Mr. President, I ask for a few additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ENZI. Mr. President, even if the Office of White House Counsel doesn't think so, they should have a chance to see who is playing with their livelihoods.

In spite of the White House position, the Secretary of Interior had the nerve to call energy companies ''un-American in their attempts to mislead the American public.'' Remember, they are the only ones disclosing figures. They are the only ones from whom you can get the model, all of the math, and an explanation. They are the ones sharing data.

The Secretary of Interior had the nerve to call them ''un-American in their attempts to mislead the American people.'' He further asserted that they were engaged in ''a conspiracy to distort the facts.'' They are the only ones sharing facts.

I will repeat that. They were called ''un-American in their attempts to mislead the American people.'' There are a lot of people working in coal and oil fields in my State, over 20,000 of them. Mr. President, 20,000 people is 6 percent of all the people working in Wyoming. More important, it is over 10 percent of the private sector employees.

These are the people who work for energy companies. These are the people Mr. Babbitt claims are ''un-American.'' I think they are worried about their jobs. They are worried about laying off their employees. They are worried about their own families and all the other families who survive in our towns because of energy production. As an industry, these people are worried about a treaty that can force them to lay off over a million Americans. It could force industry to lay off half of their employees in Wyoming.

On the other hand, the Executive Office of the President finds that, ''public disclosure would set an unfortunate precedent'' and that it ''is not necessary for purposes of Congressional oversight.'' I ask just who is misleading the American people?

There is something else I want to bring to the attention of this body. In spite of the fact that the President has firmly stated that this treaty will not be implemented before ratification, right now the Environmental Protection Agency has undertaken an effort to manipulate the Clean Air Act to enact it. I think we deserve to know what other branches of Government are currently working behind the scenes, behind our back, to make changes through Executive orders or rules and regulations that put a treaty into place that this body would not ratify. If it were brought here today, it would not be ratified. It violates everything in the resolution that we adopted, sending signals to the people who went to Kyoto to negotiate on behalf of the United States.

There has been no public input. I think the administration does not want public input on climate change. I know they don't want to look at the science, but I think they also don't want public input. If they wanted input, this letter from the Executive Office wouldn't say what it does. If the White House wanted the public to know all the details about the treaty, they would send it to the Senate and America, and they would let us debate it. They would tell the American people what they are planning to do.

My only experience in the executive branch was as mayor of a boom town. But I can tell you, when I was trying to pass the smallest bond issue or when I was working on negotiations on industrial siting, figuring out what the companies that were coming to our counties would have to do to participate in the growth of our town so we could have orderly growth, if I would not have shared on a regular basis more information, more detail, more explanation for those little things than what the President is doing with us on this big thing, I would not have been able to do any of them, and I should not have been able to do any of them.

It is the duty of the executive branch to inform the people who make the decisions legislatively, to provide them with all of the information that can possibly be provided and not just to send out a group of numbers with no explanation, a bunch of abbreviations with no explanation. We don't need a table of contents. We don't need a bunch of math. We need answers. We need to know the formulas, and we need to be able to have people who understand those numbers take a look at them.

This is not national security. This is a need for the American public to know, and the American public in this case probably ought to start with the U.S. Senate. We do have the kind of authority that we should be able to get the numbers, and if the President wants cooperation from us, he will provide those numbers. We can take them the way he wants. We can take them in secret, but I hope they will share them with us and with the American public.

SACAJAWEA ON THE DOLLAR COIN

Mr. ENZI. Mr. President, I rise today to express my strong support for the selection of an image of Sacajawea for the new one dollar coin. The Dollar Coin Design Advisory Committee recently recommended to the Treasury Secretary that the new dollar coin bear a design inspired by Sacajawea. On July 29th, the Treasury Secretary announced that he was accepting the Committee's recommendation. I am pleased that the committee and the Treasury Secretary have recognized the important role of Sacajawea in the history of our Nation.

I do believe that it is important, however, that the coin explicitly honor and bear a likeness of Sacajawea. The actual language of the committee's recommendation is that the coin should bear a design of ''Liberty represented by a Native American woman, inspired by Sacajawea and other Native American women.'' This language is a bit vague, but it does make it clear that Sacajawea is their symbolic choice. I strongly urge the Treasury Secretary to approve a final design that is based on a historically accepted image of Sacajawea. There are several images that could be used, and I will be happy to share them with the Secretary.

Mr. President, I am distressed to learn that a bill has been introduced in Congress that would overturn the recommendation and subsequent acceptance of the depiction of Sacajawea on the new one dollar coin. As we know, Congress specifically refrained from mandating a design for the coin when we passed the authorizing legislation. This was to ensure that political pressures would not affect the decision-making process. Instead, the Treasury Secretary appointed the Dollar Coin Design Advisory Committee, which was specifically charged with coming up with a design for the coin, subject to some general guidelines from the Secretary. The selection process of the advisory committee emphasized citizen participation. After a thorough and open debate, the committee voted 6–1 to recommend Sacajawea for the dollar coin. Unfortunately, that whole process could be undermined by the bill that has been introduced. We are beyond debating the merits of Sacajawea or the Statue of Liberty. Arguments against her image obviously were not persuasive. I see no reason for Congress to attempt to impose its will and reverse a decision that was made by an unbiased panel based on extensive input from the American people.

Mr. President, I sent a letter to the Treasury Secretary earlier this month requesting that he accept the committee's recommendation of Sacajawea for the new one dollar coin. In that letter, I outlined some of the reasons that I think she would be a great choice for the coin. I would like to briefly discuss these reasons right now.

As most Americans know, Sacajawea was an integral part of the Lewis and Clark expedition, the story of which is an incredible tale of adventure, determination, cooperation, and persistence. When Lewis and Clark set out for the West, they had no idea what they might find in the coming months or how long they would be gone. Anyone who has traveled through the West has to be in awe of what the Lewis and Clark expedition was able to accomplish. It is remarkable that Sacajawea was just a teenager with an infant when she endured the rigors of this trip into uncharted territory.

The importance of Sacajawea to the Lewis and Clark expedition can not be understated. Her knowledge of the land and its resources helped the expedition survive the rugged terrain of the West.

Her diplomatic and translation skills helped Lewis and Clark establish peaceful relations with the American Indians they met along the way, whose assistance was also vital to the expedition. Her bravery saved the expedition's valuable supplies, including the journals that would be used to record the trip, after a boat nearly capsized. Lewis and Clark's appreciation of her skills and resourcefulness led them to grant her a vote on the operation of the expedition that was equal to the other members of the group. In a very real sense, this is the first recorded instance of a woman being allowed to vote in America. I am proud to note that Wyoming, which typifies the landscape of their journey, also recognized the important role of women in overcoming the challenges of the West and was the first state to grant women the right to vote.

I believe that the selection of Sacajawea to be represented on the dollar coin would not only celebrate her valuable contribution to the Lewis and Clark expedition, it would also celebrate the contributions of all American Indians during the expedition. In addition, it would honor all the American Indians of our nation; it would celebrate the greatest terrestrial exploration ever undertaken in U.S. history; and, it would commemorate the turning of our country's hearts and minds from Europe and the East—to the West and our future.

Mr. President, I urge the Treasury Department to continue the process of selecting an image of Sacajawea for the dollar coin. I also urge the Treasury Department to specifically designate and honor Sacajawea as the person on the coin. And finally I encourage my colleagues to oppose any measure that would undermine the placement of Sacajawea on the dollar coin.

Thank you, Mr. President, I yield the floor.

Mr. DEWINE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. DEWINE. Mr. President, I ask unanimous consent to proceed for the next 20 minutes in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOMINATION OF KIM McLEAN WARDLAW AND THE NINTH CIRCUIT

Mr. DEWINE. Mr. President, later today, the U.S. Senate will vote on the nomination of Kim McLean Wardlaw to be a judge for the ninth circuit. The Judiciary Committee approved this nomination by a voice vote. At that time, I noted my opposition to this nomination for the record. Today, I expect the Senate will approve this nomination by a voice vote again. Again, Mr. President, I note my opposition for the record.

When we vote on the nomination of a Federal district or circuit court judge, I am sure all of us do so only after deliberation and consideration. I believe that the President of the United States has very broad discretion to nominate whomever he chooses, and I believe the U.S. Senate should give him due deference when he sends us his choice for a Federal judgeship.

Having said that, however, I believe the Senate has a constitutional duty, and it is prescribed in the Constitution, to offer its advice and consent on judicial nominations. Each Senator has his or her own criteria for offering this advice and consent. However, since these nominations are lifetime appointments, all of us must take our advice and consent responsibility very seriously, and rightfully so.

Earlier this year, when the Senate Judiciary Committee considered the nomination of another nominee to be a judge for the ninth circuit, in this case William Fletcher, I expressed my concerns about how far the ninth circuit has moved away from the mainstream of judicial thought and how far it consistently—consistently—strays from Supreme Court precedent.

At that time, considering that nomination to the ninth circuit, I also stated that when the Judiciary Committee considers nominees for the ninth circuit, I feel compelled to apply a higher standard of scrutiny than I do with regard to other circuits.

I have come to this conclusion after an examination of the recent trend of decisions that have been coming out of this ninth circuit. Simply put, I am concerned that the ninth circuit does not follow Supreme Court precedent, and its rulings are simply not in the mainstream. The statistics tell the sad story.

In 1997, the Supreme Court of the United States reversed 27 out of 28 ninth circuit decisions that were appealed and granted cert. That is a 96-percent reversal rate.

In 1996, 10 of 12 decisions for that same circuit were reversed, or 83 percent. If you go back to 1995, 14 of 17 decisions were reversed, or an 82-percent reversal rate.

In other words, what we are seeing from 1995 to the present is an escalating trend of judicial confrontation between the ninth circuit and the U.S. Supreme Court. Let's keep in mind that the Supreme Court only has time to review a small number of ninth circuit decisions. This leaves the ninth circuit, in reality, as the court of last resort for the 45 million Americans who reside within that circuit. In the vast, vast majority of cases, what the ninth circuit says is the final word.

To preserve the integrity of the judicial system for so many people, I believe we need to take a more careful look; I believe this Senate needs to take a more careful work at who we are sending to a circuit that increasingly chooses to disregard precedent and ultimately just plain gets it wrong so much of the time.

Consistent with our constitutional duties, the U.S. Senate has to take responsibility for correcting this disturbing reversal rate of the ninth circuit. That is why I will only support those nominees to the ninth circuit who possess the qualifications and have shown in their background that they have the ability and the inclination to move the circuit back towards that mainstream.

Mr. President, as the statistics reveal, the ninth circuit's reversal rate is an escalating problem. It is not getting better, it is getting worse. So today, this Senator is drawing the line. I am providing notice to my colleagues that this is the last ninth circuit nominee that I will allow to move by voice vote on this floor.

Further, until the ninth circuit starts to follow precedent and produce mainstream decisions, I will continue to hold every ninth circuit nominee to a higher standard to help ensure that the 45 million people who live in the ninth circuit receive justice that is consistent with the rest of the Nation, justice that is predictable, justice that is not arbitrary, nor dependent on the few times the Supreme Court actually reviews and ultimately reverses an erroneous ninth circuit decision.

Mr. President, all this leads me back to this nominee for the ninth circuit, the nominee that we will later today be considering, Judge Kim Wardlaw. There is simply, in my opinion, no evidence that this nominee will help to move the ninth circuit closer to the mainstream. And it is largely for that reason that I rise today to oppose this nomination.

On November 9, 1995, the Judiciary Committee approved Kim Wardlaw's nomination to be U.S. district judge by unanimous consent. Further, the full Senate did the same thing on December 22, 1995. Today, we are now considering her nomination for elevation to the ninth circuit.

Mr. President, during Judge Wardlaw's nomination hearing last June, I asked her to explain or describe the significant cases in which the Women's Lawyers Association of Los Angeles, the WLALA, filed amicus briefs during the time Judge Wardlaw served as president of this organization from 1993 to 1994 and the role she played during that time in the selection of these cases. That was my question.

Judge Wardlaw responded that when she was president there was a ''separate Amicus Briefs Committee that would take requests for writing briefs.'' She described one case she remembered from that year in which the WLALA filed an amicus brief. Our dialogue in the committee then continued as follows. I asked her to ''tell me again—you had this committee. Did you sit on the committee?'' She responded, ''No, I did not.'' Then I asked her, ''Did the president sit on the committee?'' She responded, ''No.''

In written followup questions that I sent to her, I stated—and I quote—''In further reviewing the questionnaire to the Judiciary Committee, I noticed