

SUE ELLEN WOOLDRIDGE NOMINATION

HEARING BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

TO CONSIDER THE NOMINATION OF SUE ELLEN WOOLDRIDGE TO BE
SOLICITOR, U.S. DEPARTMENT OF THE INTERIOR

MARCH 11, 2004



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**NOMINATION OF SUE ELLEN WOOLDRIDGE
TO BE SOLICITOR, DEPARTMENT OF THE
INTERIOR**

THURSDAY, MARCH 11, 2004

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

The committee met, pursuant to notice, at 2:32 p.m., in room SD-366, Dirksen Senate Office Building, Hon. Craig Thomas presiding.

**OPENING STATEMENT OF HON. CRAIG THOMAS,
U.S. SENATOR FROM WYOMING**

Senator THOMAS. I will call the committee to order please.
Good afternoon, Ms. Wooldridge.

Ms. WOOLDRIDGE. Good afternoon.

Senator THOMAS. Welcome to this hearing to consider your nomination to be Solicitor of the Department of the Interior.

Rules of the committee, which apply to all nominees, require they be sworn in in connection with the testimony. So if you would please rise and raise your right hand.

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

Ms. WOOLDRIDGE. Yes.

Senator THOMAS. Thank you. Please be seated.

Before you begin your statement, I would ask three questions that are addressed, again, to each nominee.

Will you be available to appear before this committee and other congressional committees to represent departmental positions and respond to issues of concern to Congress?

Ms. WOOLDRIDGE. Yes, I will.

Senator THOMAS. Are you aware of any personal holdings, investments, or interests that could constitute a conflict or create the appearance of such a conflict, should you be confirmed and assume the office to which you have been nominated by the President?

Ms. WOOLDRIDGE. No, Senator. I have reviewed those with counselors for the Department and ethics counselors, and with regard to my investments and interests, I do not believe there are any conflicts of interest.

Senator THOMAS. Great, thank you.

Are you involved or do you have any assets held in blind trusts?

Ms. WOOLDRIDGE. No, I do not.

Senator THOMAS. I know that you have been working for the past several years in the Secretary's office. You are aware, of course, of the magnitude of the position for which you are being considered.

Ms. WOOLDRIDGE. Yes.

Senator THOMAS. My friend, Tom Sansonnetti, left my office to do this job sometime back, as a matter of fact.

Ms. WOOLDRIDGE. I am aware of that.

Senator THOMAS. The issues you will have to address are extremely important to the States of all us and particularly on this committee, and I commend you for being willing to undertake this responsibility. At the same time, of course, we want you to be mindful of our intense interest in the decisions you are making. I encourage you to work closely with each of us, and I know that you will.

Let me turn now to Senator Bingaman.

**STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR
FROM NEW MEXICO**

Senator BINGAMAN. Thank you very much. I welcome the nominee. I had the chance to visit with Ms. Wooldridge earlier and had a chance to ask some questions at that time. This is a very important position and one that I think this committee takes a great interest in. I do have a few questions that I will ask when we get to that part of the program here, Mr. Chairman. Thank you.

Senator THOMAS. Fine.

If you would care to go ahead, if you have a statement, why, we would be delighted to hear from you.

**TESTIMONY OF SUE ELLEN WOOLDRIDGE, NOMINEE TO BE
SOLICITOR, DEPARTMENT OF THE INTERIOR**

Ms. WOOLDRIDGE. Thank you, yes. I have a few remarks.

Good afternoon to you, Senator Thomas, you, Senator Bingaman, members absent of the committee. I want to thank you for providing me this opportunity to appear today. It is a privilege and I especially wish to thank you both and Senator Domenici's staff for all their fine work in helping to get me around to meet people before this hearing.

It is the highest honor of my professional life to have been nominated by the President to be the Solicitor of the Department of the Interior. I ask your consent to the nomination.

Since my nomination, a number of people have asked me why I would like to be the Solicitor of the Department. The simple answer is that in the 3 years I have been there, I have developed a great appreciation for the mission of the Department and I view the Solicitor primarily as a servant to assist the Secretary, the management, and the employees of the Department in fulfilling their mission.

The Solicitor's Office handles a wide variety of legal matters, as you are aware. As a lawyer, I also have a wide variety of legal experience. In my career, among other things, I have dealt with the law of insurance, antitrust, contracts, trademark, conflicts of interest, endangered species, NEPA, elections, employment, CRCLA, FLPMA, nonprofit institutions, to name a few. I have come to know

well State water law, Federal reserved water rights, and reclamation law.

I have worked on cases large and small in both the State and Federal courts. I was intimately involved in the \$200 billion settlement between the States and the tobacco industry. I was involved in the largest False Claims Act recovery for the State of California, and I also once handled a case involving two neighbors fighting over a dog that was barking.

At the Department of the Interior, I have handled matters of national significance, and I have also had the unenviable task of assigning office and parking spaces to political appointees. As the Secretary's Deputy Chief of Staff and Counselor for the last 3 years, I have had the responsibility for a number of issues that, due to the cross-cutting nature of them and the problems that they had, in the interest of our bureaus, who were at times at conflicting purposes, they had to be managed at the departmental level. I have also overseen the Secretary's Indian Water Rights Office which manages yet another set of issues often involving cross-cutting issues of interest to the Department.

On the personal side, there are just two things I would like for you to know about me. As a youth, I spent the greater part of every summer and holiday traveling around the Western United States, hiking, camping, fishing, and boating in many of the public lands and waters and parks in those States. My father was an avid fisherman. My mother is an amateur naturalist and a lover of animals. Their interests imparted in me a lifelong devotion to the very lands, resources, and waters that we manage at the Department of the Interior.

Secondly, throughout my life I have enjoyed participating in team sports, at times as a member and at other times as a captain of the team. My experience in sports has influenced how I work as a lawyer. I have a reputation for being fair and a good listener. I freely give credit to those who do the work and deserve the praise. I prefer resolution to conflict, but I am prepared to rest on principle where it is appropriate. I enjoy debate but eschew ad hominem attack. I prefer action over inaction, and I believe that communication is central to our ability to be successful in our endeavors.

I thank you again for honoring me with this opportunity today. Should you support my nomination and the Senate votes to confirm me, I pledge to carry out my responsibility with dedication and integrity.

I am ready to answer the questions you might have.

[The prepared statement of Ms. Wooldridge follows:]

PREPARED STATEMENT OF SUE ELLEN WOOLDRIDGE, NOMINEE TO BE SOLICITOR,
DEPARTMENT OF THE INTERIOR

Mr. Chairman, Senator Bingaman and members of the Committee, I am honored to appear here today as President Bush's nominee to be the Solicitor of the Department of the Interior. I ask for your consent to the President's nomination.

As the chief legal officer for the Department, the Solicitor plays an important part in the management of the complex responsibilities entrusted to the Department of the Interior. The Solicitor also must be able to provide unbiased and intellectually honest counsel to the Secretary and subordinate officers of the Department. I thank you for this opportunity to present my views and qualifications for this position.

For the past three years, I have served as Secretary Norton's Deputy Chief of Staff and Counselor, providing the opportunity for first-hand experience and a birds-

eye view of the complex and often conflicting legal and policy issues⁴ facing the Department. As Counselor, I have managed multiple matters spanning the varying interests and jurisdictions of the numerous bureaus of this agency. I have also acted with oversight responsibilities for the Secretary's Office of Indian Water Rights.

I have been intimately involved in issues affecting the Klamath Basin. Within the Basin, the Department of the Interior's jurisdiction touches the management of important facilities and lands, or impacts the trusts of Indian Nations and peoples—five National Wildlife Refuges, five Indian tribes, one reach of a Wild and Scenic River, lands managed by the Bureau of Land Management, one National Park, a large Bureau of Reclamation irrigation project, a number of endangered or threatened species, and several national forests. Working through the issues in the Klamath Basin has exemplified for me the need to work cooperatively, as we embrace our multiple responsibilities. We must reach balanced solutions that meet our serious and important legal obligations, while being mindful of the real social, cultural, and environmental impacts of our decisions.

While the Klamath Basin problems are an example, they are not unique. Managing the Department of the Interior and its bureaus is often a balancing act, which demands a careful and reasoned response to competing interests and legal obligations. While I have not had operational responsibility for any bureau or office within Interior, the characteristics needed to fulfill the role of Solicitor are clear to me—sound judgment, courage, an open mind, administrative experience, wide-ranging legal experience, patience, and a sense of humor. I have these characteristics and am qualified to perform as Solicitor of the Department of the Interior.

The Solicitor manages an operation involving thousands of administrative and judicial matters and hundreds of attorneys and supporting staff. While particular resource matters may receive an enormous amount of press and public attention, much of the work performed by dedicated staff of the Office, though low in profile, is ongoing and remains important to the Department and those involved. The Office of the Solicitor considers matters relating to labor and employment, ethics and conflicts of interest, patents and trademarks, procurement contracts, acquisition agreements, water contracts, tort claims, partnership and volunteer agreements, and opinions and correspondence. In addition to my current work at the Department, my previous work experience has given me a background in many of these areas.

I have been in private practice, both as an associate and as a partner of a law firm. My practice included litigation in State and Federal courts and included, but was not limited to, contracts interpretation and enforcement, business torts, trademark infringement, labor and employment matters, and trust management enforcement.

I also worked for the State of California at the Department of Justice and for the State's Fair Political Practices Commission. While with California's Department of Justice, my work covered several legal specialties—the areas of public rights enforcement, non-profit charitable institution conversions, insurance insolvency actions, State constitutional privacy litigation, qui tam/false claim litigation, initiative and referendum litigation, and equal protection challenges. At the Commission, as the general counsel, I oversaw the legal department's work in the area of conflicts of interest and campaign finance reporting.

That concludes my summary of my professional experience. As I am here today to ask your consent to my nomination, let me tell you something about my personal side.

I was born in Riverside, California, lived until I was nine in Carpinteria, (Southern) California, and until I was eighteen in Glenn County, (Northern) California. I was born the youngest of four children to Robert and Patricia Wooldridge. Both were public educators, which meant that I received great guidance and their time. We were lucky to be in a position to partake of travels all over the West, particularly in the summer when the family could take advantage of this country's great natural resources. During these special times, I had the opportunity to enjoy our National Parks and other public lands, which are so important to our understanding of which we are as a nation and the values we all hold dear. I have hiked in our monuments, ridden horses in our forests, camped alongside clear cold alpine lakes and water-skied on many Reclamation reservoirs. I have viewed the beauty of the Grand Tetons and looked in awe up Yosemite Valley and Hetch Hetchy. I have enjoyed visits to Indian Country in Arizona and Montana, camped in freezing cold in New Mexico, fished in cool streams teeming with trout in Idaho, and gone crabbing in Oregon and clamming in Washington. I realize today how important those travels were to my understanding of the importance of our obligation to be wise stewards of the public's lands and resources.

Through my travels and under my parents' tutelage, I developed an appreciation of the need for wise management and conservation of our natural resources and our

obligation to lives other than our own. My parents owned a small farm in Northern California. We raised chickens, cows, sheep, horses and geese; and we raised milo for a nearby dairy. Growing up in a rural agricultural community teaches many things, not the least of which is the necessity to nurture the environment that sustains us. It teaches responsibility and consistency. These, too, are qualities a Solicitor should bring to the position.

I will always be grateful to my Mother and Father for giving me that special and wonderful upbringing and with providing me with my sense of responsibility.

Should this Committee support this nomination, and should the Senate vote to confirm me, I pledge to carry out my responsibilities with dedication and integrity. Thank you for your consideration. I stand ready to answer any questions you may have.

Senator THOMAS. Thank you very much. Well, if you have dealt with the dog issue and the parking, why, you are ready, are you not?

[Laughter.]

Ms. WOOLDRIDGE. They in some ways were much worse than those others.

Senator THOMAS. Well, we are delighted that you are here. I mentioned Tom Sansonetti. Bill Myers is also someone that has some connection with Wyoming, as you may know.

Ms. WOOLDRIDGE. Yes.

Senator THOMAS. I hope that there are not as many cases as there have been, but I suspect there will continue to be. I am one who believes that many of these land use, particularly, and environmental issues should be handled other than in the courts. Nevertheless, many are and so on.

One currently that is difficult is the snow machine thing in Yellowstone Park, where currently, as I understand it, there is still some tension between the court here and the court in Wyoming, and it kind of leaves the park without any assurance of where they are going to be. Quite frankly, I just wrote to the Secretary urging that they go ahead with a plan so that people can know what is going to happen next season, even though this season is over.

Do you have any reaction to that kind of an arrangement with the courts?

Ms. WOOLDRIDGE. Well, I think it is unfortunate that we have two conflicting orders that we are trying to obey. I think that our goal at this point is to try to get something in place so that there is certainty for the communities and the people who are interested in that issue.

Senator THOMAS. I hope so.

I introduced a bill today, as a matter of fact, which says in essence that when there is an interest in something in the public lands that is in a particular area, that the court in that area should be the court that deals with it, at least in that circuit. So I do not know where we will go with it, but we are going to try and do something.

How do you react to that?

Ms. WOOLDRIDGE. I think it is an interesting issue. I have not given a huge amount of thought to it, but I think it would be an interesting proposition to look into.

Senator THOMAS. I hope so.

Well, we are also, of course, in a difficult situation with respect to doing something with abandoned mine lands. We had a hearing here this morning. It is an interesting thing in that we have a law

that will expire this year. In the law it says half of the fee is supposed to be back to the State. That has not been the case. So we are trying to work that out. I guess it is not a legal issue at this point, but we certainly are looking forward to some assistance from the Department.

The administration has a bill in I think, as a matter of fact, that is oriented toward Pennsylvania when the basic dollars for this proposition come from the West.

Ms. WOOLDRIDGE. I understand.

Senator THOMAS. So we may have a little disagreement with the administration's point of view on that. Do you have any feeling about it?

Ms. WOOLDRIDGE. No, other than the fact that I was a little disappointed that I guess Mr. Jarrett got everybody stirred up a little this morning. But, no, seriously I know that is a really important issue to many of the States, and I know we wish to work as hard as we can with you to try to come to some agreement because I believe our interests are mutual in this and we need to just figure out how to get there.

Senator THOMAS. Yes, I think that is probably true.

Let me ask Senator Bingaman.

Senator BINGAMAN. Thank you very much.

Let me ask first about a disagreement we have had with some in the Interior Department about the effect of language in the Freedom of Information Act. The Department recently took the position, to justify withholding information that I had requested, that said there was a prior Solicitor's interpretation of the Freedom of Information Act that gave them authority to withhold information from Members of Congress. I asked Secretary Norton about this when she testified last month. She apologized for that position, as I understood her comments, and said that they would be responding more rapidly and completely to future questions.

Do you agree that the Freedom of Information Act does not give the Department authority to withhold information from Congress whether it is the majority or the minority? And will you support what I understood the Secretary's position to be, that questions from Members of Congress need to be answered?

Ms. WOOLDRIDGE. Senator, thank you for asking me this question. As I think we mentioned in the meeting I had with you, I was not involved in the decision that led to the writing of the correspondence in response to your request. I clearly support the Secretary's position.

In terms of the legal aspect, I have not analyzed that. I would be pleased to do so with you or your staff, if I am confirmed as Solicitor.

Senator BINGAMAN. That would be very helpful. I think it would be good if there is a disagreement about what the law authorizes the Department to do in the withholding of information from Congress, we need to know that and take action to change the law, if the support were there.

Let me ask also or just maybe flag for you a concern many of us have had, that major policy announcements out of the Department seem to come out on Friday afternoons or on the eve of a holiday, with no notice to any of us in the Congress or our staffs that they

are coming. Obviously, we would appreciate any kind of commitment or promise you could make to consult with us on significant matters. I am not talking about the insignificant ones, but consult with us prior to finalizing those actions so that we have some idea that this is going to be forthcoming. Is that something you could agree to do?

Ms. WOOLDRIDGE. Well, I think that as a matter of courtesy, we should be informing you as to when we make these decisions. I do not believe I am prepared to say that we should not go forward with them if we have not effectively communicated, but if we are doing our jobs properly, we should be effectively communicating. So when those decisions are made, you should be aware of them, even if you are not necessarily in support of them or happy with them.

Senator BINGAMAN. No, I understand. I am not suggesting you change the decisions, but I am just urging that we have better information as to the timing of your decisions.

One other area. In your present position at the Department of the Interior, you are responsible for the Indian water rights settlement program. Is that right?

Ms. WOOLDRIDGE. I am the counselor. We have a director of that office and I am the liaison, as the counselor to the Secretary, with regard to that office.

Senator BINGAMAN. Well, as you know, we have a number of very active water rights adjudications in New Mexico that involve Indian water rights claims, and there are some active negotiations going on with regard to some of those. I have heard concerns by some of the negotiating parties that the Department of the Interior has not taken an active role in settlement discussions, and this leaves the parties with no real guidance as to what will constitute an acceptable settlement from the point of view of the administration.

If you are confirmed by the Senate, you obviously will continue to have a role with respect to these negotiations. Just from my own perspective, there is a great benefit in trying to get some of these cases settled, particularly those that have been pending for several decades. I would hope that in your new role, after confirmation, you would take an active part in trying to move negotiations along. I think the Solicitor could do a great deal to accelerate this process if that were a priority.

Ms. WOOLDRIDGE. I think that I can certainly say that we will do everything to try to move them along appropriately. I think you referenced the Aamodt settlement and we are at a point where we need to analyze the cost share for the Federal Government. That is always a difficult problem. It takes some time getting through our process. But we would be happy to work expeditiously on that.

Senator BINGAMAN. That would be very helpful.

One other question. We had an issue come up with regard to a bill that I had introduced and Senator Domenici cosponsored on the Ojito Wilderness just the other day. What the issue really came down to—as I understood the Department's position—was that the administration would not support that legislation. The BLM would not support it unless we were to go and define in some detail the specific parameters of the trust duties that the Government would

owe or the Secretary would owe to the tribe in the specific legislation.

Now, this was a break from the way I had understood it was always done before. I know there is a great deal of case law laying out what the trust duties of the Secretary are.

Do you think that it is necessary for us to be legislating specifically what those trust duties are with regard to each piece of land that might be involved with transfer to an Indian tribe?

Ms. WOOLDRIDGE. I think this question is a very important one both for Congress and for the Department. As you know, we have been trying to get a grip on that, both in the Cobell case and in other matters. We have been recently twice before the Supreme Court on this question.

To answer that specifically would probably be most improper for me since I am not aware of the legislation or what our position was on that legislation. But Congress does have plenary authority over Indian matters, and I think it is certainly easier as the executive to understand our precise duties, as we go in to try to manage something, than it is to have that be unclear. Beyond that, I think I should not speak because I am not quite sure that I have a full understanding of it.

Senator BINGAMAN. Well, this is something I think we will probably revisit after your confirmation because it is a major change from the policy that has been in place in the 21 years I have been here in this committee. If we are to write that into each piece of legislation, that would be a substantial change in what is required.

Ms. WOOLDRIDGE. Well, I would look forward to working with you and your staff on that.

Senator BINGAMAN. All right. Thank you very much. Thank you, Mr. Chairman.

Senator THOMAS. Yes, sir.

I guess many of the issues we talk about are at least partly policy issues and not entirely legal issues, but nevertheless they are sort of intertwined. For instance, the wolf delisting situation we are in now in Wyoming and Montana and Idaho, which at least appears currently to be up in court. The issue really is how do we get this animal delisted and get it under the control of the State and be able to control the numbers.

Do you have any feeling—

Ms. WOOLDRIDGE. No. My general feeling is, Senator, that we all have the same purpose in mind, which is to ensure that the communities are protected, that the wolf continues on its recovery, and that local communities have some ability to try to be a part of that management. So I think good will and more work will get us there. Hopefully we can resolve this without much litigation.

Senator THOMAS. Well, I hope so. The message we get from the Department, of course, is that they are unwilling to put together a plan that has the predator aspect to it because they would fail in court to be able to sustain that position. Is that your point of view?

Ms. WOOLDRIDGE. I am sorry. Now you have gone beyond my level of competence. It has not been one that I have had any decisionmaking authority on.

Senator THOMAS. Well, see if you can wolf up on it a little.

[Laughter.]

Ms. WOOLDRIDGE. I will wolf up on that. Thank you.

Senator THOMAS. Also, of course, the same thing in terms of permitting for oil and gas production and so on ends up often in the courts with the environmentalists moving forward. We are having some of that with the coal methane in the Powder River basin. Again, we need to resolve these things as much as we can and move forward. It just seems like every difficult issue ends up, well, we are going to sue or we are in court, and then nothing happens. It is just really frustrating.

Ms. WOOLDRIDGE. Well, I understand that, Senator. We would be happy with less litigation as well.

Senator THOMAS. Or more timely. If they are going to have litigation, let us get on with it so we can get some decisions made.

One of the difficulties in agencies, I suppose, is the decisions that are often made at the high levels. It takes a while to get them on the ground and get things happening.

We have another, Martin's Cove, a lease out there that has been very controversial. We finally decided to do a lease, but it has been a long time and the lease still is not done.

Again, I recognize I am talking more about issues than the legal aspect of it, but you all are part of that. I do not know about the land part of it. I am on the Indian Affairs Committee and land trust things, the division, multiple ownership of those lands and so on. It has been going on now for how long?

Ms. WOOLDRIDGE. Well, the fractionation is an enormous problem that I know a lot of people have been trying to work on for a long time.

Senator THOMAS. We do not seem to be making much progress. At least it is hard to determine that that is the case.

Well, there are a lot of issues that you will have to deal with, of course, and I think I am very impressed with your background here. I was telling someone you are from Denver, but you are not from Denver.

Ms. WOOLDRIDGE. No, I am not.

Senator THOMAS. From California.

Ms. WOOLDRIDGE. I was born in Riverside, California and raised in the northern part of California.

Senator THOMAS. How long have you been with the Secretary?

Ms. WOOLDRIDGE. I have been with her since January 31, the day she was sworn in.

Senator THOMAS. Oh, I see. As what? Chief of staff?

Ms. WOOLDRIDGE. As the Deputy Chief of Staff and Counselor. I got to know her when I was in the California Attorney General's office and she was the Attorney General of Colorado.

Senator THOMAS. So we have got lots of legal stuff going on there in the office.

Ms. WOOLDRIDGE. That is right.

Senator THOMAS. Well, I am sure that the chairman and others who were not able to be here may have some questions for you and we will, of course, leave the record open. Should you get some written questions, we hope you will promptly respond to those.

Ms. WOOLDRIDGE. I absolutely will, Senator. Thank you for holding this hearing for me today.

Senator THOMAS. We will seek to move as quickly as we can to get you in position.

Ms. WOOLDRIDGE. All right. Thank you so much.

Senator THOMAS. Thank you for being here.

The committee is adjourned.

[Whereupon, at 2:57 p.m., the hearing was adjourned.]

[The following letter was received for the record:]

ASSOCIATION OF CALIFORNIA WATER AGENCIES,
Sacramento, CA, March 8, 2004.

Hon. PETE DOMENICI,
Chair, Energy and Natural Resources Committee, U.S. Senate, Washington, DC.

Hon. JEFF BINGAMAN,
Ranking Member, Energy and Natural Resources Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN DOMENICI AND RANKING MEMBER BINGAMAN: The Association of California Water Agencies (ACWA) is pleased to support the President's nomination of Sue Ellen Wooldridge to serve as Solicitor for the U.S. Department of the Interior.

Over the past three years, Ms. Wooldridge has played a critical role inside Secretary Norton's office in guiding the Department. She has built a distinguished record of public and private service in the resources field. With a strong working knowledge of the Congressional and stakeholder processes that guide the Department, she is a superb candidate for work in the Solicitor's office.

Our association is confident that Ms. Wooldridge can work successfully with a wide variety of interests to create policies that will address the water, environmental, and other resource issues facing California and the West. We pledge to work with her, the rest of the Bush Administration and Congress should she be confirmed.

We respectfully request your approval of this nomination.

Sincerely,

DAVID L. REYNOLDS,
Director of Federal Affairs.

APPENDIX
RESPONSES TO ADDITIONAL QUESTIONS

OFFICE OF THE SECRETARY,
U.S. DEPARTMENT OF THE INTERIOR,
Washington, DC, March 18, 2004.

Hon. PETE DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Enclosed you will find my responses to written questions following my confirmation hearing held on March 11, 2004.

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

Sincerely,

SUE ELLEN WOOLDRIDGE,
Solicitor-Designate.

[Enclosure.]

QUESTION FROM SENATOR DOMENICI

Question. The Endangered Species Workgroup in the Middle Rio Grande has been engaged in developing a recovery program for the silvery minnow and other endangered species for many years. While I agree that integrated and jointly agreed efforts help to limit litigation and have the promise of more cohesive, long-term solutions, I have been concerned with the pace of activity of this group. Consequently, I have created an “executive committee” to oversee the decision processes and hopefully focus the group’s efforts. The US Bureau of Reclamation has also placed an experienced and responsive leader in the district to avoid a situation similar to what happened in the Klamath—a situation you know very well. We need action from this workgroup and we need it sooner rather than later.

Can you provide me assurance that you will do whatever you can to help this new executive committee and the workgroup live up to its mission?

Answer. Yes. If confirmed, I will work in the Department of the Interior to ensure appropriate leadership in this area.

QUESTIONS FROM SENATOR BINGAMAN

Question 1. Are there any Solicitor’s Opinions that you think need to be revisited? What Solicitor’s Opinions do you expect to review during the remainder of FY04 and FY05? Please provide a list. What criteria will you use in determining whether an opinion should be modified, withdrawn, or reversed?

Answer. I have no plans at this time to review any Solicitor’s Opinions. If legal matters arise that may necessitate my review of previous Solicitors’ Opinions, I will evaluate such matters on a case-by-case basis.

Question 2. Will you consult with an affected Indian Tribe before modifying or withdrawing a Solicitor’s Opinion that affects that Tribe?

Answer. When appropriate, I will consult with an Indian Tribe before modifying or withdrawing a Solicitor’s Opinion that directly affects that Tribe.

Question 3. Will you consult with an affected Indian Tribe before settling litigation that affects that Tribe?

Answer. When appropriate, I will consult with an Indian Tribe before settling litigation that directly affects that Tribe.

Question 4. Please describe for the Committee your views regarding the role of the Solicitor within the Department?

Answer. I view the role of the Solicitor as being the chief legal officer of the Department. In that capacity, the Solicitor serves as the principal legal adviser to the Secretary and is responsible for all legal work in the Department, except that dele-

gated to the Office of Hearings and Appeals, the Inspector General, the Legislative Counsel, and the Justices of American Samoa.

QUESTIONS FROM SENATOR WYDEN

FOIA REQUESTS

Question 1. For several years now, various bureaus at Interior have claimed they can ignore requests for information from Senators on this Committee, unless requested by the Chairman. Interior treats information requests from other Senators on the Committee as if the Senators' requests were made under the Freedom of Information Act (FOIA). The legislative history for FOIA offers no justification for withholding information from Congress; controlling court decisions have ruled that all members of Congress have constitutionally recognized rights to seek information from executive branch agencies that they need to carry out the responsibilities of legislation and oversight.

Ms. Wooldridge, if you're confirmed as the Interior Solicitor, will you follow the law or Interior policy when it comes to responding to information requests from me?

Answer. If confirmed, I will review the Department's existing policies and consult with the Department of Justice (DOJ) to ensure that the Department's procedures concerning document requests from Members of Congress comply with the law and applicable DOJ guidelines.

CHEMAWA INDIAN SCHOOL

Question 2. Indian Health Services issued reports to the Bureau of Indian Affairs on December 5, 2002, October 16, 2001, and September 9, 2000 indicating that the practices regarding detention of students in holding cells located on the Chemawa Indian School Campus were unsafe. These reports clearly state that incarcerating intoxicated students without properly trained healthcare professionals to evaluate and monitor them places these students in danger. Many of the students on the Chemawa campus suffer from substance abuse problems and mental health issues. Despite the demonstrated need there is no after hours access to this type of care.

Would the Department of the Interior be better able to meet its obligations to the students at the Chemawa Indian School if an infirmary, staffed twenty-four hours a day by registered nurses with experience in drug and alcohol abuse, was established on the campus?

Answer. I have not been involved in this matter in my current capacity. However, it is my understanding that the Department's Office of the Inspector General is currently investigating this matter. Furthermore, I am advised that the Assistant Secretary for Indian Affairs is also looking into the policies of all offreservation boarding schools to better meet the needs of Indian students. These investigations may result in management practice or staffing changes to address this problem.

J. STEVEN GRILES INVESTIGATION

Question 3. Ms. Wooldridge, allegations have been raised regarding ethical violations by Interior Deputy Secretary J. Steven Griles. You may also be aware, that I and other Senators have asked the Interior Department inspector general to investigate these allegations. It appears from documents released by the Interior Department that you were advising Mr. Griles on his ethics agreements and severance payment agreements with his former firm, National Environmental Strategies.

Given that Mr. Griles and other top-level DOI officials have had ethical problems and given that the solicitor's office now oversees the Interior Department Ethics office, how will you ensure that all ethics agreements and recusal agreements are being enforced?

Answer. In 2001, the Department's Ethics Office was primarily a policy office, reporting to the Assistant Secretary for Policy, Management and Budget (ASPMB). At that time, ethics advice was given in a bifurcated manner, with the ethics office providing policy advice and the Solicitor's Office, Division of General Law, providing legal advice. The Inspector General previously performed a management analysis and suggested that ethics advice is primarily a legal function and, therefore, recommended that the office be housed within the Office of the Solicitor. Subsequently, the Designated Agency Ethics Official (DAEO), in consultation with the Inspector General, the Office of Government Ethics, and the Office of the Secretary, performed an organizational study to determine whether realignment of the ethics function was appropriate. Ultimately, the Secretary decided that the ethics function should be moved from ASPMB to the Office of the Solicitor. While a Secretary's Order memorializing this change was issued in August 2003, the management improvements

identified in the study and discussed more specifically below were already underway.

Over the past two years the Department has put into place and continues to refine a number of significant internal controls designed to ensure that ethics and recusal agreements are being enforced. For instance, with regard to Deputy Secretary Griles, some of the changes we have instituted include: the DAEO and Deputy DAEO have access to his calendar, the person who performs his formal screening functions has been changed, all persons who perform those functions for the Deputy Secretary have been trained in their duties, and there is a weekly meeting with, among others, the DAEO, the Deputy Chief of Staff and the Deputy Secretary's scheduling personnel to analyze upcoming meetings and events on his calendar.

Additionally, the DAEO has succeeded in raising employees' awareness of the need to consult with the ethics office on a regular basis to address questions of concern. As a result, the Department's ethics office is now viewed as a critical resource in providing guidance, advice, and formulating policy.

In furtherance of its efforts to raise the profile and awareness of its many functions, the Ethics Office prepared and delivered specialized training for all senior political employees on the use of recusals, screening protocols, and management controls related to ethics matters. The DAEO regularly meets with all Presidential appointees to increase the Ethics Office's visibility and to underscore the need for early warning and advice mechanisms related to ethics and recusal agreements. The DAEO ensures that all support staff reporting to Presidential appointees receive ethics training with particular attention paid to topics of common concern. Additionally, the DAEO established regular weekly meetings with the Chief of Staff, Deputy Chief of Staff, Associate Solicitor for General Law, and Counselor to the Secretary to discuss and address current ethics issues pending in the Department.

In October 2003, the then-Director of the Office of Government Ethics (OGE) wrote to the DAEO, "We recognize the significant efforts that you and others at Interior have made to restructure your ethics program in a way that will strengthen the ethics program for all employees at the Department. We believe that the new program structure, including the placement of the DAEO within the Office of the Solicitor, is a sound development for your Department and will provide the capacity to meet the challenges of running a major Departmental ethics program in the 21st century."

I am aware of the report issued on March 16, 2004, by the Department's Inspector General in connection with certain ethics matters surrounding Mr. Griles' activities as Deputy Secretary. I am further aware that the Inspector General's report identifies certain deficiencies within the Department's Ethics Office and makes recommendations to the Secretary to address those deficiencies. Finally, I am aware that the OGE concurs with the Inspector General's recommendations in a letter dated March 12, 2004. The OGE letter indicates that some reforms have been made already, such as transferring the Ethics Office to the Office of the Solicitor.

If confirmed, I will work to pursue improvements in the Department's ethics program in light of the Inspector General's recommendations. I will support the efforts of the Ethics Office to provide sound training, guidance and advice on ethics matters to all employees of the Department. Furthermore, I will take the steps necessary to ensure that ethics agreements and recusals are enforced.

PIPE CORROSION STANDARDS

Question 4. Last year, Congress requested a report from the Bureau of Reclamation (BOR) asking for recommendations for a more definitive corrosion standard regarding the most appropriate use of ductile iron pipe and steel pipe for a particular application. That report was to be delivered by March 1, 2004. It has now been rescheduled to be delivered in December 2004.

Question 4a. Will the report in its final form answer the question as to the relative effectiveness of the alternate coatings for steel and ductile iron pipe?

Answer. I am advised that the report will evaluate the effectiveness of coating options for steel and ductile iron pipe and make recommendations accordingly.

Question 4b. Will the report provide guidelines as to the life cycle cost benefits for the various coatings?

Answer. I am advised that the report will evaluate projected life cycle costs of alternate coatings for steel and ductile iron pipe and provide guidance on how best to incorporate this information into Reclamation's pipeline construction contracts.

Question 5. There have been numerous reports issued by the Environmental Protection Agency, American Water Works Association, Water Industry Network, and the American Society of Civil Engineers that have documented the decay of our na-

tion's infrastructure. They all report that \$10 billion to \$36 billion per year of federal money will be required to maintain U.S. water systems.

Will this report undertake an independent assessment of the program of corrosion of metallic pipes or will it be a compilation of industry standards that have led to this situation?

Answer. I am advised that the report will evaluate industry standards, national consensus standards, independent engineering studies, and performance data to develop updated guidance regarding corrosion protection of Reclamation pipelines which incorporate steel or ductile iron pipe.

Question 6. The oil and gas industry has been mandated to provide protection of metallic pipes for decades. Does the BOR intend to consult experts from the oil and gas industry as it prepares its recommendations for this report?

Answer. I have been informed that Reclamation has reviewed the U.S. Department of Transportation's Office of Pipeline Safety data related to this issue and will evaluate other national consensus standards related to oil and gas pipelines. We will consider these evaluations as we develop our report on this issue.

Question 7. Will there be participation of interested parties such as the National Association of Corrosion Engineers, utilities, and owners as the BOR compiles information for its report?

Answer. I am advised that we are collecting and reviewing publicly available information on this issue from a wide variety of sources. We are contacting other owners and utilities to evaluate their experiences with these products. I am further advised that we have reviewed the National Association of Corrosion Engineers material on this issue. We have also employed the services of private sector corrosion engineers and the national Institute of Standards and Technology to assist in our analyses. Our final report will consider input from all of these sources and develop recommendations accordingly.