKAKA

OFFSHORE DRILLING

Question. Your experience during the Reagan Administration as Assistant Secretary, Lands and Minerals Management in the Department of the Interior, was a valuable introduction to mining and leasing policy on federal lands. Your biographical material states that under your tenure you leased more federal offshore oil and gas acreage during 1984-1989 than in any prior period of federal leasing activities.

Can you please share your current thoughts on offshore drilling and any plans to pursue offshore drilling in particular areas such as California or the Gulf of Mexico? Do you plan to keep up your earlier pace of leasing offshore areas?

Answer. I agree with the Administration's support for the current moratoria on leasing lands offshore California and Florida. Major oil and gas resources are available in the non-moratorium zones in the Gulf of Mexico and the nation is heavily dependent on the natural gas and oil from leases there. I support continued leasing in that area.

PARKS AND REFUGES

Question. As Deputy Secretary of the Interior, you will see a much broader range of public lands issues than you did under your previous position in lands and minerals management. As Deputy Secretary, you will oversee and provide stewardship over our national parks and wildlife refuges, wild and scenic rivers, national historic trails, and other well-loved areas that the public enjoys. With your background in economics, I am sure that you understand that certain areas have value far beyond what is called a market valuation. You will be responsible for upholding and maintaining the aesthetic and non-market values for millions of acres of national parks, wilderness areas, and cultural resources.

Do you feel that your policy experience in the Department of the Interior with mineral and gas leases, coal valuation rules, coal royalties and opening federal lands to mining and drilling has prepared you well for managing the public side of lands management? What initiatives do you propose to support the development of non-market values of public lands in our national parks, refuges, and wilderness areas?

Answer. Yes. I believe my policy experience at Interior has prepared me well for the public side of lands management. In my previous capacity at Interior, I oversaw the multiple use management of over a quarter billion acres of public land. The management of our national parks, refuges, and wilderness areas will be undertaken primarily by the Assistant Secretary for Fish, Wildlife and Parks. Having said that, I strongly support protecting the resources in our national parks and designated wilderness areas and conserving the wildlife and wildlife habitat on our National Refuge System. To accomplish these goals, we need to expand our partnerships for natural resource stewardship to include individuals and organizations outside the Park Service and Wildlife Refuge System to assist in the protection of these resources. Informing and teaching the public about the non-market values of public lands is an important function of the Department.

I support the President's initiative to eliminate the backlog of maintenance needs in the National Park System and to invest in research at our National Parks through the Natural Resource Challenge. These investments are critically needed to safeguard public facilities and to protect the environment, ensuring that visitors have an experience that helps them understand the values we are working to protect.

I support the President's initiative to fully fund the Land and Water Conservation Fund and to increase the flexibility of states to use the money for habitat conservation through landowner incentives and technical assistance. That flexibility in the President's plan will enable us to work with engaged and informed local landowners to increase the total acreage of protected species habitat to a level which has never been reached before. This is an excellent approach to enhancing habitat protection and I look forward to working with Congress to find other ways we can create productive partnerships with States, local governments and private landowners.

Question. As Deputy Secretary for the Department of the Interior, you will have wide-ranging responsibilities for native peoples through the Bureau of Indian Affairs and other legislative mandates. As you know, I have long supported the rights of indigenous peoples on an international level as well as domestically. I'd like to discuss the issues involving Hawaii's indigenous peoples.

Public Law 103-150, commonly referred to as the "Apology Resolution" was signed into law in 1993. In summary, the resolution apologizes to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawaii on January 17, 1893, and calls for the reconciliation between the United States and

Native Hawaiians. In 1999, representatives from the Department of the Interior and the Department of Justice began public consultations with Native Hawaiians as the first step in this process of reconciliation. On October 23, 2000, the Departments released a report about the public consultations with recommendations for additional steps in the reconciliation process.

The reconciliation process is an incremental process of dialogue between the United States and Native Hawaiians to resolve a number of longstanding issues resulting from the overthrow of the Kingdom of Hawaii. The Department of the Interior has had the lead in this process as the agency that deals with indigenous peoples within the United States jurisdiction. What assurances can you provide regarding the continuation of this important process between Native Hawaiians and the United States?

Answer. Although the matter of reconciliation between the United States and Native Hawaiians is a new one for me, I believe this important subject deserves careful attention by the Department of the Interior. Once confirmed I intend to review carefully the October 23, 2000 report of the Department of Justice and the Department of the Interior with the appropriate Departmental staff. I look forward to having further discussions with you on this subject.

Question. One of the recommendations from the report released on October 23, 2000, is the establishment of an office within the Department of the Interior to focus on issues involving the indigenous peoples of Hawaii, Native Hawaiians. The office would continue to facilitate the reconciliation process and would assist Native Hawaiians in addressing the political and legal relationship between Native Hawaiians and the United States. What are your thoughts regarding the implementation of this recommendation?

Answer. As I stated in my previous response, although the issue of reconciliation is a new one for me, I believe it deserves careful attention by the Department of the Interior. Upon confirmation I will review the October 23, 2000, report, and will pay special attention to the recommendation that an office to focus on Native Hawaiians be established.

RESPONSES TO QUESTIONS FROM SENATOR GORDON SMITH

Question 1. The previous administration, in response to a GAO Report regarding the fees collected for uses of federal lands, responded by dramatically increasing the right-of-way fees for fiber optic telecommunications. Even more troubling than the size of these fee increases, which could have slowed or in some cases halted the expansion of high-speed telecommunications services to some parts of our country, was the closed-door process utilized by the Bureau of Land Management and other agency counterparts to develop these new regulations and fees.

In the meantime, I understand that the BLM has proceeded this year with what it is calling "market data collection", by approaching private sector fiber optic cable builders and network owners, and asking them to share their prices, data, and rights-of-way rental agreements. This also is proceeding outside any normal rule making process. Nobody knows what that data will be used for.

Are you committed to the development, in cooperation with Congress and impacted stakeholders, of a fair, open, regulatory process which recognizes not only the value of federal lands, but the need to promote the development of a robust national telecommunications infrastructure? Will you commit now to seeing that at a minimum, that regulatory process proceeds on the basis of valuing fiber optic rights-of-way over federal lands based on the impact on the land, rather than extracting taxes for the commerce traveling through that cable?

Answer. My general view is that regulatory processes should be fair, open and developed in cooperation with the Congress and impacted stakeholders. As you may be aware, in my agreement letter to the Department of the Interior I agreed to recuse myself for a period of one year from my appointment from any particular matter involving specific parties in which any of my clients is or represents a party. Some of my former clients were in the fiber optics industry. In light of my recusal, I will seek the guidance of the Department's ethics office before participating in regulatory matters directly affecting the fiber optics industry. I remain committed to ensuring that consultation with all affected parties and stakeholders is meaningful and that those interests are considered in any regulatory process developed on my watch.

Question 2. What is the status of the independent peer review of the Hardy flow studies on the Klamath River? Please provide me with the names of the current reviewers selected by Dr. Hardy and their credentials.

Answer. I have been informed by the Bureau of Indian Affairs that the Phase II flow study effort has not yet been completed. Therefore, a peer review has not yet

been initiated. I have been informed that the names of the current reviewers selected by the Department are:

Dr. Arle Harby, of Trondheim, Norway. He is a member of the Eco-hydraulics Committee for the International Association of Hydraulic Research and co-leader of the Crof 626 program of the European Union to define the state of the art in instream flow and eco-hydraulics modeling.

Dr. Klaus Jorde, of the Institute of Hydraulic Engineering, University of Stuttgart, Norway. He is a member of the Eco-hydraulics Committee for the International Association of Hydraulic Research and co-leader of the Crof 626 program of the European Union to define the state of the art in instream flow and eco-hydraulics modeling.

Dr. Michel LaClerc, of the Institut National de la Recherche Scientifique (National Institute of Scientific Research), University of Quebec. He serves as the secretary of the Eco-hydraulics Committee for the International Association of Hydraulic Research and co-leader of the Crof 626 program of the European Union to define the state of the art in instream flow and eco-hydraulics modeling.

Dr. Mike Acreman, of the Center of Ecology and Hydrology in Wallingford, England. He is the head of the research group at Center of Ecology and Hydrology for Instream Flows.

The Department has also sought the recommendation of an independent peer reviewer from the Klamath Water Users Association.

Question 3. I have repeatedly asked the Department for copies of the actual contracts with Dr. Hardy to conduct the flow studies on the Klamath River. Please provide me with those contracts now.

Answer. Following the March 21 oversight hearing regarding Klamath issues, I understand that the Secretary's Indian Water Rights Office provided your staff and the staff of Representative Greg Walden, in a letter dated March 29, 2001, the documents within the Department related to the retention of Dr. Hardy for Klamath flow study efforts. A copy of that letter is attached. Those documents included complete sets of the scopes of work for both Phase I and Phase II and the interagency agreements between the Bureau of Indian Affairs and the Department of Justice. As the interagency agreements show, the Department of Justice actually contracted with Dr. Hardy. Therefore, the Department of the Interior does not have the record contracts. I have been informed that it is the understanding of the Indian Water Rights Office that the contracts incorporate the scope of work already provided by the Department.

RESPONSES TO QUESTIONS FROM SENATOR BINGAMAN

COAL ROYALTY REDUCTION

Question. In 1988, while you were an Assistant Secretary for Land and Minerals Management, the Bureau of Land Management proposed a rule that would have reduced the royalty rate on underground coal from 8 to 5 percent. What role did you play in proposing and promoting the proposed rule?

Answer. The proposed rule was developed by the BLM in response to concerns that had been raised to the Bureau and the Department about the economic viability of underground coal mines during a period of low market prices. When the issue was initially raised, I was briefed by BLM staff and I asked for an economic analysis of the effect of considering the royalty reduction. The draft report I received did not provide, in my opinion, the appropriate level of analytical evaluation. After a more thorough evaluation was prepared—consistent with the normal rulemaking process—the rule was drafted by the Bureau and it included the more complete economic analysis which supported the proposed course of action. As Assistant Secretary, I was required to approve the rule for publication. However, prior to that decision, I had recused myself from involvement in this action since I was considering employment opportunities outside the government. Ultimately, the Deputy Assistant Secretary approved publication of the proposed rule for public comment.

REDEFINITION OF VALID EXISTING RIGHTS

Question. In December 1988, after you had recused yourself from matters affecting the coal industry, the Department proposed a rule that would have redefined "valid existing rights" so as to permit coal companies to mine sensitive areas otherwise protected by the Surface Mining Act. What role did you play in proposing and promoting this proposal?

Answer. After my recusal in September 1988, I did not participate in the rule-making process for proposed revisions to the definition of "valid existing rights." Any decisions that were made after that date and leading up to the rule's publica-

tion on December 27, 1988 were made by higher-level Department officials. Prior to my recusal, as Assistant Secretary for Land and Minerals Management, I had been involved in the rulemaking process, but the proposed rule itself was actually signed on May 6, 1988, four months before my recusal, by James E. Cason, the Acting Assistant Secretary. The delay between Cason's approval and publication in the Federal Register resulted from the OMB clearance process.

REGULATORY PHILOSOPHY

Question. The coal valuation, coal royalty, and valid existing rights proposals provide three concrete examples of the policies that you promoted or at least supported while you were at the Interior Department before.

What assurance can you give the Committee that, if confirmed, you would not pursue initiatives like these in the future?

Answer. If confirmed as Deputy Secretary, I will function as chief operating officer of the Department. Initiatives such as those you list will be the primary responsibilities of the Bureau Directors and Assistant Secretaries rather than of the Deputy Secretary. With regard to the specific examples listed, the proposals were the result of either responses to the need to define standards contained in regulations or statutes, or in response to requests for the public to address these issues. As to the Office of Surface Mining's rule defining "valid existing rights," it is my understanding that OSM subsequently promulgated a final rule which was challenged in *National Mining Association v. Norton*, No. 01-283 (D.D.C) and that case is currently awaiting a decision in United States federal district court. At this point, it is appropriate to await the Court's ruling and guidance on this issue.

Question. In what ways, if any, has your thinking about the environment and mining policy changed since 1988?

Answer. Since 1988, I believe the mining and environmental programs have matured. For example, passage of the 1990 Clean Air Act affected the market for various types of coal with a shift to western low sulfur coals. What I think is needed in these areas of environment and mining policy is regulatory certainty. With regulatory certainty, market mechanisms will assure that stringent environmental goals are met in the most cost effective manner. This encourages industry to be innovative and develop new technologies. I recognize that these issues have become more complicated. Now more than ever we must take advantage of the opportunity to develop consensus and move forward through a collaborative process that includes Congress, state and local governments, tribes, and all other interested public and private parties.

THE OFFICE OF SURFACE MINING

Question. (A) While you were Deputy Director of the Surface Mining Office from 1981 to 1983, the Office experienced a major upheaval. Several hundred employees were fired, resigned, retired, or were transferred; citations against mine operators fell; and most of the federal surface mining regulations were rewritten. Critics contend that you and OSM director James Harris carried out a systematic campaign to weaken the enforcement of the Surface Mining Act.

How do you explain what happened in the Office of Surface Mining while you were its Deputy Director?

Answer. When I joined the Office of Surface Mining early in 1981, the states, in accordance with the requirements of SMCRA, were moving toward primacy. The result was that OSM's mission was evolving from one of federal control, to oversight and assistance for the states. This change, which was initiated by the Carter Administration, resulted in the need for fewer OSM inspectors and other employees.

Congress approved this reduction as part of OSM's fiscal year 1981 and 1982 budgets. I wanted to ensure that the cuts were not made at the expense of the environment. At the beginning of the reorganization, OSM had approximately 875 full-time permanent employees on board. At the conclusion of the reorganization in 1982, OSM had approximately 650 permanent full-time employees. We reduced the number of federal inspectors, but we increased the funding for state regulatory grants to cover the new SMCRA-authorized state inspections.

With regard to revising the regulations, we did undertake an intensive review and rewrite of the 1979 regulations. We believed that the design standards in the 1979 rules were far too rigid and complicated to be understood and enforced. Additionally, in a 1981 report, the National Academy of Sciences emphatically stressed the need for changes in the regulations and presented a convincing argument for making the entire set of regulations more flexible in application to specific mining operations. Thus, we revised the rules to establish performance standards that were a great deal easier to implement and measure than design standards.

I am reminded that while I was at the Department of the Interior, both at OSM and as the Assistant Secretary who oversaw OSM, appropriations for abandoned mine land reclamation increased by more than 350 percent. We inherited an appropriation of \$82 million in fiscal year 1981, which increased to \$115 million in fiscal year 1982, \$213 million in fiscal year 1983, \$271 million in fiscal year 1984 and \$296 million in fiscal year 1985. That \$296 million is the highest level of funding the program has ever achieved. As this record shows, we recognized early and throughout our Administration the importance of the AML program in reclaiming lands and waters damaged by past coal mining and the need to increase support for it.

Question. Did you ever fire, reassign, or pressure any OSM employee to resign because you perceived the employees to be enforcing the Surface Mining Act too strictly?

Answer. No. However, one of the primary purposes of OSM's reorganization in 1982 was to link centralized decision-making in Washington with consistent implementation of decisions throughout the country. Thus, we created 13 Field Offices throughout the nation. As these new offices were established, some employees chose not to relocate and resigned their positions. Also, as with any reduction and reorganization, some staff were adversely affected. We were, however, compassionate in determining position reassignments, relocations and separations.

Question. (B) Your critics have also alleged that, as Assistant Secretary for Land and Minerals Management, you orchestrated the removal of Office of Surface Mining employees who enforced the law against coal companies too aggressively, and replaced them with people more sympathetic with the industry.

Is there any truth to these allegations?

Answer. No.

Question. Did you, at any time after you began discussing a job with one of the largest coal mining companies east of the Mississippi River, have any role in the appointment of the Office of Surface Mining official who would be responsible for strip-mining enforcement in that region?

Answer. No.

OIL AND GAS LEASING OFF THE CALIFORNIA COAST

Question. In April 1988, the Fish and Wildlife Service made comments critical of a proposal to lease over a million acres off the coast of northern California for oil and gas development. The Fish and Wildlife Service raised serious concerns about the high risk of a spill if the lease sale took place, and about the serious harm to the environment that would result from such a spill.

In response, you sent a note to Bill Horn, the Assistant Secretary for Fish, Wildlife and Parks that was sharply critical of the Fish and Wildlife Service's assessment. You told Mr. Horn that the Fish and Wildlife Service's concerns "could prove very damaging" to the proposed lease sale if they became known.

What does this incident tell the Committee about your willingness to consider the environmental consequences of the Department of the Interior's actions and the balance you would strike between competing energy and environmental goals?

Answer. I want to assure the Committee that I am very willing to consider the environmental consequences of energy development. With regard to the specific incident that you referred to in your question, I thought at the time and still believe it is important that the two Departmental bureaus (MMS and FWS) work together before any public statements are made so that we may benefit from their collective expertise.

Question. Do you support the continuation of existing Outer Continental Shelf leasing bans?

Answer. I agree with the Administration position that supports the current moratoria on leasing on Federal offshore lands.

May 17, 2001.

Hon. BYRON DORGAN,
U.S. Senate, Washington, DC.

DEAR SENATOR DORGAN: I am writing in response to your request at my confirmation hearing that I respond to the issues raised in the *Washington Post* article that appeared on Wednesday, May 16. I hope this letter will sufficiently address your questions.

Let me first comment on the reference in the *Washington Post* article that I twice suppressed Departmental studies during my service in the Department as Assistant Secretary for Land and Minerals Management. I assume the two studies in question

are the proposed coal royalty reduction and an offshore oil and gas leasing and drilling report for Northern California.

The draft coal royalty reduction analysis and proposed rule was developed by the Bureau of Land Management (BLM) in response to concerns that had been raised to the Bureau and the Department about the economic viability of underground coal mines during a period of low market prices. When the issue was initially raised, I was briefed by BLM staff and I directed an economic analysis to be prepared on the effect of considering the royalty reduction. The draft report I received did not provide, in my opinion, the appropriate level of analytical evaluation. After a more thorough evaluation was prepared—consistent with the normal rulemaking process—the rule was drafted by the Bureau and it included the more complete economic analysis which supported the proposed course of action. As Assistant Secretary, I was required to approve the rule for publication. However, prior to that decision, I had recused myself from involvement in this action since I was considering employment opportunities outside the government. Ultimately, the Deputy Assistant Secretary approved publication of the proposed rule for public comment.

With regard to the offshore drilling study, it is my recollection that the April 1988, Fish and Wildlife Service (FWS) comments were prepared in the FWS Regional office and were communicated to the Regional office of the Minerals Management Service (MMS). The MMS prepared a memorandum that I forwarded to my counterpart, the Assistant Secretary for Fish and Wildlife and Parks. A meeting then occurred between the professional scientists at MMS and FWS and myself and the Assistant Secretary for Fish and Wildlife and Parks. The result of the meeting was a unified Department position on the minimal risks associated with offshore exploration and development.

In response to questions about my involvement, as the State of Virginia's senior mine regulator, with the lawsuit that had been filed on the Federal Surface Mining Control and Reclamation Act (SMCRA)—as I stated during my confirmation hearing, I was a career public servant for the Commonwealth of Virginia when the SMCRA was passed in 1977. I was not a lawyer. My sole duty in that dispute was to assist the Attorney General of Virginia in representing the State in its constitutional challenge on several specific provisions of the Act. As I indicated in my statement during the confirmation hearing, I consider one of my greatest accomplishments to be "leading the effort of Virginia to secure state administration of the Federal Surface Mining Control and Reclamation Act."

With respect to questions related to my service in the Office of Surface Mining Reclamation and Enforcement (OSM), when I joined the OSM early in 1981, the states in accordance with the requirements of SMCRA, were moving toward primacy. The result was that OSM's mission was evolving from one of federal control, to one of oversight and assistance for the states. This change, which was initiated by the Carter Administration, resulted in the need for fewer OSM inspectors and other employees.

Congress approved this reduction as part of OSM's fiscal year 1981 and 1982 budgets. I wanted to ensure that the cuts were not made at the expense of environmental protection. At the beginning of the reorganization, OSM had approximately 875 full-time permanent employees on board. At the conclusion of the reorganization in 1982, OSM had approximately 650 permanent full-time employees. We reduced the number of federal inspectors, but we increased the funding for state regulatory grants to cover the new SMCRA-authorized state inspections.

With regard to revising the regulations, we did undertake an intensive review and rewrite of the 1979 regulations. We believed that the design standards in the 1979 rules were far too rigid and complicated to be understood and enforced. These rules took a "cookbook" approach to mining and reclamation practices that did not recognize the unique topographical and climatic differences among the coal-producing states—differences such as the vast plains of North Dakota and the mountainous terrain of West Virginia.

Additionally, in a 1981 report, the National Academy of Sciences emphatically stressed the need for changes in the regulations and presented a convincing argument for making the entire set of regulations more flexible in application to specific mining operations. Thus, we revised the rules to establish performance standards that were a great deal easier to implement and measure than the design standards.

I am reminded that while I was at the Department of the Interior, both at OSM and as the Assistant Secretary who oversaw OSM, appropriations for abandoned mine land (AML) reclamation increased by more than 350 percent. We inherited an appropriation of \$82 million in fiscal year 1981, which increased to \$115 million in fiscal year 1982, \$213 million in fiscal year 1983, \$271 million in fiscal year 1984 and \$296 million in fiscal year 1985. As this record shows, we recognized early and throughout our Administration the importance of the AML program in reclaiming

lands and waters damaged by past coal mining and the need to increase support for it.

As a matter of my management philosophy, I believe that regulators should have the flexibility to look at innovative solutions to challenging problems. There are many instances where flexible resource management tools can result in greater conservation benefits. For example, by leveraging limited federal resources with the efforts that private landowners contribute, more wildlife habitat may be protected, without taking land off the local tax rolls or adding to the federal estate.

In closing, my thirty-year career in public and private service was incompletely summarized in this *Washington Post* story. It failed to mention my bipartisan work with the late Congressman Mo Udall to end the abuse of the "two-acre exemption" or my close work with Senator Dale Bumpers to eliminate fraud in onshore oil and gas leasing. It is that commitment to bipartisanship that I pledge to continue if confirmed by the United States Senate.

Sincerely,

J. STEVEN GRILES.

May 21, 2001.

Hon. FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Enclosed are my responses to questions for the record of the Senate Energy and Natural Resources Committee's May 16, 2001 hearing to consider my nomination to be a member of the Federal Energy Regulatory Commission.

If you have further questions or need additional information, please let me know.
Sincerely,

NORA MEAD BROWNELL.

[Enclosure]

RESPONSES TO QUESTIONS FROM SENATOR MURKOWSKI

Question 1. Everyone seems to agree that the licensing process for hydropower projects is broken—it takes too long, it's too expensive, and it's fraught with uncertainty. What are your views about ways to improve the process for relicensing the nation's non-federal hydro projects?

Answer. From everything that I have read to date, it seems clear that the hydroelectric licensing process is in need of significant improvement which will bring operational discipline to the process. If confirmed, I look forward to working with this Committee, my fellow Commissioners, and other interested groups to advance that goal. I will continue to familiarize myself with the FERC licensing process; the analysis of streamlining options recently completed by FERC staff; legislative proposals by Members of this Committee, including Senators Craig and Bingaman; as well as the viewpoints of other hydro licensing stakeholders.

Coordination with senior policy makers at agencies involved in the process is crucial. Such coordination should strive to establish priorities and deadlines, eliminate redundancies and enhance data exchange in order to tighten up the process. Although it may be necessary to seek legislation, administrative reforms should be a starting point and may go far in addressing a substantial part of the delay. If confirmed, I look forward to conducting my own analysis and working with Congress to design the most appropriate response to ensure expeditious treatment and a realistic balance among all interested parties. Our goal is a more timely and less costly licensing process that addresses our continuing power needs while also protecting and fostering our nation's environmental resources.

Question 2. As you know, over 15,000 MW of hydroelectric capacity in California and the Pacific Northwest face relicensing over the next 15 years. This is a significant amount of power that can make a big difference in whether the western states will have sufficient electricity to meet demands. What can we do to minimize the loss of any of this capacity during the relicensing process?

Answer. I am very much aware that hydropower is a very critical piece of the Western supply picture. Within the territory served by the California Independent System Operator, hydropower accounts for approximately 25% of the resource capacity. In the Northwest, that figure grows to approximately 66% of the available resource capacity. I understand that to date there has been no net loss of hydroelectric capacity as a result of the recent rounds of relicensing. I will certainly make every effort to continue in that fashion. In addition, I believe that we should encourage

license applicants to consider applying to increase their projects' generating capacity within appropriate environmental constraints in order to take full advantage of the available flows.

Question 3. In a report submitted to Congress last week, FERC staff concluded that: "Many specific factors contribute to delays [in the hydro licensing process], but the underlying source of most delays is a statutory scheme that disperses decision-making among federal and state agencies acting independently of the Commission's proceedings." Do you agree with this statement and that legislative improvements are needed to fix the hydro relicensing process?

Answer. Although I have not had the opportunity to examine the FERC staff report in any detail, it does suggest that the current legislative framework of dispersed decision-making is a significant factor in licensing delay. The report also strongly suggests that the Congressional mandate that the Commission give equal consideration to power and to the environment is clearly affected by the mandatory conditioning authority of various resource agencies, which do not have the same equal-consideration mandate. My preliminary view is that legislation may clarify priorities and accountability. However, before suggesting that legislation is essential or the form such legislation should take, I want to develop a clear understanding of the issues and the allocation of authority among agencies. A more coordinated and cooperative effort by all concerned may address a significant portion of the delay problem. If confirmed, I look forward to working with all involved elements to reach the appropriate resolution to this issue.

RESPONSES TO QUESTIONS FROM SENATOR GORDON SMITH

Question 1. In a report recently submitted to Congress, FERC staff stated, "Many specific factors contribute to delays [in the licensing process], but the underlying source of most delays is a statutory scheme that disperses decision-making among federal and state agencies acting independently of the Commission's proceedings." Do you agree with this statement?

Answer. While I have not yet had the opportunity to review the staff report in detail, I do know that the current dispersed decision process is one of the critical factors mentioned. Even without specific knowledge about the delays related to the dispersal of decision-making, common sense suggests that a dispersed scheme will be slower and less efficient than a unified one. Dispersal of decision making can cause policy confusion, redundancy, overlap and inefficiency. We need to determine the most expeditious process which includes, but is not limited to: a clear understanding of policy priorities for all involved in decision making, time deadlines, and data sharing so everyone who is working on the same case shares the same base of knowledge.

Question 2. The recommendations laid out in the FERC report underscore the need to legislate improvements to the hydro licensing process. Do you agree that some sort of legislation is needed if we are to get to the root of the problem and fix the licensing process?

Answer. Before reaching any position on this, I want to have an opportunity to hear the views of the state and federal resource agencies who under existing law share authority over the licensing process. It may be possible that better coordination and cooperation among the involved agencies can address a significant part of the delay, as I have outlined above. However, I certainly will work to address legislative changes if that is called for. If confirmed, I look forward to working with Congress and others to develop the most appropriate response to this problem.

Question 3. Several regional transmission organizations are developing in the Western United States. Do you support the manner in which these entities, including RTO West, are developing?

Answer. Order 2000 provided for a voluntary process for regional transmission organizations (RTO) formation with input from interested stakeholders. While voluntary, the eventual outcome must meet the standards set forth in Order 2000. I am aware that both RTO West and Desert Star (a proposed RTO organization in the Southwestern United States) have engaged in extensive stakeholder discussions regarding the formation of such organizations. As long as that process shows prompt and meaningful progress in the formation of RTOs that will successfully meet the needs of their regions and meet the standards set forth in Order 2000, it should be continued. To me, meaningful progress would include transparency and open and equal access to RTO processes as well as to the transmission infrastructure. There should be a role for the RTO to engage in long term planning. In addition, I would expect parties to be disciplined in their start-up costs. I would urge parties to examine successful ISO ventures such as PJM Interconnection, L.L.C., New York ISO

and ISO New England. Adoption of best practices already in place can only shorten the formation time frames as well as hold start-up costs to reasonable levels.

RESPONSES TO QUESTIONS FROM SENATOR CANTWELL

Question 1. Consider the situation in Washington State. As you are probably aware, we've already experienced retail rate increases in the high double-digits, suffered plant closures and job loss as a result of skyrocketing electricity costs, and are facing the prospect of a BPA rate increase this fall that threatens to further undermine the economic health of the entire region. Based on this anecdotal information—and the fact prices at the Mid-Columbia trading hub has increased 11-fold over the prices paid last year at this time—do you believe prices in the Pacific Northwest are just and reasonable?

Answer. Clearly, there are very grave problems in the Northwest as well as in California. If confirmed, I will approach these problems with a great sense of urgency. I believe prices in the Pacific Northwest may not be just and reasonable under current market rules and under certain conditions. Therefore, I agree with the Commission's recent decision to institute an investigation into the rates, terms and conditions of certain wholesale sales within the Western Systems Coordinating Council.

Question 2. As you are no doubt aware, many have questioned the effectiveness of FERC's price mitigation plan for California—that it is riddled with loopholes and far too narrow to provide any significant relief. I absolutely agree with that analysis. But even more pressing from my perspective is the fact FERC has done nothing to help the Northwest—even though our prices have actually been higher than California's by some measures. Specifically, while the average daily peak price at the Mid-Columbia hub increased by \$140/MWh between June 1999 and June 2000, the associated increase in California was \$113/MWh during peak. Daily peak average prices in our region have ranged from \$155/MWh to \$460/MWh from Feb. 2001 through April 2001, and dropped below \$200/MWh on only 6 days throughout the course of those three months. Given this information, do you believe FERC has fulfilled its statutory mandate to uphold just and reasonable rates—especially in the Northwest? If these circumstances don't trigger required action by FERC, what would?

Answer. The section 206 investigation recently instituted by FERC is certainly an appropriate step in ensuring that rates in the Pacific Northwest and other parts of the West are just and reasonable. As I stated at the hearing last week, I do not have access to all of the information available to the Commission as it deliberated on that matter. Accordingly, I would hesitate to judge whether I would have acted differently at that time. With regard to possible future action, I cannot prejudge at this time what action the Commission may take as a result of the investigation, since I would certainly wish to participate in that decision, if confirmed. However, I can certainly state that I am deeply concerned about the circumstances in the West. There are very substantial problems which require swift attention.

Question 3. It is true FERC in its April 26 order initiated a Section 206 investigation throughout the West and proposed that it may move forward with a California-type mitigation plan that would include the Northwest. I am concerned, however, because our problem with wholesale prices is in no way limited to the types of transactions covered by the investigation—real-time trades of 24 hours or less, during periods when reserves dip below 7 percent. As you are likely aware, most of our sales in the Northwest are done under bilateral contracts. Further, because of our reliance on hydro resources, it's not clear how or when that 7 percent reserve level would apply within Northwest control areas. Do you believe this investigation is broad enough to reflect what is actually happening in NW markets? If confirmed, would you support broadening it? Could you also comment on whether and how it would be possible to adapt FERC's price mitigation plan for California to Northwest markets—especially given the fact we do not have a centralized, auction-like market?

Answer. First, I cannot prejudge what the Commission will do as the result of its Section 206 investigation. The Commission will be receiving comments and conducting its own analysis. Until that investigation has been completed, there is no way to know what the Commission will do. However, you do raise important issues which will have to be carefully considered. It is possible that the scope of the investigation may have to be reviewed but without additional information, I cannot arrive at a position on that issue at this time. In addition, the scope of any mitigation plan the Commission may develop and which transactions it should include will have to be carefully considered. I am aware that the Northwest relies on bilateral contracts. Accordingly, applying a California-type mitigation plan to the Northwest will

present some challenges. I can state that if I find that the scope of the investigation is insufficient, or the existing steps are unresponsive to the unique market conditions in the Northwest, I will act accordingly.

Question 4. In the Pacific Northwest, BPA and investor-owned utilities have worked with regional stakeholders to develop a proposal for a regional transmission organization called RTO West. Movement to an RTO would be a significant change for my constituents. Before this proposal moves forward too quickly, we must be certain there has been considerable input and participation from all regional interests, and that the RTO's costs and benefits are sufficient to merit such a change. Do you agree that when striving to meet national policy objectives—as FERC has outlined in Order 2000—that individual regions should be encouraged to find solutions that meet their unique needs and fit their characteristics, and that regional processes and solutions should be respected and acknowledged?

Answer. My experiences in Pennsylvania with the PJM Interconnection, L.L.C. in its role as an independent system operator clearly indicate that voluntary processes among stakeholders are critical to the successful transformation of the market. I am also aware that Order 2000 acknowledged that RTOs may take different forms that reflect the unique needs of the region. As long as seams issues are successfully managed, I do not believe that we must impose a “one size fits all” approach to the formation of RTOs. Consensus solutions achieved through regional processes involving input from affected stakeholders should be given all due consideration, subject to Commission review to ensure the overall conformity of any proposal with the requirements of Order 2000. A careful cost analysis, disciplined budget planning and an independent board are important ingredients in RTO formation. Regardless of the precise form adopted for a particular RTO, open and transparent markets must serve the wholesale market with free flowing information on a real time basis. With regard to cost, the current charge for PJM, L.L.C. is approximately .37 cents per MWh. This cost is relatively small considering the engineering and economic market functions that ISO provides.

Question 5. Again, on the topic of RTO West, there is significant concern within the region about FERC's push for a single, West Coast-wide RTO. While the NW is still working hard to find answers that work within the region, this emphasis on a West-wide RTO seems premature at best. What is your position on the establishment of a West-wide RTO?

Answer. At this point, I do not feel that I have sufficient information to have reached a position on that issue. However, I do know that historical trading patterns in the West indicate that there is a regional relationship between and among the transmission systems and the generating resources located in that area. A West-wide RTO may well be a desirable end-state for the region since the West is a natural marketplace. However, such a result will not be accomplished immediately. If there is a move toward such an entity, existing organizations that support the current operating, planning and reliability needs of the Western Interconnection as well as proposed organizations just now moving forward will have to be considered. I would also note that recognition of regional characteristics is important to provide for smooth transaction flows.

Question 6. The RTO West proposal is for the creation of a not-for-profit, independent system operator. Do you support the creation of this type of structure (a non-profit organization)?

Answer. I have not reviewed the RTO West proposal in detail at this point. However, I believe that as proposed, RTO West will be a non-profit system operator while one of its anticipated transmission owner members will be a for-profit transmission company. This company will be formed through the purchase of the transmission facilities of several of the public utility companies currently operating in the Northwest. The Commission approved this hybrid structure after a finding that both organizations satisfied the independence standards of Order 2000. I am aware that Order 2000 provided some flexibility for entities to choose an appropriate organizational structure, whether non-profit, for-profit, or a combination of the two, that best serves the parties' attempt to fashion an RTO that provides the greatest benefit to the region. But whatever the structure, the entity must bring transparency, equal and non-discriminatory access, certainty, and efficiency. RTOs must be value added.

Question 7. Can you describe your views on the RTO's role in transmission planning and expansion authority? Do you support RTO's that have strong planning and expansion authorities?

Answer. Without referring to any specific RTO filing now pending before the Commission, I do believe that an RTO needs to have a substantial role in planning on a regional basis. A truly independent RTO can provide for a neutral planning process that ensures that necessary expansion and transmission planning will occur in locations and at a pace that will promote reliability for the grid as well as financial

stability and the participation of all stakeholders. Long range planning on a regional basis is also necessary to attract capital to transmission and regional business development. In addition, planning is essential to provide for growth of regional energy markets. From an engineering standpoint alone, an RTO would be a logical entity to provide those essential planning and coordination roles. From a market perspective, an RTO is uniquely placed to oversee interconnection timing and data flows. This is also one very real reason why an RTO's independence is so crucial. Accountability is an issue that must be addressed to ensure that any planning process takes into account basic principles of nondiscriminatory open access as well as local and environmental concerns. Obviously, I believe that a well functioning RTO must have a role in transmission planning and expansion.

Question 8. Are you aware that Congress has specifically defined the Commission's authority to review Bonneville Power Administration's power and transmission rates under the Northwest Power Act, and that the Commission's authority to regulate Bonneville's transmission rates under the Federal Power Act is limited?

Answer. Yes. Clearly the Commission must act within its jurisdiction as defined by Congress. I am also aware that Congress requires FERC to ensure that the rates, terms and conditions of all jurisdictional services under the Federal Power Act are just and reasonable. In its April 26 Order, the Commission concluded that it could not fulfill this FPA requirement without conditioning non-public utilities' voluntary participation in the California ISO's markets or use of the ISO's open access transmission tariff on their agreement to abide by price mitigation. If I am confirmed, I would need to participate in the decision on rehearing of this conclusion, so I cannot state at this time whether I agree with the Commission's decision on this point.

Question 9. Utility executives and risk managers have serious concerns about potential widespread, uninsurable liability stemming from system outages. This concern has increased due to the intensified use of the electric transmission grid resulting from the 1992 Energy Policy Act, the aggregation of transmission systems under RTOs, and the possibility of mandatory national reliability standards. Would you support some kind of wholesale tariff liability limitation for transmission system owners similar to what exists in many states for retail transactions?

Answer. Tort liability is generally governed by applicable state law. To date, the Commission has declined to impose a federal standard of liability for transmission service that would preempt applicable state law. See *New York State Electric & Gas Corp. v. FERC*, Docket No. 00-1228 (D.C. Cir. May 15, 2001) (affirming Commission policy). However, I have an open mind on whether the formation of an RTO warrants reevaluation of the Commission's decision not to preempt state law.

Question 10. The Commission recently attempted to extend its jurisdiction to include non-public utility entities in the California wholesale power market dockets. Even in the face of an emergency, wouldn't you agree that Congress, not FERC, defines the scope of FERC's jurisdiction? There are those states, such as Texas, that have been very successful in avoiding FERC jurisdiction. Aren't you troubled by Federal expansions of authority, at the expense of local control, over energy matters?

Answer. As I stated above, the Commission has no authority to exceed its jurisdiction as defined by Congress. However, FERC also has a statutory duty to ensure that the rates, terms and conditions of all jurisdictional services under the Federal Power Act are just and reasonable. In its April 26 Order, the Commission concluded that it could not fulfill this FPA requirement without conditioning non-public utilities' voluntary participation in the California ISO's markets or use of the ISO's open access transmission tariff on their agreement to abide by price mitigation. If I am confirmed, I would need to participate in the decision on rehearing of this conclusion, so I cannot state at this time whether I agree with the Commission's decision on this point.

Question 11. I understand that over 15,000 MW of existing, non-federal hydroelectric capacity in the Pacific Northwest and California must go through the FERC relicensing process in the next 15 years. These are energy resources that are very important to my state and region. All stakeholders seem to agree that the relicensing process is lengthy, complex, disjointed, expensive for all involved, and in need of improvement. Delays often result in resources being spent on process rather than on-the-ground environmental improvements. Clearly, this process requires refinement in terms of cutting time and expense, but at the same time, we must be extremely careful to give environmental issues due consideration. I believe this process must be refocused on outcomes—and outcomes based on sound science. Do you believe legislation is needed to address these problems? How would you approach reform and the delicate balancing act that FERC must perform as part of its statutory mandate?

Answer. My preliminary view is that legislation may be necessary to address this issue. At this point, the Commission is mandated by the Electric Consumers Protection Act of 1986 to give equal consideration to power and to the environment. However, the federal and state agencies holding mandatory conditioning authority over licenses have no such equal-consideration mandate. Whether it is accomplished legislatively or through administrative cooperation, a more coordinated approach is definitely necessary.

Regulatory agencies can find themselves having to balance the understandable desire for ever more scientific testing with the need to make timely decisions on matters affecting other aspects of the public interest. What is important is to continue gathering information about project impacts after a license has issued, and to make the appropriate adjustments based on that information. I believe this is what the Commission's licenses now provide for.

DEPARTMENT OF ENERGY,
Washington, DC, May 21, 2001.

Hon. FRANK MURKOWSKI,
Chairman, Energy and Natural Resources Committee, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I want to thank you and Senator Bingaman for the opportunity to appear before the Committee on Energy and Natural Resources as General Counsel nominee at the U.S. Department of Energy.

Enclosed for the record are the answers to the post hearing questions submitted to me in writing by members of the committee.

Please let me know if I can be of any further assistance.

Sincerely,

LEE LIBERMAN OTIS.

[Enclosures]

RESPONSES TO QUESTIONS FROM SENATOR MURKOWSKI

Question 1. If confirmed as the Department's General Counsel, will you make it a priority to comply the terms and spirit of the Economy Act to ensure that federal sites are only used for services, such as disposal of low-level radioactive wastes, that cannot be performed as conveniently and cost-effectively as qualified commercial enterprises in the private sector?

Answer. If confirmed, I will direct attention to assuring that all the terms of the Economy Act are complied with when that authority is used by the Department. In addition, I would agree that the business principle of using convenient and cost-effective commercial vendors is a sound one to apply in all of the Department's activities.

Question 2. If confirmed, will you rigorously enforce the Competition in Contracting Act to ensure that the Department uses full and open competition in the award of its contracts?

Answer. If confirmed, I will emphasize the need for the Department to comply with the Competition in Contracting Act, including its limitations on the circumstances in which an agency may depart from full and open competition in awarding contracts.

RESPONSES TO QUESTIONS FROM SENATOR CANTWELL

Question 1. As I've previously expressed to this committee, the Hanford Nuclear Reservation and the clean-up of its 54 million gallons of dangerous high-level radioactive waste is of tremendous importance to me and the State of Washington. As you know, the states with DOE nuclear sites have issued regulatory orders setting forth DOE's legal obligations. In Washington, the Tri-Party Agreement between the State, EPA and DOE is a legally enforceable pact that obligates DOE to clean-up Hanford on an agreed-upon schedule. If confirmed, do you commit to fulfilling DOE's legal obligations under the Tri-Party Agreement? What would you do differently than prior Administrations to ensure that DOE lives up to these obligations?

Answer. If confirmed, I am committed to doing everything in my power to see to it that DOE complies with all its regulatory obligations, including those set out in the Tri-Party Agreement. I completely understand why the cleanup of Hanford is of tremendous importance to you and the State of Washington. I believe it is also of tremendous importance to the Department of Energy and to Secretary Abraham. I understand that there is considerable frustration about missed deadlines both at Hanford and at other cleanup sites. Indeed the Secretary has indicated that he

would like to see cleanup expedited at all DOE's legacy sites and has directed a top-to-bottom review to see how this can be done.

If confirmed, the Assistant Secretary-designate for the Environmental Management program will, in accordance with the Secretary's directive, develop a current assessment of the status of cleanup at Hanford and options for completing it as promptly as possible. Doing so will undoubtedly require more cooperation and trust than the Department and the State have been able to achieve to date. The principal reason I believe this may be possible to achieve is that the individuals the President has nominated as Assistant Secretary for the Environmental Management program and Under Secretary have a record of having succeeded in a similar endeavor in the past at Rocky Flats. If confirmed, I view my role as lending them whatever assistance I can.

Question 2. Do you understand that the citizens of Washington State are expecting DOE to meet its binding commitment to construct a waste treatment facility that will glassify the tank waste by 2007? Can you reconcile DOE's promise to meet this deadline with the failure of this Administration to request sufficient funding to do so?

Answer. I do understand that the Tri-Party Agreement calls for construction of a waste treatment plant that will begin operations by 2007. I understand there is disagreement over whether or not that target can be met if the project is funded at the level proposed in the President's budget. I believe that the Secretary told the Committee a few days ago, at its hearing on the President's budget on May 8, that he is not prepared to say that the budget will result in any compliance obligations, including this one, not being met. The Secretary also acknowledged that the Congress obviously plays an important role in the budget process, which is ongoing.

Question 3. Did you know that, over the past 12 years, DOE has repeatedly requested extensions of the schedule for treating the tank waste at Hanford? Do you understand that Washington citizens are increasingly skeptical of DOE's commitment to meet its legal obligations to treat this waste? What would you do to build confidence in our citizens that DOE will address this growing threat to human health and the environment?

Answer. I completely agree with you about the importance of getting the Hanford tank waste addressed so as to avoid very significant potential future health and safety problems. I have not personally reviewed what has happened in the past, but I am aware that there is considerable frustration about missed deadlines, accompanied by lack of trust on the part of the regulators and the community. If confirmed, one of the first things I will do is to work with the Assistant Secretary for the Environmental Management program and the Under Secretary to get their assessment of where this project stands and how they think it most prudent and realistic to proceed. I would hope we would then be able to discuss that assessment with the regulators, the community and you in a way that would earn everyone's confidence. The Assistant Secretary-designate and the Under Secretary-designate have a record of having done this at Rocky Flats, where I believe there was a similar history that had to be overcome. It seems to me that this background and record make them ideally suited to the key task you correctly identify of restoring trust, so as to allow everyone to move forward constructively. If confirmed, I would want to lend them my assistance in this important endeavor.

Question 4. The Attorney General of the State of Washington has indicated that the lack of progress in the design and construction of a tank waste treatment facility—combined with the failure of DOE to seek sufficient funding to meet its legal obligations—may leave the state no choice but to seek a judicial remedy. What, if any, alternatives to litigation can you suggest for the state to ensure that DOE lives up to its commitments?

Answer. My hope is that if we promptly engage in the process I describe in my previous answers, the result will be both a more effective working relationship between DOE and its regulators and an agreed-upon, realistic assessment of how this project will proceed. That in turn should facilitate resolving issues without the need for litigation and its attendant costs.

DEPARTMENT OF ENERGY,
Washington, DC, May 21, 2001.

Hon. FRANK MURKOWSKI,
Chairman, Energy and Natural Resources Committee, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I want to thank you and Senator Bingaman for the opportunity to appear before the Committee on Energy and Natural Resources as the As-

sistant Secretary for Environmental Management nominee at the U.S. Department of Energy.

Enclosed for the record are the answers to the post hearing questions submitted to me in writing by members of the committee.

Please let me know if I can be of any further assistance.

Sincerely,

JESSIE HILL ROBERSON.

[Enclosures]

RESPONSES TO QUESTIONS FROM SENATOR MURKOWSKI

Question 1. I understand that the production site managers at the Y-12 Plant at Oak Ridge and the Savannah River Site are concerned about the negative impact on their operations due to cuts in the Environmental Management budget. Specifically, the concern is that the on-site waste, which falls under the EM budget, may not be removed under a constrained budget and will cause further disruption to the operations of the defense facilities.

If confirmed, what would you do to ensure that processing and removal of waste from the production sites are funded so that operations of these facilities are not adversely impacted?

Answer. Y-12 at Oak Ridge and Savannah River Site present unique challenges to DOE since these facilities contain activities managed by EM and by NNSA. It is critical that EM and NNSA coordinate closely and integrate their activities to ensure effective management of these facilities and projects. I am committed to managing EM wastes at these facilities in a manner that does not negatively impact NNSA or other activities but also contributes to the success of the cleanup program.

Question. Please explain how you plan to apply the closure site model pioneered by you at Rocky Flats to large sites such as Hanford, specifically the tank cleanup effort managed by the newly-created Office of River Protection.

Answer. I believe that the strategies that were successful at RF are instructive for other sites, but should not be regarded as a cookie cutter or a one size fits all approach. There are several initiatives that were effective at Rocky Flats that may be helpful in other places, but each site is different and each site will require a unique mix of approaches.

At Rocky Flats, we successfully worked with regulators and the community to develop risk based priorities. The regulators and the community agreed that the nuclear stabilization activities needed to be conducted first, even if it meant postponing lower risk environmental work. We realized that we could not let some disagreement over about 10% of the work holdup progress on the 90% of the work on which we agreed.

At Rocky Flats we determined that minor, administrative milestones stretching many years ahead were not helpful. Instead, we instituted a system of fewer, major milestones. We kept long term goals present as common agency and community objectives, but we stuck to short range targets as our milestones.

In exchange for this greater regulatory flexibility, DOE gave the regulators and the community a far greater role in our process for establishing a baseline of activities and prioritizing that baseline. Stakeholder and regulator involvement in our work and budget process is built into the regulatory agreement. The agreement acknowledges that certain factors may be beyond our control, but it makes the regulators and the community our partners on those factors that are within our control.

In general, we learned that we needed to earn the trust of the community and of the regulators, and that the onus is on DOE to behave in a manner that elicits trust. We found at RF that baby steps on trust lead to baby steps on flexibility, which leads to performance. This in turn earns more trust, and allows the cycle to continue.

Question 2. As the Department proceeds with its "top-to-bottom" review of the Environmental Management program, a key issue is obviously getting more cleanup done for less money. One sure-fired way to reduce costs is to encourage competition with the private sector.

In this context, would you agree that the Department should consider using licensed commercial sites which offer a competitive price for the disposal of low-level waste?

Answer. I do agree that there is enormous potential in utilizing licensed commercial facilities for low-level waste disposal, when it is cost effective for the taxpayers. At Rocky Flats, we made extensive use of such facilities when I was manager.

Question 3. It appears that the Department is planning on building new on-site disposal cells at sites like Oak Ridge, Paducah, Portsmouth for disposal of its low-level radioactive waste.

Before DOE commits substantial resources to construct these new disposal sites, shouldn't the Department fully evaluate using existing commercial disposal sites?

Answer. I support using whatever method of disposal is most cost effective for the Department and for the taxpayer. It is my understanding that this is already DOE policy. As ASEM, I will continue to seek the best available options at all of our sites for waste disposal, and I will seek better opportunities for efficiencies through greater complex wide integration.

RESPONSES TO QUESTIONS FROM SENATOR CANTWELL

Question 1. Your experience at Rocky Flats is instructive for what needs to happen at Hanford, and many residents in Washington State and I are looking forward to working with you. As you know, at Hanford—like Rocky Flats—we are trying to accelerate cleanup with incentive-based contracts that move us toward a completion point. Using Rocky Flats' model, investing more up front in Hanford's tank waste treatment program should significantly reduce long-term costs and accelerate the schedule considerably. I think this is everyone's goal. What are your plans to apply the closure site model that you helped make a success at Rocky Flats to Hanford's tank cleanup program, managed by the Office of River Protection?

Answer. I believe that the strategies that were successful at RF are instructive for other sites, but should not be regarded as a cookie cutter or a one size fits all approach. There are several initiatives that were effective at Rocky Flats that may be helpful in other places, but each site is different and each site will require a unique mix of approaches.

At Rocky Flats, we successfully worked with regulators and the community to develop risk-based priorities. The regulators and the community agreed that the nuclear stabilization activities needed to be conducted first, even if it meant postponing lower risk environmental work. We realized that we could not let some disagreement over about 10% of the work hold up progress on the 90% of the work on which we agreed.

At Rocky Flats we determined that minor, administrative milestones stretching many years ahead were not helpful. Instead, we instituted a system of fewer, major milestones. We kept long term goals present as common agency and community objectives, but we stuck to short range targets as our milestones.

In exchange for this greater regulatory flexibility, DOE gave the regulators and the community a far greater role in our process for establishing a baseline of activities and prioritizing that baseline. Stakeholder and regulator involvement in our work and budget process is built into the regulatory agreement. The agreement acknowledges that certain factors may be beyond our control, but it makes the regulators and the community our partners on those factors that are within our control.

In general, we learned that we needed to earn the trust of the community and of the regulators, and that the onus is on DOE to behave in a manner that elicits trust. We found at RF that baby steps on trust lead to baby steps on flexibility, which leads to performance. This in turn earns more trust, and allows the cycle to continue.

Question 2. As we've discussed, the funding cuts are of great concern to us in Washington State. Again, given your experience at Rocky Flats, do you believe it would make more sense to keep funding for Hanford's Waste Treatment Project level at \$690 million over the next few years, rather than counting on a funding spike next year to \$880 million, to comply with progress deadlines? Do you think a measured, level funding base would be more consistent with the goal of the "top-to-bottom" review Secretary Abraham alluded to last week—making clean-up more efficient?

Answer. It is my intent to use the EM program review as an opportunity to find efficiencies and opportunities to get our work done more quickly and more effectively. I will look at management strategies, opportunities for complex wide integration, unnecessary DOE requirements and other aspects of our program. The budget process is still ongoing. The President has proposed a budget. Congress is now considering and may choose to modify this budget.

At any funding level, it is critical for the Department to make progress on the Hanford Waste Treatment project in FY 2002. I plan to look closely at this project if I am confirmed. I will review closely the necessary funding profile for this project, as well as any management strategies that may be needed to expedite this project. I also intend to work closely with members of Congress, the regulators and the community as we proceed.

Question 3. Clean-up of the corridor along the Columbia River is another important priority at Hanford, in addition to construction of the waste treatment plant. This remediation effort is proceeding extremely well, and with a 2012 completion

date, it fits the closure site concept pioneered by you at Rocky Flats. I would appreciate it if you would explain your plans to keep the momentum going on the Hanford River Corridor cleanup project—especially when the program has not been funded at levels supported by the local site manager.

Answer. I recognize the importance of cleaning up the corridor along the Columbia River, and recognize its importance to the community. I also recognize that this project has the potential to reduce the “mortgage” or fixed-costs associated with Hanford, and therefore does follow the Rocky Flats model. At any funding level, it is critical for the Department to make progress on this project in FY 2002. I will review closely the necessary funding profile for this project, as well as any management strategies that may be needed to expedite this project. I also intend to work closely with Members of Congress, the regulators and the community as we proceed.

PUBLIC UTILITY COMMISSION OF TEXAS,
Austin, TX, May 21, 2001.

Hon. FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Enclosed are my responses to questions for the record of the Senate Energy and Natural Resources Committee’s May 16, 2001 hearing to consider my nomination to be a member of the Federal Energy Regulatory Commission.

If you have further questions or need additional information, please let me know.
Best regards,

PAT WOOD, III,
Chairman.

[Enclosure]

RESPONSES TO QUESTIONS FROM SENATOR MURKOWSKI

Question 1. Everyone seems to agree that the licensing process for hydropower projects is broken—it takes too long, it’s too expensive, and it’s fraught with uncertainty. What are your views about ways to improve the process for relicensing the nation’s non-federal hydro projects?

Answer. If confirmed, I would plan, within the first 30 days of taking office, to ask my fellow commissioners to convene an open hearing to receive a comprehensive status report from the FERC staff and staff from the affected federal and state resource agencies on each pending hydro re-licensing project, and other hydroelectric projects meriting an update. My service on the Texas Commission has shown that direct Commissioner interest and oversight tends to accelerate procedural handling of licensing applications. In light of the President’s instruction to federal agencies last week to expedite applications such as these, I hope the FERC will receive significant support from sister agencies in this endeavor. While I don’t expect this will solve all issues relating to licensing project timetables, it will more clearly delineate the issues. Should there be issues requiring legislative remedy, I will recommend the FERC bring them to the Congressional oversight committees expeditiously.

Question 2. As you know, over 15,000 MW of hydroelectric capacity in California and the Pacific Northwest face relicensing over the next 15 years. This is a significant amount of power that can make a big difference in whether the western states will have sufficient electricity to meet demands. What can we do to minimize the loss of any of this capacity during the relicensing process?

Answer. Hydropower is critical to keeping the lights on in the West. I understand that to date there has been no net loss of hydroelectric capacity as a result of the recent rounds of relicensing. I will seek to maintain this record and encourage license applicants to increase their projects’ generating capacity within appropriate environmental constraints to take full advantage of the available flows.

Question 3. In a report submitted to Congress last week, FERC staff concluded that: “Many specific factors contribute to delays [in the hydro licensing process], but the underlying source of most delays is a statutory scheme that disperses decision-making among federal and state agencies acting independently of the Commission’s proceedings.” Do you agree with this statement and that legislative improvements are needed to fix the hydro relicensing process?

Answer. Although I have not examined the FERC staff report in detail, it strongly suggests that the current framework of dispersed decision-making is a significant contributor to licensing delay. The report also strongly suggests that the statutory mandate that the FERC give equal consideration to power and to the environment

is clearly affected by the mandatory conditioning authority of resource agencies, which do not have the same equal-consideration mandate. To the extent this staff conclusion is borne out by the comprehensive status review, I propose in my response to Question 1, I envision that the FERC would formally develop and recommend specific legislative remedies.

RESPONSES TO QUESTIONS FROM SENATOR GORDON SMITH

Question 1. In a report recently submitted to Congress, FERC staff stated, "Many specific factors contribute to delays [in the licensing process], but the underlying source of most delays is a statutory scheme that disperses decision-making among federal and state agencies acting independently of the Commission's proceedings." Do you agree with this statement?

Answer. I do not yet have enough information to evaluate this. Before concluding that the current system is unworkable, I would like the opportunity to learn more. If confirmed, I would ask my fellow commissioners to convene an open hearing within 30 days to enable us to get a comprehensive status report from the FERC staff and staff from the affected federal and state resource agencies on each pending hydro re-licensing project, and other hydroelectric projects meriting a status update. My service on the Texas Commission has shown that direct Commissioner interest and oversight tends to accelerate procedural handling of licensing applications. In light of the President's instruction to federal agencies last week to expedite applications such as these, I would hope that the FERC would receive significant support from sister agencies in this endeavor. While I don't expect this will solve all issues relating to licensing project timetables, it will focus our attention on those issues that cannot be resolved administratively. I will recommend the FERC bring those issues that require statutory change to the Congressional oversight committees expeditiously.

Question 2. The recommendations laid out in the FERC report underscore the need to legislate improvements to the hydro licensing process. Do you agree that some sort of legislation is needed if we are to get to the root of the problem and fix the licensing process?

Answer. The FERC staff report indicates that the current legislative framework of dispersed decision-making is a significant contributor to licensing delay. It suggests that the statutory mandate that the Commission give equal consideration to power and to the environment is clearly impacted by the mandatory conditioning authority of resource agencies which do not have the same equal-consideration mandate. To the extent this staff conclusion is borne out by the comprehensive status review I propose in my response to Question 1, I expect that the Commission would formally recommend legislative remedies. I commit to moving expeditiously on this process, after having the opportunity to hear the views of the state and federal resource agencies that under existing law share authority over the licensing process.

Question 3. Several regional transmission organizations are developing in the Western United States. Do you support the manner in which these entities, including RTO West, are developing?

Answer. Yes. In 1996, as Chairman of the Texas Commission, I was a catalyst for one of the first RTOs in the nation, the Electric Reliability Council of Texas Independent System Operator (ERCOT ISO). The ERCOT ISO oversees one of the country's three electrical interconnections, and because of its intrastate nature, it is the only one which is non-FERC jurisdictional. The combination of reliability, market facilitation, transmission planning and resource adequacy duties in one independent body is critical to the health of our nation's electric industry. The FERC process has been somewhat slow to move forward, but it is moving in the right direction. Relying on a regional collaborative approach and resisting a "one size fits all" solution is appropriate, and bears the highest likelihood of long-term success. Moving forward on establishing these entities across the country would be a primary goal for me in this position. To date, both RTO West and Desert Star (a proposed RTO organization in the Southwest) have engaged in extensive stakeholder discussions regarding the formation of such organizations.

RESPONSES TO QUESTIONS FROM SENATOR CANTWELL

Question 1. Consider the situation in Washington state. As you are probably aware, we've already experienced retail rate increases in the high double-digits, suffered plant closures and job loss as a result of skyrocketing electricity costs, and are facing the prospect of a BPA rate increase this fall that threatens to further undermine the economic health of the entire region. Based on this anecdotal information—and the fact prices at the Mid-Columbia trading hub has increased 11-fold

over the prices paid last year at this time—do you believe prices in the Pacific Northwest are just and reasonable?

Answer. Even considering the shortfall of several thousand megawatts of hydroelectricity, I believe prices in the Pacific Northwest may not be just and reasonable under current market rules and under certain conditions. Therefore, I agree with the FERC's recent decision to institute an investigation into the rates, terms and conditions of certain wholesale sales within the Western power markets.

Question 2. As you are no doubt aware, many have questioned the effectiveness of FERC's price mitigation plan for California—that it is riddled with loopholes and far too narrow to provide any significant relief. I absolutely agree with that analysis. But even more pressing from my perspective is the fact FERC has done nothing to help the Northwest—even though our prices have actually been higher than California's by some measures. Specifically, while the average daily peak price at the Mid-Columbia hub increased by \$140/MWh between June 1999 and June 2000, the associated increase in California was \$113/MWh during peak. Daily peak average prices in our region have ranged from \$155/MWh to \$460/MWh from Feb. 2001 through April 2001, and dropped below \$200/MWh on only 6 days throughout the course of those three months. Given this information, do you believe FERC has fulfilled its statutory mandate to uphold just and reasonable rates—especially in the Northwest? If these circumstances don't trigger required action by FERC, what would?

Answer. I believe the section 206 investigation recently instituted by the FERC is an appropriate step in ensuring that rates in the Pacific Northwest and other parts of the West are just and reasonable. However, I cannot prejudge at this time the actions the Commission may take as a result of this investigation, since I would expect to participate in the FERC's decision, if I am confirmed.

Question 3. It is true FERC in its April 26 order initiated a Section 206 investigation throughout the West and proposed that it may move forward with a California-type mitigation plan that would include the Northwest. I am concerned, however, because our problem with wholesale prices is in no way limited to the types of transactions covered by the investigation—real-time trades of 24 hours or less, during periods when reserves dip below 7 percent. As you are likely aware, most of our sales in the Northwest are done under bilateral contracts. Further, because of our reliance on hydro resources, it's not clear how or when that 7 percent reserve level would apply within Northwest control areas. Do you believe this investigation is broad enough to reflect what is actually happening in NW markets? If confirmed, would you support broadening it? Could you also comment on whether and how it would be possible to adapt FERC's price mitigation plan for California to Northwest markets—especially given the fact we do not have a centralized, auction-like market?

Answer. Until I have reviewed the confidential transaction data, the public comments and the investigator reports, I cannot state what my conclusions are. I would like to participate in this and related proceedings, if confirmed. In response to a question from you at our hearing last week, I stated that it may be appropriate to broaden the investigation to include all transactions, rather than just those referenced in the FERC's April 26th order. The scope of any mitigation plan ultimately adopted by the Commission may be less than the full universe of transactions, but due to legal notice issues, it is better to announce a broad inquiry and narrow it down, rather than vice versa. Clearly applying a California-type mitigation plan to the Northwest will present some challenges because the Northwest relies on bilateral contracts rather than a centralized auction.

Question 4. In the Pacific Northwest, BPA and investor-owned utilities have worked with regional stakeholders to develop a proposal for a regional transmission organization called RTO West. Movement to an RTO would be a significant change for my constituents. Before this proposal moves forward too quickly, we must be certain there has been considerable input and participation from all regional interests, and that the RTO's costs and benefits are sufficient to merit such a change. Do you agree that when striving to meet national policy objectives—as FERC has outlined in Order 2000—that individual regions should be encouraged to find solutions that meet their unique needs and fit their characteristics, and that regional processes and solutions should be respected and acknowledged?

Answer. Yes. Order No. 2000 acknowledged that RTOs may take different forms that reflect the unique needs of the region. I agree that it would be counter-productive to impose a "one size fits all" approach to the formation of RTOs. Further, I believe that consensus solutions achieved through regional processes involving input from affected stakeholders should be given appropriate deference, subject to Commission review to ensure the overall conformity of any proposal with the requirements of Order No. 2000. This is consistent with the approach we at the Texas Com-

mission used in setting up the Electric Reliability Council of Texas Independent System Operator (ERCOT ISO), a non-FERC jurisdictional entity in 1996. With regard to costs, we have been able to more than offset the costs of the RTO by removal of redundant costs from numerous utility rate bases. I would expect the FERC to be able to do the same with all other RTOs.

Question 5. Again, on the topic of RTO West, there is significant concern within the region about FERC's push for a single, West Coast-wide RTO. While the NW is still working hard to find answers that work within the region, this emphasis on a West-wide RTO seems premature at best. What is your position on the establishment of a West-wide RTO?

Answer. A West-wide RTO is a desirable end-state for the region since the West is a natural marketplace. I believe that electric retail customers are better served by an efficiently run, broadly scoped, independent transmission entity. To the extent such an entity evolves from the existing organizations that support the current operating, planning and reliability needs of the Western Interconnection, it should be beneficial.

Question 6. The RTO West proposal is for the creation of a not-for-profit, independent system operator. Do you support the creation of this type of structure (a non-profit organization)?

Answer. Yes. The ERCOT ISO, with which I have been intimately involved since its creation, is a not-for-profit entity that controls the interconnected transmission facilities owned by some 30+ entities. As I understand the RTO West proposal, RTO West will be a non-profit system operator while one of its members will be a for-profit transmission company. This company will be formed through the purchase of the transmission facilities of several companies in the Northwest. I support the flexibility granted in Order No. 2000 for entities to choose an appropriate organizational structure, whether non-profit, for-profit, or a combination of the two, that allows an RTO to become operational. The important factor is that it be workable and effective. I believe it is possible to move forward more swiftly with the ISO model, since it does not require current transmission owners to divest themselves of ownership of their facilities immediately. An ISO can evolve to a larger stand-alone single transmission entity over time.

Question 7. Can you describe your views on the RTO's role in transmission planning and expansion authority? Do you support RTO's that have strong planning and expansion authorities?

Answer. An RTO should have four key objectives: network reliability, market facilitation, transmission planning and resource adequacy. Prior to the establishment of the ERCOT ISO, grid planning in Texas was a utility-specific affair. In that era, robust interconnectivity between various utility control areas was not a primary goal. When the ERCOT ISO was created, a substantial mindset change was called for. Since that time, regional planning has led to a significant reorientation of transmission construction. As a regulator, one of the most important aspects of RTO transmission planning is that new transmission projects are ultimately recommended by an independent expert body, which reviews the plans on the basis of sound engineering and regional stability, not just the interests of a single utility. Once the ERCOT ISO approves an annual transmission plan, the Texas Commission then directs specific transmission providers to construct the needed critical facilities. In the past 18 months, my colleagues and I have approved over \$1.5 billion in new transmission construction in Texas, much of that resulting from the regional planning process at our RTO. Few observers dispute the need for more transmission across the nation; I believe that regional transmission organizations are the appropriate forum to facilitate the right kind of grid planning and investment.

Question 8. Are you aware that Congress has specifically defined the Commission's authority to review Bonneville Power Administration's power and transmission rates under the Northwest Power Act, and that the Commission's authority to regulate Bonneville's transmission rates under the Federal Power Act is limited?

Answer. Yes. The FERC has only that authority granted it by Congress. At the same time, however, Congress requires the FERC to ensure that the rates, terms and conditions of all jurisdictional services under the Federal Power Act are just and reasonable. In its April 26 Order, the Commission concluded that it could not fulfill this FPA requirement without conditioning non-public utilities' voluntary participation in the California ISO's markets or use of the ISO's open access transmission tariff on their agreement to abide by price mitigation. I understand this issue is pending rehearing before the FERC.

Question 9. Utility executives and risk managers have serious concerns about potential widespread, uninsurable liability stemming from system outages. This concern has increased due to the intensified use of the electric transmission grid resulting from the 1992 Energy Policy Act, the aggregation of transmission systems under

RTOs, and the possibility of mandatory national reliability standards. Would you support some kind of wholesale tariff liability limitation for transmission system owners similar to what exists in many states for retail transactions?

Answer. Generally, applicable state law governs liability for torts. I understand that, to date, the FERC has declined to impose a federal standard of liability for transmission service that would preempt applicable state law. However, I have an open mind on whether the formation of an RTO warrants reevaluation of the FERC's decision not to impose a standard of liability. The Texas Commission has approved tailored limitations on liability for transmission utility, distribution utility and ISO actions that are beyond their control and which would not have been reasonably anticipated and prevented through use of reasonable measures. We also have restricted transmission utility, distribution utility and ISO liability for damages related to outages/interruptions of service due to reliability or repair situations. This limitation of liability does not reach to gross negligence or intentional misconduct.

Question 10. The Commission recently attempted to extend its jurisdiction to include non-public utility entities in the California wholesale power market dockets. Even in the face of an emergency, wouldn't you agree that Congress, not FERC, defines the scope of FERC's jurisdiction? There are those states, such as Texas, that have been very successful in avoiding FERC jurisdiction. Aren't you troubled by Federal expansions of authority, at the expense of local control, over energy matters?

Answer. Congress has defined the scope of FERC's jurisdiction. In its April 26 order, the FERC indicated that it believes the current law permits non-public utility entities to fall under its jurisdiction under certain conditions. I understand this issue is still pending review before the FERC.

The ERCOT part of Texas is wholly within one state, connected only by three direct current (DC) ties to the interstate and international markets and thus, its intrastate activities are not under FERC jurisdiction, except for imports and exports over those DC ties. The Texas Commission has jurisdiction over the transmission facilities of for-profit and publicly owned utilities, because both own parts of the overall interconnected network. The remainder of Texas, including my hometown, is under FERC jurisdiction, and the Texas Commission has repeatedly asked the FERC to be aggressive in asserting its proper authority under federal law to regulate interstate wholesale markets. It is simply not practical for a single state to fairly regulate that which is, by the laws of physics, spread over several states.

Question 11. I understand that over 15,000 MW of existing, non-federal hydroelectric capacity in the Pacific Northwest and California must go through the FERC relicensing process in the next 15 years. These are energy resources that are very important to my state and region. All stakeholders seem to agree that the relicensing process is lengthy, complex, disjointed, expensive for all involved, and in need of improvement. Delays often result in resources being spent on process rather than on-the-ground environmental improvements. Clearly, this process requires refinement in terms of cutting time and expense, but at the same time, we must be extremely careful to give environmental issues due consideration. I believe this process must be refocused on outcomes—and outcomes based on sound science. Do you believe legislation is needed to address these problems? How would you approach reform and the delicate balancing act that FERC must perform as part of its statutory mandate?

Answer. I do not yet have enough information to evaluate this. Before concluding that the current system is unworkable, I would like the opportunity to learn more. If confirmed, I would ask my fellow commissioners to convene an open hearing within 30 days to enable us to get a comprehensive status report from the FERC staff and staff from the affected federal and state resource agencies on each pending hydro re-licensing project, and other major hydroelectric projects. My service on the Texas Commission has shown that direct Commissioner interest and oversight tends to accelerate procedural handling of licensing applications. In light of the President's instruction to federal agencies last week to expedite applications such as these, I would hope that the FERC would receive significant support from sister agencies in this endeavor. While I don't expect this will solve all issues relating to licensing project timetables, it will focus our attention on those issues that cannot be resolved administratively. I will recommend the FERC bring those issues that require statutory change to the Congressional oversight committees expeditiously.