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HEARING ON THE NOMINATIONS OF PETER SILVA, STEPHEN OWENS, AND JO-ELLEN DARCY

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

MAY 12, 2009

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ONE HUNDRED ELEVENTH CONGRESS
FIRST SESSION

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HEARING ON THE NOMINATIONS OF PETER SILVA, STEPHEN OWENS, AND JO-ELLEN DARCY

TUESDAY, MAY 12, 2009

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

The committee met, pursuant to notice, at 2:35 p.m. in room 406, Dirksen Senate Office Building, Hon. Barbara Boxer (chairman of the full committee) presiding.

Present: Senators Boxer, Inhofe, Baucus, Udall, and Carper.

OPENING STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator BOXER. The meeting will come to order. I apologize for running 5 minutes behind schedule.

We are here today to consider President Obama's nominations for three very important leadership positions at the EPA and the Army Corps.

I would like to start off by welcoming Jo-Ellen Darcy, who is nominated for Assistant Secretary of the Army for Civil Works. Jo-Ellen has served as professional staff on this Committee with distinction and most recently served as an advisor to Senator Baucus on the Finance Committee. We are just thrilled to see you here.

The Army Corps has a direct impact on jobs, lives and communities. As Hurricane Katrina made clear, people really depend on the Corps to safeguard their lives and their livelihoods. In my own State of California, the safety of thousands of Sacramento residents depends on a system of Corps flood control projects. They maintain harbors, such as San Francisco, Oakland and Long Beach, facilitating the flow of much of our Nation's commerce. As a matter of fact, 40 percent of all our imports come through the Long Beach-Los Angeles ports. And many of the Nation's most ambitious efforts to restore degraded ecosystems such as the Everglades and the coasts of Louisiana are led by the Corps.

In the last Congress, we passed the Water Resources Development Act which authorized many important new projects and brought about reforms in the way the Corps does business. I was very pleased with that. I think that is was 7 years that we had not had a water bill, so we got that done. We have a lot more work to do with the Corps and we are thrilled that you have nominated.

I would also like to welcome Peter Silva who has been nominated to be Assistant Administrator for the EPA's Office of Water. This

office works to ensure that families have safe drinking water and they also work to keep our Nation's rivers and lakes clean. We remember the days, at least I do, when our lakes were on fire. We do not want to go backward.

Mr. Silva comes from my home State where he was Senior Policy Advisor for the Metropolitan Water District which provides drinking water to, Senator Baucus, 19 million people. So, he comes to us with tremendous experience. Protecting our Nation's waterways has been made much more challenging by Supreme Court cases that have undermined the historic scope and application of the Clean Water Act and I look forward to moving ahead with a legislative solution to the serious problem as quickly as possible. I know Senator Baucus, Senator Klobuchar, Senator Voinovich, a lot of them are working hard and we are talking with the CEQ to resolve this. But your expertise will be essential in implementing the innovative clean water and drinking water programs that this Committee will be voting on Thursday.

It has been over 20 years since we have reauthorized the Clean Water Revolving Fund and more than 12 years since we reauthorized the Drinking Water Revolving Fund. I have great news from our Committee. The Big Four on this are myself, Senator Inhofe, Senator Crapo and Senator Cardin. We have reached an agreement to move a bipartisan bill through the Committee. So we are really thrilled.

It is also critical that safe drinking water standards for contaminants for perchlorate are finally adopted so that drinking water and wastewater requirements are updated to reflect the latest science.

And finally, last but certainly not least, I would like to welcome Stephen Owens, who is nominated to be Assistant Administrator for EPA's Office of Prevention, Pesticides and Toxic Substances. That office helps prevent pollution before it is created, to promote safer chemicals, to provide leadership in the EPA's scientific decisionmaking on chemical management issues. Mr. Owens brings his experience at the Environmental Council of the States and as Director of Arizona's Department of Environmental Quality.

I am pleased to see that Mr. Owens has a clear record of working to protect children from dangerous chemicals. He launched Arizona DEQ's Children's Environmental Health Project and he established an Office of Children's Environmental Health. We have a duty to protect our children and when we do, we will protect the rest of us as well. I will be working with my colleague, Senator Lautenberg, and members of this Committee to update the toxic laws which do not reflect the most current science on these issues.

I look forward to hearing from the witnesses. But I know that Senator Baucus' schedule is beyond explanation and I am thrilled that he is here and it is a real tribute to you, Jo-Ellen, because I know he very much wants to introduce you. So, Senator, if you would like to both make your statement and introduce Jo-Ellen, that would be fine.

OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Senator BAUCUS. Thank you, Madam Chairman, very, very, very much. That is very gracious of you and I do want to take the opportunity to introduce Jo-Ellen.

Abraham Lincoln once said——

Senator BOXER. What an introduction.

[Laughter.]

Senator BAUCUS [continuing]. Character is like a tree, and reputation like its shadow. The shadow is what we think of it. The tree is the real thing.

Having known and worked with Jo-Ellen for at least 16 years, I can assure you that Jo-Ellen has an unprecedented knowledge of the Army Corps of Engineers and the highest character. She has earned her reputation. Jo-Ellen is the real thing.

She joined the staff of this Committee in 1993 when I became Chairman. She worked on the Committee for more than a decade. She was responsible for, among other things, legislation relating to the Clean Water Act, Safe Drinking Water Act and Endangered Species Act. Perhaps her most important contribution in this area was her work on the Safe Drinking Water Act of 1996 which, in my mind, is a model environmental law. Why? Because it makes the law work more efficiently for cities and towns while at the same time it improves the protection of public health.

Most relevant to the position to which she has been nominated, Jo-Ellen is also the principle staffer responsible for legislation relating to the Water Resources Development Act which we around here know as WRDA. And she became one of the Nation's foremost authorities on that law.

During her tenure, Jo-Ellen helped pass some of the Corps' most sweeping initiatives, from restoring the Everglades to protecting New Orleans in the wake of Hurricanes Rita and Katrina, to requiring independent peer review of Corps projects, something we all worked on quite aggressively.

Jo-Ellen's work has restored ecosystems, improved public safety, repaired our water infrastructure and made the Corps more transparent and accountable. If confirmed, I know she will continue to improve the work of the Army Corps of Engineers.

In 2006, I was able to persuade Jo-Ellen to join the staff of the Senate Finance Committee where she has been instrumental in developing a series of tax incentives for environmental protection including those enacted as part of the Farm Bill. Jo-Ellen has a record of great accomplishments which is reflected in important environmental laws and in environmental restoration projects all across the Country. She knows the Civil Works Program of the Army Corps of Engineers as well as anyone. She knows the law. She knows Congress, in particular, the Senate and its committees. And she is uniformly respected for her effective, pragmatic, bipartisan approach to her work.

On a personal note, I would like to add that Jo-Ellen has achieved all of these accomplishments not only because of brains and hard work, but also because of her values. Her father, Dick Darcy, was a detective on the Fitchburg, Massachusetts police force. He and his wife, Jean, raised Jo-Ellen to have strong values,

especially fairness and open-mindedness, qualities that will serve her well.

I am sure that, although he has passed away, Dick Darcy would be very proud of his daughter today. I know that Jo-Ellen's mom, who was not able to travel here today, and her sisters and brothers and cousins and nieces and nephews and believe me, I know a whole lot of them, could not be more pleased and proud for her nomination.

Like each of us here, I believe that there are few higher callings than public service. Jo-Ellen Darcy is the epitome of someone who has devoted her professional career to service. And I could not be more proud that the President has nominated her to serve as Assistant Secretary for the Army Corps for Civil Works. Jo-Ellen is the real thing.

Thank you, Madam Chairman.

[The prepared statement of Senator Baucus follows:]

STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR
FROM THE STATE OF MONTANA

I want to spend a few minutes at the beginning of today's hearing introducing a woman who needs no introduction to this Committee—Ms. Jo-Ellen Darcy, who has been nominated by the President to be Assistant Secretary of the Army for Civil Works.

Abraham Lincoln once said "character is like a tree and reputation like its shadow. The shadow is what we think of it; the tree is the real thing."

Having known and worked with Jo-Ellen for the last 16 years, I can assure you that Jo-Ellen has an unprecedented knowledge of the Army Corps of Engineers and the highest character. She has earned her reputation. Jo-Ellen is the real thing.

Jo-Ellen joined the staff of this Committee in 1993, when I became Chairman. She worked on the Committee for more than a decade. She was responsible for, among other things, legislation relating to the Clean Water Act, the Safe Drinking Water Act, and the Endangered Species Act. Perhaps her most important contribution, in this area, was her work on the Safe Drinking Water Act of 1996, which is, to my mind, a model environmental law because it makes the law work more efficiently for cities and towns at the same time that it improves the protection of public health.

Most relevant to the position to which she has been nominated, Jo-Ellen also was the principal staffer responsible for legislation relating to the Water Resources Development Act, or WRDA, and she became one of the Nation's foremost authorities on that law.

During her tenure, Jo-Ellen helped pass some of the Corps' most sweeping initiatives—from restoring the Everglades to better protecting New Orleans in the wake of Hurricanes Rita and Katrina to requiring independent peer review of Corps' projects.

Jo-Ellen's work has restored ecosystems, improved public safety, repaired our water infrastructure, and made the Corps more transparent and accountable. And if confirmed, I'm sure she will continue to improve the work of the Army Corps of Engineers.

In 2006, I was able to persuade Jo-Ellen to join the staff of the Senate Finance Committee, where she was instrumental in developing a series of tax incentives for environmental protection, including those that were enacted as part of the Farm Bill.

Jo-Ellen Darcy has a record of great accomplishment, which is reflected in important environmental laws and in environmental restoration projects all across the country. She knows the civil works program of the Army Corps as well as anyone. She knows the law. She knows Congress, and, in particular, the Senate and its committees. And she is uniformly respected for her effective, pragmatic, and bipartisan approach to her work.

On a personal note, I'd like to add that Jo-Ellen has achieved all of these accomplishments not only because of brains and hard work, but also because of her values. Her father, Dick Darcy, was a detective on the Fitchburg, Massachusetts, police force. He and his wife, Jean, raised Jo-Ellen to have strong values, especially fairness and open-mindedness, qualities that will serve her well.

I am sure that, although he has passed away, Dick Darcy would be proud of his daughter today. And I know that Jo-Ellen's mom, who was not able to travel here today, and her sisters, brothers, cousins, nieces, and nephews, could not be more pleased and proud about this nomination.

Like each of us here, I believe that there are few higher callings than public service. Jo-Ellen Darcy is the epitome of someone who has devoted her professional career to service, and I could not be more proud that the President has nominated her to serve as Assistant Secretary of the Army for Civil Works. Jo-Ellen is the real thing.

Senator BOXER. Well, I do not think you have to say anything for yourself when we get to you other than hi and I think you had us at hi.

[Laughter.]

Senator BOXER. Anyway, Senator Baucus, really, thank you so much for taking the time. I think, you know, there is something to be said about this that we know that our success depends on the people we have around us. There is no question. If we did not have loyal, dedicated staff, how could we possibly do it? There are hundreds of issues and we count on people like Jo-Ellen and a lot of them that are sitting behind me and behind Max and Tom right now. It is a real tribute, Senator Baucus, that you came over and made that eloquent introduction. And if you need to go, we totally understand.

Senator BAUCUS. Thanks, Madam Chairman. One other point here. Jo-Ellen is one of those people who, if you ask to do something, you do not give it a second thought because you know it is done. She is one of those people who, if she says she is going to do something, you know it is going to be done. It is because she cares and she works so hard. They do not come much better than Jo-Ellen Darcy and we are very lucky to have her.

Senator BOXER. But other than that, you do not have any good words about her?

[Laughter.]

Senator BAUCUS. Nothing at all.

Senator BOXER. Thank you. Senator Udall.

Senator UDALL. That was quite a resounding endorsement by Senator Baucus.

I am going to hold my questions and hold my opening until we get to the questioning of the witnesses here.

Thank you, Madam Chair.

Senator BOXER. Senator Carper.

OPENING STATEMENT OF HON. THOMAS R. CARPER, U.S. SENATOR FROM THE STATE OF DELAWARE

Senator CARPER. Thank you, Madam Chair.

I was wondering what I was going to say to Jo-Ellen Darcy but Senator Baucus mentioned it: if you want to get something done, Jo-Ellen is the person to get it done. If she says she will get it done. I would like to take about 5 minutes and talk about beach replenishment.

[Laughter.]

Senator CARPER. In fact, those beaches on DelMarVa and throughout the—no, I am just kidding.

I had the privilege of working with Jo-Ellen when she was here and on Finance and she is just a delight and every bit as good as

Senator Baucus has said. We welcome you. We welcome each our other witnesses.

I was very pleased to spend some time with Mr. Silva the other day and I think the Administration has once again picked some terrific people to serve in the executive branch of the Government. At least in one respect that is our loss, in the legislative branch, but we look forward to working with each one of you and hope that you are confirmed and hope you are confirmed promptly. To the extent that we can be helpful in that process, and I think we can, we certainly want to be. Congratulations and good luck.

Thank you.

Senator BOXER. Thank you so much, Senator.

So, since, Jo-Ellen, you were introduced specially by Senator Baucus, we are going to go this way down the row and ask of you to please, if you have any family or friends that you would like to introduce, feel free to so do.

So, Jo-Ellen, the time is yours.

STATEMENT OF JO-ELLEN DARCY, NOMINATED TO BE ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS

Ms. DARCY. Chairman Boxer, Senator Inhofe, members of the Committee, I am honored and privileged to be here today as President Obama's nominee to be Assistant Secretary of the Army for Civil Works.

I also want to take a minute to thank Senator Baucus for the very kind and generous words that he had to say about me.

I am here today because of my experience with the Corps and its mission, but I am also here because of the love and support of family and friends. As Senator Baucus said, most of my family could not make it to Washington today but are watching via your Committee website at home. One of my sisters was able to be here today and I would like to introduce her, Dr. Margaret Darcy. She is sitting here in the audience.

Senator BOXER. Please stand if you would.

[Laughter.]

Ms. DARCY. I have several friends and colleagues, both current colleagues and former colleagues, who are here today and I would like to thank them for their support and guidance over the years.

There is one very important person who is not here today and that is my dad. I know he is watching from on high and saying to me what he always said to us. My father taught us, "yes, we can" long before President Obama reminded us of that fact. He was the ultimate public servant, serving more than 25 years as a police officer and gave us every opportunity to succeed at whatever we tried.

I have sat at this witness table many times, not as a Presidential nominee, but as a Committee staffer, ready to answer your questions on the legislation we were considering. I spent more than 13 years sitting on the bench behind you during hearings and markups, even before there was a bench behind you.

Regardless of where I sit, on the staff bench or at this witness table, the Senate Environment and Public Works Committee will always be where I came from and I am grateful for that.

I know that the position for which I have been nominated promises to be the greatest challenge of my career. I do not take this challenge lightly. I approach it with humility and dedication.

My experience as a Senate staffer for the last 16 years and my time working on Great Lakes issues for Governor Jim Blanchard of Michigan, has given me the opportunity to work with the Corps of Engineers on project authorizations and policy development. There is not a more dedicated group of public servants than the men and women of the Corps.

The Corps of Engineers has a great history. The Army established the Corps as a separate, permanent branch in 1802. Since then, the Corps has responded to changing defense requirements and played an integral part in the development of this Country. Throughout the 19th century, the Corps built coastal fortifications, eliminated navigational hazards, explored and mapped the Western frontier and constructed lighthouses, jetties and piers for harbors, and building and monuments right here in the Nation's capital.

In the 20th century, the Corps became the lead Federal flood control agency and significantly expanded its civil works activities becoming, among other things, a major provider of hydroelectric energy and the Country's leading provider of recreation. In the late 1960s, the Corps became a leading environmental and preservation agency. It now carries out natural and cultural resource management programs at its water resources projects and regulates activities in the Nation's wetlands.

As the Corps moves into the 21st century, I am confident that they will to rise to new challenges. Faced with a limited budget, tackling the job of refurbishing the Nation's aging water infrastructure will require the ingenuity that the Corps has demonstrated throughout its history. Balancing the competing water resources needs throughout the Country will take a national vision while recognizing regional differences. Preserving and creating wetlands, affording recreational opportunities, and maintaining the world class navigation system that this Country enjoys is integral to that national vision.

If confirmed, I look forward to navigating the Corps through the challenges ahead.

I want to thank you for the opportunity to testify and will answer any questions.

Thank you.

[The prepared statement of Ms. Darcy follows:]

Statement of Jo-Ellen Darcy

Nominee to be Assistant Secretary of the Army for Civil Works

Committee on Environment and Public Works

May 12, 2009

Chairman Boxer, Senator Inhofe, members of the Committee, I am honored and privileged to be here today as President Obama's nominee to be Assistant Secretary of the Army for Civil Works.

I am here today because of my experience with the Corps and its mission, but I am also here because of the love and support of family and friends. Most of my family couldn't make it to Washington today, but are watching via your Committee website or on C-span. One of my sisters was able to be here and I would like to introduce her, Dr. Margaret Darcy. I have several friends and colleagues who are here today and I would like to thank them for their support and guidance over the years.

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My experience as a Senate staffer for the last 16 years and my time working for the Governor of Michigan on Great Lakes issues has given me the opportunity to work with the Corps of Engineers on project authorizations and policy development. There isn't a more dedicated group of public servants than the men and women of the Corps.

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programs at its water resources projects and regulates activities in the Nation's wetlands.

As the Corps moves into the 21st century, I am confident they will continue to rise to new challenges. Faced with a limited budget, tackling the job of refurbishing the nations aging water infrastructure will require the ingenuity that the Corps has demonstrated throughout its history. Balancing the competing water resources needs throughout the country will take a National vision while recognizing regional differences. Preserving and creating wetlands, affording recreational opportunities, and maintaining the world class navigation system that this country enjoys is integral to that National vision.

If confirmed, I look forward to navigating the Corps through the challenges ahead.

Thank you for the opportunity to testify today and I look forward to answering any questions you might have.

Environment and Public Works Committee Hearing

May 12, 2009
Follow-Up Questions for Written Submission

Questions for Darcy

Questions from:

Senator Barbara Boxer

1. Ms. Darcy, recently, the Corps of Engineers has made substantial progress on the Yuba River Basin Project and has taken steps to begin construction in early 2010 on repairs to the Marysville Ring Levee.

Do you commit, if confirmed, to work closely with the Sacramento District and the South Pacific Division in their efforts to stay on-schedule and on-budget in order to complete these urgently needed repairs for the residents of Marysville, California and to report to this Committee on the progress made on this project?

Answer: If confirmed, I will work closely with the Corps of Engineers and support their efforts to maintain an on-schedule, on-budget project focusing on the requirements for the currently planned construction schedule. I will communicate fully with this Committee on this project's progress.

2. Ms. Darcy, because of the significant threat of catastrophic flooding that Sacramento faces, the State of California and local flood control authorities are proactively implementing the most urgently needed levee improvements ahead of federal investment in the project. The non-Federal sponsors require Corps of Engineers approval for this work. The Corps is also working on a report required for Congress to authorize Federal participation in the project.

Do you commit, if confirmed, to work with the non-Federal sponsors to expedite the remaining approvals and the ongoing reports so that the urgently needed flood protection projects can proceed?

Answer: I am aware of the urgent need to move forward on widespread levee improvements in California. If confirmed, I will work with the Corps of Engineers and the non-Federal sponsors to review current procedures to ensure that the Corps moves as efficiently as possible through the approval process, so these projects can proceed.

3. In a 2008 Biological Opinion, the Fish and Wildlife Service found that Warm Springs and Coyote Valley Dams and related water supply activities in Sonoma County jeopardize certain endangered species. The Corps is responsible for implementing certain activities under the biological opinion.

Do you commit, if confirmed, to report to this committee on what the Corps is doing to implement the Biological Opinion on the Russian River?

Answer: Yes, if confirmed, I will report to this Committee on a regular basis on the progress that the Corps is making on implementing the reasonable and prudent measures related to the Warm Springs and Coyote Valley Dams in the Biological Opinion on the Russian River.

Senator Frank R. Lautenberg

1. OMB recently removed all beach renourishment projects from the Army Corps of Engineers project list for funding under the economic recovery law.

Those projects would have generated jobs and provided protection for coastal communities, including the sixty-one (61) percent of New Jersey residents who live within twenty-five (25) miles of the shoreline.

What role does beach renourishment play in the Army Corps' mission of protecting our coasts?

Answer: I believe shore protection projects to reduce damages from coastal storms are an important part of the Corps of Engineers Civil Works mission. However, it is also my understanding that recent policies regarding such projects, like many other policies, are under review by the Obama Administration. If confirmed, I will work with others in the Administration to reexamine the role of the Corps in addressing the requirements for renourishment of high performing beach projects throughout the coastlines of America.

Senator James M. Inhofe

1. Congress has tried to pass Water Resources Development Acts every two years, with varying success. Under that schedule, this year should see work on another WRDA. If confirmed as Assistant Secretary, do you anticipate sending an Administration proposal to Congress for consideration this year?

Answer: If confirmed, I will initiate serious discussions on the matter of whether the Administration should submit a WRDA legislative proposal. While I cannot commit at this point to the outcome of those discussions, I ensure you they will take place.

2. As I'm sure you are well aware, the Inland Waterways Trust Fund no longer contains a surplus, and annual revenues are not sufficient to support investments of the same level as have been made for the past several years. President Obama's fiscal year 2010 budget proposes transitioning away from the current fuel tax and to lockage fees as the revenue source for the Trust Fund. That concept was advanced by the Bush Administration last year, but received no traction here in Congress. Are you willing to work with Congress, as well as the navigation industry, to try to find an answer to this problem that can be supported by all interested parties?

Answer: While not familiar with the details of the Inland Waterways Trust Fund legislative proposal being submitted with the FY 2010 budget, I am aware that a similar proposal was made last year by the prior Administration. I do appreciate both the need for increased revenues in the Trust Fund and that there are differing views on the best solution. If confirmed, I will work with Congress and the navigation industry to find an answer to this matter.

3. As I mentioned during the hearing, water supply storage pricing is an issue to many Oklahoma communities, and you agreed to work with me to try to address this problem. Hydropower interests have expressed frustration with the Corps' policy of determining compensation for lost generation due to reallocations. Will you work with me to see if we can find a workable compromise on this issue as well?

Answer: If confirmed, I will review the Corps' policy for determining compensation for lost hydropower generation due to reallocation of reservoir storage space, and I will work with you to try to address this important issue.

4. Many individuals and organizations who work with the Corps of Engineers have complained that the process the Corps follows to get from identifying a water resources problem or to implementing a solution can be long and costly. Do you have any ideas on improving that process? Will you make it a priority to develop and implement ways to rationalize the process?

Answer: I am familiar with this long-standing issue due to my prior position with the Committee on Environment and Public Works. Periodically, there have been efforts to streamline the Corps planning process, some of which have proven successful. Although I do not have specific ideas at this time on how to improve the process, I will, if confirmed, make it a priority to identify ways to shorten and simplify the planning process and will work diligently to implement these initiatives as quickly as practicable.

5. You may have heard me state in hearings and other meetings that I am very supportive of the concept of allowing the Corps to use the fees it collects at recreation facilities to operate, maintain and improve recreation opportunities. Unfortunately, we have consistently run into budget scoring problems that have prevented us from enacting such a proposal. Will you please commit to working with me to come up with other ways to improve recreation opportunities that don't have the same scoring hurdles?

Answer: If confirmed, I commit to working with you and this Committee to develop alternatives to improve recreation opportunities that either don't create scoring hurdles or include means of addressing the scoring issues that arise.

6. What is your opinion of using public-private partnerships as a tool to provide more and better recreation opportunities at Corps facilities?

Answer: I support the use of public-private partnerships to enhance recreation opportunities and, if confirmed, I will work to advance such agreements to improve Corps recreation facilities and to preserve public access to them.

7. I am interested in your thoughts on public access to public lands and water managed by the Corps of Engineers for recreational activities like angling. More specifically, I have heard from some anglers that in 2007 the Little Rock District worked with stakeholders to finalize a policy to allow for anglers to fish in certain areas around marinas. The policy was changed almost year later, however, to severely restrict access without notice or consultation with anglers. Will you commit to looking into this issue and to implementation of a policy that does a better job of balancing the interests of anglers and marina concessionaires?

Answer: I strongly support public access to Corps recreation facilities, and I also am aware of the need to balance this with the right of concessionaires who develop facilities at their own expense to profit from their investments. If confirmed, I will commit to reviewing this issue to determine if a new policy should be implemented in order to achieve a better balance between the interests of anglers and marina concessionaires.

8. Please describe what you would like to see accomplished under the Obama Administration regarding Clean Water Act jurisdiction, keeping in mind the federal interests and state prerogatives envisioned in the Clean Water Act?

Answer: I have not had specific conversations with the President or members of his staff about Clean Water Act jurisdiction, but I do know that generally, his Administration is looking for good government, and applying the principles of consistency, predictability, and transparency to its regulatory programs is consistent with this philosophy. I support these tenets. If confirmed, I will certainly keep in mind the federal interests and state prerogatives envisioned in the Clean Water Act when implementing the Section 404 program.

9. Do you believe federal jurisdiction under the Clean Water Act should extend beyond "navigable waters"? If yes, how far beyond? Do you believe federal jurisdiction should include all intrastate waters? How about ephemeral features? Are there any waters you would not include?

Answer: Before forming an opinion on whether or not Clean Water Act jurisdiction should extend beyond navigable waters, I would seek more technical and science-based information on all the potential ramifications of this issue and a complete understanding of exactly what waters and aquatic resource types are involved. If confirmed, I will work with the Corps of Engineers and the Army General Counsel to focus on jurisdictional issues surrounding interstate waters and ephemeral features.

10. What is your opinion of the Clean Water Restoration Act, as introduced earlier this year by Senator Feingold?

Answer: I am generally aware of the Clean Water Restoration Act introduced earlier this year by Senator Feingold, however I have not yet formulated an opinion on the bill, nor do I yet fully understand its implications for the Section 404 Regulatory Program. If confirmed, I will make it a priority to study the bill and work with you and the Corps to understand its implications.

11. The "significant nexus" test has been criticized for leading to arbitrary applications and uncertainty within industry regarding what waters are, and are not, considered waters of the United States. Do you agree? How would you as Assistant Secretary of the Army for Civil Works seek to bring more certainty to industry regarding where Clean Water Act regulation applies? Will you commit to working with my staff in finding ways to improve certainty and increase permitting efficiency?

Answer: If confirmed, I am committed to working with you and your staff to review how the "significant nexus" test has been applied, what issues have arisen, and where we might need to work together to address jurisdictional, regulatory certainty, and permitting efficiency issues.

12. What is your understanding of the shared role of the EPA and Army Corps of Engineers in implementing the Clean Water Act? Do you intend to seek to modify the

shared responsibilities? Do you intend to coordinate with other agencies in implementing the Clean Water Act?

Answer: My experience working for the Senate EPW Committee has afforded me insight into how the Corps and EPA share Clean Water Act responsibility. I have a basic familiarity with the Act and it clearly gives both agencies specific roles and responsibilities, with EPA being responsible for most of the Act and the Corps responsible for Section 404 permitting. If confirmed, I would support continued cooperation between the agencies and at this time have no plans for seeking to modify the sharing of responsibilities.

13. I am sure you are aware of current backlogs of section 404 permits for coal mining, primarily the Huntington and Louisville Corps District Offices. These permits are critical to the continuation of existing mines and for new and expanding mines that will create or maintain thousands of high paying jobs in these regions. Many of the permits have been pending for two even three years. What will you do to address the backlogs?

Answer: Being only generally aware of the backlog of mining permits in West Virginia and Kentucky, I hold the view that the efficient processing of Section 404 permits is important to the nation, our economic recovery and health, and for achieving CWA environmental protection objectives. If confirmed, I will make the Section 404 Regulatory Program a priority, and work with the Corps and Congress to address issues like permitting efficiency, backlogs, staffing, and funding for the Section 404 Regulatory Program.

14. Will you commit to immediately issue all of the pending permits aside from the six that EPA claims may require further review?

Answer: I am unable to commit at this time to issuing all pending permits aside from the six that EPA seeks further review. I am sure that there are legal and regulatory requirements that must be satisfied before permits can be issued and I do not know, at this point, which permits are pending and which six permits EPA may wish to review, and why. However, if confirmed, I will immediately look into this issue.

15. The U.S. Court of Appeals for the Fourth Circuit recently issued a decision that in large part validates the Corps' process for reviewing and issuing permits authorizing discharges to waters associated with coal mining operations. Despite that, EPA is advocating the need for a much stronger role in Corps section 404 permit decision-making process for coal operations. This can cause duplication, delay, and increasing uncertainty in the program. What will you do to ensure the Corps maintains the ability to exercise its independent and primary decision-making authority as Congress intended?

Answer: I am generally familiar with the 4th Circuit's decision however I have only limited knowledge as to how the decision is being interpreted by the Corps or USEPA. I am also generally familiar with the CWA from my time working for the Senate EPW

Committee, and understand that the Corps has a responsibility to make independent permit decisions.

16. What will you do to ensure for those of us who believe the Corps is doing a good job of performing environmental review of these permits, as recognized by the courts, that the flow of permits will no longer be unnecessarily delayed by the EPA re-review process?

Answer: If confirmed, I will look into issues regarding permit processing times and procedures, and also coordination requirements, with a view to having the Corps Regulatory Program be as efficient as practicable. I do not have any information regarding EPA wanting to re-review Corps permits. I will have to look into this issue and provide you with a response in the future, should I be confirmed.

17. I know you have no direct role in the EPA deliberations but you will have a consultative role, at least given your responsibilities to administer the CWA Section 404 permit program. What are your views on our continued use of coal and more specifically, what are your views on the current methods used to extract coal?

Answer: I am aware that there are issues regarding the use of coal and the methods by which it is mined. I do not have a detailed and comprehensive understanding of coal use and extraction issues. If confirmed, I will be briefed by the Army General Counsel, by my staff, and by the Corps. It also is likely that I would talk to officials from the Department of the Interior and the Office of Surface Mining before I could comment on these important questions.

Senator George V. Voinovich

1) For many years, I have raised concerns about the significant backlog of Corps work throughout the country as well as in the Great Lakes. The Corps estimates a backlog of 18 million cubic yards at commercial harbors that need to be dredged, and over 100 miles of breakwaters that need repairs. This backlog problem is, in part, the result of the Corps practice of treating the Great Lakes as a coastal system and comparing individual ports using tons as a budget metric. In contrast, the Corps budgets our nation's river systems on a ton-mile metric. The current budget process and metrics put the Great Lakes navigational system at a disadvantage compared to other domestic navigational systems. How do you plan to address the backlog of Corps' work across the country, and in particular the Great Lakes?

   Answer: The nation's navigation channels and waterways are vital components of our transportation system. However, competition for Federal funds is very keen, and in a constrained funding environment the Corps must prioritize its maintenance needs across the spectrum of projects. If confirmed, I will analyze the Corps current procedures and performance measures for allocating scarce funding and will seek ways to refine the metrics applicable to maintenance funding to ensure that funding for navigation infrastructure is budgeted on a sound basis that takes systematic impacts into consideration. If confirmed, I will review current budgetary guidelines and give full consideration to what changes, if any, are needed to enable the Corps to allocate available Civil Works funds in the most equitable manner possible.

2) Despite the significant backlog of Corps work, the Harbor Maintenance Trust Fund has approximately a $4 billion surplus that is growing each year. As you know, the money collected for the Harbor Maintenance Trust Fund is intended for a specific purpose—maintaining harbors and channels. Do you believe that additional money should be provided to the Corps from the Harbor Maintenance Trust Fund?

   Answer: I understand that there is a large unspent balance of revenues and interest in the Harbor Maintenance Trust Fund and that the annual revenues exceed recent rates of spending for eligible navigation operation and maintenance. I believe this matter merits serious review within the Administration to determine whether policy, budgetary, or legislative changes are appropriate.

3) Various species of Asian carp have been threatening to invade the Great Lakes for a couple of years, and other invasive organisms in the Great Lakes have the potential to invade the Mississippi River via the Chicago Sanitary and Ship Canal.

In an effort to slow or stop the spread of invasive species between the Great Lakes and the Mississippi River watersheds, which are connected as a result of a Corps project, Congress authorized a dispersal barrier demonstration project in the National Invasive Species Act of 1996. The barrier has been operating successfully for several years, and a second, permanent barrier is partially operational. Will you make ecosystem protection and prevention of organism movement the principle driver for making decisions about the electrical barrier system, and will you commit to completing the authorized report on progress toward identifying a more permanent solution to the problem of interbasin organism movement?

Answer: From my experience working for the Senate Committee on Environment and Public Works, I am aware that invasive species such as the Asian carp are a critical concern for the Great Lakes. The Chicago Sanitary and Ship Canal is an obvious pathway for these species to reach the Lakes, presenting a pressing threat. If confirmed, I will ensure that the best science and engineering are applied to complete the ongoing inter-basin transfer report and to complete the proposed three barrier system to keep the Asian Carp out of the Great Lakes. I will also work with the Corps to explore additional alternatives, making every effort to keep invasive species from the Lakes.

Senator BOXER. Thank you.

Peter Silva, nominated for Assistant Administrator, EPA Office of Water.

STATEMENT OF PETER S. SILVA, NOMINATED TO BE ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY'S OFFICE OF WATER

Mr. SILVA. Thank you, Madam Chairman.

Please allow me to express my gratitude to you, Madam Chair, and Ranking Member Inhofe, for holding this hearing and to all of the Committee members for the environmental leadership that you provide.

First of all, let me introduce my wife of 32 years, Ana Silva, and our son, Diego, who have come here from San Diego to be with us today.

Senator BOXER. Welcome.

Mr. SILVA. My mom wanted to be here today but she is 90 now and it is hard for her to travel. But she is here in thought with us.

I am humbled that President Obama has nominated me for the position of Assistant Administrator for Water at the U.S. Environmental Protection Agency. I am also honored that EPA Administrator Jackson has expressed her confidence in my ability to work as part of her team.

I have worked all my professional career of nearly 32 years in the water and wastewater fields. Since graduating from Cal-Poly Pomona with a degree in Civil Engineering, I have held a number of positions in the public sector related to both the provision of drinking water and the management of wastewater. I have served agencies at the local, city, State, Federal and international levels. In serving for those agencies, I have been both a regulator and someone who has been regulated. I believe this experience gives me a unique perspective on what it takes to bring divergent views on an issue together to try to find the common ground.

Within my career, I have seen how effective the Clean Water Act, the Safe Drinking Water Act, and other laws have been in protecting and enhancing the water resources of this Nation. We have made great progress in addressing point source pollution and in establishing key regulations to make our drinking water safe and reliable. A key component of that success has been the Federal funding made available to States and communities to build needed water and wastewater infrastructure.

However, despite the considerable progress we have made in the last three decades, we now see additional challenges have arisen in the areas of non-point source pollution and in new emerging pollutants of concern. Some of our great water bodies are now threatened and the health risks of these new pollutants need to be better understood and addressed.

The challenges we face now are similar in scope to those we confronted in the late 1960s and early 1970s. We need to confront them with a similar national leadership. We will need new models of collaboration, especially since some of these major challenges impact multiple States, tribes and jurisdictions. Additionally, we must analyze when and how regulatory frameworks can be used to ac-

complish the most efficient results. Finally, we need to carefully consider how to ensure that our water, wastewater, and storm water infrastructure can be better financed and managed sustainably.

As we move forward to address these pressing challenges to our Nation's waterways, I believe we have a unique opportunity to work with stakeholders at all levels of government, as well as non-governmental organizations, in crafting new solutions for this new generation of issues.

I am really excited about the opportunity to serve EPA and our Country at this time in our history. I pledge to work with this Committee, Congress and the Administration in protecting America's waters so that they can be used and enjoyed by all citizens.

Again, thank you for this opportunity.

[The prepared statement of Mr. Silva follows:]

Statement of Peter S. Silva
Hearing on Nominations
Committee on Environment and Public Works
United States Senate
May 12, 2009

Thank you, Madam Chairman.

Please allow me to express my gratitude to you, Madame Chair and Ranking Member Inhofe for holding this hearing and to all the Committee members for the environmental leadership you provide.

I would like to introduce my wife of 32 years, Ana Silva, and our son, Diego. They both have come out from San Diego to be here today. My mom really wanted to be here today but she is now 90 and travelling is very hard for her.

I am humbled that President Obama has nominated me for the position of Assistant Administrator for Water at the U.S. Environmental Protection Agency. I am also honored that EPA Administrator Jackson has expressed her confidence in my ability to work as part of her team.

I have worked all my professional career of nearly 32 years in the water and wastewater fields. Since graduating from Cal-Poly Pomona with a degree in Civil Engineering, I have held a number of positions in the public sector related to both provision of drinking water and management of wastewater. I have served for agencies at the local, city, state, federal and

international levels. In serving for those agencies, I have been both a regulator and someone who has been regulated. I believe this experience gives me a unique perspective on what it takes to bring divergent views on an issue together to try to find the common ground.

Within my career, I have seen how effective the Clean Water Act, the Safe Drinking Water Act, and other laws have been in protecting and enhancing the water resources of this nation. We have made great progress in addressing point source pollution and in establishing key regulations to make our drinking water safe and reliable. A key component of that success has been the federal funding made available to states and communities to build needed water and wastewater infrastructure.

However, despite the considerable progress we have made in the last three decades, we now see additional challenges have arisen in the areas of non-point source pollution and in new emerging pollutants of concern. Some of our great water bodies are threatened and the health risks of these new pollutants need to be better understood and addressed.

The challenges that we face now are similar in scope to those we confronted in the late 60's and early 70's. We need to confront them with a similar national leadership. We will need new models of collaboration, especially since some of the major challenges impact multiple states, tribes, and jurisdictions. Additionally, we must analyze when and how regulatory frameworks can be used to accomplish the most efficient results. Finally, we need to carefully

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As we move forward to address these pressing challenges to our nation's waterways, I believe we also have a unique opportunity to work with stakeholders at all levels of government as well as non-governmental organizations in crafting new solutions for this new generation of issues.

I am excited about the opportunity to serve EPA and our country at this time in our history. I pledge to work with this Committee, Congress and the administration in protecting America's waters so that they can be used and enjoyed by all citizens.

Again, thank you all for this opportunity.

Environment and Public Works Committee Hearing
May 12, 2009
Follow-Up Questions for the Record for Peter Silva, Nominee for
EPA Assistant Administrator for Office of Water

Senator Barbara Boxer

1. Under the Safe Drinking Water Act, EPA has established maximum contaminant levels (MCLs) to protect public health. EPA data show that hundreds of drinking water systems around the country have failed to comply with the MCLs for arsenic and radionuclides, as well as other contaminants. If confirmed, will you commit to brief my committee staff within 90 days of your confirmation to describe the actions that EPA can take to help bring these systems into compliance, and thereafter to work closely with the EPW Committee staff regarding EPA's implementation of such measures?

Answer: *Yes.*

2. Mr. Silva, green infrastructure projects, like decentralized wastewater treatment, protect the environment and public health through effective treatment, water conservation, and energy efficiency. They also contribute to the reduction of greenhouse gas emissions. While the use of these practices is growing, many of these technologies are new to municipalities. Do you commit, if confirmed, to report back to this Committee on the use of green infrastructure nation-wide and any institutional barriers to implementation of green infrastructure projects?

Answer: *Green infrastructure is a promising and logical approach for helping to reduce stormwater pollution. If confirmed, I will work closely with EPA partners on this exciting initiative. I look forward to reporting back to the Committee on the Agency's progress.*

Senator Frank R. Lautenberg

1. The EPA estimates that about eight hundred fifty (850) billion gallons of untreated wastewater and storm water from Combined Sewer Systems are released into our streams, lakes, and rivers each year. I have introduced a bill with Senator Voinovich that would provide grants to local governments to help fight this public health risk. What steps will you take to reduce the frequency and amount of sewer overflows?

Answer: *EPA published the Combined Sewer Overflow Policy in 1994. To date, most CSO communities have developed CSO control plans as called for by the CSO Policy and have begun construction of the improvements. If given the opportunity to serve EPA as the Assistant Administrator for the Office of Water, I will place a high priority on ensuring that the remaining communities complete their plans and begin implementation. Once the grants program is enacted, I will work with states to award grants expeditiously to CSO permittees to allow construction to move forward as soon as possible to reduce the environmental and public health impact of sewer overflows.*

Senator James M. Inhofe

1. Please expand on the answer you gave during the hearing regarding your views on the Clean Water Act: Should federal jurisdiction under the Act extend beyond "navigable waters"? If so, how far beyond?

Answer: *When enacting the Clean Water Act in 1972, Congress used the term "navigable waters" to describe the geographic scope of the Act. Both legislative history and subsequent U.S. Supreme Court decisions recognize that term is intended to include waters broader than the traditional understanding of the term "navigable," and I agree with that view.*

2. Do you believe federal jurisdiction should include all intrastate waters?

> **Answer:** *No.*

3. Do you believe federal jurisdiction should include ephemeral features?

> **Answer:** *I understand that current federal jurisdiction extends to some ephemeral features, a decision being made on a case-by-case basis. I believe this practice is consistent with the requirements of the Clean Water Act, its regulations, and existing case law.*

4. Would you please characterize your understanding of what the Corps and EPA definition is for tributary?

> **Answer:** *My understanding is that existing Corps and EPA regulations do not define the term tributary.*

5. Would your definition of tributary include all ditches, some ditches, or no ditches?

> **Answer**: *I understand that the Corps and EPA currently regulate some ditches, for example, ditches excavated from waters of the U.S. I believe this practice is consistent with the Clean Water Act, implementing regulations, and existing case law.*

6. How would you suggest the federal government distinguish between a nonjurisdictional ditch and a tributary?

> **Answer:** *This decision must be made consistent with the requirements of the Clean Water Act, implementing regulations, and existing case law. If confirmed, I look forward to working with you and the Committee to further clarify this important question.*

7. Would your definition of tributary include areas that have flowing water only during, and for a short duration after, precipitations events in a typical year?

Answer: *As I have said, this important decision must be made consistent with the Clean Water Act, implementing regulations, and existing case law. I look forward to the opportunity to work with you and the Committee on these jurisdictional questions if I am confirmed.*

8. Based on your understanding of the term "intrastate" water, could that term reasonably include groundwater? Why or why not?

Answer: *No. See question 9 below.*

9. What in your opinion constitutes "intrastate" waters?

Answer: *I believe intrastate waters are those that lie wholly within the jurisdiction of a single state, and do not cross or form the border of a state, tribe, or international boundary.*

10. To your knowledge has EPA ever had a regulatory definition of what constitutes a water?

Answer: *While EPA has defined the term "waters of the United States," I am unaware of a regulatory definition of the term "water."*

11. Are there any waters you would not include in federal jurisdiction?

Answer: *Yes. Consistent with the Clean Water Act, implementing regulations, and existing case law, certain waters are not subject to federal jurisdiction.*

12. In your opening statement, you said, "The challenges that we face now are similar in scope to those we confronted in the late 60's and early 70's. We need to confront them with a similar national leadership." Would you please explain what you mean, and cite specific examples of environmental challenges of today that are comparable to those of 40 years ago?

Answer: *Forty years ago, the foremost challenges for safe and clean water were toxic and conventional pollutants from industrial and municipal point source discharges. While we must continue to address those issues, it has become clear that our nation is facing new challenges. Nutrient pollution from nonpoint source run-off and other sources is a key challenge. Another major challenge is the fact that our nation's water and wastewater infrastructure is aging and facing increasing demands due to population growth, changes in land use, and socioeconomic pressure.*

As an example, nitrogen and phosphorus pollution from urban stormwater run-off, municipal wastewater treatment, agriculture, and atmospheric deposition of nitrous oxide has the potential to become one of the most difficult environmental problems we face in the 21st century The most publicized consequence of nutrient pollution can be

seen in the increasing number and size of 'dead zones', areas where nutrients have caused the lack of oxygen, such as in the Gulf of Mexico, the Chesapeake Bay, and the Columbia River Basin.

I believe that challenges like nonpoint source pollution require that we find innovative ways of protecting the nation's water quality. If confirmed, I look forward to working collaboratively with you and the Committee and with partners in the States, Tribal governments, local communities, Regions, other Federal agencies like USDA, and the public to address these challenges.

13. Small communities struggle financially to meet increasing federal regulations. How do you plan to assist communities trying to comply with drinking water and clean water regulations but lacking the financial and technical resources they need?

Answer: *The resources of small communities can be limited, and we need to be mindful of these resource limits in implementing environmental programs. I believe SDWA and the CWA give EPA the ability to provide support and flexibility to small systems as they implement public health standards. If confirmed, I will evaluate EPA's drinking water policies and consider the authorities provided by SDWA and the CWA, such as capacity development and operator training programs, to determine how best to assist small communities to comply with drinking water regulations.*

14. The Safe Drinking Water Act amendments of 1996 directed EPA to identify affordable technologies for each drinking water standard that the Agency finalizes. If the Agency is unable to identify a treatment technology that is affordable for small systems, it must identify a variance technology that is protective of public health. To date, EPA has never issued or approved a variance technology. Small communities in Oklahoma and across this country struggle with costs of compliance. Will this policy change under your leadership?

Answer: *If confirmed, I will evaluate EPA's drinking water policies to determine how best to provide equitable treatment of small system customers. I will review EPA's small system variance policy and other measures such as the financial assistance to disadvantaged systems through the State Revolving Fund, and technical assistance through capacity development and operator training programs.*

15. What is your understanding of the shared role of the EPA and Army Corps of Engineers in implementing the Clean Water Act? Do you intend to seek to modify the shared responsibilities? Do you intend to coordinate with other agencies in implementing the Clean Water Act?

Answer: *Both agencies have important roles defined by the Clean Water Act. If confirmed, I look forward to coordinating closely with my counterparts at the Corps and other involved federal and state agencies, to ensure that Clean Water Act programs are implemented in a consistent, predictable, and environmentally responsible manner.*

16. The EPA Office of Inspector General (OIG) plays an important role in ferreting out fraud, waste and abuse and in assessing the efficiency and effectiveness of agency programs. How do you plan to work with the OIG if confirmed?

> **Answer**: *I recognize that the OIG plays a significant role in holding the Agency accountable in meeting its financial and programmatic commitments, and if confirmed, I will cooperate with the OIG in any review it undertakes of OW activities*

17. The OIG may make recommendations designed to improve Agency operations and programs that you may not agree with. How will you respond when such disagreements arise?

> **Answer**: *I understand that there is an existing process to address disagreements between OIG and Agency offices concerning OIG recommendations. If confirmed, I anticipate following that process in the event that the OIG makes a recommendation that I do not believe is appropriate.*

18. Having free and unfettered access to Agency employees and information is critical for the OIG function. How will you ensure the OIG has such access?

> **Answer**: *I understand how important it is for the OIG to obtain access to the information it needs to carry out its duties and responsibilities, and if confirmed, I will cooperate with the OIG in any review it undertakes of OW activities.*

19. What do you plan to do differently to get USDA to use their substantial amount of conservation grant funds to achieve the greatest environmental results? Why might USDA not already be doing this?

> **Answer**: *I believe that USDA and EPA can work together more effectively to ensure that conservation funding is targeted to achieve the best environmental results. If I am confirmed, I will be interested in finding new ways to work together with USDA to ensure that conservation funding is used, for example, to reduce the amount of nutrients and sediment being discharged into surface waters and to enhance ecosystem protections. As USDA continues to focus more resources on environmental protection, it is likely that of such funding will achieve greater environmental benefits.*

20. How do you plan to get more out of the States that are authorized to run their own water programs?

> **Answer:** *To date, 46 states have authorization to administer their NPDES programs. Drawing upon my long-standing experience with the California Water Board, I would seek to build upon and strengthen partnerships with states and state associations to better understand their needs, the challenges they face and how to collaborate together*

on areas of common interest. EPA would continue to provide guidance and technical assistance to States to assist in implementing Clean Water Act programs

21. Are you willing to change the management structure of the Office of Water to better utilize taxpayer dollars? What specific changes would you make?

Answer: *It would be premature for me to commit to any specific changes until I have more fully witnessed the structure and operations of the Office of Water. However, when I worked for the State of California, we utilized EPA infrastructure funds, and I know how critical those funds are to States. Even though I feel that EPA's programs are good mechanisms, there is always room for improvement. If confirmed, I want to look both at the internal structure at EPA, and at how to improve the way EPA's Office of Water works with states and regional governments.*

22. What do you think needs to be changed in the Clean Water Act to allow you to meet your responsibilities as EPA's national program manager for water?

Answer: *I do not currently have enough information to comment on potential specific revisions to the CWA. I would reiterate the Administrator's concern, however, that legislation clarifying the scope of Clean Water Act jurisdiction is necessary. If confirmed, I look forward to working with you and the Committee to evaluate our options for ensuring the CWA allows EPA to meet its responsibilities. In addition to this, I believe that collaboration with other federal agencies, States, NGOs, and others is an important component of how EPA does its work.*

23. What do you see as the greatest challenges facing the Office of Water? How do you intend to address them?

Answer: *The complex issues facing the water program demand a new model of collaboration. Major issues such as those facing the Great Lakes, the Mississippi River, and the Chesapeake Bay, for example, involve many States and jurisdictions, and many different sources of pollution. If confirmed, I intend to work together with stakeholders to develop coordinated solutions.*

24. How do you plan to work with OECA to ensure adequate enforcement of the Clean Water Act?

Answer: *I understand the importance of ensuring that the National Water Program coordinate closely with EPA's Office of Enforcement to ensure adequate enforcement of the Clean Water Act. If confirmed, I will work with my counterpart in OECA and ensure effective communication and collaboration.*

25. How will you ensure that EPA works with States and municipalities to ensure that

water infrastructure is maintained or updated?

Answer: *I recognize the importance of ensuring that EPA coordinates closely with our partners in the states and local communities to maintain water infrastructure. Drawing upon my long-standing experience with the California Water Board, if confirmed, I would seek to build upon and strengthen partnerships with states and state to better understand their needs, the challenges they face and how to collaborate together on areas of common interest. EPA would continue to provide guidance and technical assistance to States to assist in implementing Clean Water Act programs.*

26. How will you work to ensure EPA appropriately uses Recovery Act funds?

Answer: *The economic recovery of this nation is one of the Administration's highest priorities. If confirmed, I will work with the States to ensure that the recovery funds for water infrastructure provided through the ARRA are put to work quickly and effectively.*

27. EPA has engaged in a review process for all coal mining permits pending in the central and eastern Corps Districts. This process is essentially holding back the issuance of critical permits until EPA Headquarters reviews and signs off on them. With only a few exceptions, these are permits that EPA Regions have already had an opportunity to comment on and in many cases have seen issues brought to resolution. In addition, with only a few exceptions, the state water quality authority has also certified that the projects will not violate state water quality standards under the CWA. I remain extremely concerned that this re-review of permits appears more politically than environmentally driven. How long do you expect this review process to take? What do you believe this review process seeks to accomplish?

Answer: *If confirmed, I look forward to working closely with you and the Committee to ensure that Clean Water Act permitting of surface coal mining operations proceeds in a timely, consistent and environmentally responsible manner and in coordination with the requirements of the Surface Mining Control and Reclamation Act.*

28. Based upon Acting Assistant Administrator Mike Shapiro's response to my earlier questions about this process, I am concerned that EPA intends to develop policy changes in the CWA Section 404 regulatory program for issuance of Section 404 permits for coal mining operations. There is a regulatory process for accomplishing this, but it appears EPA is skirting that process and making policy changes that will have real implications in the regulatory program outside the requirements of the Administrative Procedures Act. If you are confirmed, what will you do to ensure this is not the case and that any changes EPA seeks in the Section 404 regulatory process will be done in compliance with the APA, including the required public notice and comment?

Answer: *I understand the importance of coal mining for jobs, state economies, and the Nation's energy needs. I also appreciate that Clean Water Act programs must be implemented with consistency, timeliness, transparency, and based on the best available*

science. If confirmed, I look forward to working with you and the Committee, if confirmed, to assure these critical objectives are met.

29. What can you do to ensure the views of agriculture are represented and understood by your office and the Office of Prevention, Pesticides and Toxic Substances?

Answer: *As a member of the California Water Resources Control Board, worked successfully with farmers to develop BMPs when the agricultural waiver in the California Porter-Colgone Act expired. I learned that it is essential that USDA and other stakeholders are involved in crafting solutions. It is my understanding that EPA has regular meetings with other government agencies, including USDA and state departments of agriculture, as well as meetings with private sector agricultural representatives where there is an opportunity for all parties to discuss environmental issues that directly affect agricultural interests. If confirmed, I will continue to promote these discussions and to consider the contributions of the agricultural community in achieving solutions to environmental concerns.*

30. EPA and National Academy of Sciences (NAS) undertook a comprehensive review of the chemical perchlorate, which is found at a variety of levels from a variety of sources across the country. Recently, EPA has asked again for assistance from NAS regarding the health effects of perchlorate in drinking water. There is considerable activity underway on perchlorate, and top scientific bodies are working in and outside EPA to reach the best result from a scientific and public health perspective. Will you pledge to obtain the best available scientific information on perchlorate, without regard to politics or ideology?

Answer: *Yes.*

31. Can you assure me that any recommendation you then make to Administrator Jackson regarding a final regulatory determination for perchlorate will be based upon the best available, peer reviewed science and not influenced by politics and ideology? Will you be transparent in showing how you make your determination on perchlorate and its effects, showing what scientific information you used?

Answer: *Yes.*

32. The EPA OIG recently conducted a scientific analysis suggesting meaningful health benefits are more likely to be achieved by increasing iodide consumption for certain populations than EPA's current focus on removing exceedingly small amounts of perchlorate from drinking water. The OIG report concludes that a "cumulative risk assessment approach is required to identify potential actions that will effectively lower risk to public health." Do you agree with the conclusion of the OIG report that public health policy is better informed by reviewing the cumulative risks presented by perchlorate and other chemicals that stress the thyroid's ability to uptake iodide, such as thiocyanate and nitrate?

Answer: *If confirmed, I will evaluate the draft report entitled Office of Inspector General Scientific Analysis on Perchlorate, the comments received by the OIG on its draft report (see http://www.epa.gov/oig/reports/perchlorate.htm) and I will consider the recommendations in the final OIG report when it is published.*

Senator George V. Voinovich

1. What is your philosophy regarding the balance between expeditiously achieving wet weather controls and the economic climate in which we currently find ourselves?

Answer: *I understand the challenges that many communities face in the current economic climate. At the same time, the public demands and deserves clean and safe water. If confirmed, I pledge to work with States, communities and other stakeholders to find solutions that are as affordable as possible while protecting public health and the environment. Indeed, the recent increases from the ARRA and in the Clean Water SRF and the Drinking Water SRF funds will be a significant help, and I pledge to help communities make effective use of these funds.*

2. Do you think your background lends itself to a more creative approach to working with regulated entities as it relates to preventing water pollution and the realities of operating those entities? If so, please describe some examples.

Answer: *I have worked as both a regulator and as someone who is regulated, and so I understand the tension between ensuring the law is implemented and providing affordable services. This background will help me work with stakeholders and partners to craft collaborative approaches to the many challenges faced by the national water program. For example, when the agricultural waivers expired in the Porter-Cologne Act (California's implementation of the Clean Water Act), The Water Resources Control Board on which I sat worked closely with the agricultural sector to craft solutions that protected water quality. Similarly, when the 9th Circuit upheld EPA's stormwater Phase II regulation, The WRCB developed a general permit for small Municipal Separate Storm Sewer Systems (MS4s) that sought to adopt proactive and flexible approaches for planning and implementation that reduced burden on communities while protecting watersheds and sensitive waters. When I worked for the City of San Diego, I was involved in a major planning and construction effort to comply with CWA secondary treatment standards. I also worked hands-on for five years at the City's water treatment plant. My understanding of the issues from many perspectives will enable me to guide the Office of Water in working with regulated entities.*

Senator BOXER. Thank you, sir.

And now, last but not least again, Stephen Owens, nominee for Assistant Administrator, EPA Office of Prevention, Pesticides and Toxic Substances.

STATEMENT OF STEPHEN A. OWENS, NOMINATED TO BE ASSISTANT ADMINISTRATOR FOR THE EPA OFFICE OF PREVENTION, PESTICIDES AND TOXIC SUBSTANCES

Mr. OWENS. Thank you, Madam Chairman.

First of all, please let me thank you and Ranking Member Inhofe for holding this hearing and giving me the opportunity to be here. I also want to thank Senator Inhofe, Senator Udall and other members of this Committee and their staff for taking the time to meet with me during this past week. I appreciated that very much.

Also, Madam Chairman, if I may, I would like to introduce my wife, Karen Owens, who is here with me today. She is sitting behind me.

Senator BOXER. Welcome, Karen.

Mr. OWENS. Karen and I have two terrific teenage boys, John and Ben, who are back home in school today but are very much with us in spirit.

I am extremely honored to have been nominated by President Obama to be the Assistant Administrator for the Office of Prevention, Pesticides and Toxic Substances at the Environmental Protection Agency. The President and Administrator Lisa Jackson have made addressing toxic chemicals a top priority for EPA.

I grew up in a poor family. We lived in public housing for a time when I was young and I had part-time jobs while growing up to help make ends meet.

I worked my way through college and law school with the help of work-study jobs and student loans. I was fortunate to be admitted to Brown University, where I graduated with honors, and thereafter to attend Vanderbilt Law School, where I was Editor in Chief of the Law Review.

I have always had a deep commitment to public service. For the last 6 years, as you indicated, Madam Chairman, from January 2003 until January of this year, I served as Director of the Arizona Department of Environmental Quality under Governor Janet Napolitano, making me the longest serving Director in ADEQ's history. As Arizona's environmental protection agency, ADEQ is responsible at the State level for many of the programs overseen by OPPTS.

As the father of a son with asthma, I made protecting children's health and reducing children's exposure to toxic pollutants a top priority at ADEQ. In early 2003, I launched the Children's Environmental Health Project and I later established an Office of Children's Environmental Health at the Department. Among our many efforts, we worked with schools to protect children from exposure to lead in drinking water, reduced mercury-containing equipment in schools and minimized the use of pesticides on school properties through integrated pest management. We promoted environmentally healthy schools and "green" schools, and we required facilities with permits or approvals from ADEQ to ensure that their

activities do not present environmental health risks to our children.

In pollution prevention, we launched initiatives to remove mercury switches in old motor vehicles, help businesses implement environmental management systems, promote the construction of "green" buildings and assist facilities seeking LEED design and certification. We also worked closely with Indian nations in Arizona to reduce toxic pollution on tribal lands.

We established an aggressive outreach effort to help local businesses and communities reduce exposure to asbestos hazards in aging buildings, especially in rural communities like those along Old Route 66 in Northern Arizona, where many historic old buildings have asbestos.

Prior to becoming ADEQ Director, I was privileged to serve as a member of the Joint Public Advisory Committee of the North American Commission on the Environmental Cooperation where we addressed issues such as persistent organic pollutants, agricultural biotechnology, lead contamination and the development of regional action plans for toxic substances, among many other matters.

I began my Government service years ago in the early 1980s on the staff of the U.S. House Committee on Science and Technology. There I learned about a wide array of programs and activities, as well as emerging issues and technologies which are now within the purview of OPPTS.

My experiences with the Science and Technology Committee and elsewhere have led me to the strong belief that science must be the basis for what EPA does, as Administrator Jackson said in her testimony before this Committee in January. I strongly agree with Administrator Jackson that EPA's scientific decisions should reflect the expert judgment of the Agency's career scientists and independent advisors, and I pledge that if I am confirmed as Assistant Administrator, the actions of OPPTS will be based on science and the rule of law.

Madam Chairman, thank you again for the opportunity to be here today and I look forward to answering any questions that you may have.

[The prepared statement of Mr. Owens follows:]

Statement of Stephen A. Owens
Hearing on Nominations
Committee on Environment and Public Works
United States Senate
May 12, 2009

Thank you, Madam Chairman.

First, please let me thank Chairman Boxer and Ranking Member Inhofe for holding this hearing and giving me the opportunity to be here.

Also, Madam Chairman, if I may, I would like to introduce my wife, Karen, who is here with me today. Karen and I have two terrific teenage boys, John and Ben, who are in school back home in Arizona but who are with Karen and me in spirit today.

I am extremely honored to have been nominated by President Obama to be the Assistant Administrator for the Office of Prevention, Pesticides and Toxics Substances (OPPTS) at the Environmental Protection Agency.

I grew up in a poor family. We lived in public housing for a time when I was young, and I had part-time jobs while growing up to help make ends meet.

I worked my way through college and law school with the help of work-study jobs and student loans. I was fortunate to be admitted to Brown University, where I graduated with

honors, and thereafter to attend Vanderbilt Law School, where I was Editor in Chief of the Vanderbilt Law Review.

I have always had a deep commitment to public service.

For the last six years, from January 2003 until January of this year, I served as Director of the Arizona Department of Environmental Quality (ADEQ) under Governor Janet Napolitano, making me the longest serving Director in ADEQ's history.

As Arizona's environmental protection agency, ADEQ is responsible at the state level for many of the programs overseen by OPPTS.

As ADEQ Director, I made protecting children's health and reducing children's exposure to toxic pollutants a top priority. In early 2003, I launched ADEQ's Children's Environmental Health Project at the direction of Governor Napolitano, and I later established an Office of Children's Environmental Health at ADEQ. Among our many efforts, we worked with schools to protect children from potential exposure to lead in drinking water, reduce mercury-containing equipment in schools, and minimize the use of pesticides on school properties through Integrated Pest Management (IPM). We promoted environmentally healthy schools and "green" schools, and we required facilities with permits or approvals from ADEQ to ensure that their activities do not present environmental health risks to children.

In the realm of pollution prevention, we launched initiatives to remove mercury switches in old motor vehicles, help businesses implement Environmental Management Systems, promote the construction of green buildings and provide technical assistance to facilities seeking LEED design and certification. We also worked closely with Indian Nations in Arizona to reduce toxic pollution on tribal lands.

We established an aggressive outreach effort to help local businesses and governments reduce exposure to asbestos hazards in aging buildings, especially in rural communities like those along Old Route 66 in northern Arizona, where many historic old buildings have asbestos.

Prior to becoming ADEQ Director, I was privileged to serve as a member of the Joint Public Advisory Committee (JPAC) of the North American Commission on Environmental Cooperation (CEC), where we addressed issues such as persistent organic pollutants (POPs), agricultural biotechnology, lead contamination, and the development of Regional Action Plans for toxic substances, among other matters.

I began my government service years ago in the 1980s when I was counsel to the Investigations and Oversight Subcommittee of the U.S. House Committee on Science & Technology. There, I learned about a wide array of programs and activities, as well as emerging issues and technologies, which are now within the purview of OPPTS.

My experiences with the Science & Technology Committee and elsewhere have led me to the strong belief that science must be the basis for what EPA does, as Administrator Jackson said in her testimony before this Committee in January, especially for the Office of Prevention, Pesticides and Toxic Substances. I agree strongly with Administrator Jackson that EPA's scientific decisions should reflect the expert judgment of the Agency's career scientists and independent advisors, and I pledge that as Assistant Administrator, the actions of OPPTS will be based on science.

Thank you again for the opportunity to be here today.

Environment and Public Works Committee Hearing
May 12, 2009
Follow-Up Questions for the Record for Steve Owens, Nominee for
EPA Assistant Administrator for Prevention, Pesticides & Toxics Substances

Questions from Senator Barbara Boxer

1: Green Chemistry

Mr. Owens, the federal Pollution Prevention Act of 1990 declared that it is "the national policy of the United States that pollution should be prevented or reduced at the source whenever feasible..." EPA's "Green Chemistry" initiative, which is based on this Act, seeks to reduce waste and make safer products.

My State of California has an ambitious "Green Chemistry" initiative, which seeks to expand pollution prevention and accelerate the creation of safer products.

If confirmed, will you brief my staff on EPA's initiative, the lessons learned from California's efforts, and EPA's integration of these lessons into the Agency's program and work with me on efforts to update regulations in this area to reflect the latest science?

Answer *Yes, if confirmed, I would be pleased to meet with the Committee to discuss EPA's very successful Green Chemistry program as well as California's efforts. As I indicated at the hearing, I have long been a champion of pollution prevention and integrating innovative approaches, such as green chemistry, into our efforts to protect public health and the environment. I would be happy to work with this Committee further on these issues.*

2: Lead Threats

Mr. Owens, on January 5, 2001, EPA issued its rule that identified dangerous levels of lead dust from lead-based paint. The 2001 lead hazard standards are intended to guard against blood lead levels of greater than ten micrograms per deciliter. When creating the rule, EPA said that the level was based on the best science available to the Agency at that time.

Recent studies show that children are more susceptible to lead than previously thought, and that there is no known safe level of lead in children's blood.

If confirmed, will you use the best available science to review and if necessary revise the lead hazard level?

Answer: If confirmed, I will ensure my office always uses the best available science in developing its rules and making decisions. I can also assure you the Agency will be taking a close look at the basis and reasoning for the lead rules, including the lead hazard standard.

Question from Senator Frank R. Lautenberg

I plan to re-introduce the Kid-Safe Chemicals Act in the coming months.

That bill would put the burden on the chemical industry to prove that their products are safe, just as we do for drugs and food additives.

If confirmed, will you commit to working with me to give the EPA the tools it needs to protect the public from dangerous chemicals?

Answer: Yes, if confirmed, I look forward to working with you and this Committee in the months ahead on this important issue.

Questions from Senator James M. Inhofe

1. There is a great deal of interest in Washington and in this Administration to nationalize issues that have traditionally been handled by the states. You were head of the Environmental Council of the States (ECOS), so you have some unique perspectives on this matter. How do you intend to handle issues of federalism and state powers while serving in this Administration?

***Answer**: As the former Director of the Arizona Department of Environmental Quality and the President of ECOS, I know first hand the importance of having a healthy relationship between EPA and the states and if confirmed, I will work closely with the states. I support early and meaningful State involvement in the development and implementation of environmental policies and programs to increase mutual understanding, improve State-federal relations, remove barriers, reduce costs, and more quickly improve the nation's environmental quality.*

2. Registration of pesticides has been determined to be an EPA responsibility under the Endangered Species Act. But the Department of the Interior has not been cooperative in working with EPA on ESA issues. Would you speak to that issue and what steps you will take to address it?

Answer: I believe EPA, the Department of the Interior's Fish and Wildlife Service, and the Department of Commerce's National Marine Fisheries Service, share a common goal and dedication to protecting the environment, including listed species and their habitat. As part of that mission, I am committed to taking steps to enable the Office of Pesticide Programs to comply fully and in a timely fashion with the Endangered Species Act.

If confirmed, I will set a high priority on working with EPA's career staff to learn more specifics about the issues that prevent success in this area, and then will quickly move to open a dialogue with my counterparts at the Department of Interior and the Department of Commerce to explore how we can jointly carry out our duties under the ESA and the pesticide statutes, using sound science, while minimizing the burden on food and fiber production in this country.

3. Do you favor adopting the European Community's new REACH method of regulating chemicals as opposed to the risk-based ChAMP approach in TSCA? What would the economic impact be on U.S. industry if we adopted something like the REACH system?

Answer: I believe the Agency should examine a number of approaches, including REACH, to determine whether any elements of those programs are appropriate for the U.S., which includes considering their potential impacts. Ultimately, however, I believe we need a chemical program that makes sense for the United States.

4. Given President Obama's recent memoranda on sound science, what steps will you take to ensure the science based work of OPPTS is given the scientific recognition it deserves with the Fish and Wildlife Service and the National Marine Fisheries Service?

Answer: See Response to Question #2 Above. .

5. What can you do to ensure the views of agriculture are represented and understood by your office and the Office of Water.

Answer: If confirmed, I will work closely with my counterparts in the EPA and USDA to ensure the perspectives of agriculture are represented and understood as EPA carries out its regulatory responsibilities. I will ensure EPA continues to reach out to affected stakeholders, including agricultural producers.

6. The Pesticide Registration Improvement Act appears to work as EPA, Congress and industry envisioned. What steps will you take to ensure this successful partnership continues?

Answer: If confirmed, I work with EPA staff to learn more about this successful partnership to ensure its continuation.

7. EPA and National Academy of Sciences (NAS) undertook a comprehensive review of the chemical perchlorate, which is found at a variety of levels from a variety of sources across the country. Recently, EPA has asked again for assistance from NAS regarding the health effects of perchlorate in drinking water. There is considerable activity underway on perchlorate, and top scientific bodies are working in and outside EPA to reach the best result from a scientific, public health perspective. Will you pledge to be open to obtaining the best available scientific information on perchlorate, without regard to politics or ideology?

Answer: I am committed to always using the best available science in the work we do at the Agency and, if confirmed, will work with the Office of Water and others across the Agency on the perchlorate issue.

8. Can you assure me that any recommendation you then make to Administrator Jackson regarding a final regulatory determination for perchlorate will be based on the best available, peer-reviewed science and not influenced by politics and ideology? Will you be transparent in showing how you make your determination on perchlorate and its effects showing what scientific information you used?

Answer: Again, I am committed to using the best available science and the formal peer review process as a foundation of the work that we do. I also believe in making the regulatory process as transparent as possible and, if confirmed, will ensure this is the approach we take.

9. The EPA Office of Inspector General (OIG) recently conducted a scientific analysis suggesting meaningful health benefits are more likely to be achieved by increasing iodide consumption for certain populations than EPA's current focus on removing exceedingly small amounts of perchlorate from drinking water. The OIG report concludes that "a cumulative risk assessment approach is required to identify potential actions that will effectively lower risk to public health." Do you agree with the conclusion of the OIG report that public health policy is better informed by reviewing the cumulative risks presented by perchlorate and other chemicals that stress the thyroid's ability to uptake iodide, such as thiocyanate and nitrate?

Answer: If confirmed, I will work with the Office of Water as they evaluate and consider the recommendations in the final OIG report when it is published.

Question from Senator George V. Voinovich

Growers in my state are concerned about EPA's July 10, 2008 Reregistration Eligibility Decisions (RED) which will limit the use of certain soil fumigants including those used in forestry with no viable alternatives. My constituents are concerned that the RED imposes unreasonably large buffer zones and other burdens on growers who rely on soil fumigants to produce our nation's fresh fruit and vegetables, cut flowers and forestry seedlings. There are many ways in which EPA can achieve the desired environmental and public health protections without placing so many restrictions on growers that would greatly increase their costs and decrease their crop yields.

I expressed these concerns to Administrator Jackson during her January 14 confirmation hearing and she committed to "reviewing last year's REDs with EPA's career professionals, including technical and legal staff" and well as "listening to growers' concerns and to the arguments they make for amending the REDs." Prior to issuing an amended RED, will you and the Administrator work together with growers and others to achieve the environmental and public health protections in a manner that reduces the additional costs and burdens placed on growers by the 2008 RED?

Answer: It is my understanding the Agency has publicly stated its intention to issue the amended fumigant REDs this spring. If confirmed, I will work with growers and key stakeholders to implement the environmental and public health protections in the amended REDs in a manner that is effective while minimizing to the extent possible costs and burdens on growers.

Senator BOXER. Thank you so much.

Senator Inhofe.

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

Senator INHOFE. Thank you, Madam Chairman. I will be very brief.

First of all, I was glad to be able to meet with Mr. Owens and Mr. Silva in my office and, of course, everyone knows Jo-Ellen Darcy and why in the world you are willing to do this, I do not know, but I am glad you are.

[Laughter.]

Senator INHOFE. It is a tough job, and after all of the water bills that we have been through, and now you are going to be on the other side of this thing. So, it really will be helpful for us to know that we are dealing with someone who has been there, has done that, and recognizes the problems and the needs that are really critical.

I think, Mr. Silva, as I told you in my office, the water situation in my State of Oklahoma, is one of the big issues. You and I talked about some of the ways we are going to approach that. And the same thing I would say for Mr. Owens who has a very similar background in his State of Arizona that we have and some of the same problems that we have in Oklahoma. We think, and we dealt with this, we are dealing with chemicals for several years on this Committee and we have got to keep in mind that we want to protect the public but we need the chemicals. It is a balance and I think it is one that you are uniquely qualified to handle.

So, I am looking forward to supporting the nomination of all three of you, then working with you.

Thank you, Madam Chairman.

[The prepared statement of Senator Inhofe follows:]

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

Madam Chairman, I am delighted to welcome our nominees today.

I have met with Peter Silva and Stephen Owens, and I know Jo-Ellen Darcy, so I have been able to determine to some degree their perspectives on issues. I do, however, have a few questions I would like to ask today.

Water issues are vitally important to my State of Oklahoma. It is encouraging that Mr. Silva comes from the west. It means he has seen firsthand the challenges that face those of us who live in areas where the cost and availability of water are significant factors. I trust Mr. Silva will handle water issues at the Environmental Protection Agency with a great deal of sensitivity to the needs of States like mine that face significant water problems. I want to discuss with him how we can do a better job of helping small communities that can't afford to meet Washington's unfunded water treatment mandates.

As for Mr. Owens, his responsibilities will include overseeing the handling of chemicals that are essential to our safety, quality of life and economic well-being. There are issues involving the registration and use of chemicals that we need to address so that we can protect the public while maintaining the Nation's economic vitality. I want to explore how we will find the right balance.

Those of us who have been Members of EPW for a while have seen Jo-Ellen Darcy sitting at that witness table many times as a staffer answering questions about various pieces of legislation. Today she sits there as President Obama's nominee to be the Assistant Secretary of the Army for Civil Works. I'm not convinced that she's not simply jumping from the frying pan into the fire, but I offer my sincere congratulations nonetheless. Jo-Ellen appeared before the Armed Services Committee 2 weeks ago, but I'd like to reiterate in this hearing room how pleased I was to hear

of her nomination. Her intelligence, honesty and ability to work with people advocating a wide range of policy positions made her instrumental to the development of the past several Water Resources Development Acts, including WRDA 2007. I believe these traits will also serve her well as the next ASA, and I look forward to working with her in that capacity.

I want to ask each nominee one question right at the top, and that is whether each of you will agree to answer the questions and correspondence from the minority members of this committee as quickly as possible, and with the same diligence as you would with communications from the majority members?

Thank you, Madam Chairman.

Senator BOXER. Thank you so much, Senator.

Now, a lot of us will put questions into the record and how many days would we ask them to respond? If you could respond by close of business on Thursday because we are very anxious to vote you out of Committee. We are very pleased that Senator Inhofe is supporting all three of you. This is very good for us.

Let me ask my first question to Jo-Ellen Darcy, and it has to do with Sacramento flood control. I think you are aware of the pressing need for adequate flood protection in the Sacramento region. In terms of the people who are at risk, it just dwarfs anything else you can imagine. There is a lot that has to be done. So this is, basically, I am asking you to make a commitment to me to provide this Committee with an update on the Corps' progress toward meeting Sacramento's remaining flood control needs and to work with this Committee to ensure that these projects proceed in an expedited manner.

Ms. DARCY. If confirmed, I absolutely will.

Senator BOXER. All right. And I have some other questions to follow up but I will not do them now. I will do them in writing.

In terms of Corps reform, many reforms were included in the 2007 WRDA Bill. I know you were very aware of these. One of them is an independent peer review of Corps projects and updating the Corps planning guidelines. If confirmed, will you make it a priority to ensure that these provisions of WRDA 2007 are being quickly implemented in accordance with congressional intent and to give us an update on the status of the implementation as soon as you can?

Ms. DARCY. If confirmed, I will, Senator.

Senator BOXER. Very good. And on the stimulus, we wanted to make sure that you would commit to regularly report to this Committee on the expenditure of Recovery Act funding that goes through the Corps, to do everything in your power to ensure that these funds are spent quickly and efficiently.

Ms. DARCY. Yes, I will.

Senator BOXER. That is excellent. So we really will be calling on you.

Mr. Silva, I am very proud to have a hometown guy here for me and I compliment you on your great work at home because most people do not look at water districts the way we do at home. You know, there was a whole movie made about water in California. It was called Chinatown. And, if you remember, the whole theme of it is getting water into the southern part of the State was the biggest issue.

Water is probably one of our top issues because we have droughts, I will not mention global warming but for some reason they are increasing, we have problems and we are going to have,

it looks like because of the excellent bipartisan work of Senator Inhofe, Senator Carper and Senator Crapo, it looks really good that we are going to have this revolving fund for both clean water and drinking water coming before us.

Do you commit to work with this Committee to ensure that we are adequately investing in the Nation's wastewater and drinking water infrastructure?

Mr. SILVA. Yes, Madam Chair, I do.

Senator BOXER. Good. And will you also give us updated reports on how the stimulus funding is going as it goes through your area of expertise?

Mr. SILVA. Yes, if confirmed I surely will, Madam Chair.

Senator BOXER. Excellent. And, I am worried about perchlorate in water. We know we have seen many investigative reports that it shows up in mother's milk. We know that it is all over the Country, almost in every State, not quite. If confirmed, do you commit to assess whether EPA has sufficient data to regulate perchlorate in drinking water and to issue an opinion within the next 3 months of your tenure?

Mr. SILVA. Yes, if confirmed, I will certainly try to do that.

Senator BOXER. All right. You will try to do that. If you cannot do that in 3 months, I expect to know why because this has gone on and one. So we are going to hold you to a report and hope that we do not have to have an argument about it here.

The other issue is pharmaceuticals in water. EPA is part of an interagency group examining the scientific and regulatory nature of this issue. If confirmed, will you commit to make the record of your office's participation in this group public and to step up EPA's water quality monitoring efforts for pharmaceuticals?

Mr. SILVA. Yes, I will.

Senator BOXER. OK. Very good. We have so many things going on here for all of you.

In 2008, EPA issued a Clean Water Act rule that regulated CAFOs, the Concentrated Animal Feeding Operations. If confirmed, do you commit to update Committee staff within 30 days of your confirmation on EPA's enforcement effort under the rule?

Mr. SILVA. If confirmed, yes, I will.

Senator BOXER. OK. And we have some other questions for you but my time is running out so I am going to turn to Stephen here. Let us see, where are Stephen's questions? I think they are right here.

Chemical regulations. By the way, I was touched by your saying you have a child with asthma because Senator Lautenberg is always reminding us that he has a grandson with it and you know, people think that because there is so much asthma maybe it is not serious. It is very, very, very scary for a parent or a grandparent to see a child gasping for breath. And so, I think, frankly, the fact that you have lived with this, we do not ever have to say to you, you know, do you care about kids here because I know you know that kids are not little adults, they are different from us, and they need attention.

If confirmed, do you commit to provide technical advice and other assistance to my staff who are working with Senator Lautenberg's

staff to modernize our Country's system for regulating toxic chemicals?

Mr. OWENS. Yes, Senator, if confirmed I pledge to work with you on that.

Senator BOXER. Thank you. EPA is currently considering how to regulate coal ash. We all know of that disaster that happened in Tennessee in their Kingston plant. However EPA decides to proceed, and I asked Lisa Jackson about it this morning, there is a need for EPA to investigate the potential for coal ash to leech toxic metals and to prevent such pollution. If confirmed, do you commit to help try to find ways to reduce pollution problems caused by heavy metals in coal combustion waste?

Mr. OWENS. Yes, Senator, if confirmed, I look forward to working with you on that and with the offices at EPA that are looking at that issue to address that problem.

Senator BOXER. I also have additional questions for all of you but right now, Senator Inhofe, do you have any questions in addition to your opening statement? Do you have any questions in addition to the opening statement?

Senator INHOFE. Yes, just a couple of questions.

Senator BOXER. Go ahead.

Senator INHOFE. Mr. Silva, first I would say, do you believe the Federal jurisdiction of the Clean Water Act should extend beyond navigable waters?

Mr. SILVA. Senator, on that point, I would like to let you know that when I was on the State water board, we had the first SWANCC decision come down which created quite a bit of confusion in terms of jurisdiction and I understand that the Rapanos case has made that murkier. But I do believe that for EPA it is very critical that we have a better definition of navigable waters.

Senator INHOFE. I think you are right and I would only ask that as you are progressing along these lines that you and I can talk about it. We have problems. I suspect they are not unique to Oklahoma. But I do know that we have problems with waters in ditches and things that we have to be able to use some logic on.

What role do you believe States should play in setting water quality standards?

Mr. SILVA. Well, Senator, I think the States have a very critical role in that area in terms of some of their own State regulations where Federal regulations do not apply, but also just in terms or providing input to the Federal Government on how to set those standards.

Senator INHOFE. Yes. Yes. It is very difficult for me to go back to my State of Oklahoma when something that they have had very strong feelings about and are doing very well is in jeopardy because of some Federal regulation. So again, this is another thing where I think you, being a very reasonable person, we will be able to talk about these things.

And the same with you Mr. Owens. Let me ask you a question. What is your philosophy on how best to assess the risks of chemicals?

Mr. OWENS. I am sorry, I did not hear the last word after risk.

Senator INHOFE. Assessing the risk of chemicals, how to best do it. What is your philosophy? What do you keep in mind when you're trying to assess those risks?

Mr. OWENS. Well, Senator, I think the primary consideration that has to weigh not only on that issue but on any issue in front of the Office of Prevention, Pesticides and Toxic Substances is what does the science say? We really do need to be governed by the science as well as the rule of laws as indicated in my statement and my responsibility as the Assistant Administrator, if I am confirmed, is to provide vision and direction to the Office of Prevention, Pesticides and Toxic Substances so that the science can come forward and we can make decisions based on that. That is the commitment I make to you here today.

Senator INHOFE. That is what I appreciate very much.

And Ms. Darcy. I guess it is not Jo-Ellen anymore. We have a problem in Oklahoma that a few other States have, and that is that even when there is available municipal water supply storage at the existing reservoirs, which we have more than most other States do in the State of Oklahoma, and the price of that water supply storage makes it prohibitively expenses. Do you know how long it has been since this policy has been reevaluated? Has anyone looked into it recently?

Ms. DARCY. Senator, I do not know how long it has been since it has been looked like but I know——

Senator INHOFE. Do you think it is a good idea to look into it again?

Ms. DARCY. I do. It seems as though every water bill someone has an issue with pricing for water storage so it is probably something that we do need to take a look at.

Senator INHOFE. And you have been here and we have talked about what was, it is not now, but what was the most serious Superfund site called Tar Creek in the State of Oklahoma. We have done a great job, everyone has pulled together and we finally got even the Department of the Interior and all of the lawyers to talk to each other and so we are doing really great. Is there a lot left to be done that would affect the Corps of Engineers in terms of the land that is left there? We are pretty much OK on the relocations and some of those things, but the Corps will be involved and I would hope that you would be very sensitive to finishing up what we have started and working with me together on that as one of your priorities.

Ms. DARCY. I look forward to it.

Senator INHOFE. We have one question we ask everyone and I would like to have all three of you verbally respond, if you would. I am going to ask each nominee one question right at the top, and that is whether each of you will agree to answer the questions and correspondence from the minority members of this Committee as quickly as possible and with the same diligence as you would with communications from the majority members.

[Witnesses respond in the affirmative.]

Senator INHOFE. Thank you very much. Thank you, Madam Chairman.

Senator BOXER. Thank you very much. And since Senator Inhofe has his questions, I have three questions that I have to ask you and so we will just go right through the line.

Do you agree if confirmed to appear before this Committee or designated members of this Committee and other appropriate committees of the Congress and provide information subject to appropriate and necessary security protection with respect to your responsibilities?

[Witnesses respond in the affirmative.]

Senator BOXER. OK. And second, do you agree to ensure that testimony, briefings, documents and electronic and other forms of communication of information are provided to this Committee and its staff and other appropriate committees in a timely manner?

[Witnesses respond in the affirmative.]

Senator BOXER. And last, do you know of any matters which you may or may not have disclosed that might place you in any conflict of interest if you are confirmed?

[Witnesses respond in the negative.]

Senator BOXER. Thank you so much. And now we will call on Senator Udall.

Senator UDALL. Thank you, Madam Chair.

First of all, just listening to all of you, I think it is a wonderful thing to see folks in public service like you that are willing to continue it and I really look forward to working with you. You all have very distinguished careers at this point and I think are going to move down the line to add to your resumes and experience and I look forward to supporting you for your nominations on the Senate Floor.

Steve, it is also good to see you here. A cowboy boot-wearing Westerner at the table. I hope maybe Senator Inhofe notices that he is wearing those cowboy boots.

Senator INHOFE. Yes, he is already an honorary member of the boot caucus.

[Laughter.]

Senator UDALL. Good, that is good.

One of the things that you mentioned, Mr. Owens, was the fact of working with the Indian tribes in your State. I know in the neighboring State of Arizona that you have had great experience there. It has been something that you have built a reputation on and so I hope that you take that attitude to the Agency and spread it throughout the Agency because EPA and the tribes very much have to work with each other.

One of the things that I noticed that you did at your office was called pollution prevention function. You got it in the office that you held in Arizona. You got out in front of the problems. Could you talk just a little bit about that? Because I think that it is something that could work really well at the Federal level.

Mr. OWENS. Thank you, Senator Udall. You and I have known each other for a long time and I am looking forward to having the opportunity to work with you if I am confirmed.

The office of OPPTS is the Office of Prevention, Pesticides and Toxic Substances and sometimes the prevention piece does get overlooked in the work the office does. But I believe that is one of the more important things that we can be doing at EPA is to work

on pollution prevention issues, to work with businesses and small communities and individuals as well as Indian tribes to reduce pollution and exposure to toxic substances in the first place. We did a lot of that at DEQ as I mentioned in my opening statement and I look forward to continuing to work on that if I am confirmed at EPA.

Senator UDALL. Great. Thank you very much.

Ms. Darcy, it was a pleasure visiting with you at the office yesterday and great to hear how strongly Senator Baucus weighs in on your behalf which I think will serve you very well in your future career here. I would like to take this opportunity to continue to draw your attention to the Army Corps projects in New Mexico. We have a couple of levees in New Mexico that have been inspected recently and will require major repairs in the Albuquerque area. We will pursue a project authorization in the next Water Resources Development Act and would appreciate your cooperation on that.

In addition, we have been disappointed that the Southwest Valley Flood Control Project in New Mexico has not been included in the President's budget in the past years, along with several other New Mexico flood control and environmental projects and, if you are confirmed, I hope that we can work with you and you will work with a New Mexico delegation on these issues. Would you commit to do that?

Ms. DARCY. I certainly will, Senator.

Senator UDALL. Thank you very much.

Mr. Silva, I am going to just go ahead and submit to you questions for the record. But, you know, as you are very aware being from California and the west, these water infrastructure projects are so important to smaller communities and rural areas and I think it is important to bring that balance when you come to the Environmental Protection Agency, that you are serving all of the Country and making sure that the water resource programs that you have serve the rural areas and the urban areas.

So thank you all for your testimony. It is great to have you all here today and I look forward to supporting you as soon as we can get you to the Floor.

Thank you.

Senator BOXER. Absolutely. Absolutely.

Senator Carper, the floor is yours.

Senator CARPER. Madam Chair, thanks so much. And again, to our witnesses, thank you for your willingness to serve, to continue to serve our Country in these new roles. And to your parents, special thanks for the way they raised you and the kind of values that they instilled in you. And to your families, some of them are here and some of them are not, but thanks to them for their willingness to share you with the people of our Nation.

My first question is to Mr. Owens. I do not believe I had a chance to meet you when you were making your rounds but I was glad we had a chance to say hello today. I do not know if you have ever been to Delaware. I have been to Arizona many times, as guest of Janet Napolitano, as it turns out. So, it is nice to be able to meet you.

The Port of Wilmington in my State ranks as the Nation's leading gateway for the import of fresh fruit and if I could offer the

people in this room a banana, or a grapefruit or grapes, there is a pretty good chance that it came through the Port of Wilmington. We call ourselves the top banana port on the East Coast and we are very proud of it.

But we have, in our State, I think we have 600 or 700 direct and indirect jobs that flow out from the import of all of that fruit during the course of the year and several million dollars in tax revenues that inure to our State and to our region.

I mention this because the Port of Wilmington uses methyl bromide to fumigate incoming commodities, such as Chilean fruit, to prevent foreign pests from entering into this Country. We have abided by the regulations that are set by the Department of Agriculture for over, I think, 30 years, and there has not been, to my knowledge, a case reported by the Department of Agriculture of bystander exposure to methyl bromide.

I believe that the division of the EPA that I think you may end up leading has proposed changes to the regulations for methyl bromide particles in the air, provisions that would impact all ports, not just the Port of Wilmington but all ports using this substance. I have been told that these changes could have serious negative impacts on the Port of Wilmington's ability to cost effectively handle fresh commodities coming through the port. This could make the importation of Chilean grapes cost prohibitive to the point where Delaware would lose its Chilean fruit trade, which could be devastating to our local economy and to our labor forces.

I just want to be clear. I share EPA's mission to develop clean air standards that protect the public health. I think we all do. With that having been said, I want to be sure to work with you on this issue, you and your colleagues, not just when you are nominated into this position, but once you are confirmed. Do you have any thoughts on this?

Mr. OWENS. Senator, if I may, I would like to say I have seen your correspondence with EPA on that and the letter from Jim Jones, who is the Acting Assistant Administrator for OPPTS, and I am generally aware of your concerns. If I am confirmed, I very much look forward to sitting down and talking with you further about that and learning more about that issue and working with you on it.

Senator CARPER. All right. Is that all you want to say?

[Laughter.]

Senator CARPER. That is fine. You can hold it at that.

A question, if I could, for Mr. Silva. This is regarding CAFO permits. As we were discussing in our meeting last week, I said I wanted to work with you on the issue of Concentrated Animal Feed Operations or CAFO permits for the EPA's clarification on the definition of a discharge last year. Delaware had 17 CAFOs. We have a lot of chickens in my State. We do not have cattle; we have some, but not many. We have pigs, but not a lot. We have a whole lot of chickens. For every person who lives in my State, 300 chickens. And for anybody out there who is thinking about having chicken for dinner, go for it.

[Laughter.]

Senator CARPER. What is the Chick Fil A commercial? Eat chicken? Anyway, eat chicken.

Anyway, now that EPA is enforcing the rule that any animal feeding operation that might pollute surface water must apply for a permit under the Clean Water Act, Delaware's farming community is facing a drastic change in terms of regulatory requirements.

I just want to ask you to commit to making a visit to Delaware, come to those beaches that Ms. Darcy is going to help us to replenish and keep strong and beautiful. I wanted just to ask you to come to our State. I have been to San Diego any number of times and when we visit, in fact my family was back there in back in January, it is a lovely State. I was stationed in the Navy there for a while.

But I want you to come over to Delaware and maybe bring along with you the EPA Region III Administrator, who I think I rode down with the on train today as it turns out, to meet with our Delaware Department of Agriculture, with the folks from the Department of Natural Resources and Environmental Control, the Delaware Farm Bureau and poultry companies. We have got four major ones, too. See first-hand what we have done and what we have been doing for years in our State. I would just ask that you have this meeting before any further EPA inspections or actions in Delaware. Would you be willing to take a trip? It is about a 2-hour trip over to Delaware.

Mr. SILVA. Sure, Senator, it would be a pleasure to visit your State, sir.

Senator CARPER. I think you will like it.

Finally, for Ms. Darcy, on beach replenishment. A lot of people come to Delaware and they come for a variety of reasons. Some people from Washington actually go there to go to our beaches from Fenwick Island on up to Cape Henlopen State Park. Hopefully, in about 2 or 3 years we are going to have the Nation's first windmill farm about 12 miles off the coast of Rehoboth Beach, another thing for us to really be proud of, I think.

But restoring Delaware's beaches to their congressionally authorized size is one of my State's top priorities. Beach replenishment is critical to protecting our communities against natural disasters, hurricanes and nor'easters, and in maintaining and remaining an important tourist destination. With the summer season almost now in full swing, the health of our beaches is firmly tied to the recovery of Delaware's economy.

I was surprised to learn, when I was Governor, that the No. 3 industry in my State is tourism. We have been big in cars for a long time, chemicals and agriculture and so forth, but the No. 3 industry is tourism. But I was disappointed that the Administration, the current Administration, did not utilize funds provided by Congress in the American Recovery and Reinvestment Act for beach nourishment and replenishment. A 2002 OMB study estimated that each replenishment project creates some 2,000, that is 2,000 full-time jobs and generates about $88 million in economic activity.

Going forward, I just want to know if, under your leadership, if beach protection and really the protection of our shore communities, our beach communities, will be a priority for the Army Corps of Engineers.

Ms. DARCY. I think it is an issue that this Committee has dealt with time and time again, re-nourishment of beach projects. If con-

firmed, I am going to look very seriously at how we can establish a consistent policy for beach re-nourishment. I think that, in this President's budget, there was some budgeting for beach projects this year. I think it was $45 million which has not happened in many past budgets. But I am not sure what the breakdown is, whether any of that money is for re-nourishment or just for projects.

Senator CARPER. We are encouraged by that. I spoke with the CBO Director, Peter Orszag, and expressed my thanks for that. In any number of administrations, Democratic or Republican, they always single out in their budgets money for the protection of our beach communities. I was encouraged to see that there is some obligation, some recognition, that we share that responsibility.

We used to compromise. A dozen or so years ago, Federal Government and the State governments would actually be partners. I think that the deal we finally worked out was that the Federal Government provides about 65 percent of funding and the States and local communities provide about 35 percent of that funding. It took us a long time to get to that place but that is where we are today and I think it makes a lot of sense and my hope is that we can continue under your guidance and your stewardship to work in the same vein of partnership.

Ms. DARCY. I look forward to it.

Senator BOXER. Thank you, Senator. Senator, I would like to——

Senator CARPER. Madam Chair, based on the testimony we heard I am going to release my holds.

Senator BOXER. Good.

[Laughter.]

Senator CARPER. All three witnesses——

Senator BOXER. Actually, I heard that Ms. Darcy actually has a couple of pounds of sand that she brought to show her commitment to beach replenishment.

[Laughter.]

Senator CARPER. As a quick aside, I do not know if any of you have been to the Delaware beaches but when Justice John Roberts, when he was coming through confirmation, he visited you, I am sure, and he visited most of the Senators in trying to get confirmed to be Chief Justice of the Supreme Court and he said to me, during a conversation, I said have you ever been to Delaware? And he said, why yes I have. In fact, he said, I met my wife there. I said you are kidding. And he said no, I met my wife. And I said where? And he said Dewey Beach.

[Laughter.]

Senator CARPER. I said, no kidding. Yes, he said, we were in one of those beach houses in Dewey Beach and we met and fell in love and ended up getting married. And I said I never knew there were people who met in those beach houses and ended up getting married and then go on to become Chief Justice of the United States. What a great success story.

[Laughter.]

Senator BOXER. Great story. Well, now you have to hope there is a beach replenishment case that he takes on as a——

Senator CARPER. We are going to name one of the beaches after him or her, I am not sure who.

Senator BOXER. Well, whatever it takes.

Well, here is the thing. I do want to second what Senator Carper said. Coming from California, and I know Mr. Silva and his family would agree, that our beaches, our ocean, that is what we are about. And it is a very important economic issue. It is not only the replenishment that creates the jobs but in my case tourism is one or two. It is billions of dollars. We have a coastal economy across this Country that is just enormous. And I know that President Obama understands this. And I think Tom Carper really did take time to talk about the fact that the States think it is so important, even in these tough times, that they are willing to put up matching funds. So, I will work with him on this.

I was just a little worried when he started singing the praises of San Diego and California that we would lose the Silvas right then and there, that they would walk out and say we are going home. Because it is so beautiful there.

But, seriously, I would add my voice to all that has been said about your sacrifice to do this. Some of you are moving from far away, beautiful places. And some of you are really taking on new responsibilities. I can see from Jo-Ellen's standpoint where she is going to take on the voice of the Administration now. She is going to have to have all of us saying why are you not getting this done?

It is not easy. None of it is easy. The important thing is why you do what you do, and that is to make this Country the best it can be. Each of us plays a role to the extent that we can. And we are so pleased.

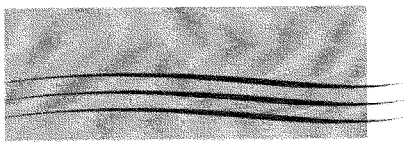
I am really hopeful that we can move your nominations very, very quickly. So, what we want to do is make sure that you get these answers done even if you have to burn the midnight oil to get them done. Then we will get them out of the Committee and start hot-lining them.

I am a little concerned with Gina McCarthy's nomination which Senator Barrasso was very up front about putting a hold on. It is not a secret. He is upset more about the issues than he is with her. He likes her. But this is, to me, not constructive. So, I am hopeful we can work it through and if we have to file cloture, we will.

But just so all three of you and your family and friends know, we appreciate your being willing to do this and the support of your families. And we stand adjourned and wish you the best of luck.

[Whereupon, at 3:30 p.m., the committee was adjourned.]

[Additional material submitted for the record follows:]



WATER RESOURCES COALITION

May 5, 2009

The Hon. Barbara Boxer
Chairwoman
Environment and Public Works Committee
Washington, D.C. 20510

The Hon. James Inhofe
Ranking Member
Environment and Public Works Committee
Washington, D.C. 20510

Dear Madame Chairwoman:

Dear Senator Inhofe:

The Water Resources Coalition (WRC), an organization representing the public and private sectors who are committed to a comprehensive national water resources policy; a healthy aquatic ecology; and public health and safety, endorses the appointment of Peter Silva as the Assistant Administrator for Water, U.S. Environmental Protection Agency (EPA), and we encourage the Committee to act favorably on the nomination.

Mr. Silva brings a tremendous level of understanding with regard to water and wastewater issues at the national and international level. He also brings a wealth of knowledge with respect to how state and local water purveyors engage in addressing federal water issues, whether they be regulatory, administrative, legal or financial in their origin. We believe he also brings a unique understanding with regard to the challenges of growth and the aging infrastructure that exists to service the human and economic needs that rely on that ability to have safe, affordable water present to meet those needs.

The Assistant Administrator of Water at EPA plays an important role with regard to implementation and interpretation of such laws as the Clean Water Act and the Safe Drinking Water Act. This also includes making sure the State and local needs associated with full funding for the State Revolving Funds for each of those acts is available to address the needs that have been identified by the stakeholders of EPA, as well as the Agency itself through its own needs surveys.

We believe Mr. Silva is the right person at this critical time in our nation's water resource programs to ensure that a balanced approach is taken on these issues without impairing the public's health and the nation's aquatic environment. We support his nomination to the position of Assistant Administrator for Water at the U.S. Environmental Protection Agency.

Sincerely,

Marco A. Giamberardino
Co-Chair

Brian T. Pallasch
Co-Chair

improve, prevent, save

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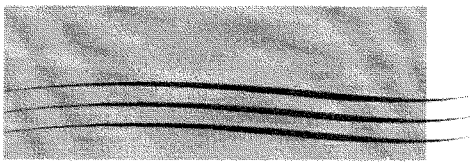

WATER RESOURCES COALITION

May 11, 2009

The Honorable Barbara Boxer
Chairwoman
Environment and Public Works
Committee
Washington, D.C. 20510

The Honorable James Inhofe
Ranking Member
Environment and Public works
Committee
Washington, D.C. 20510

Dear Madame Chairwoman:

Dear Senator Inhofe:

The Water Resources Coalition (WRC), an organization representing the public and private sectors who are committed to a comprehensive national water resources policy; a healthy aquatic ecology; and public health and safety, enthusiastically endorses the appointment of Jo-Ellen Darcy as the Assistant Secretary of the Army for Civil Works. Ms. Darcy is extremely knowledgeable and capable, and we encourage the Committee to act favorably on the nomination.

Ms. Darcy currently is senior environmental adviser to the U.S. Senate Committee on Finance, a position where she has distinguished herself in her work on developing important policies to protect the environment and improve America's energy resources. She served as senior policy adviser to the Committee working on fish, wildlife, and water resources issues. In addition, she worked for the governor of the State of Michigan in key roles on environmental and economic policies. These assignments in the executive and legislative branches at the federal and state level have given Ms. Darcy a breadth of knowledge of environmental policy generally and a grasp of the complex issues relating to America's water resources infrastructure. We are happy to endorse her appointment.

The passage of the Water Resources Development Act (WRDA) in 2007 has provided the U.S. Army Corps of Engineers a unique opportunity to further advance new effort to address the nation's aging infrastructure and surging needs associated with growth. It is important for the Assistant Secretary to fully engage in the efforts to implement that Act and begin the collaborative process with other Federal water resource agencies and the interests represented by such groups as the Water Resources Coalition to prepare for the next WRDA authorization.

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As part of the ongoing implementation process of WRDA 2007 it is also imperative the new Assistant Secretary fulfill the direction of Congress included in Section 2031 to revise the Principles and Guidelines in consultation with other Federal agencies and the public. These are important elements that greatly assist in having worthy projects meet the needs of the nation. In the spirit of change would also hope the Assistant Secretary would convene regular meetings of the organizations involved in national water policy issues to assist in a more open dialogue on the nation's water resource needs.

Sincerely,

Marco A. Giamberardino
Co-Chair

Brian T. Pallasch
Co-Chair

ASCE

American Society of Civil Engineers

May 11, 2009

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The Honorable Barbara Boxer
Chairwoman
Environment and Public Works Committee
Washington D.C. 20510

The Honorable James Inhofe
Ranking Member
Environment and Public Works Committee
Washington D.C. 20510

Dear Madame Chairwoman:

Dear Senator Inhofe:

I am writing on behalf of the more than 146,000 members of the American Society of Civil Engineers (ASCE) to strongly endorse the appointment of **Jo-Ellen Darcy** as the **Assistant Secretary of the Army for Civil Works**. Ms. Darcy is superbly qualified for the position, and we encourage the Committee to act favorably on the nomination.

Ms. Darcy currently is senior environmental adviser to the U.S. Senate Committee on Finance, a position where she has distinguished herself in her work on developing important policies to protect the environment and improve America's energy resources. She served as senior policy adviser to the Committee working on fish, wildlife, and water resources issues. In addition, she worked for the governor of the State of Michigan in key roles on environmental and economic policies.

These key assignments in the executive and legislative branches at the federal and state level have given Ms. Darcy a breadth of knowledge of environmental policy generally, a grasp of the complex issues relating to America's water resources infrastructure, and the political and administrative skills necessary to implement the priorities of the administration. She is an outstanding candidate for the exacting assignment as civilian head of the U.S. Army Corps of Engineers. We endorse her appointment unreservedly.

Thank you for your attention. If the Society can be of further assistance in this matter, please do not hesitate to contact Brian Pallasch, Managing Director of Government Relations and Infrastructure Initiatives, at our Washington Office, 202-789-7842, or by e-mail at bpallasch@asce.org.

Sincerely yours,

D. Wayne Klotz, P.E., D.WRE
President