

EXTENSIONS OF REMARKS

FLAG DAY

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. GRAVES. Mr. Speaker, it is an honor to rise today on Flag Day to extend my appreciation to our veterans and the men and women in our Armed Forces for their service and protection in both peace and war.

I am honored to attend the 13th Annual Flag Retirement Ceremony on Saturday, June 16, 2001, hosted by the American Legion Stanley Pack Post #499, in Blue Springs, Missouri. American Legion Post #499 has a long history of providing a ceremony to lie to rest our colors. The members of the American Legion Post #499 have tirelessly dedicated their time to honor our nation's flag and share with our citizens, both young and old, their respect and admiration for the flag and all that it represents.

As American Legion Post #499 lays these tired flags to rest, we are mindful of the glory of our nation and the rights and freedoms that we share. The 13 red and white stripes not only represent our humble beginnings as 13 British colonies who fought bravely to gain us freedom but also the purity of our national purpose and the blood of our brave men and women in uniform who selflessly stand ready to defend our nation.

There is no better symbol of our country's values and traditions than the flag of the United States of America. It continues to exemplify the profound commitment that our founders made to freedom, equality, and opportunity more than two centuries ago. The flag flies with magnificent glory from public buildings, covers hero's tombs as a remembrance of their bravery, and serves as a daily reminder to all of us that the blessing of democracy and peace should not be taken for granted.

It is important that we teach our children the significance of our flag. Today, our nation renews its allegiance to our flag. Together, we stand collectively to honor its glory as its vibrant colors continue to wave through the skies that blanket the dreams and hopes of our beloved America. This truly is the land of the free and the home of the brave, and I am honored that we can share and enjoy the peace and the prosperity of this great nation.

H. CON. RES. REGARDING OIL AND GAS PIPELINE ROUTES THROUGH THE SOUTH CAUCASUS

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. CROWLEY. Mr. Speaker, I am pleased to join my colleagues, Congressman JOSEPH KNOLLENBERG, Congressman FRANK PALLONE,

and Congressman JOHN SWEENEY, in offering this House Concurrent Resolution. This resolution seeks to ensure a just and equitable regional arrangement that will strengthen political, economic and security ties among all the nations of the South Caucasus.

Mr. Speaker, I am greatly concerned by the National Energy Policy Development (NEPD) (Group recommendation to support the Baku-Ceyhan (SAY-han) pipeline. Along with my colleagues, Mr. KNOLLENBERG, Mr. PALLONE and Mr. SWEENEY, I will be sending a letter to the President urging him to reexamine the NEPD Group recommendations regarding the Caucasus. I am also asking that he review all current and future oil and gas pipeline routes to ensure that all countries of the South Caucasus are included.

The proposed Baku-Ceyhan pipeline route originating in the Azerbaijani capital of Baku and terminating at the Turkish port of Ceyhan via Georgia, explicitly bypasses Armenia at the insistence of Azerbaijan. The demands by Azerbaijan to bypass Armenia come despite the knowledge that a trans-Armenia route is the most reliable, direct and cost-effective route, and certainly one of the most tangible actions in support of regional integration and cooperation.

Armenia's exclusion from regional economic and commercial undertakings in the South Caucasus hinders U.S. policy goals of promoting regional stability based upon the development of strong political, economic and security ties among all countries of the Caucasus and the United States. Exclusion of one country in regional projects only fosters instability.

Armenia must be included in regional and trans-regional economic plans and projects. Only then can stability in the Caucasus be fostered. Encouragement of open market economies, increased trade and international private investment will lead to regional prosperity for all the countries involved. No one country should be excluded. Moreover, it simply does not make sense to choose a far more costly option that excludes Armenia, because of political considerations that do not benefit either the countries of the region nor the U.S. The proposed Baku-Ceyhan pipeline is estimated to cost more than \$2.7 billion. A pipeline that includes Armenia, a route that is more direct would reduce the pipeline costs by a minimum of \$6 million. That is a significant savings. That is a cost savings not only for the region, but for U.S. taxpayers who are helping to fund planning and implementation of the South Caucasus pipeline projects.

Finally, I should note that Armenia has been a strong ally of the U.S. in the region. With a well-educated and highly skilled population, it is a country moving towards democracy and an open economy. We simply cannot afford to alienate a proven friend and ally in the region.

In closing, I want to urge the President to give additional thought to the proposed Baku-Ceyhan pipeline and to have the foresight to include Armenia in that project, both for the good of the region, and for the good of U.S. policy in the region.

RECOGNIZING CONTRIBUTIONS, ACHIEVEMENTS, AND DEDICATED WORK OF SHIRLEY ANITA CHISHOLM

SPEECH OF

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 2001

Mr. RANGEL. Mr. Speaker, I rise before you today to join with my colleagues in honoring one of the most dedicated and respected legislators of our time—former Congresswoman and civil rights leader Shirley Anita Chisholm.

It is said of Shirley Chisholm that she was a passionate and effective advocate for the needs of minorities, women, and children and that she truly changed the nation's perception about the capabilities of women and African-Americans. Well, while that may well be true, Shirley Chisholm was that and so much more.

I had the distinction and pleasure of serving with Shirley Chisholm in the New York State Assembly in the mid 1960's and later here in the Congress where she was the first African-American woman elected to Congress, and witnessed firsthand just how much of a pioneer and visionary she was. She didn't fear entering the male-dominated Brooklyn political arena, nor the New York State Legislature, nor this Congress, and she did it with the ebullient style and determination that was Shirley.

Her enduring spirit and foresight, lead her to take the biggest step of all when she ran for the Democratic presidential nomination in 1972, only seven years after Blacks were given the right to vote. It was through this venue, that Shirley Chisholm was able to focus national attention on the issues that mattered most to her. She became a powerful spokesperson for the Democratic Party. Though she was not successful in her bid, her running was symbolic. It encouraged other Blacks and women to participate in politics; it opened the door to later campaigns, and it sent the message that Black politicians had arrived.

For many years, Shirley Chisholm has given leadership to the struggle for equality and human rights for all people. Her life exemplifies her passionate commitment for a just society and her vision for a better world. Throughout her political career, her tireless efforts lead her to take on such issues as women's rights, funding for day care, job training, fair housing, and environmental protection just to name a few. She also fought against credits to defray the cost of going to private schools fearing it would diminish the quality of public schools.

Shirley Chisholm was an outspoken leader. She worked for the reform of U.S. political parties and legislatures in order to meet the needs of more citizens. She was a severe critic of the seniority system in Congress and protested her 1969 assignment to the House Agriculture Committee. She soon won reassignment to a committee on which she felt she could be of greater service to her district.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Shirley once said, "We must build new institutions or reform old ones so that there are avenues of upward mobility and achievement that will allow all citizens, black and white, to maintain creative tensions between themselves. If we fail, this nation will be poorer for it and if we succeed, it will be richer indeed."

Mr. Speaker, I thank my colleague Representative BARBARA LEE, for affording Members the opportunity to mark this occasion recognizing Shirley Chisholm who is a true public servant, a champion for all people, and a woman whom I am proud and honored to call my friend.

A TRIBUTE FOR FATHER'S DAY

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. HONDA. Mr. Speaker, in light of the fact that this Sunday is Father's Day, I would like to share with you a letter sent to me by the stepson of a dear friend of mine. I believe it captures the essence of this important holiday for Dads, like myself, all around the country.

DEAR MR. HONDA: While my name may not be familiar to many in Washington, D.C., I'm sure that the name of my stepfather will—Norm Mineta.

This past year has been an amazing journey for my family—and for my family, that's really saying something. My stepfather's life reads like a story one would learn about in a history book or a novel. At the age of twelve, he was taken from his house and detained in an internment camp along with 120,000 others in this nation who happened to be of Japanese ancestry.

After the Second World War ended, he and his family returned to San Jose and he attended and graduated from the University of California Berkley. Later, during the Korean War, he joined the Army where he served as an intelligence officer. After his military service he worked in the family business at the Mineta insurance company until once more he answered the call to public service. Norm served in the San Jose City Council, as the Mayor of San Jose, and 21 years as the Representative for the 15th Congressional District of California.

After he left the Congress, he worked for Lockheed Martin as senior vice president for almost five years until President Clinton tapped him for the position of Commerce Secretary. After the 2000 election, President Bush chose him to serve America once more as the Transportation Secretary.

Norm's list of firsts is beyond impressive—it's amazing. He was the first American of Japanese descent to serve as a Mayor of a major city in the continental United States. As the Chairman of the House Committee on Transportation & Infrastructure, he was the first Asian Pacific American to serve as Chairman of a full Committee in the U.S. House of Representatives (Chairman of the transportation committee). He was also the first Asian Pacific American to serve on any President's Cabinet, and the first Cabinet member to serve in successive administrations for two different political parties. And this only scratches the surface. You could fill volumes with all of my stepfather's achievements. In fact, someday, I'm certain they will. But there is a deeper reason why I am writing this letter.

As I witnessed all of the events taking place in my family's life over the past year, and I read all of the articles and stories

about my step dad's life, and I heard all of the speeches, I noticed that something was missing—the most important something. Who Norman Y. Mineta really is, not just what he has done in public life.

Norm is one of the kindest, most decent man I have ever been privileged to know. He embodies what the Founding Fathers envisioned when they set up our system of government. He is a man who truly cares more about others than he does of himself. He does not seek glory, but rather takes pride in bettering the lives of others. Most importantly, he is humble.

As a Member of Congress, Norm would go to events at the White House, as other important people did. He would stand in the receiving line to meet the President and when his time would come he would shake the President's hand saying, "Hello Mr. President. I'm Norm Mineta from California." To which every President would respond, "Norm, I know who you are." Later he would say to my mom, with wonder in his eyes. "The President said he knows who I am!"

Norm Mineta is a man who puts family above all else. His biography in "Who's Who in America" does not describe how he canceled all of his plans the day my family's dog, Tribble, died. His resume does not reflect the pride he felt when my stepbrother, Dave Mineta, was elected to the school board of Pacifica, California. Nor do the official records of the Congress contain the fact that he cried when Dave asked his father to swear him into his new position on the school board. Norm was so excited when my brother Mark and his wife called home to tell the news that they were pregnant with their first child. As a father, he took as much pride in the fact that in my stepbrother, Stu Mineta, was hired at a regional airline as a pilot as he did in his own appointment to the Cabinet.

After coming home from a long day at the office, Norm would always takes times, and considerable joy, in playing with his two dogs. Norm has been known to fall asleep whenever the family comes together to watch a movie. Watching a movie on video with Norm often involves constantly prodding him to make sure he is still awake. Often times he will fall asleep, but deny this to us when we call him on it. Norm has been a wonderful husband to my mother in more ways than I could ever begin to describe. He refers to my mother as "honey" and "dear" in public, but in private, he calls her "pal," and that is what they truly are—the best of friends.

My life with Norm has been a wonderful blessing. Life doesn't always happen the way you plan and sometimes people get divorced. Such was the case with my mother and father. And to this day, I love my father very much. I have been blessed twice, for God brought into my life Norman Mineta. A man whom history will remember much longer than it will remember most of us. I am also very fortunate because Norm is a man that I will remember in ways that the history books will never be able to capture. Our nation will remember Norm as many great things, veteran, Mayor, Congressional leader, two-time Cabinet Secretary, but the greatest of these titles and accolades to me, will always be "Dad."

Sincerely,

BOB BRANTER.

RECOGNIZING VALLEY HOSPITAL IN RIDGEWOOD, NEW JERSEY

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mrs. ROUKEMA. Mr. Speaker, I rise today to congratulate the Valley Hospital in Ridgewood, New Jersey on the occasion of their 50th anniversary. From a small and difficult beginning, the Valley Hospital has become a premier example of quality and commitment to medical excellence. This weekend, the Valley Hospital will be honored as a Hermitage Pioneer Corporation at the Hermitage Rose Ball in Ho-Ho-Kus, New Jersey. It is an honor to recognize this hospital for their service to northern New Jersey.

The Valley Hospital opened its doors in 1951 with 108 beds, 22 bassinets and 268 physicians and employees. Over 4,700 patients were admitted and served by the hospital. Through their exceptional leadership and vision, Valley has expanded and continually met the changing healthcare needs of the ever-growing community. I am proud to say that Valley now has over 600 physicians and 3,000 employees. Last year the hospital served 42,540 patients and welcomed 3,221 babies. Under Mike Azzara's guidance as Chairman of Valley Health Systems, and Audrey Meyer's leadership as President and CEO of the Valley Hospital, the hospital has entered the 21st century as a premier provider of health care in not only New Jersey but the entire Northeast United States.

This achievement has not come without a struggle. Plans to open a hospital in northwest New Jersey began nearly forty years before ground was broken. Community groups gathered to raise money for a hospital, however, the stock market crash and the Great Depression stalled their attempts. Under the leadership of the Women's Auxiliary in 1944, local residents donated almost \$1,000,000 to break ground in 1949.

The Valley Hospital exists because of a determined group of local citizens who very early on saw a need and overcame the odds to make this into a reality. This is the classic American dream. Such outstanding dedication is still visible in the hospital today as the Valley Hospital looks forward to the needs of the next fifty years.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in commending the Valley Hospital for its service to the community, and recognizing those committed to continuing its tradition of excellence.

HONORING PAUL WENDLER

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute and express gratitude to my good friend Paul Wendler for his many years of service and for his significant contributions to the conservation of wildlife and natural resources in Michigan and the entire Great Lakes region.

Paul has dedicated his life to making his community a better place to live for all citizens

and he has earned many plaudits and awards for his numerous accomplishments. From his outstanding record of achievement in management with the Saginaw Steering Gear Division of General Motors Corporation to his tenure as Mayor of the City of Saginaw and his successful efforts to build the Saginaw Civic Center, Paul's energetic and enthusiastic leadership has served as a towering model for others to emulate.

While his extensive involvement in community service has extended to a wealth of projects, Paul's particular passion has been his devotion to preserving the vitality and abundance of wildlife and natural resources throughout our state, nation and the entire world. His membership in conservation and sportsmen's clubs are too numerous to list, but his vast experience in the conservation movement includes many leadership roles, among them his position as President of the Michigan Wildlife Foundation and President of the Michigan United Conservation Club.

Throughout all his years of community and public service, Paul has never sought the limelight for himself nor has he accepted full acclaim for his achievements. He has always been the first to share credit and to suggest that others played a far greater role. He would be the first to acknowledge the significant contributions others have made to his success, including the vital support of his family. Paul's wife, Phoebe, and their children, Paul, Anne and Gretchen, have shared his love for our precious natural resources and they have been an important part of his efforts to protect and preserve the environment.

Mr. Speaker, I ask my colleagues to join me in expressing gratitude to Paul Wendler and his family for their commitment to conservation. I am confident that they will continue to work hard to ensure the viability of our woods and waterways well into the future.

CYPRIOI ACCESSION TO THE EUROPEAN UNION AND THE ONGOING DIVISION OF CYPRUS

HON. JOSEPH CROWLEY

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. CROWLEY. Mr. Speaker, I submit for the RECORD my statement from the Committee on International Relations Subcommittee on Europe hearing on June 13, 2001.

Mr. Chairman, I am pleased to have this opportunity to speak in strong support of the U.S. relationship with these three important countries: Greece, Cyprus and Turkey. However, I would like to speak, in particular, about two key issues which have no doubt been the focus of this hearing today—that of Cypriot accession to the European Union (EU) and the ongoing division of Cyprus.

In its conclusions at Helsinki, the European Council, in December of 1999, welcomed the launch of proximity talks that year aiming at a comprehensive settlement of the Cyprus problem. The Council further noted that, while a political settlement of the Cyprus problem would facilitate accession of Cyprus to the EU, it would not be a precondition to accession. In his confirmation hearing held on March 20, Undersecretary of State for Political Affairs Marc Grossman stated that we must impress upon the Turkish Cypriots and the people in Ankara that

they have got to get involved in the stalled proximity talks. A settlement to the problem would surely be a welcome development for all the governments involved.

Most of us understand that accession of Cyprus to the EU will provide a much-needed impetus to a political solution. But, what Turkish Cypriot leader Rauf Denktaş must understand is that Cyprus will accede to the EU whether or not he returns to the negotiating table. Because Cyprus is divided, I fear the people living on the northern part of the island under Mr. Denktaş's rule, will not benefit from EU membership. The north must rejoin the rest of the island so that its people can share in the wealth, both political and economic, which EU membership has to offer. Mr. Denktaş's recalcitrance will not block the Cypriot government from reaching its goal. What Mr. Denktaş must decide is whether or not he wants to be a productive part of Cyprus' future. I truly hope, for the sake of all Cypriots, that he elects to do so.

The people of Cyprus, with their long and rich cultural and political history, deserve far more than to see their island forever divided because of misguided political aspirations. There must be a reunited Cyprus, one that is bizonal, bicomunal and federal, created on the basis of the United Nations Security Council resolutions. I urge Mr. Denktaş to return to the negotiating table once again so that a negotiated settlement can be reached. EU accession for Cyprus will benefit everyone: the U.S., Greece, Turkey, and all of Cyprus' other allies. Cyprus must take its rightful place in the community of nations as a strong, unified country with the opportunity to grow and prosper economically, to be afforded the same legal, political and social rights as other nations. Cypriot accession to the EU will begin that process, but resolution of the political problem dividing the island will provide the ultimate closure Cyprus needs to move forward.

In closing, I would like to commend my colleagues, Congresswoman Carolyn Maloney and Congressman Michael Bilirakis, for introducing a House Concurrent Resolution in support of Cypriot accession to the EU. I am proud to be a co-sponsor of that bill.

TRIBUTE TO UNIVERSITY OF SANTA CLARA

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. HONDA. Mr. Speaker, I rise today to honor the Sesquicentennial Anniversary of the University of Santa Clara.

The University of Santa Clara became California's first institution of higher learning in 1851 and is celebrating its Sesquicentennial Year in 2000–2001, on the same campus it has occupied continuously since its founding. This campus is home to the beautiful Mission Santa Clara.

The University of Santa Clara excels in meeting its goal of educating women and men of competence, conscience, and compassion. The more than 55,000 alumni of Santa Clara University are leaders in business, industry, government, the spiritual community, education, the arts, athletic endeavors and civic life throughout the United States. The University of Santa Clara began its graduate division in 1912 and today provides highly respected graduate programs in Law, Business, Counseling Psychology, Education, Pastoral Ministries, and Engineering.

The University of Santa Clara opens its doors to the community twelve months a year with special programs, exhibits, and events that inform and entertain visitors to the campus. Outstanding leaders of Silicon Valley, the Bay Area, and the world are regularly welcomed to visit the University and share their experiences and insights. The campus community of the University of Santa Clara includes many individuals who serve on community and church boards. These community members also dedicate hours of volunteer time to homeless shelters, elementary and secondary schools, to those who seek justice; in short, they participate fully with the broader community.

In California, a state that leads the nation in accepting immigrants from around the world, the University of Santa Clara continues to be committed to preserving ethnic and cultural diversity on its campus.

Mr. Speaker, it is an honor to pay tribute to the University of Santa Clara on its Sesquicentennial Anniversary, and I commend and congratulate the University on this important occasion.

HONORING FRANK AND GRACE BARR

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mrs. ROUKEMA. Mr. Speaker, I rise today to recognize and congratulate Frank and Grace Barr for their contributions to historic preservation and community service in northern New Jersey. This weekend, Frank and Grace Barr will be the recipients of the Hermitage Volunteer Appreciation Award of 2001. Their leadership in the development of the Hermitage is a remarkable achievement and I commend them for their efforts. The results of their dedication are felt not only at the Hermitage, but throughout our community. As community leaders for over thirty years, they are outstanding examples of the type of people who make Bergen County such a wonderful place.

We take tremendous pride in the Hermitage in Ho-Ho-Kus, New Jersey. Built in 1740, the Hermitage was the home of Theodosia Prevost, who invited George Washington and his officers to stay at the estate after the Battle of Monmouth in July of 1778. One of Washington's officers, Aaron Burr, became a frequent visitor afterward and eventually proposed marriage to Theodosia. Attendees of the couple's wedding at the Hermitage included James Monroe, Alexander Hamilton, and the Marquis de Lafayette.

After its noteworthy beginnings, the Hermitage was donated to the State of New Jersey and has been restored as a museum and National Historic Site through the work of the Friends of the Hermitage. It is through the continued dedication of people such as Frank and Grace Barr that we can continue to enjoy this treasure. Frank and Grace have been active supporters of the Friends of the Hermitage since 1976 and continue to pledge their time and effort to this landmark. It is an honor to recognize such a dedicated couple.

Grace Barr served on the Board of Trustees for six years and is now a member of the Hermitage development committee. An active and

effective fund-raiser, Grace also co-chaired the Colonial Ball and the Friends of the Hermitage Cookbook, first printed in 1976. In addition to her work at the Hermitage, Grace has been an active member of the Ho-Ho-Kus Public School System for over twenty-six years.

Frank Barr has been both a Trustee of the Valley Health System and Chairman of Valley Hospital in Ridgewood, New Jersey. Valley Hospital has become a Hermitage Pioneer Corporation through its evolution into a major healthcare system. As a former Ho-Ho-Kus School Board President and trustee on various boards in the local community, Frank has played an integral role in the community. He has served as President of Fishers Island Development Corporation and was a Trustee of St. Lawrence University. He has also founded a non-profit affordable housing corporation in addition to his many other career achievements. These are truly phenomenal people.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in congratulating Grace and Frank Barr for all they have done for their community and for the outstanding example they set for all of us.

HONORING GILSON D. FOSTER

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. BARCIA. Mr. Speaker, I rise today to honor Gilson D. Foster as he concludes his lengthy and meritorious tenure as Business Manager and Financial Secretary of the International Brotherhood of Electrical Workers Local 557 and as President of the Saginaw County Labor Council. Gil has truly earned his reputation as an outstanding leader who has played a key role in shaping the future of the greater Saginaw community.

A native of Alma, Michigan, Gil has positively affected the lives of nearly everyone who has had the pleasure of meeting him, and those of countless people who will never know how much better their lives are thanks to his hard work. Throughout his life, he has exhibited exemplary citizenship by consistently and eagerly going well above and beyond the call of duty. He has truly made a difference in the lives of working families.

Devotion to duty, longevity in service and job excellence are hallmarks of Gil's work ethic. After graduating in 1952 from the former Arthur Hill Trade School, Gil enlisted in the United States Marine Corps, serving honorably until his discharge in 1960. He later graduated from the Saginaw Joint Electrical Apprenticeship program and embarked on his career in the electrical trade. In 1966, Gil took over as Local 557 Business Manager and Financial Secretary and served in those roles for 35 years. Similarly, he spent 20 years as President of the Saginaw County Labor Council and also served on the Michigan state AFL-CIO General Board.

Gil's contributions, however, extend far beyond the workplace. Over the years, Gil has freely and exuberantly given his time and resources to many community organizations, including the Salvation Army, the United Way of Saginaw County, the Lake Huron Area Council Boy Scouts of America Executive Board, the

Saginaw Community Foundation, the Delta College Quality of Life Advisory Council, the Saginaw Economic Development Corporation, the Saginaw County Chamber of Commerce and the Great American Music Festival Board of Trustees.

Of course, such community service is never accomplished without the love and support of family. Gil's wife, Patricia, and five children, Kathy, Nancee, Keith, Randall, and Anne, have been an integral and key part of his success.

Mr. Speaker, I ask my colleagues to join me in congratulating Gil Foster on his first-rate and admirable community involvement and for his efforts in making Saginaw an enviable place to call home. I am confident that he will continue to provide many more years of dedicated service to his fellow citizens.

CONDEMNING TALIBAN REGIME OF AFGHANISTAN REQUIRING HINDUS TO WEAR SYMBOLS IDENTIFYING THEM AS HINDU

SPEECH OF

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 13, 2001

Mrs. MALONEY of New York. Mr. Speaker, I rise today in strong support of this Resolution which condemns the treatment of Hindus by the Taliban government.

The Taliban government has once again crossed the line, this time by forcing Hindus to wear identifying markers on their clothing. This latest oppressive act is eerily reminiscent of Nazi-era Germany when Jews were forced to wear the yellow Star of David in order to identify themselves. Singling out one group serves only one purpose: fostering discrimination and potential persecution. The world stood silently by when the Nazis started targeting Jews. We will not be silent this time. We must remember the cautious maxim that reminds us that those who do not learn from the past are condemned to repeat it.

The Taliban are slowly attacking all groups who they perceive as different. Since 1996, the Taliban, an extremist militia, has seized control of 90% of Afghanistan and then unilaterally declared an end to women's basic human rights.

Women are banished from working. Girls are not allowed to attend school beyond the eighth grade. Women are being beaten for not fully covering themselves, including their eyes and ankles.

Women and girls are not allowed to go out into public without being covered from head to toe with a heavy and cumbersome garment and escorted by a close male relative.

Women are not allowed to seek health care, even in emergency situations, from male doctors.

The Taliban has allowed some women to practice medicine, but women must do so fully covered and in sectioned off, special wards. And even these services are only available in very few select locations, leaving women to die from otherwise treatable diseases.

A sixteen-year-old girl was stoned to death because she went out in public with a man who was not her family member.

A woman who was teaching girls in her home, was also stoned to death in front of her

husband, her children and her students. An elderly woman was beaten, breaking her leg, because she exposed her ankle in public.

These atrocities are real.

They are happening now, and will continue tomorrow as long as the extremist Taliban government is still in control of Afghanistan.

The restrictions on women's freedom in Afghanistan are unfathomable to most Americans.

Women and girls cannot venture outside without a burqa—an expensive and restrictive garment that covers their entire bodies including a mesh panel covering their eyes.

For some women, not having the means to afford and purchase this expensive garment will banish them to their homes for the rest of their lives.

The effects of this decree have been severe.

Many Afghan women are widows and have no means to income because they cannot work, and unless they have a close male family member, they have no access to society for food for their families and themselves.

We must continue to speak out against the Taliban, on behalf of the women and girls that risk death for speaking out for themselves.

We must not accept the Taliban as a legitimate government.

We must send a strong and clear message that gender apartheid and religious discrimination is unacceptable and a gross violation of the most basic human rights.

Afghanistan may be physically located on the other side of the world, but the voices of the women and girls suffering there are heard loud and clear here.

INTRODUCTION OF THE RENEWABLE ENERGY ACT FOR CREDIT ON TAXES

HON. SUSAN DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mrs. DAVIS of California. Mr. Speaker, I would invite you to join me as a co-sponsor of the Renewable Energy Act for Credit on Taxes.

This is a refundable tax credit to be given for investments in renewable energy systems based on solar, wind, or fuel cells providing up to \$4.50 per Watt of electricity produced, capped at the lesser of 35 percent of the cost of the system or \$6,000 for residences and \$50,000 for commercial enterprises. It would sunset in four years.

A recent ABC poll showed that 90 percent of the public support increased investment in renewable energy sources. In its National Energy Policy, the administration has also identified this need.

Based on the California experience, we need to supply more energy at peak periods as soon as possible. Because of transmission gridlock both between states in the western region and within California, right now we need to increase supplies where they will be used. Public policy calls for increasing reliance on renewable energy sources.

Therefore, we need to give incentives to power sources that can be put into operation relatively quickly, produce power at peak times where it will be used, and be powered by renewable energy sources.

The administration's National Energy Policy states, "Photovoltaic solar distributed energy is a particularly valuable energy generation source during times of peak use of power." [p. 6–10]

Under-used locations for increased production of power are homes and businesses. Owners have not invested in personal energy systems in part because they have not provided a reasonable return on the investment. This gap can be bridged by using tax incentives to motivate additional private investment in power. The benefit is a long-term contribution to power supply that does not require continued cost for fuel.

Solar power for water heating has been used extensively in the West over many years because it has been a good investment. It demonstrates the willingness of owners to make this investment when it is financially viable.

Newer materials and more reliable systems have become available to make individual photovoltaic systems attractive as well. In April a solar demonstration home was built on the Washington Mall that not only incorporated many energy saving designs but also employed a solar energy system with back-up batteries. The additional cost for the solar system for this large, three-bedroom, two story home was given as \$30,000.

Is a federal tax credit enough to encourage a homeowner to make this investment? Under my bill the owner would qualify for \$18,000 of the cost based on the amount of power produced; however, the proposed cap would be the lesser of 35 percent of the cost or \$6,000, leaving \$24,000 of uncovered cost.

While this might not be a sufficient incentive for many owners, some 14 states as well as about 26 municipalities have additional rebates. California, for example, has a rebate program capped at 50 percent of the cost. In this case, the California homeowner combining the two programs would be paying only \$9,000 of that cost.

Without a rebate, a homeowner could buy a system of half the capacity receiving a lower rebate but still have a \$9,750 net cost under this bill.

The advantage of a solar solution is that in many locations the solar energy is most available when it is most needed—in the summer in the middle of the day.

In other areas wind systems are viable with applications that look like a typical roof top vent suitable for residences and businesses. While there is a current production tax credit for wind energy, it is not an attractive financial incentive for individuals since the owner is using the product not selling it. Thus, a tax credit is the appropriate mechanism.

I have chosen a refundable tax credit rather than a grant program as less bureaucratic and readily accessible to a taxpayer. The sunset will give incentives to immediately increase supplies.

I believe it is time to take a large stride toward investing in renewable energy that will continue to produce power for many years without needing to purchase fossil fuels. We can have more clean power where we need it at peak periods.

CONGRATULATING ELMER
BECKENDORF

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. BRADY of Texas. Mr. Speaker, I rise today to honor a dear friend and outstanding Texan, Mr. Elmer Beckendorf. This Saturday, June 16, 2001, Elmer a member of the North Harris Montgomery Community College District Board of Trustees will receive the Association of Community College Trustee's Regional Trustee Leadership Award. His commitment to public service and above all his dedication and support for education earned him this rightly deserved honor.

Born December 14, 1921 in Harris County, Texas, Elmer is a fifth generation resident of Harris County, Texas. He graduated from Addicks High School and attended the University of Houston. During World War II, Elmer served in United States Army Signal Corp attached to the Air Force installing and maintaining radio equipment providing communications for an Air Force Fighter Wing in the Pacific area of operations, Okinawa and surrounding areas. After the war, he returned to Texas where he married Dorothy Heldberg. They have three children, six grandchildren and two great grandchildren. In 1954 Mr. Beckendorf formed E.L. Beckendorf and Sons, Inc., an independent dairy farm.

Elmer Beckendorf has been a true leader in his community, having served on public boards for 47 years. He has served on the North Harris Montgomery Community College District (NHMCCD) Board of Trustees for sixteen years including two two-year terms as chair and two two-year terms as vice chair. During his service, the college district has grown from two campuses serving four school districts to four, soon to be five, comprehensive campuses and six educational centers serving nine school districts in a 1400 square mile area with a population of over 1 million citizens.

He was elected to and has served on the Tomball Independent School District Board of Trustees for 22 years, holding various offices including president during his years of service. In January of 1980 the school district dedicated the E.L. Beckendorf Intermediate School in his honor.

Civic organizations on which he has served include the Tomball Regional Hospital Authority Board of Directors, member since 1975, chairman since 1982; the Cypress Creek Branch of Greater Houston YMCA, board member 1975–1986 receiving the Volunteer of the Year in 1979; the Rotary Club of Tomball, member 1955 to present; the Greater Tomball Chamber of Commerce member since 1975 receiving the Citizen of Year in 1979; the Texas Forage and Grassland Council, Charter member, 1979 to present and President from 1981–1984; the Houston Milk Producers Federal Credit Union as an Officer of the board for 29 years; the Association of Community College Trustees as a Lifetime member; the Dairy Shrine Club as a Lifetime member and the Tomball Future Farmers of America as an Honorary Chapter Farmer.

Additionally, Elmer Beckendorf has been a champion of education supporting and leading initiatives in the area of economic develop-

ment, workforce development and K–16 partnerships. With his support, NHMCCD has established Center for Business and Economic Development (CBED), a center focused on economic development initiatives and workforce development needs of our region. His support for K–16 partnerships, initiatives and agreements has led to the seamless flow of curriculum, program and services from public school through community colleges and universities.

The Association of Community College Trustees could not have picked a more outstanding person for this award. Elmer Beckendorf is a very special person and one who exemplifies the true public citizen willing to give tirelessly of himself in order that others may benefit. On behalf of the U.S. House of Representatives and the citizens of the 8th Congressional District of Texas, I offer our warmest congratulations.

A NEW DIRECTION AT ST. LOUIS
HOUSING AUTHORITY

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. CLAY. Mr. Speaker, I would like to take this opportunity to share some very happy news about the St. Louis Housing Authority. Just two short years ago, the St. Louis Housing Authority had the distinction of holding the worst federal ranking—14.25 out of 100—of any big city housing authority and the Department of Housing and Urban Development was threatening to take over the agency. But then, fortunately, Cheryl Lovell was named Executive Director of the agency and good things began to happen. Last month, the St. Louis Housing Authority achieved a federal ranking of 70.3 and by all accounts things are improving for the residents of St. Louis public housing.

I commend Cheryl Lovell for her dedication and achievement and would like to share the following article "City Housing Raises Its Grades" which appeared in the St. Louis Post Dispatch on June 13, 2001.

[From the St. Charles County Post, June 14, 2001]

AFFORDABLE HOUSING OPTIONS WILL BE
STUDIED

(By Ralph Dummit)

A consultant has been selected to conduct a study in St. Charles County on the availability of affordable housing. The consultant is Paul Dribin, who served for several years as an official in the St. Louis office of the U.S. Department of Housing and Urban Development.

Dribin Consulting was picked by St. Charles County Executive Joe Ortwerth from among five or six applicants for the \$45,000 contract.

Social service workers across the county have sought answers to the question of available housing for low-income residents for many years. They have contended that not only is it difficult for poor families to rent houses but that affordable houses for sale to the poor are in limited supply. They are concerned that development is geared more to large houses on large lots than to building houses or apartments in a more modest price range.

Dribin is no stranger to housing matters in St. Charles County. The Farms apartment

complex off Kisker Road had been a property insured and subsidized by HUD when neighbors began to complain about its poorly maintained and rundown condition.

As a HUD official in St. Louis at that time, Dribin sought to solve the problem at The Farms. He was able to acquire \$3 million from HUD to repair the project and got a voluntary deed from the owners in lieu of foreclosure, then conveyed the property to St. Charles County. Today, the property—now called Sterling Heights—is well maintained and provides affordable housing to dozens of families.

In previewing his job for the county, Dribin wrote that the problems of affordable housing are increasing in rapidly growing areas such as St. Charles County. Most residents are benefiting from the expanding economy, but “the working poor are finding housing options more limited.”

Dribin may rely on Development Strategies Inc., to gather census data for his study. The county had hired Development Strategies after the Flood of 1993 to study ways to provide replacement housing for the hundreds of people left homeless by the flood.

Dribin said that after the census figures are analyzed, he will prepare a comprehensive report “detailing the housing conditions and the overall need for affordable housing” in the county.

Further, based on the identified needs of the community, Dribin will present to the County Council “a detailed proposal outlining alternative strategies for implementing an affordable housing policy.”

The consultant added, “Forming a housing authority is only one option in a range of public and private sector alternatives to address (the county’s) housing needs.”

Dribin expects to have an initial report completed by mid-August and to issue a completed report by the end of September.

Recently, business leaders have joined in voicing concern about providing more affordable housing for their employees.

Gregory D. Prestemon, president of the county’s Economic Development Center, said late last year that he had heard from almost all of the county’s larger employers “that they see a need for housing to fit the needs of people of all income levels.”

Ortwerth has told the County Council that although state law authorizes a county housing authority—such as the one in the city of St. Charles—to construct, acquire, lease or operate housing complexes, that is not his goal.

Ortwerth said a county housing authority should concentrate on working with the private sector to promote the construction of affordable housing. He contends that such housing can be built so that it will maintain its value and does not depreciate the value of other residential properties in a community.

One purpose of studying the county’s housing needs is to qualify under state statutes to form a county housing authority. Earlier, Ortwerth had hoped such an authority might be able to take over the voucher program administered by the North East Community Action Corp., also known as NECAC.

In a related move, Ortwerth last year filed suit seeking a declaratory judgment on whether NECAC or the county should be eligible to administer Section 8 housing assistance to low-income individuals and families.

No judgment on the suit has been rendered.

Meantime, NECAC traditionally has administered the Section 8 program in the county—at least 575 vouchers at present—excluding the city of St. Charles. The vouchers are the equivalent of holding cash as low-income people search for suitable and affordable housing in the county. But even among the holders of the vouchers, many give up when they are unable to find places to rent.

TRIBUTE TO SARA FORDE AND
ANGELA RETEGUIZ

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. ISRAEL. Mr. Speaker, it is with great pride that I rise today to recognize two of New York’s outstanding young students, Sara Forde and Angela Retegui, on the occasion of their Gold Award Ceremony. On July 19, 2001, the women of Service Unit 35 will recognize Sara and Angela.

Since the beginning of this century, the Girls Scouts of America have provided thousands of youngsters each year the opportunity to make friends, explore new ideas, and develop leadership skills while learning self-reliance and teamwork.

These awards are presented only to those who possess the qualities that make our nation great: commitment to excellence, hard work, and genuine love of community service. The Gold Awards represent the highest awards attainable by junior and high school Girl Scouts.

I ask my colleagues to join me in congratulating the recipients of these awards, as their activities are indeed worthy of praise. Their leadership benefits our community and they serve as role models for their peers.

Also, we must not forget the unsung heroes, who continue to devote a large part of their lives to make all this possible. Therefore, I salute the families, scout leaders, and countless others who have given generously of their time and energy in support of scouting.

It is with great pride that I recognize the achievements of Sara and Angela, and bring the attention of congress to these successful young women on their day of recognition.

EXPRESSING SORROW OF THE
HOUSE AT THE DEATH OF THE
HONORABLE JOHN JOSEPH
MOAKLEY, A REPRESENTATIVE
FROM THE COMMONWEALTH OF
MASSACHUSETTS

SPEECH OF

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 2001

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in honor of JOHN JOSEPH MOAKLEY, former Congressman from the ninth Congressional district of Massachusetts.

JOE MOAKLEY was first sworn in as a representative in 1989. We know him most recently for his long service on the Committee on Rules—he was chairman of that committee from 1989 to 1994, and continued to serve as the ranking member from 1995 until this year.

As my colleagues have noted before me, JOE MOAKLEY never forgot his roots. Even as Chairman of one of the most influential committees in the U.S. Congress, he always had time for constituents in need, and junior Members of Congress who didn’t understand the intricacies of House operations. He was known for his ability to diffuse tense situations with a humorous comment, and was welcomed and appreciated by all for his direct yet respectful manner. As my colleagues from the

other side of the aisle have noted, we all thought of him as a fair chairman and an honest human being.

I began my elected service in the House of Representatives in 1989, and it was in that year that six Jesuit priests, their housekeeper and her daughter were murdered in El Salvador. Congressman MOAKLEY was appointed as the head of a special task force directed to investigate the murders and the response of the Salvadoran government. It was this task force which first reported the connection between these murders and several high-ranking military officers in El Salvador. This report was of sufficient gravity that it resulted in the termination of U.S. military aid to El Salvador. The end of the civil war in that country is often attributed to his work in this area and the change in U.S. policy which resulted therefrom. JOE MOAKLEY did not have to take on any of this extra work. It didn’t help him get elected, he didn’t get paid any more money—he did it, I believe, because he felt a need to right a wrong, and this is how I will always remember him.

We here in Washington are all missing him very much right now. I know his surviving family and other relatives will miss him even more. To them I say JOE MOAKLEY was as good as they come. He was a true public servant in every positive sense and I stand today to honor this gentleman of all time.

TRIBUTE TO GILDA’S CLUB

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. NADLER. Mr. Speaker, I rise today to pay tribute to Gilda’s Club of New York City on the occasion of its sixth anniversary. Since opening its doors in 1995, Gilda’s Club has welcomed over 2,600 people—men, women and children—all of whom have been affected by cancer. The Club was founded in honor and named after the late Gilda Radner. While best known for her work as a comedienne, Radner’s legacy continues in Gilda’s Club as it carries out her dying wish: that persons, like herself, living with cancer would find a community in which to meet, support, and share with those also struggling with this deadly disease.

Gilda’s Club is a non-profit organization that provides free-of-charge services to anyone living with cancer, from those struggling with their own illnesses to their families and friends. Most noteworthy of these services is the Club’s innovative and effective Basic III ‘Plus’ program. The program focuses on providing members with an emotional and social foundation from which to draw hope and strength. From encouragement in Support and Networking Groups, to education in Lectures and Workshops, to family bonds in Noogieland, The Family Focus and Team Convene, the Basic III ‘Plus’ program covers all the bases in creating the network patients need to heal both emotionally and physically.

This network is made possible by the volunteers and members of Gilda’s Club, who strive to create a welcoming atmosphere for newcomers. These members and volunteers form lasting bonds while participating in Club programs. It is this unique bond that allows members to feel comfortable turning to the Club in

their times of need. Executive Director Joel Sesser most accurately describes the Club as "a special community at the crossroads of the world." Everyone, regardless of their sex, religion, or ethnic background, is guaranteed loving care and support at Gilda's Club.

For the hope and spirit it has provided to its members and the inspiration it provides to the community, I offer my sincere congratulations to Gilda's Club of New York City for its six years of exceptional service.

THE EMERGENCY FOOD ASSISTANCE ENHANCEMENT ACT OF 2001

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. GOODLATTE. Mr. Speaker, I rise today to introduce the Emergency Food Assistance Enhancement Act. My bill increases commodity purchases for The Emergency Food Assistance Program (TEFAP) to help emergency feeding organizations—food banks, food pantries, soup kitchens—meet the needs of their communities. It also provides more federal support for the cost of storing, transporting, and distributing food donated to these organizations by the federal government and private sources. A total of up to \$40 million a year of money that is not being used for employment and training programs is earmarked for these food purchases and handling costs, in addition to the \$100 million a year now set aside for TEFAP food purchases and \$45 million a year appropriated for storage, transportation, and distribution costs.

Food banks and other organizations meet the needs of their communities by managing donations from the government and private sectors, and most government donations are from TEFAP. It is a unique program that has the ability to provide nutritious domestic food products to needy Americans, while at the same time providing direct support to the agriculture community. Although federal food donations through the TEFAP are not the only source of the food distributed by food banks and others, they are key because they provide distributing agencies with some certainty as to their inventory and contribute greatly to the variety of food items that are offered. TEFAP grants for storage, transportation, and distribution costs also enable these agencies to efficiently handle a large volume of federal and private donations. In the 1996 welfare reform act, Congress made TEFAP commodity purchases mandatory because of the integral role it has in providing food aid to needy families and individuals.

TEFAP benefits are a quick fix, something to get families through tough times. TEFAP gives them the support they need, but it doesn't catch them in a cycle of dependency. These food purchases also provide much needed support to the agriculture community. While other food assistance programs are much larger, TEFAP purchases have a much more direct impact on agriculture producers.

The 1997 Balanced Budget Act included hundreds of millions of dollars for employment and training programs aimed at able-bodied adults between the ages of 18 and 50 without dependents whose eligibility for food stamps

was restricted by a work requirement set up in the 1996 welfare reform law. The bulk of the money is dedicated to employment/training programs that keep unemployed able-bodied adults on the food stamp rolls, if they participate. But much of it is going unspent. Several hearings and reports have said that this money is unspent because few are taking advantage of employment and training assistance offered through the Food Stamp program; states running the program are not seeing a demand and are not drawing on this funding. The unused pool of employment and training money now tops \$200 million, and continues to grow. At the same time, food banks and other emergency food providers report increased demand from this group and others.

Why not put the money where the need is? The Secretary of Agriculture continually reviews states' spending of their Food Stamp program allocations for employment and training programs. If a state doesn't use the money allocated to it, the Secretary can reallocate it to another state that can use it. My bill does nothing to change or restrict this authority. It simply allows the Secretary to tap up to \$40 million a year in unspent and unallocated employment and training funds for TEFAP commodity purchases and storage, transportation, and distribution costs.

Mr. Speaker, I am hopeful that the Emergency Food Assistance Enhancement Act will enjoy resounding and rapid support from the full House of Representatives. It is important that we increase commodity purchases for this important program and help emergency food providers handle the maximum volume of food donations possible.

INTRODUCTION OF THE MENTAL HEALTH JUVENILE JUSTICE ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. GEORGE MILLER of California. Mr. Speaker, it is my pleasure to announce the introduction of the Mental Health Juvenile Justice Act of 2001. I am pleased to be joined by 32 original cosponsors who share my strong desire to improve the treatment of children with mental health needs who enter the juvenile justice system.

The rate of mental disorders is significantly higher among youth in the juvenile justice system than among youth in the general population. Federal studies suggest that as many as 60% of incarcerated youth have some mental health disorder and 20% have a severe disorder. In my home state of California, a recent study by the California Youth Authority found that 35% of boys in its custody and 73% of girls need mental health or substance abuse treatment.

We also know that many youngsters in the juvenile justice system have committed minor, non-violent offenses or status offenses. While they may be better served through the mental health system, often times these youngsters are incarcerated in juvenile facilities because of a lack of access to or the availability of mental health programs in the community. These youngsters, their families, and society, could be better served if we made available

appropriate local mental health, substance abuse, and educational services as an alternative to incarceration, particularly for first-offenders and non-violent offenses.

Our nation's juvenile justice system cannot adequately serve the needs of children with mental health disorders. Juvenile facilities are overcrowded and lack the necessary programming required to accommodate the needs of these youthful offenders. Staff working in these facilities are not trained to work with children in need of mental health services. As a result, many children in need of mental health services are left without the rehabilitative services they require.

Mental health treatment and services have been proven more effective than incarceration in preventing troubled young people from re-offending and are less expensive than prison. In the long run, they are even more cost-effective to us as a society, because they increase the odds that a young person will become a responsible, productive, taxpaying citizen rather than a permanent ward of the state.

The bill we are introducing today, the Mental Health Juvenile Justice Act, would help create alternatives to incarceration, particularly for first time non-violent offenders, and improve conditions in youth correctional institutions by:

Providing funds to train juvenile justice personnel on the identification and need for appropriate treatment of mental disorders and substance abuse, and on the use of community-based alternatives to placement in juvenile correctional facilities.

Providing block grant funds and competitive grants to states and localities to develop local mental health diversion programs for children who come into contact with the justice system and broaden access to mental health and substance abuse treatment programs for incarcerated children with emotional disorders.

Establishing a Federal Council to report to Congress on recommendations to improve the treatment of youth with serious emotional and behavioral disorders who come into contact with the justice system.

Strengthening federal courts' ability to remedy abusive conditions in state facilities under which juvenile offenders and prisoners with mental illness are being held.

We need to reform our juvenile justice system to ensure that it preserves the basic rights and human dignity of the children and youth housed in its facilities. And, while alternatives to incarceration may not work for all youth, for those who must serve time in a juvenile correctional facility we have an obligation to ensure that they have access to appropriate medical and psychiatric treatment and qualified staff.

The Mental Health Juvenile Justice Act offers these reforms and includes the appropriate safeguards for youth who would be better served in mental health and substance abuse treatment programs. I look forward to working with my colleagues in enacting this legislation.

TESTIMONY OF ARTHUR T. KATSAROS

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Ms. HART. Mr. Speaker, today the House Science Committee, subcommittee on Energy, held a hearing on the "President's National

Energy Policy: Hydrogen and Nuclear Energy Research and Development Legislation." One gentleman that was asked to testify was Arthur T. Katsaros, who spoke on behalf of Air Products and Chemicals, Inc., a Pennsylvania based company that has been researching and developing the utilization of hydrogen as a fuel source. With the recent coverage of energy and our plans for future use in the United States, I would ask that his testimony be submitted for others to view and learn more about this abundant source:

INTRODUCTION

Mr. Chairman, Ms. Woolsey, and members of the Subcommittee, thank you for the opportunity to testify this morning on a subject that may seem futuristic but is actually upon us—the utilization of hydrogen as a fuel source. No matter what one's perspective is on climate change and the role of fossil fuels in the current economy, there is a broad consensus that the United States and the world are moving toward a "hydrogen economy" in which fuel is abundant, efficient, renewable, and non-polluting. There is debate over how soon hydrogen will be widely available as a fuel source, but little debate over hydrogen's many virtues. I am pleased to address the viability of hydrogen as a fuel source today and in the years and decades ahead, and to address perfectly legitimate concerns about assuring its safe use. I ask that my full testimony be submitted for the record.

I am Arthur Katsaros, Group Vice President for Engineered Services and Development with Air Products and Chemicals, Inc, a Fortune 500 company based in Allentown, Pennsylvania, and with operations throughout the world. Air Products is among, the world's largest companies in the industrial gas business, and is the leading producer of third-party hydrogen worldwide. Air Products is a recent past chair of the National Hydrogen Association (NHA), whose members include industrial gas producers, automobile manufacturers, energy providers, chemical companies, universities, and research institutions. I am pleased to be appearing on behalf of both Air Products and the NHA.

SUPPORT FOR HYDROGEN FUTURE ACT

NHA members wholeheartedly support reauthorization of the Hydrogen Future Act. Indeed, given the focus on hydrogen in the National Energy Policy recently released by the White House, we hope that funding for hydrogen will be increased rather than held constant. The timing is right for the United States to be putting scarce research and development resources into hydrogen as a fuel source.

The public is clearly committed to environmental protection. Energy concerns have also come to the fore, both as a result of electricity disruptions in California and the higher fuel prices that we all are facing. Policy makers will find it impossible to discuss energy policy without having to also debate environmental impact. Embracing hydrogen certainly appears to be one answer to the tension between a clean environment and bountiful energy—it provides a method for delivering energy to stationary as well as mobile sources without pollution (its byproduct of combustion is water).

For reasons of environmental protection and sustainability, America needs to be on a path that relies increasingly less on carbon as a source of energy—we have moved over the past 150 years from coal, to oil, to natural gas, and we believe eventually our economy will be based primarily on hydrogen.

HYDROGEN IS A SAFE FUEL SOURCE

Every day, millions of pounds of hydrogen are used—and used safely—in hundreds of in-

dustries across the country and around the world (50 million pounds daily in the U.S. alone). As the world's largest third-party hydrogen generator and supplier, Air Products has been addressing hydrogen safety, storage, transportation and other infrastructure concerns for decades. We put an extremely high value on safety at Air Products. The American Chemistry Council last year gave Air Products its highest award for safety. Our experience shows that hydrogen can be handled safely when guidelines for its safe storage, handling and use are observed.

Hydrogen is a fuel, and as a fuel it has combustible properties. Hydrogen's combustion properties warrant the same caution any fuel should be given, and like all fuels there are safety measures unique to hydrogen (most people do not refill their own propane tanks, for example, yet propane is widely used at home). There is no scientific or practical barrier to the safe use of hydrogen as a fuel.

Safety technologies for hydrogen have progressed in several areas. Gas detection and measurement capability has advanced based in part on the extensive investment of the Department of Energy in the last few years. Several of these technologies are becoming available as commercial products. Hydrogen flame detection has progressed mainly from the commercialization of technology used by the National Aeronautics and Space Administration (NASA). NASA today uses infrared and ultraviolet detection systems that can detect not only invisible flames produced by burning hydrogen, but also those hidden behind a screen of smoke. In addition, a series of hydrogen sensors has proven to be capable of detecting hydrogen leaks prior to ignition.

Air Products operates hundreds of miles of hydrogen pipelines in the U.S. In California alone, we produce approximately 300 million standard-cubic-foot-per-day of hydrogen, which is transported to petroleum refiners in the state to reduce the sulfur, olefins and aromatics content in transportation fuels. Safety is the paramount concern in the operation of our hydrogen pipelines. Our pipeline integrity management program—which exceeds regulatory requirements—includes risk assessment studies that typically result in the use of multiple safety technologies on our hydrogen pipelines, including heavier pipeline wall thickness, excess flow valves and isolation valves, along with intensive testing, inspection and maintenance procedures. We have been working closely with the U.S. DOT Office of Pipeline Safety on the development of regulations increasing safety practices on hydrogen and other flammable gas pipelines. The promulgation of these regulations will be critical to the development of a safe and reliable hydrogen pipeline infrastructure in the U.S.

In addition to delivering hydrogen to customers through pipelines, Air Products also liquefies hydrogen at cryogenic temperatures (-423 °F) and transports it by truck and barge. We drive 15,000-gallon hydrogen tanker trucks millions of miles per year on U.S. highways without incident. NASA, the largest consumer of liquid hydrogen in the world, has been buying hydrogen for the space program from Air Products for over 35 years under consecutive competitive contracts, totaling over 300 million pounds of liquid hydrogen. Every Space Shuttle flight has been powered by our liquid hydrogen.

CODES AND STANDARDS TRANSLATE INTO PUBLIC TRUST

Hydrogen energy safety is based on three primary elements: regulatory requirements, capability of safety technology, and the systematic application of equipment and procedures to minimize risks. Industry currently implements many successful proprietary

methodologies for safely handling large amounts of hydrogen. There are several codes and standards specifically for hydrogen fuel applications that are under development by international, U.S. and industry organizations (including ISO, DOE and NHA). There are also many efforts underway to standardize hydrogen system component manufacture for hydrogen safety in a variety of potential commercial hydrogen market applications.

Widespread hydrogen use will require that safety be intrinsic to all processes and systems. To develop a hydrogen infrastructure that has the public's confidence in its safety and convenience, an industry consensus on safety issues is required. This includes the development of compatible standards and formats (e.g., the same couplings for dispensing the same form of fuel). Product certification protocols are also required. The development of codes and standards for the safe use of hydrogen is an essential aspect of the U.S. Department of Energy Hydrogen Program.

Utilizing industry expertise and coordinating with government and other official entities, this barrier to commercialization may be overcome, allowing siting of hydrogen components and systems on a worldwide basis. Indeed, the NHA works with leading code- and standard-setting organizations around the world to develop and publish industry consensus standards that account for the outstanding safety record of hydrogen. The workshops, technical meetings, manuals, reports, and sourcebooks of the NHA characterize an industry that wants to leave no stone unturned in a commitment to safety and public trust. We will continue to work with policy makers on standards and codes that promote safety and encourage public confidence in the use of hydrogen in fuel cells and direct combustion.

COMMERCIALIZATION IS COMING, BUT IT REQUIRES GOVERNMENT SUPPORT

Our international competitors—often with major help from their governments—are pouring substantial resources into hydrogen research. We believe that hydrogen will be widely used commercially within a generation—if not in the United States, then surely in Western Europe, where a consensus exists that climate change must be addressed. The Japanese have a \$2.8 billion long-term hydrogen program called World Energy Network. Major automakers around the world are planning to sell fuel cell cars within the next five years. Clearly, the race for global dominance in hydrogen fuel technology has begun.

Through our involvement in multiple demonstration projects in North America and Europe, Air Products is very much engaged in the race to commercialize hydrogen technologies. Some examples of our involvement include the design and installation of fueling systems for a hydrogen fuel cell bus demonstration program for the Chicago Transit Authority; Ford Motor Company's fuel cell automobile development facility in Dearborn, Michigan; and a fleet of fuel cell service vehicles for the Palm Springs, California's Airport. Air Products is leading the hydrogen fuel provider team for the California Fuel Cell Partnership. In the next three years, more than 70 fuel cell-powered cars and buses will be placed on the road from the Partnership's West Sacramento facility. We recently installed a gaseous hydrogen fueling station in Atlanta, Georgia for a hydrogen fuel bus project conducted by a consortium of companies led by the Southeastern Technology Center. Air Products has successfully tested the use of Hythane—a blend of hydrogen and natural gas used as an ultra-clean fuel—in projects in Denver, Colorado,

and Erie, Pennsylvania. This year we participated in the demonstration of a stationary fuel cell generator that was used to power air quality monitoring equipment used by the Texas Natural Resource Conservation Commission. And Air Products is currently leading a team that will build and operate an on-site hydrogen production facility, fuel cell power plant, and a fueling station capable of dispensing hydrogen and hydrogen-blended fuels to fleets of buses and light duty vehicles in Las Vegas, Nevada. Almost all of these projects have one thing in common: the active support and partnership of government entities.

The hydrogen industry recognizes that the markets will ultimately dictate the commercial success of hydrogen. However, we note that a White House that prides itself on its faith in the markets has, in its recent National Energy Policy, supported tax credits for fuel cell vehicles. We suggest that such credits, which would stimulate demand for hydrogen, need to be matched by credits to stimulate hydrogen supply if government is serious about supporting hydrogen utilization. For example, a tax credit for plant and equipment that generates and distributes hydrogen would help develop the infrastructure needed to supply fuel cell vehicles and stationary power generators. Without such an infrastructure, it is less likely that fuel cell manufacturers will have success in selling mass quantities of fuel cells that cannot easily be refilled.

Beyond tax credits, vibrant funding of the hydrogen program at DOE—especially research into improved hydrogen storage—will help lead the country toward widespread commercialization of hydrogen fuel. Utilization of hydrogen fuel on urban bus fleets and other government vehicles, perhaps combined with applications of fuel cell power plants at federal facilities, will demonstrate the role of hydrogen and, by increasing demand, help drive down costs.

CONCLUSION

The United States is poised to take a leadership role in the development and commercialization of the global hydrogen economy. Hydrogen's utilization promotes clean air and water, makes the United States more competitive internationally, and ultimately holds the promise of contributing to our energy self-sufficiency. But to realize these benefits, there is a legitimate role for government to play in several critical areas:

Through R&D programs and demonstration projects supported by the DOE and other government agencies, new hydrogen technologies will be tested and prepared for commercial use;

By its own use of hydrogen technologies, government will play a key role in stimulating the development of a hydrogen infrastructure;

And by driving the development of standards and regulations, government will help with the issues of storage and safe handling of hydrogen required for public confidence.

We are pleased this Committee shares the view that hydrogen plays an integral role in energy planning for the future. It is our hope that Congress will take a vital step toward this future by its prompt consideration and passage of the Hydrogen Future Act. We look forward to working with this Committee, with Congress generally, and with an Administration that has identified the need for an increased role for hydrogen to satisfy our energy needs in the near future and beyond.

THE "CONSUMER ENERGY COMMISSION ACT OF 2001"

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. RUSH. Mr. Speaker, today, I am pleased to introduce a House companion bill to S. 900, the "Consumer Energy Commission Act of 2001," which was introduced on May 16, 2001, by Senator RICHARD J. DURBIN of Illinois.

Over the past several years, the nation has been hit with one energy crisis after another. In the midst of all but one of those crises, energy consumers have heard from the "expert" after "expert" that the marketplace is to blame.

While consumers, industry representatives, and public officials may disagree over whether the crisis of the day has more to do with market forces than with gouging, but ultimately, we can all agree that this country needs a comprehensive energy policy. Clearly, the Administration should be commended for its attempt at articulating such a strategy. However, the report reflects almost exclusively, the interests and concerns of the energy industry.

Unfortunately, today's energy market is controlled by relatively few huge corporations, which do not always have the best interests of the public at heart. Many consumers are not convinced that making more resources available to these companies will magically fix the market. Moreover, consumers are not convinced that deregulation, and restructuring, without strict policing of the industry, will create enough competition to alleviate the stranglehold that those companies have over the industry, and indeed the pockets of energy consumers.

It is in response to this constant and pervasive threat of market abuse and manipulation, that I introduce the "Consumer Energy Commission Act of 2001." The Act would create the Consumer Energy Commission, (CEC), which would in turn analyze the energy market from the consumer's perspective and give recommendations on how to protect the public from opportunistic, and abusive behavior in the market by energy companies. This bipartisan body would consist of 11 members from consumer groups as well, as energy experts from the industry and federal government.

While there may be disagreement over what caused, and what steps should be taken to solve our current national energy dilemma, it cannot be disputed that consumers are paying astronomical prices for energy, while large companies are yielding even more astronomical profits. With this thought in mind, I am proud to introduce the "Consumer Energy Commission Act of 2001," which will stand as an important step in assisting those who have suffered most during the current series of regional and national energy crises—the hard-working consumer.

PERSONAL EXPLANATION

HON. THOMAS H. ALLEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. ALLEN. Mr. Speaker, on June 13, 2001, I was unavoidably absent for two rollcall

votes. Had I been present I would have voted "yea" on rollcall vote 160, the Sudan Peace Act, and "yea" on rollcall vote 161, a resolution relating to human rights in Afghanistan.

DESIGNATION OF BANGOR INTERNATIONAL AIRPORT AS A STATE ASCE HISTORIC LANDMARK

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. BALDACCI. Mr. Speaker, I rise today to recognize the designation of Bangor International Airport (BIA) as a State American Society of Civil Engineers (ASCE) Historic Landmark. I have been proud to support this designation which I believe is well deserved.

For nearly three-quarters of a century, BIA has served as an important transportation hub for northern and eastern Maine. A municipal airstrip began in 1927, and operations have grown ever since. Within 4 years, the original Pan American Airways was flying from BIA. Today, a new Pan Am is operating from BIA, continuing a long tradition of excellent service.

The airport has had its share of celebrity, as well. Amelia Earhart flew from BIA in 1933, and piloted the inaugural flights for the Boston-Maine Airways Service.

During World War II, the federal government took over the airport, turning BIA into Dow Air Force Base. The Base played a crucial role in US military operations until it was decommissioned in 1964, and was known as the "Gateway to Europe." BIA continues to be an important part of our military's mission, serving as the home of the 101st Refueling Wing of the Air National Guard—better known as the "Maniacs." Today, thanks to the efforts of the City of Bangor, the airport is a commercial success. Just this week we learned of a major expansion of service that will keep business and leisure travelers moving smoothly into and out of Maine. As a member of the House Transportation Committee's Subcommittee on Aviation and a native of Bangor, I take special interest and pride in BIA's many successes—past, present and future.

I want to congratulate everyone who played a role in securing the ASCE Historic Landmark designation for Bangor International Airport, I am pleased that this facility's long and significant history is being honored.

CHAMPION OF THE HANDICAPPED—RON FOXWORTHY

HON. DAN MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. MILLER of Florida. Mr. Speaker, I come before you today in this great Chamber to honor a fellow American. His name is Ron Foxworthy.

He lives in Sarasota, which is in my Congressional District in the Southwest part of Florida. Ron is being honored in Sarasota by his fellow citizens, his friends, his family, and most notably by the hundreds and hundreds of

handicapped children and adults for whom Ron has been the most devoted of advocates.

Ron is a successful businessman who could easily have the delightfully carefree life of a retiree in our area. He is a Shriner. He is also a 33 degree Mason. Many years ago, Ron decided to devote his extra time and extra finances to the care and well being of handicapped children.

Ron gives the expression "quality time" new meaning.

Since 1964 he has made sure that handicapped children can enjoy the beautiful beaches of Sarasota.

He has organized the now international Suncoast Off-shore boat races, for which all proceeds go to the Suncoast Foundation for the Handicapped.

In his role in the business community Ron has been instrumental in bringing various groups together for the common goal of assisting the handicapped. He counsels young business entrepreneurs on the operation and management of their businesses and provides them with the skills to assist the handicapped in their communities.

He somehow managed to find the time to build the first training center in the country for Special Olympics Athletes.

It is not uncommon for Ron to transport burned and handicapped children to Shriner Childrens Hospitals in his own airplane and at his own expense. He then flies back to pick up the parents so they can be with their children at the Hospitals.

Webster's Dictionary defines Champion as "The holder of first place in a contest; one who defends another person". Ron Foxworthy is a true Champion of the Handicapped.

A TRIBUTE TO JULIUS L.
CHAMBERS

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. ETHERIDGE. Mr. Speaker, I rise today to pay tribute to Julius Levonne Chambers of Durham, North Carolina, who retired as Chancellor of North Carolina Central University on June 1st. Today we honor Mr. Chambers for his accomplishments as a civil rights lawyer and for his service to North Carolina Central University and my home state.

Julius Chambers was born in Mount Gilead, North Carolina, a small community east of Charlotte, in 1936. He learned about racial discrimination at an early age when a white man refused to pay for repairs that Chambers' father had made on the man's truck. In 1954, the year of Chamber's graduation from high school, the Supreme Court handed down its landmark ruling regarding Brown v. Board of Education. Indeed even at an early age it seemed that Julius Chambers was destined to be a key figure in the civil rights movement.

In the fall of 1954, Chambers enrolled at North Carolina Central University, which was then called North Carolina College, where in his senior year, he served as the institution's student body president. Chambers graduated from North Carolina Central in 1958, and after earning his master's in history at the University of Michigan, he came back to North Carolina to study law at the University of North

Carolina at Chapel Hill. While he studied law in Chapel Hill, Chambers' path intersected with the civil rights movement once again, when he was chosen Editor-in-Chief of the University of North Carolina Law Review, thus becoming the first African American to hold this title at a historically white law school in the South. After graduating first in his class of 100 in 1962, Chambers attended Columbia University Law School. Then in 1963, Thurgood Marshall selected Chambers to be the first intern at the NAACP's Legal Defense and Education Fund.

Once he completed schooling, it did not take Julius Chambers long to make his own impact on the civil rights movement. He opened his own law practice in June of 1964, and from this one-person law office, he created the first integrated law firm in North Carolina history. Chambers, with the help of his partners and lawyers from the Legal Defense Fund, litigated many historic civil rights cases, including Swann v. Charlotte-Mecklenburg Board of Education (1971), that helped shaped our nation's civil rights law. In 1984, Chambers left the firm to become the Director of the Legal Defense Fund. He would serve in this position for nine years, until he was inaugurated as Chancellor at his alma mater, North Carolina Central University.

Upon his arrival at Central in 1993, Chancellor Chambers faced a daunting challenge. Over the next eight years, Chambers used his many contacts and his reputation as a civil rights lawyer to replenish the University's coffers and improve its infrastructure. But more importantly, he revitalized the University's strong and proud spirit by virtue of his excellent leadership. He had a vision for North Carolina Central University to make the school the best liberal arts institution in the nation. And even in his last days as Chancellor he was still talking about providing better resources for students, hiring qualified and committed faculty, and improving academic achievement. He was a truly great Chancellor and he helped to shape the lives of so many of North Carolina's young African American leaders.

While recruiting Chambers for the Chancellor's position at Central, Mr. C.D. Spangler, the former president of the University of North Carolina system, told Chambers: "If you were chancellor at North Carolina Central University, 5,000 students will walk with their heads held higher because you're there."

Mr. Speaker, everyone involved with the North Carolina Central family and every citizen in North Carolina can hold their heads high today as we honor Julius Chambers for his career and his remarkable accomplishments.

My wife Faye joins me in wishing Julius Chambers and his wife Vivian all the best in the future. And on behalf of a grateful state, thank you Julius Chambers for a job well done.

CELEBRATING NATIONAL FLAG
DAY

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mrs. McCARTHY of New York. Mr. Speaker, I rise today in honor of Old Glory. National

Flag Day is a day especially revered by veterans and one which deserves the special attention of each of us.

The Flag of the United States of America has been a constant throughout our nation's history; through its high and low points. In its long and distinguished history, our flag has taken various versions. Just as our country has grown from the original 13 colonies to the great country it is today, so too has our flag. At the time of the original 13 colonies and the Continental Congress, it was a flag of red and blue stripes, with 13 stars, representing the union of those colonies, set in a blue field, representing a new constellation. From the Star Spangled Banner, to the Flag of 1818 with its 20 stars, to today's flag, with its 50 stars, Old Glory has been a symbol of liberty and freedom for people around the world.

I am always touched by the efforts of people across the country to preserve, protect, and honor America's flag. One example that stands out, is the effort of four veterans in my district, who I have recognized as June Citizens of the Month, for their flag education program, which has taken to almost thirty different schools to talk to more than 12,000 students. Another, was the placement of a flag receptacle by a VFW Post in Levittown, Long Island, in which old and worn flags can be placed so that they can be disposed of by the U.S. Post in a manner that is befitting their importance.

As demonstrated by these men and the community in Levittown, the American flag is more than a piece of cloth—it is a national symbol. For this reason, I believe our flag is worth a constitutional sanctuary. Therefore, as we celebrate National Flag Day, let me remind my colleagues of the need to pass legislation that prohibits the desecration of the flag. It is time to give our flag the honor and respect it deserves as our most sacred national symbol.

INTRODUCTION OF THE DISTRICT
OF COLUMBIA POLICE COORDI-
NATION AMENDMENT ACT OF
2001

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Ms. NORTON. Mr. Speaker, today, I introduce a bill to amend P.L. 105-33, legislation that has done much to cure uncoordinated efforts of federal and local law enforcement officials in the nation's capital. The District of Columbia Police Coordination Amendment Act of 2001 amends the Police Coordination Act I introduced in 1997, and that was signed that year, by allowing those agencies not named in the original legislation to assist the Metropolitan Police Department (MPD) with local law enforcement in the District. Inadvertently, P.L. 105-33 failed to make the language sufficiently open-ended to include agencies not mentioned in the original bill.

Prior to the Police Coordination Act, federal agencies often were confined to agency premises and were unable to enforce local laws on or near their premises. Instead, for example, federal officers sometimes called 911, taking hard-pressed D.C. police officers from urgent work in neighborhoods experiencing serious crime. Federal officers were trained and willing

to do the job, but lacked the authority to do so before the passage of the Police Coordination Act.

Agencies have already signed agreements with the U.S. Attorney for the District of Columbia enabling them to participate. Federal agencies understand that the extension of their jurisdiction will enhance safety and security within and around their agencies while offering needed assistance as well to District residents. The Capitol Police and Amtrak Police, who have the longest experience with expanded jurisdiction, report that the morale of their officers was affected positively because of the satisfaction that comes from being integrated into efforts to reduce and prevent crime in and around their agencies and in the nation's capital. This non-controversial technical amendment to the Police Coordination Act is another step to achieving my goal of assuring the most efficient use of all the available police resources to protect federal agency staff, visitors and D.C. residents.

INTRODUCTION OF THE ALL-PAYER GRADUATE MEDICAL EDUCATION ACT OF 2001

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. CARDIN. Mr. Speaker, I rise today to introduce legislation that is vital to the future of our nation's health care system. America's academic medical centers and their affiliated hospitals are essential to the nation's health. These centers do much more than train each new generation of health professionals. Every American benefits from advances in medical research and well-trained providers. Medical advances have dramatically improved the quality of life for millions of Americans, and our academic medical centers are at the heart of the new era of biotechnology, which holds the promise of effective treatments for so many diseases.

Although academic medical centers constitute only two percent of our nation's non-federal community hospital beds, they conduct 42% of all health research and development in the United States, they contain 33% of all trauma units and 31% of all AIDS units, and they treat a disproportionate share of the country's indigent patients. However, funding for these critical tasks is at risk in the new competitive health care marketplace. Commercial insurers are displaying increasing reluctance to pay academic medical centers adequately to support their educational and research missions, and managed care companies steer patients away from these centers as well. Generally, managed care companies cut costs by seeking the lowest cost hospitals and physicians. An academic medical center cannot compete if forced to cover part of its teaching costs through the rates that it charges for medical services. Without a separate funding source for academic costs, these centers run the risk of being non-competitive for managed care contracts through no fault of their own.

Two years ago, The National Bipartisan Commission on the Future of Medicare studied graduate medical education funding and proposed eliminating Medicare's funding role

and moving GME into the general appropriations process. It was an approach that would have seriously undermined not only academic medical centers, but also the future of the medical profession. Fortunately, this recommendation was not enacted.

There is a better way, a much fairer way, to provide for graduate medical education, while ensuring the health of the Medicare Trust Fund. To ensure stability of funding for GME in the increasingly turbulent health economic climate, continued predictable support from Medicare is essential. But even Medicare's contribution does not fully cover the costs of residents' salaries, and more importantly, our current funding system fails to recognize that a well-trained physician workforce benefits all segments of society, not just Medicare beneficiaries.

Today, I am introducing the All-Payer Graduate Medical Education Act of 2001 to create a fair and rational system for the support of graduate medical education—fair in the distribution of costs to all payers of medical care, and fair in the allocation of payments to hospitals. This bill establishes a Trust funded by a 1% fee on all private health insurance premiums. Teaching hospitals will see their direct and indirect GME payments increase by \$2.2 billion each year. In addition, because the current formula for direct GME is based on cost reports generated nearly twenty years ago, it unfairly rewards some hospitals and penalizes others. This bill replaces that outdated formula with an equitable, national system for direct GME payments based on actual resident wages.

Many critics of federal GME support fail to recognize its vast societal benefits. They have attacked indirect GME payments, complaining that hospitals are not required to account for their use of these funds. The All-Payer Graduate Medical Education Act provides a structured mechanism for hospitals to inform Congress and the public about their contributions to improved patient care, education, clinical research, and community services.

My bill also addresses the supply of physicians in the United States. Nearly every commission studying the physician workforce has recommended reducing the number of first-year residencies to 110% of American medical school graduates, down from the current level of 138%. This bill directs the Secretary of HHS, working with the medical community, to develop and implement a plan to accomplish this goal within five years.

This legislation will also ensure that hospitals are compensated fairly for the indigent patients they treat. Medicare disproportionate share (DSH) payments are particularly important to our safety-net hospitals. Many of these are in dire financial straits. This bill reallocates DSH payments, at no cost to the federal budget, to hospitals that carry the greatest burden of poor patients. Hospitals that treat Medicaid-eligible and indigent patients will be able to count these patients in applying for disproportionate share payments. This provision builds on changes made in last year's Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) to provide DSH payments equitably, regardless of the facility's location.

Finally, because graduate medical education encompasses the training of other health professionals, my bill directs \$300 million of the Medicare savings toward graduate training

programs for nurses and other allied health professionals each year. These funds are in addition to the current support Medicare provides for the nation's diploma nursing schools.

Numerous provider and patient groups have registered their support for the all-payer concept, including the Association of American Medical Colleges, the National Association of Children's Hospitals, the American Medical Student Association, the American Osteopathic Association, the American Association of Colleges of Osteopathic Medicine, the American Speech Language Hearing Association, the American Association of Colleges of Nursing, and the American Hospital Association.

I urge my colleagues to join me in protecting America's academic medical centers and the future of our physician workforce by supporting this legislation. Together, we can establish an equitable funding system for GME that ensures the continuation of the highest caliber medical workforce and patient care.

H.R. 2174: ROBERT S. WALKER AND GEORGE E. BROWN, JR., HYDROGEN FUTURE ACT OF 2001

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. CALVERT. Mr. Speaker, I rise to introduce H.R. 2174, Robert S. Walker and George E. Brown, Jr. Hydrogen Future Act of 2001, a reauthorization of the Hydrogen Future Act of 1996.

I strongly support continued hydrogen research and development. While serving as Chairman of the Subcommittee on Energy and Environment of the Committee on Science I began consideration of this reauthorization, which has come to fruition today.

The President's National Energy Policy calls for a balanced energy supply portfolio—I completely support the President's recommendations. America's unprecedented economic growth and prosperity rests on an affordable supply of energy. And, we can all agree that reducing emissions and conserving resources is a good idea. For this reason, I continue to advocate the pursuit of greater efficiencies and reduced energy consumption in our industrial processes, in our transportation sector and in our communities and homes. The national energy strategy that will emerge from Congress and the Bush Administration will include all our energy options and hydrogen will have a place in that strategy. In fact, I am excited to report that the Bush Administration came out in support in my reauthorization bill today at the Science Committee's Subcommittee on Energy hearing today on "Hydrogen and Nuclear Energy R&D Legislation."

Mr. Speaker, I first became interested in the possibilities that hydrogen presents through my work with CD-CERT, an excellent engineering center at the University of California, Riverside—located within my 43rd Congressional district. CE-CERT is nationally renowned for initiating innovative programs to reduce energy demand and improve the environment. CE-CERT has successfully demonstrated a hydrogen vehicle, which has been well received. Additionally, Riverside County,

also within my district, participates with a number of other partners in Sunline—a highly successful public bus fleet demonstration of hydrogen technology, which includes hydrogen infrastructure. Programs such as CE-CERT and Sunline show that hydrogen vehicles are not only possible but also practical. Programs such as these are critical to sustaining my district's growth while continually improving air quality.

For this reason, last year, while Chairman of the Science Committee's Energy and Environment Subcommittee, I considered sponsoring the reauthorization of the Hydrogen Future Act of 1996. I am proud to be introducing this legislation today, and I understand that Senator HARKIN will also be introducing similar legislation in the Senate today.

The bill will reauthorize appropriations for hydrogen R&D at the Department of Energy totaling \$400 million including an additional \$150 million for demonstration projects. This is a substantial increase in authorized levels over previous years. The bill would also sunset the Hydrogen Technical Advisory Panel and directs the Secretary of Energy to enter into appropriate arrangements with the National Academy of Sciences to establish a Hydrogen Advisory Board, thus giving Hydrogen R&D the kind of high-level, Federal and nationwide visibility it deserves.

My bill is named after two former colleagues. George E. Brown, Jr., who honorably served the district adjacent to mine for many years—he was my mentor and good friend. I was proud to serve under Chairman Walker on the Science Committee and respected his leadership on this, as the author of the previous Hydrogen Future Act, and many other issues.

I am pleased to introduce this bill with 13 original cosponsors and I invite more of my colleagues to join me in support of this important, forward-looking R&D legislation.

IN RECOGNITION OF THE 25TH ANNIVERSARY LIBERTY STATE PARK

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize Liberty State Park on its 25th Anniversary. I am proud and honored to represent Liberty State Park in the U.S. House of Representatives. For decades, the Park has symbolized freedom and democracy, while providing a beautiful backdrop to the Statue of Liberty and Ellis Island.

The park officially opened on Flag Day, June 14, 1976, as New Jersey's bicentennial gift to the nation. Located on the Hudson River waterfront, less than 2,000 feet from the Statue of Liberty, Liberty State Park serves as a place of public recreation for millions of tourists and nearby residents. Every year, families from all across the country travel to the park to picnic, host social gatherings, or simply take in the grand views of the Manhattan skyline and the Statue of Liberty.

For years, I have vigorously fought to protect Liberty State Park for our children and future generations. In 1994, I successfully fought developers' efforts to convert this cher-

ished landmark into a golf course. In addition, I have worked with a coalition of organizations to remediate the park's interior to provide more space for visitors to enjoy.

My family and I have shared and enjoyed this park with countless other families and visitors from all across the globe. We have spent many spring and summer afternoons playing football and taking in the splendid views of the Statue of Liberty and Ellis Island. It has become a family ritual to catch a ferry ride from the park to Ellis Island or the Statue of Liberty on a nice fall day.

Liberty State Park continues to play an important role in the lives of the people and families who journey here every year. I love and appreciate this park, and will continue to protect and preserve its natural beauty. I would also like to pay tribute to the Pesin family for their commitment to preserving Liberty State Park and all its splendor.

Today, I ask my colleagues to join with me in honoring Liberty State Park on its 25th Anniversary.

HOW THE IMPERIAL IRRIGATION DISTRICT SAVED THE IMPERIAL VALLEY

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. HUNTER. Mr. Speaker, June 20, 2001, marks the 100-year anniversary of water coming to the Imperial Valley. For my colleagues who are not familiar with the desert portion of my district, it lies in the southeast corner of California, along the U.S. international border with Mexico. Fertile land, and the hardworking farmers of the Imperial Valley, are responsible for many of the fruits and vegetables that our country enjoys throughout the year.

As with any desert region, having water is of paramount concerns and the creation of the Imperial Irrigation District (IID) was an instrumental part of allowing the Imperial Valley to survive. I wanted to take this time to recognize their efforts and accomplishments.

Pioneers began to settle in the Imperial Valley in the 1890s. At that time, the California Development Company (CDC) was responsible for making water available to the new settlers. Men such as Charles Rockwood, Pery Paulin, and Anthony Heber obtained the financial backing necessary to conjoin the waters of the Colorado River with the Colorado Desert. Their plan was to construct a headworks on the river just below Yuma, Arizona, that would connect to a 54-mile-long canal. Water would be delivered by force of gravity to its destination in what was variously called the "New River Country", or the "Imperial Settlement" and finally, the "Imperial Valley."

It was not until 1900, when George Chaffey became associated with the CDC, that work began in earnest on the canal-building project that started at Pilot Knob, extended into and out of Mexico, and eventually found its way to Cameron Lake, later to become known as Calexico, California.

Chaffey struck a deal with Rockwood and the other officers of the corporation to finish the necessary infrastructure and divert water from the Colorado River to the Imperial Valley

in five years. Chaffey finished his work ahead of schedule and within two years the first water was being delivered to the fledgling community of Imperial on June 20, 1901.

With the means to deliver water from the Colorado now in place on both sides of the border, the settlers of Imperial County were ready to welcome easier times. Unfortunately, the flood years of 1905–1907 created a difficult situation when the swollen Colorado River suddenly changed course, sweeping away the original headworks at Hanlon Heading and sending its entire flow not to the Gulf of Mexico, but to the Imperial Valley. A disaster for CDC resulted.

Only the intervention of the Southern Pacific Railroad, which had its own investment to protect in the Valley's continued reclamation and settlement, staved off the inevitable collapse of the CDC, and with it the hopes and dreams of several thousand new settlers. The dilemma facing the railroad was whether or not to abandon its existing lines in the Imperial and Mexicali Valleys, which were now under water, and build new ones, or to throw its considerable resources into stopping the break, saving both valleys.

Southern Pacific Railroad executives opted for the latter choice, spending a total of \$6 million over the next two years to close the break. As the company's largest stockholder, the railroad was forced to assume day-to-day management of the CDC during the midst of the flood years. To the approximately 3,000 settlers who had come to the Imperial Valley this meant that the company responsible for bringing water to their burgeoning communities and distributing it to the mutual water companies and their farms was no more.

Southern Pacific Railroad, however, was reluctant to be in the Imperial Valley irrigation and land business and made the decision to cut its losses before it acquired any new ones. A group of disgruntled local investors had the same idea and called for the dissolution of the CDC and the sale of its remaining assets.

It was against this backdrop of natural and man-made disasters that the first settlers of the Imperial Valley took a series of affirmative steps to ensure the future of their community. The first step was a vote in August, 1907, designating El Centro, with its 41 registered voters, as the county seat over Imperial, the Valley's oldest and most populous community with 500 registered voters and one-third of the total electorate. There were five towns in the Valley then: Imperial, Calexico, Brawley, Holtville and El Centro, the first three having been developed by a syndicate of Los Angeles investors and the latter two by Mr. W.F. Holt, who underwrote much of the Valley's early growth and development.

The Imperial Valley was now its own county and El Centro its geographic and governmental center. The first Board of Supervisors was elected on that same August day in 1907, as was the very first district attorney, Mr. Phil Swing, and the county's first sheriff, Mr. Mobley Meadows. Duly constituted as an official body by the state, the young county was ready to begin addressing its most pressing concern: What to do about the water situation, so closely tied to the future of the Imperial Valley?

For a time, the federal government appeared to offer a solution. Responding to pressure from the Southern California delegation, Congress appropriated \$1 million in 1910 to

construct new gates and levees near the site of the former break. An unexpected surge in the river, however, washed away eight months of work and killed one of the workers.

Despite opposition from the mutual water companies, county officials began to circulate the idea of forming an irrigation district that would be owned by the people through the California Irrigation District Act. The legal analysis was furnished by Mr. Phil Swing, the newly-elected and politically astute D.A., who would later serve in Congress. He became the motivating force behind the Boulder Canyon Project.

Swing argued that private ownership had been tried and failed, the federal government could not be counted on to fill the void left by the railroad and the mutual water companies could not be trusted to represent the people's best interests. According to Swing, what the Imperial Valley needed was an irrigation system owned by the people it was meant to serve, a public agency with municipal powers similar to a city, but one that was also autonomous from county government. The call for local control had immediate appeal in an Imperial Valley still recovering from the flood years and captured the populist mood of the voters. An election was held on July 14, 1911, and the vote in favor of establishing the Imperial Irrigation District (IID) was passed 1,304–360.

Members of the IID's first board included Mr. Porter Ferguson, a Holtville farmer; Mr. Fritz Kloke, a farmer and banker in the Calexico area; Mr. W.O. Hamilton, an El Centro farmer and merchant; Mr. H.L. Peck, an Imperial farmer and merchant; and Mr. Earl Pound of Brawley, a farmer and real estate broker. At its first meeting on July 25, 1911, Porter Ferguson was named president of the board, and members were asked to contribute \$150 toward the good of the cause, with the \$750 going to help defray ongoing expenses.

Their cause was self-determination, which most people believed could only be realized through the eventual purchase of the water distribution system already in place, including the 52 miles of canals owned and operated by the Compania de Terrenos y Aguas de la Baja California, a Mexican subsidiary of the CDC. Both companies and their assets were tied up in the courts, but the ITD intended to acquire these properties out of receivership. In the meantime, it would have to generate the capital needed to implement its ambitious acquisition plan.

By 1912, with the Mexican Revolution going on just across the border in Mexicali, an opportunity was presented for an open discussion regarding the need for an "All American Canal," the first recorded reference to the massive project that would be completed, along with Hoover Dam, some 30 years later.

At the same time, the IID was negotiating directly with the railroad and with the American and Mexican receivers in an effort to purchase the assets of the CDC, which it did in 1915 for the price of \$3 million. A bond issue for \$3.5 million was passed later that year and condemnation of the defunct company was initiated by the IID. Both actions were popular with the people, if not with the mutual water companies, but individual board members did not enjoy the same level of support among water users, mainly due to water shortages on the river.

Finally, the entire board of directors resigned as a body and the County Board of Su-

pervisors had to appoint five new IID directors, naming Mr. Leroy Holt as president in 1916. It was this Holt-led board, serving during those first tumultuous years of 1912–1916, that skillfully pursued the acquisition of the CDC's existing waterworks and placed it in the hands of the people. The IID purchased the last of the "mutuals" in 1922. It was during this period that the East Highline was built, along with the Westside Main Canal and other important features of the canal network that are still in service today.

The IID's first four years in existence were a chronology of great accomplishments, coupled with competitive politics. Its real achievement, however, was delivering to the people of the Imperial Valley some measure of certainty in the future and, with it, a reason for optimism. With the flood years and the period of receivership behind it, the IID, on behalf of the people, picked up where the CDC left off. There was only one difference, the IID never stopped.

Thank you Imperial Irrigation District for your years of dedicated service, for saving the Imperial Valley and for all that you continue to do for the citizens of Imperial County.

TRIBUTE TO THORNTON SISTERS

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. PALLONE. Mr. Speaker, I would like to call attention once again to a group of women who never cease to amaze me. This month marks the tenth anniversary of The Thornton Sisters Foundation, Inc. I have been following these women's struggles and accomplishments for a long time now, and after a decade of success I feel it an honor to formally salute these women a second time.

On Sunday June 10, 2001 the Thornton Sisters Foundation held an awards ceremony for the twenty-five finalists of the Donald and Itasker Thornton Memorial Scholarship and their family members. The Grand View Ballroom at the Jumping Brook Country Club in Neptune, New Jersey hosted this occasion.

The Thornton Sisters have an interesting history that led to the creation of this foundation. Their parents, Donald and Itasker, moved in 1948 from Harlem New York City to Long Branch, New Jersey. The Thornton move was so that their children would be able to receive a better education. After purchasing a lot on Ludlow Street, Mr. Thornton became the first African-American man in the area to receive a mortgage.

Mrs. Thornton having given birth to six children, all of whom are girls, became a domestic. Mr. Thornton worked three jobs at Fort Monmouth, Eatontown to provide for his children.

Mrs. Thornton was unable to attend college herself. However, she pushed all of her daughters to accomplish something that she would never be able to do. Mrs. Thornton was correct in her foreseeing that women of the future would need to be able to be financially stable on their own.

With the help of scholarships and a weekend family music group all six daughters graduated from Monmouth University in Long Branch. Their music ensemble was well

known and packed the house of the Apollo Theatre in Harlem. Having learned early on the importance of an education, these six sisters now want to give the same opportunity they had to other young women.

This story has special significance to me, as I am a citizen of Long Branch. Rita Thornton and I both attended Long Branch high school at the same time and actually participated in speech and debate together. I could tell, even back then, that her and her sisters share a true commitment to education and excellence—now knowing all of them received straight A's throughout high school.

These women are truly a group that needs to be admired and praised. I want to personally thank the Thornton sisters on their ten years of providing scholarships for young minority women of the state of New Jersey.

NATIONAL YOUTH SMOKING REDUCTION ACT OF 2001

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. DAVIS of Virginia. Mr. Speaker, I am very pleased to introduce the National Youth Smoking Reduction Act of 2001, which gives the Food and Drug Administration (FDA) comprehensive, effective authority to oversee the tobacco industry. As the name implies, the primary focus of this bill is to keep our children away from tobacco products—to protect them from being targeted by the tobacco industry, to keep them from becoming addicted, to keep them healthier and stronger without the detrimental effects of tobacco.

I would especially like to thank my co-sponsors, Representatives TOWNS, GILLMOR, COLLIN PETERSON, LINDER, MARK GREEN, MIKE DOYLE, COLLINS, SWEENEY, BONO, GRANGER, TERRY FERGUSON, SCHROCK, and GRUCCI, for their leadership on this important issue.

Where does my interest in curbing tobacco use come from? My father died of emphysema, and my wife is a doctor. I have three children of my own, and it would break my heart to see them fall prey to the marketing tactics that ensnare children and get them started on tobacco and down the road to disease and suffering. Moreover, I can see with my own eyes the dangers presented by tobacco use, and I believe there is a need to do something about the situation.

I should note that this is not the first time I have acted against tobacco. Back in the mid-1980s, as a member of the Fairfax County Board of Supervisors, I introduced the first ordinance in the Commonwealth of Virginia to designate non-smoking areas in restaurants.

I have tried to take a sensible approach to what is clearly a sensitive and polarizing issue. Some believe FDA has no role in regulating tobacco. Many would prefer FDA to have complete authority over tobacco, up to and including banning the use of tobacco products outright. I am promoting an approach that will allow FDA to take important steps in protecting our citizens, especially children, from the dangers of tobacco. However, I stop short of an abolitionist stance, because I believe that if an adult chooses to use tobacco products, he or she should legally be able to do so. If we ban tobacco use, or leave room

for tobacco products to be altered in a way that makes them unacceptable to adult consumers, an illegal market to obtain such products will surely arise. This, ultimately, will be more harmful to the public health than if we never did anything at all. My bill leaves the authority to ban the use of tobacco products, or to eliminate nicotine completely from them, where that authority belongs: the Congress.

In addition, my bill allows for "reduced-risk" tobacco products. This is an area I believe could be very important in weaning existing tobacco users from more dangerous products—making it easier for them to quit, or at least giving them options that are less dangerous than the ones they are currently using.

I have sought to improve upon S. 190, which has been introduced in the other body. Like that bill, mine allows FDA to remove harmful substances from tobacco products, whether or not they are already on the market. It improves upon S. 190 by codifying the marketing and access restrictions found in the Master Settlement Agreement and the 1996 FDA regulation. These restrictions will go into effect shortly after enactment of the bill, and will subject them to federal enforcement. Furthermore, my bill directs FDA to regulate descriptors, such as "light" and "ultralight", and allows FDA to ban their use if they determine them to be misleading. I have also extended my bill to cover "bidis" and other tobacco products specifically directed towards children.

Mr. Speaker there are other important additions included in my bill, which are described in the attached section-by-section analysis. I urge your careful consideration of this extremely important legislation.

THE NATIONAL YOUTH SMOKING REDUCTION ACT

Section-by-Section Summary: The "National Youth Smoking Reduction Act of 2001," among other things, creates a new chapter IX of the Federal Food, Drug, and Cosmetics Act (FDCA) to provide explicit authority to FDA to regulate tobacco products. The bill creates a separate chapter in the FDCA for tobacco products and thus expressly directs FDA to maintain a distinct regulatory program for tobacco products. The new FDCA chapter IX for tobacco products provides for comprehensive regulation of tobacco products.

The provisions of this new FDCA tobacco products chapter are based on the FDCA's device provisions, but some changes were made to make the provisions more appropriate for tobacco products. The most significant change is that the current statutory standard of "reasonable assurance of safety and effectiveness," which is relied on when FDA makes a range of decisions for devices, was changed to "appropriate for the protection of the public health," a standard which is more appropriate for tobacco products.

FDCA CHAPTER IX—TOBACCO PRODUCTS

Section 901—FDA authority over tobacco products

Clarifies that nothing in chapter IX shall be construed to affect the regulation of drugs and devices under chapter V that are not tobacco products under the FDCA.

Also clarifies that chapter IX does not apply to tobacco leaf that is not in the possession of the manufacturer, or to producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives.

Also clarifies that FDA employees may not enter onto a farm owned by a producer of to-

bacco leaf without the producer's written consent.

Section 902—Adulterated tobacco products, and Section 903—Misbranding tobacco products

Defines the conditions under which a tobacco product will be adulterated or misbranded under the FDCA, and subject to enforcement action. These provisions are similar to device law provisions, but are tailored to tobacco product regulation.

Section 903(b) authorizes the Secretary to require by regulation the prior approval of statements made on the label of a tobacco product, and explicitly states that no regulation issued under this subsection may require the prior approval by the Secretary of the content of any advertisement. This is similar to a device law provision.

Section 904—Submission of health information to the secretary

Within 6 months of enactment (and annually thereafter), each tobacco product manufacturer or importer must, among other document requirements, submit to FDA:

All documents relating to research activities, research findings, conducted, supported, or possessed by the manufacturer on tobacco or tobacco-related products;

All documents relating to research concerning the use of technology to reduce health risks associated with the use of tobacco; and

All documents relating to marketing research on tobacco products.

Section 905—Annual registration

Tobacco manufacturers are required to register each year with FDA in order to provide name and place of business information, as well as to provide lists of tobacco products manufactured by the establishment, and other information. Entities registered with FDA are subject to inspection every two years.

Section 906—General provisions respecting control of tobacco products

Provides authorities relating to the general regulation of tobacco products. This section includes protections for trade secret information similar to those for devices.

Under Section 906(d), the FDA through regulation may require that a tobacco product be restricted to sale or distribution upon such conditions, including restrictions on the access to, and the advertising and promotion of the tobacco product, if the Secretary determines that such regulation would be appropriate for the prevention of, or decrease in, the use of tobacco products by children under the age at which tobacco products may be legally purchased.

FDA may not require that the sale or distribution of a tobacco product be limited to prescription use only.

FDA is precluded from prohibiting tobacco product sales in face-to-face transactions by specific categories of retail outlets (for example, a ban on sales of cigarettes by gas stations).

Under Section 906(e), the FDA is authorized to promulgate regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, pre-production design validation, packing, storage, and installation of a tobacco product conform to good manufacturing practice (GMPs) to assure that the public health is protected.

Prior to issuing GMP regulations, FDA is to consider recommendations from an advisory committee.

The bill makes explicit that the Secretary has the authority to grant either temporary or permanent exemptions or variances from a GMP requirement.

Section 907—Performance standards

FDA may promulgate performance standards for tobacco products if FDA determines

that a standard is appropriate for protection of the public health. This authority is essentially the same as that for devices.

A decision as to whether a performance standard would be appropriate for the protection of the public health is to be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product.

Performance Standards must be promulgated through rulemaking, and interested persons may request that a proposed standard be referred by FDA to an advisory committee for recommendations on scientific issues.

Congress has the sole authority to approve any standard that eliminates all cigarettes, all smokeless tobacco products, or any similar class of tobacco products, or that reduces nicotine to zero. Also, no performance standard can render a tobacco product unacceptable for adult consumption.

Section 908—Notification and recall authority

Provides authority for FDA to order public notification if it determines that a tobacco product presents an unreasonable risk of substantial harm to public health, and such notification is necessary to eliminate that unreasonable risk. In addition:

FDA may issue cease and desist orders and order recalls of particular tobacco products where the Secretary finds that a tobacco product contains a manufacturing or other defect that is not ordinarily contained in tobacco products on the market and would cause serious, adverse health consequences or death.

The section's notification and recall provisions do not relieve any individual from liability under state or federal law.

Section 909—Records and reports on tobacco products

FDA may, by regulation, require a tobacco manufacturer or importer to report any information that suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected, adverse product experience.

Section 910—Premarket review of certain tobacco products

Provides for premarket review of new tobacco products that have the potential to increase the risks to consumers from conventional tobacco products being marketed at the time of the application.

Section 911—Judicial review

This provision provides judicial review procedures beyond the Administrative Procedure Act for FDA actions involving performance standards and premarket approval applications. This provision provides the same procedures as the parallel provision in device law.

Section 912—Reduced risk tobacco products

This section ensures that only those products designated by FDA as a "Reduced Risk Tobacco Product" may be marketed and labeled as such.

FDA may designate a product as a "reduced risk tobacco product" if it finds that "the product is demonstrated to significantly reduce of harm to individuals caused by a tobacco product and is otherwise appropriate to protect the public health."

A product designated as a "reduced risk tobacco product" is required to comply with certain marketing and labeling requirements. However, the FDA shall not prohibit communication that such product is a "reduced risk tobacco product."

FDA may revoke such designation after providing an opportunity for an informal hearing.

A manufacturer of a tobacco product is required to provide written notice to FDA upon the development or acquisition of any technology that would reduce the risk of such products to the health of the user for which the manufacturer is not seeking designation as a "Reduced Risk Tobacco Product" under this section.

Section 913—Preservation of state and local authority

The section makes clear that except as expressly provided, states and localities may adopt and enforce tobacco product requirements that are in addition to, or more stringent than requirements established under FDCA chapter IX. Where a requirement of a State or locality is more stringent, the requirement of the State or locality shall apply.

No provisions of chapter IX relating to tobacco products shall be construed to modify or otherwise affect any action or the liability of any person under the product liability laws of any State.

Section 914—Equal treatment of retail outlets

Directs FDA to issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.

Section 915—Access and marketing restrictions

Prescribes specific marketing and access restrictions for tobacco products. (FDA may impose additional restrictions on marketing and access pursuant to section 906(d), as described above.) The requirements provided in this section track the vast majority of the marketing and access restrictions promulgated by FDA in its 1996 final rule, which was later nullified by the Supreme Court. The requirements also incorporate, with applicability to all, the marketing restrictions imposed on some tobacco product manufacturers under their settlement with the State Attorneys General.

Establishes a federal minimum age of 18 for tobacco product sales and requires proof of age of any individual younger than 26. Authorizes FDA to contract with the states for the enforcement of minimum age laws.

Prohibits the use of vending machines and the distribution of free samples of tobacco products, except in adult-only facilities where minors are prohibited from entering.

Bans tobacco advertisements in any outdoor location, in any transit vehicle or facility, and in any youth-oriented publication. A youth-oriented publication is defined as any publication whose readers younger than 18 years of age constitute more than 15 percent of total readership or that is read by 2 million or more persons younger than 18 years of age.

Bans tobacco-brand-name sponsorships of any athletic, musical, artistic, or other social or cultural event.

Bans the use of cartoon characters in any tobacco advertisement, promotion or labeling. Also bans manufacturers from distributing branded tobacco product apparel or other merchandise.

Prohibits any action by a tobacco business that has the primary purpose of encouraging tobacco use by minors or that directly or indirectly targets youth in the advertising, promotion, or marketing of tobacco products.

Prohibits manufacturers from making any payment to any other person for the display, reference, or use as a prop of any tobacco product or tobacco product advertisement in any motion picture, television show, theatrical performance, music recording or performance, or video game.

Section 916—Mandatory disclosures

Prescribes specific disclosure requirements related to tobacco product ingredients, the

use of domestic and foreign tobacco leaf, and the use of terms such as "light" or "low tar."

Directs FDA to issue regulations requiring the disclosure to consumers of tobacco product ingredients on a brand-by-brand basis following the model of ingredient disclosure used for foods, under which spices, flavorings, and colorings may be listed as such.

Directs FDA to issue regulations requiring the disclosure on each package of tobacco product of the percentage of domestic and foreign tobacco in that brand.

Requires tobacco product manufacturers to include a specific disclaimer in any advertisement which classifies a tobacco product according to its tar yield or the yield to consumers of any substance, such as by using terms like "light" or "low tar." The disclaimer required is: "[Brand] not shown to be less hazardous than other [type of tobacco product]." Directs FDA to promulgate additional regulations relating to the use of such terms to ensure that they are not false or misleading.

Regulatory record

For purposes of promulgating regulations pursuant to section 906(d) on advertising and access, the materials collected by the FDA in promulgating the 1996 regulations will have the same legal status as if they had been collected pursuant to this statute.

Conforming and other amendments

These amendments to the general provisions ensure that the full range of compliance, enforcement, and other general authorities available to FDA for other products are available for tobacco products.

Prevents FDA from restricting the sale of tobacco products in face-to-face transactions to certain categories of retail outlets. Allows FDA to issue, after an administrative hearing before an Administrative Law Judge, a no tobacco sale order prohibiting the sale of tobacco products at a particular retail outlet based on repeated violations by that outlet.

Prior to using its authority to issue a no tobacco sale order, FDA must promulgate through notice-and-comment rule-making regulations that include a definition of the term "repeated violations," provisions for notice to the retailer of each violation, and a provision that good faith reliance on false identification does not constitute a violation of any FDA minimum age requirement for the sale of tobacco products.

Amends the Federal Cigarette Labeling and Advertising Act and the Comprehensive Smokeless Tobacco Health Education Act, to give the FDA the responsibility for ensuring that the various warning labels currently used on tobacco products continue to be used as to protect public health, within certain pack and advertisement size limits. FDA has the authority to revise the warnings.

In less than 2 years after enactment, the FDA shall promulgate rules requiring testing, reporting, and disclosure of tobacco product smoke constituents and ingredients, such as tar, nicotine, and carbon monoxide, that the FDA determines should be disclosed to the public in order to protect the public health.

“AMTRAK GOOD NEIGHBOR ACT OF 2001”

HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. SIMMONS. Mr. Speaker, I rise today to introduce the "Amtrak Good Neighbor Act of 2001."

The purpose of this bill is to build a better relationship between Amtrak and the local municipalities along the Northeast Rail Corridor.

As recently as last week, some concerned citizens in the great city of New London, Connecticut gave a much needed paint job to a railroad bridge owned by Amtrak, covering up years of graffiti. I called this a great act, reflecting the pride that New London residents have for their city. Amtrak called this trespassing and conducted a criminal investigation.

There needs to be a better relationship between Amtrak and local municipalities. This is why I have introduced the Amtrak Good Neighbor Act of 2001. This bill directs Amtrak to work with local municipalities, whose citizens would like to provide improvements to Amtrak-owned property.

I urge my colleagues to support this important bill.

TRIBUTE TO SHERIFF ANDREW MELONI

HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. REYNOLDS. Mr. Speaker, I rise today to recognize and honor the distinguished 45-year law enforcement career of an outstanding public servant and a dear friend, Andrew P. Meloni.

Since taking office as Sheriff of Monroe County, New York, on January 1, 1980, Andy Meloni made his department one of the pre-eminent law enforcement agencies in the entire United States. Sheriff Meloni's 20-year tenure has been marked by innovative leadership, consummate professionalism and an unquestioned commitment to public service.

A member of the Executive Board of the New York State Sheriffs' Association, the National Sheriffs' Association and as a Commissioner on the Commission for Accreditation for Law Enforcement Agencies, Sheriff Meloni was nominated by President Clinton and Former President Bush as a "Point of Light."

Through Sheriff Meloni's leadership, the Monroe County Sheriff's Office—the largest Sheriff's office in New York state—has received national recognition for its creative programs. A husband and father of five children, Sheriff Meloni has further given of this time, talents and energy by working with and raising funds for numerous children's programs and services, and is an active Compeer volunteer.

A veteran of the United States Army, Andrew Maloni has had a proud and distinguished career in law enforcement and public safety—beginning work in the Sheriff's department in 1954, and subsequently serving as Undersheriff, Monroe County Public Safety Administrator and Director of Public Safety for the University of Rochester.

Mr. Speaker, Andrew P. Meloni retired as Monroe County Sheriff on May 31, 2001; and I ask that this Congress join me in saluting his leadership, commitment and professionalism in protecting the lives, safety and well being of his community.

TRIBUTE TO MR. ROY ROGERS

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. SHAW. Mr. Speaker, I rise today to honor Mr. Roy Rogers for his tremendous contributions to the development of South Florida and the protection of its environmental resources. A graduate of the U.S. Naval Academy in 1960, Roy Rogers served his country proudly as a navigational engineer for a nuclear submarine. Following his service, Roy Rogers began his career as a developer. He developed golf courses with legendary architect Robert Trent Jones and assisted in the planning and development of multiple communities in South Florida.

In 1985, he started to oversee Arvida's planning and development of Weston, a community in western Broward County near the Florida Everglades. It was in this development project where Roy Rogers manifested his talents not only as a developer, but also as a conservationist. Although to many these talents seem polar opposites, Roy Rogers excelled in carefully blending his skill as a developer and his care for the environment. Conservationists and developers alike, commend Roy Rogers for his masterful development of western Broward County.

After 15 years of carefully watching over the creation of Weston, Roy Rogers recently retired from his position as senior vice president of Arvida/JMB. An active member in various civic and governmental organizations, Roy Rogers will continue to benefit the people of South Florida through his many talents. It is with great honor that I commend a good friend and skillful developer for enhancing the beauty of South Florida through his many projects.

EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF THE HONORABLE JOHN JOSEPH MOAKLEY, A REPRESENTATIVE FROM THE COMMONWEALTH OF MASSACHUSETTS

SPEECH OF

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 2001

Mr. OXLEY. Mr. Speaker, I would like to join the colleagues who have paid their appreciation to a genial giant of the House of Representatives, Congressman JOE MOAKLEY.

Last night, the Massachusetts delegation led a tribute to JOE MOAKLEY in Statutory Hall. How fitting for JOE to be honored in that hall of legends.

It's hard in an era of political cynicism to find public officials who would be described as "beloved." But JOE MOAKLEY certainly was one, as evidenced by the heartfelt tributes that have come from those he worked with here in Washington and the people he represented back in Boston.

JOE MOAKLEY was principled, fair, and famously friendly. He was passionate without being unpleasant. JOE loved the institution of Congress and, in turn, became one of the select legislators who make Congress work for

the American people. But despite his long years of service in the Nation's Capital and his ascension to the highest levels of power in the House, JOE MOAKLEY remained a man of Massachusetts and a person of great humor and humility. His unmistakable and delightful Boston accent told you immediately who JOE MOAKLEY was, where he came from, and who he represented.

During his distinguished career, JOE MOAKLEY stood for integrity and decency. In doggedly carrying on with his congressional duties during this illness, he achieved nobility as well. We all mourn the loss of an expert legislator and friend. But we can honor the legacy of JOE MOAKLEY by conducting our business with his sense of honor and decency. It's a way that we can give back, for all that JOE MOAKLEY gave to the House of Representatives, his constituents, and his country.

STATEMENT FOR FLAG DAY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Ms. MORELLA. Mr. Speaker, I rise today to pay tribute to our most cherished symbol of freedom, the American flag, and to recognize its importance to our national identity.

Until the 13 colonies rebelled against Great Britain in 1776, each enjoyed a separate existence from the others with few ties among them. Their common fight against British rule, however, brought them more than independence. It brought the realization of a national identity. The adoption of our national flag, on June 14, 1777, served as a symbol of this blossoming union.

John Paul Jones, the revolutionary war hero, the first to sail to sea under this new flag, stated that: "The Flag and I are twins. . . So long as we can float, we shall float together. If we must sink, we shall go down as one." Many veterans share his passion. Today we offer our profound gratitude to those who have fought and died to protect the freedoms that our flag represents.

Today is a time to reflect upon the flag and what it means to America. It is a time to recognize that we live in a great nation that, with work, can become greater still. It is a time to contemplate America's place in the world and to know that our flag stands as a beacon of liberty and justice. We know that these freedoms have not come easily and we are grateful to those who have fought for these ideals: in battle, in the courts, in Congress, and in our everyday lives, we must work to uphold the ideals for which the Stars and Stripes truly stand.

TERRIFIC TENNIS IN THE 6TH DISTRICT OF NORTH CAROLINA

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. COBLE. Mr. Speaker, on May 26, the Sixth District of North Carolina became the home of the 4-A men's state championship tennis team—Walter Hines Page High School

in Greensboro. The Pirates completed their title match with a season record of 22-0—their second consecutive season with no losses.

The Cone-Kenfield Tennis Center at the University of North Carolina at Chapel Hill was the site where the Pirates defeated Fayetteville Terry Sanford High School 6-3. The single game winners included sophomore Jon Isner, freshman Robert Hogewood, and junior Adam Kerr. Both teams were undefeated up to this point and after single matches the score was 3-3. The game was still in anyone's court.

Doubles matches were going to decide who would be the team to lose. All three Page High School doubles teams won their matches, which gave the state title to the Pirates.

Congratulations are in order for Head Coach Jill Herb, Assistant Head Coach Tom Herb, along with assistant Jerry Steinhorn.

Members of the championship team included Robbie Bernstein, Steven Eagan, Pete Georges, Andrew Hjelt, Robert Hogewood, Charlie Holderness, Jon Isner, Adam Kerr, Dean Mandaleris, Jonathan Newman, Daniel Rowland, Drew Saia, Jarrett Saia, Jason Steinhorn, David Stone, Robert Sullivan, David Tursky, and Danny Redell.

Everyone at Page High School can be proud of the Pirates. On behalf of the citizens of the Sixth District, we congratulate Athletic Director Rusty Lee, Principal Dr. Terry Worrell and everyone at Page High School for winning the state 4-A Men's Tennis championship. In fact, winning two straight championships is impressive, but going undefeated for two years in a row is remarkable.

EXPRESSING CONCERN OVER THE STATE OF LABOR RIGHTS IN THE U.S.

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. KUCINICH. Mr. Speaker, the right of workers to organize themselves into a union and bargain collectively are fundamental rights protected by various international conventions. Among them is the Universal Declaration of Human Rights, one of the first major achievements of the United Nations. Article 23 of the UDHR states that "everyone has the right to form and to join trade unions for the protection of his interests." Another is the Right to Organize and Collective Bargaining Convention, adopted in 1949 at the 32nd assembly of the International Labor Organization and ratified by 148 countries. The very first line of this document reads: "Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment."

United States law also codifies these basic labor rights. The National Labor Relations Act, signed in 1935, guarantees employees the right to organize and chose their bargaining representative. The Act also protects employees from retaliation by their employer for exercising their rights under the NLRA. Section 8 of the Act makes it an Unfair Labor Practice for an employer to "interfere with, restrain, or coerce employees" in the exercise of their rights to organize and bargain collectively. Specifically, employers are barred from discriminating or otherwise discriminating against

an employee because he or she has engaged in union activity or has filed charges or given testimony under the NLRA.

Unfortunately, Mr. Speaker, there remains in this country a large gap between theory, in which these basic rights are protected, and practice, in which these rights scarcely exist. According to Human Rights Watch, "workers' freedom of association is under sustained attack in the United States, and the government is often failing its responsibility under international human rights standards to deter such attacks and protect workers' rights." The evidence for this is great. Fewer than 40% of all workers who participate in an NLRB election gain coverage under a collective bargaining agreement; this number was over 75% in the early 1950s. Of the successful campaigns to form a union, only 66% result in a first contract for the newly organized workers. Unionization rates in the U.S. are at some of the lowest levels in decades.

Some will argue that this demonstrates that American workers lack interest in unions. But given unions' demonstrated ability to win Americans better wages, better benefits, and better working conditions, this explanation carries little weight. The real reasons American workers are unable to fully exercise their basic rights are three: First, certain employers will utilize any means, legal or otherwise, to prevent their workers from forming a union. Second, in current form American labor law provides little resource to those whose rights are violated, and imposes little penalty on those who choose to ignore the law. And third, international trade agreements make it easy for employers to escape their legal responsibility to honor workers' rights by taking their operations elsewhere in the world.

What do certain unscrupulous corporations do to fight unionization? They coerce, intimidate, threaten, and sometimes even abuse workers. They fire workers are seen talking to union representatives, as Up-To-Date Laundry did recently in Baltimore. They hire union-busting lawyers to slander the local union in front of a captive audience of workers, like the Marriott Corporation did in San Francisco. They alert INS officials to the illegal immigrants in their workforce, even though these employers conveniently ignored their workers illegal status when hiring them.

Walmart threatened to shut down its butchering operation and start selling pre-packaged meat in its stores because a mere 11 workers wanted to unionize. A company called NTN Bower tried to undermine a United Auto Workers unionization drive by threatening to move their jobs to Mexico. A leaflet they passed out to workers read, "With the UAW your jobs may go south for more than the winter!"

This last example suggests the impact of trade agreements on U.S. anti-union activity. As Professor Kate Bronfenbrenner of Cornell University has demonstrated, "plant closing threats and plant closings have become an integral part of employer anti-union campaigns," and that these tactics, combined with others, are "extremely effective" in undermining union organizing efforts. Professor Bronfenbrenner specifically cites NAFTA as facilitating this behavior.

All of this should make us wonder: what does the law do to stop these kind of actions? The answer is virtually nothing. The following quote from Human Rights Watch is illustrative: "An employer determined to get rid of a union

activist knows that all that awaits, after years of litigation if the employer persists in appeals, is a reinstatement order the worker is likely to decline and a modest back-pay award. For many employers, it is a small price price to pay to destroy a workers' organizing effort by firing its leaders." If an employer can go so far as to fire worker with near impunity, certainly the law will not be enough to dissuade this employer from other illegal anti-union tactics.

What is needed to end the abuse of these basic human rights in this country is strict enforcement of existing labor law, tougher penalties for labor law violators, the streamlining of the NLRB investigative process, and restrictions on the ability of companies to shift their operations to avoid unionization. More fundamentally, we as Americans must acknowledge that these rights, the right to organize a union and bargain collectively, are indeed basic human rights, to be protected as vigilantly as are the right to worship freely and the right to free speech. Only when we take these core labor rights as seriously as our other fundamental rights will our workers achieve the respect, dignity, and justice they deserve.

TRIBUTE TO ALFRED G. FELIU

HON. JOSÉ E. SERRANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Mr. Alfred G. Felu on the occasion of his completion of his term as Chairman of the Board of Trustees of the Bronx Museum of the Arts, a position he has held since June 1998. He served in that capacity during a challenging time in the history of the Museum, steering it through financial difficulties, leadership changes and staff disruptions into a period of stability and growth. His work on behalf of the Museum has been tireless. While the Museum was undergoing a change in Executive Directors, he virtually assumed management of this institution, working on its behalf more than 20 hours a week. His dedication to the Museum and its success is unrivaled.

Mr. Felu is a partner in his own law firm, Vandenberg, Felu and Peters where he specializes in employment and labor law. He has also served as an employment law mediator and arbitrator on the American Arbitration Association's National Employment Disputes Panel. He is the managing editor of New York Employment Law & Practice, a monthly newsletter published by the New York Law Journal and is the author of several books.

Mr. Felu was born and raised in the Bronx and remains a devoted advocate of the borough. His interest in serving on the Board of the Bronx Museum of the Arts arose out of his desire to give back to his home community, and particularly the children of the Bronx, some of the wonderful opportunities he believes it afforded him.

Mr. Speaker, I ask my colleagues to join me in paying tribute to Mr. Felu for his work on behalf of the Bronx Museum of the Arts, and indeed on behalf of all of the people of the Bronx. We owe him a debt of gratitude.

HONORING JOSEPH LYNCH UPON HIS RETIREMENT AS COMMISSIONER OF THE NEW YORK STATE DIVISION OF HOUSING

HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. REYNOLDS. Mr. Speaker, I rise today to pay tribute not only to an outstanding public servant, but a dear friend, Mr. Joseph B. Lynch. Next week, friends and co-workers will gather in Albany, NY, to salute Joe's leadership as Commissioner of the New York State Division of Housing and Community Renewal, and to extend their fondest wishes as Joe begins his retirement after a long and distinguished career.

Joe first joined DHCR in April of 1995 when he was tapped by Governor George E. Pataki to serve as Deputy Commissioner for Community Development. Successive promotions led to Joe's appointed as Commissioner on February 10, 1999.

A registered architect, graduate of Rensselaer Polytechnic Institute, and veteran of the United States Navy, Joe was former Area Manager of the U.S. Department of Housing and Urban Development (HUD) Buffalo Office and Acting Regional Administrator, where he provided an extensive range of housing and community development programs and administered HUD's operating programs in 48 counties in upstate New York.

Under Joe's leadership, a series of public-private partnerships and innovative initiatives helped revitalize communities across New York state. Joe's previous service and expertise includes serving as President and CEO of the Audubon New Community in Amherst, N.Y., Senior Staff Officer for the New York State Urban Development Corporation in the Western New York area, and Director of Design and Construction for the State University Construction Fund.

Joe has been honored countless times for his professional achievements, and is active in a wide-range of community and professional organizations.

Mr. Speaker. Throughout Joe Lynch's career, he has made a difference not only in our Western New York community and across our state, but in our nation as well. And as he begins his retirement from public service, I ask that this Congress join me in saluting Joe Lynch's career the difference that he has made.

PACIFIC SALMON RECOVERY ACT

SPEECH OF

HON. MICHAEL K. SIMPSON

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 13, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1157) to authorize the Secretary of Commerce to provide financial assistance to the States of Alaska, Washington, Oregon, California, and Idaho for salmon habitat restoration projects in coastal waters and upland drainages, and for other purposes:

Mr. SIMPSON. Mr. Chairman, I would like to revise my earlier statement during debate on the Hooley amendment to H.R. 1157, the Pacific Salmon Recovery Act. During the debate I erroneously stated the Environmental Protection Agency (EPA) had ordered a landowner in my district to fill in an illegally dug stream channel. It was the U.S. Army Corps of Engineers that told my constituent to fill in the stream channel.

TRIBUTE TO FREDERICK
DOUGLASS ACADEMY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. RANGEL. Mr. Speaker, I rise before you today to share with you and my colleagues here in the House, an article which appeared in the June 11, 2001 edition of The Washington Times about Frederick Douglass Academy which is located in my 15th Congressional District in central Harlem.

As a graduate of Frederick Douglass Academy, I am most proud of the hard work and commitment of their principal, Gregory Hodge and the teachers who go beyond the call of duty to see that each child leaves there with a good education.

Just recently, I sponsored two Congressional Pages who are students at Frederick Douglass, Charzetta Nixon and Leon Harris, and I am proud to say that they truly represented the best of the Academy and my Congressional District.

I commend this article to my colleagues knowing that with students like those at Frederick Douglass Academy, this nation's future is in good hands.

[From the Washington Times, June 11, 2001]

LOW BUDGET, HIGH ACHIEVERS

STAFF'S COMMITMENT DRIVES A SCHOOL'S
SUCCESS IN HARLEM

(By Nate Hentoff)

Most polls indicate that education leads all other concerns among Americans. Parents, whatever they themselves have achieved, or not achieved, want their children to succeed in school and therefore in life. Many parents become desperately disappointed. Yet, in 40 years of writing about schools, I've seen that depression lift as a principal reinvents the wheel and shows how all children can learn.

A current reinventor of the wheel of learning is Gregory Hodge, the principal of the Frederick Douglass Academy in central Harlem, a predominantly black and Hispanic area of New York City.

I was not surprised when I read a story about his school earlier this year in the New York Times because I once wrote a book—"Does Anybody Give a Damn: Nat Hentoff on Education"—about schools in "disadvantaged" neighborhoods that also expected all of their students to learn. And they did learn.

Of the 1,100 students at the Frederick Douglass Academy, a public school, 80 percent are black and 19 percent are Hispanic. Some come from homes far below the poverty line. In a few of those homes, one or both parents are drug addicts. Seventy-two percent of the students are eligible for free lunch.

The dropout rate is 0.3 percent. If a student doesn't show up at a tutoring session, his

teacher calls his mother, father or other caregiver. Every student is expected to go to college. As the New York Times reported, "In June of last year, 114 students graduated and 113 attended colleges, some going to Ivy League or comparable schools." The 114th student was accepted by the Naval Academy.

During the Great Depression, I went to a similar public school. All of us were expected to go to college. Most of us were poor. At the Boston Latin School, as at the Frederick Douglass Academy, there was firm, but not abusive, discipline. And we had three hours of homework a night. There were no excuses for not turning in the work. At the Frederick Douglass Academy, the students have four hours of homework a night.

The students there take Japanese and Latin in middle school and can switch to French or Spanish in high school. At Boston Latin, we had to take Latin and Greek as well as American history. The kids at Frederick Douglass can take advanced placement courses not only in American history, but also in calculus and physics. I flunked beginning physics.

Moreover, the students at Frederick Douglass mentor elementary-school children at the public school next door. "The idea," Mr. Hodge told the New York Times, "is to show students that they have responsibilities to the Harlem community. And they are expected to be leaders and help Harlem grow."

Near Boston Latin Schools, there were elementary school kids who, without mentoring, didn't have much of a chance to believe that they could someday go to college. But our Boston Latin principal didn't send us out to be part of a larger responsibility.

So how come Frederick Douglass Academy does what a public school is supposed to do—lift all boats? The principal, who reads every one of the 1,100 report cards, demands that his teachers expect each child to learn. The school works, he says, because it has committed teachers. "They come in early and stay late. The teachers go with them to colleges. Some have gone in their own pockets for supplies . . . Teachers here will do everything they can to make sure kids are successful."

A senior who had been in a high school outside New York City explained the success of the school—and his own success there—succinctly: "They want you to learn here."

I have been in schools at which principals are seldom seen because they don't want to take responsibility for problems that arise. And I know teachers who have enabled kids to learn in their classrooms, but worry about sending the students on to teachers who are convinced that children from mean streets and homes without books can learn only so much.

And I remember a president named Bill Clinton who spent a lot of time focusing on affirmative action to get minority kids into college. For the most part, he ignored the students who never get close to going to college because of principals, teachers and school boards who do not expect all kids to learn, and so do not demand that they do.

At a New York City school board meeting years ago, I heard a black parent accuse the silent officials: "When you fail, when everybody fails my child, what happens? Nothing. Nobody gets fired. Nothing happens to nobody, except my child."

He was torn between grief and rage. So are many American parents these days. At the Frederick Douglass Academy, parents see their children grow in every way. And it is a public school.

PERSONAL EXPLANATION

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. ABERCROMBIE. Mr. Speaker, yesterday, June 13, I was unavoidably absent and I was unable to vote on two rollcall votes. Had I been present, I would have voted as follows: Rollcall No. 158, approval of the Journal, "yea", Rollcall No. 159, passage of H.R. 1157, "yea".

FLAG AND FATHERS' DAY 2000

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. MICA. Mr. Speaker, on Flag Day and as we approach Fathers' Day 2000, I thought it would be appropriate to share with my colleagues and include in the CONGRESSIONAL RECORD excerpts from the publication "War Letters: Extraordinary Correspondence from American Wars", and a subsequent article authored by Andrew Carroll. I do not recall ever having read anything that better captures the joy of fatherhood, the scale of individual sacrifice for our Nation, or that conveys more fitting appreciation of our national insignia—our flag. In an era when nearly a third of our sons and daughters are raised without a father, when the traditional family and patriotism are wavering, it is my hope that these powerful letters may serve as a small inspiration.

Author Andrew Carroll provides a preface introduction and details the circumstances relating to the writing of each letter.

Twenty-six-year-old Capt. George Rarey, stationed in England, was informed of the birth of his first child just moments after coming back from a mission on March 22, 1944. Overwhelmed with joy, Rarey sent a letter to his wife Betty Lou (nicknamed June) in Washington, DC. A talented artist, Rarey drew a sketch to commemorate the event.

Darling, Darling, Junie!

Junie, this happiness is nigh unbearable—Got back from a mission at 4:00 this afternoon and came up to the hut for a quick shave before chow and what did I see the deacon waving at me as I walked up the road to the shack? A small yellow envelope—I thought it was a little early but I quit breathing completely until the wonderful news was unfolded—A son! Darling, Junie! How did you do it?—I'm so proud of you I'm beside myself—Oh you darling.

All of the boys in the squadron went wild. Oh its wonderful! I had saved my tobacco ration for the last two weeks and had obtained a box of good American cigars—Old Doc Finn trotted out two quarts of Black and White from his medicine chest and we all toasted the fine new son and his beautiful Mother

Junie if this letter makes no sense forget it—I'm sort of delirious—Today everything is special—This iron hut looks like a castle—The low hanging overcast outside is the most beautiful kind of blue I've ever seen—I'm a father—I have a son! My darling Wife has had a fine boy and I'm a king—Junie, Darling, I hope it wasn't too bad—Oh I'm so glad its over—Thank you, Junie—Thank you—thank you . . .

Oh, Junie, I wish I could be there—Now I think maybe I could be of some help—There are so many things to be done—What a ridiculous and worthless thing a war is in the light of such a wonderful event. that there will be no war for Damon!—Junie, isn't there anything I can do to help out

Oh my beautiful darling, I love you more and more and more—Gosh, I'm happy!—Sweet dreams my sweet mother, Love—Rarey.

Capt. George Rarey was killed three months after writing this letter.

Even in the Internet age, many servicemen and women continued to send their letters the old-fashioned way—through the mail. In 1997, 36-year-old Major Tom O'Sullivan was in Bosnia, serving as the officer in charge of the first Armored Division Assault Command Post and, later, as the operations officer of the 4th Battalion, 67th Armor at Camp Colt. O'Sullivan frequently wrote home to his wife Pam and their two children, Tara and Conor, and on September 16, 1996—the day Conor turned seven—O'Sullivan (at far right, with his Bosnian translator) sent a birthday gift he hoped would have special meaning to his son:

Dear Conor,

I am very sorry that I could not be home for your seventh birthday, but I will soon be finished with my time here in Bosnia and will return to be with you again. You know how much I love you, and that's what counts the most. I think that all I will think about on your birthday is how proud I am to be your dad and what a great kid you are.

I remember the day you were born and how happy I was. It was the happiest I have ever been in my life and I will never forget that day. You were very little and had white hair. I didn't let anyone else hold you much because I wanted to hold you all the time

There aren't any stores here in Bosnia, so I couldn't buy you any toys or souvenirs for your birthday. What I am sending you is something very special, though. It is a flag. This flag represents America and makes me proud each time I see it. When the people here in Bosnia see it on our uniforms, on our vehicles, or flying above our camps, they know that it represents freedom, and, for them, peace after many ears of war. Sometimes, this flag is even more important to them than it is to people who live in America because some Americans don't know much about the sacrifices it represents or the peace it has brought to places like Bosnia.

This flag was flown on the flagpole over the headquarters of Task Force 4-67 Armor, Camp Colt, in the Posavina Corridor of northern Bosnia-Herzegovina, on 16 September 1996. It was flown in honor of you on your seventh birthday. Keep it and honor it always.

Love, Dad.

REDWOODS DEBT FOR NATURE

HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. POMBO. Mr. Speaker, the staff report is entitled Redwoods Debt-For-Nature Agenda of the Federal Deposit Insurance Corporation and the Office of Thrift Supervision to Acquire the Headwaters Forest. This report was prepared for the Committee to wrap up some oversight work on the FDIC and Office of Thrift Supervision redwoods debt-for-nature matter started during the last congress. The

analysis concludes that there was a redwoods debt-for-nature scheme pursued by the bank regulators at the FDIC and the OTS beginning in at least February 1994. The startling part is that the banking claims against Mr. Charles Hurwitz (stemming from his minority ownership of a failed savings and loan) that were to be used a leverage to get Pacific Lumber Company's redwoods, a company owned and controlled by Mr. Hurwitz, were loser claims. By the FDIC's own internal evaluation, there was a 70 percent chance the claims would fail procedurally and more than 50 percent chance of failing on the merits.

The conduct of the bank regulators was so bad that it led a U.S. District Court Judge, the Honorable Lynn Hughes to conclude that the agencies used tools equivalent to the *cosa nostra*—a mafia tactic—in their pursuit of Mr. Hurwitz and his privately owned redwoods. This staff report gives even more basis to validate the conclusion of the federal judge. No one—whether a millionaire industrialist or a laborer in a factory—should be subject to the unchecked tools of an out of control “independent” agency like the FDIC or the OTS. The redwood scheme grew as the FDIC understood the importance of its—and the OTS—potential claims as the leverage for the redwoods during an extraordinary 1994 strategy meeting with a Member of Congress—19 months before the claims were even authorized to be filed. The other bank regulator, the OTS, was enlisted by the FDIC right after that meeting. They were hired to pursue the same claims against Mr. Hurwitz administratively as leverage for their claims. FDIC's reason for teaming up with the OTS: to get “the trees,” according to the notes of their own staff.

The redwoods scheme was introduced through an intense lobbying campaign by environmental groups, including Earth First! They penetrated the “independent” FDIC, the FDIC's outside counsel, the OTS, the Administration, the Department of the Interior, the White House, and Members of Congress. The redwoods scheme was why ordinary internal operating procedures of the FDIC that would have closed the case against Mr. Hurwitz were not followed. The redwoods scheme overrode the initial internal conclusion that the claims against Mr. Hurwitz were losers for the bank regulators and should not have been bought under the written policy of the agency. In fact, just a few days before the staff recommendation flipped from “don't sue” to “sue,” FDIC officials met with the top staff from the Office of the Secretary of the Department of the Interior. Their notes from the meeting concluded by saying, “If we drop suit, [it] will undercut everything.” Of course “everything” was the just-discussed scheme to leverage redwoods from Mr. Hurwitz.

The FDIC (and its agent, the OTS) were the critical part of the scheme. The bank regulators were willing advocates who promoted a redwoods exchange for banking claims against Mr. Hurwitz well before the claims were authorized by the FDIC board, well before they were filed, and very well before Mr. Hurwitz raised the notion of redwoods. The evidence of the FDIC's participation in the redwoods scheme contradicts the testimony offered by the witnesses at the December 12, 2000, hearing of the Committee Task Force. That testimony was that banking claims or the threat of banking claims against Mr. Hurwitz involving USAT were not brought as leverage

in a broader plan to get the groves of redwoods from Mr. Hurwitz. The weight of the documentation contradicts that conclusion.

The cost of bringing these claims that would have been “closed out” if it were the normal situation—is nearly \$40 million to Mr. Hurwitz. One of two things needs to happen. We need to either have a hearing on this situation or the FDIC and OTS boards need to correct this action and revisit the underlying board actions that authorized the suits in the first place. I would be surprised if the FDIC and OTS board members actually knew what their staffs were doing with the redwoods scheme. I hope they would be surprised, but the evidence is now here for them to see. This is embarrassing to the bank regulators—they need to address it now.

Redwoods Debt-for-Nature Agenda of the Federal Deposit Insurance Corporation and the Office of Thrift Supervision to Acquire the Headwaters Forest, June 6, 2001

Preface

Documentation References

Documentation is referenced in parentheses throughout the text of this report. References to “Document A” through “Document X” are references to documents that were incorporated into the hearing record by unanimous consent by the Task Force on Headwaters Forest and Related Matters on December 12, 2000. These documents are contained in the files of the Committee and those that are referred to are reproduced in Appendix 1. Documentation referenced as “Record 1,” “Record 2,” etc. is documentation found in Appendix 2. Much of this documentation was not introduced as part of the hearing record, and it is provided for reference to substantiate key facts referenced in this report. References to “Document DOI A,” “Document DOI B,” etc. are references to documents that were incorporated into the hearing record by unanimous consent of the Task Force on December 12, 2000. These documents were produced to the Committee from the Department of the Interior. Appendix 4 contains the correspondence between the Committee and the bank regulators.

All documentation referenced in this report and attached in an appendix is necessary to contextually verify the information and conclusions reached in this report on subjects within and related to the jurisdiction of the Committee on Resources. The records, documents, and analysis in this report are provided for the information of Members pursuant to Rule X 2.(a) and (b) of the Rules of the House of Representatives, so that Members may discharge their responsibilities under such rules.

Role of the Committee on Resources: The Headwaters Forest Purchase and Management

Ordinarily, one would think that the Committee on Resources does not regularly interact or have jurisdiction over bank regulators. It is important to understand that the Committee on Resources has jurisdiction over the underlying law that initially authorized the purchase of the Headwaters Forest by the United States and management of the land by the Bureau of Land Management. That law was enacted in November 1997 and is P.L. 105-83, Title V, 111 Stat. 1610. That legislation was incorporated in an appropriations bill that funded the Department of the Interior.

Several conditions constrained the Headwaters authorization. One of those conditions was that any “funds appropriated by the Federal Government to acquire lands or interests in lands that enlarge the Headwaters Forest by more than five acres per

each acquisition shall be subject to specific authorization enacted subsequent to this Act." This clause in the authorizing statute is commonly referred to as the "no more" clause, because it prohibits federal money from being used to expand the Headwaters Forest after the initial federal acquisition.¹ This was part of the agreement between the Administration and the Congress when funds were authorized and appropriated for the purchase of the Headwaters Forest. The federal acquisition actually took place on March 1, 1999, the final day of the authorization, at which time all federal activity to acquire additional Headwaters Forest should have been dropped. Thus, the FDIC's lawsuit and the OTS's administrative action should be dropped.

This statute, including the "no more" clause, is part of the Committee's basis to compel bank regulators to provide documents and testimony about subjects related to the Headwaters Forest, debt-for-nature, redwoods, and related subjects. The sheer volume of material possessed by the banking regulators on subjects related to the Headwaters Forest, possible acquisition of Headwaters Forest, and redwoods debt-for-nature schemes provide more than adequate basis for the Committee's jurisdiction over these agencies about these subjects. Additionally, the banking regulators have submitted themselves, properly, to the jurisdiction of the Committee.

Use of Records and Documents

The FDIC and the OTS will undoubtedly complain that use of some of the records and documents disclosed in this report will jeopardize their case against Mr. Hurwitz, and that certain litigation privileges or a court seal apply to the documents; however, as stressed above, all documentation in this report and attached in an appendix is necessary to contextually verify the information and conclusions reached in this report. The documentation directly bears on subjects within and related to the jurisdiction of the Committee on Resources.

The records, documents, and analysis in this report are provided for the information of Members. Informing Members has legal basis in Article I of the Constitution and is implied because Members of Congress need accurate information to legislate. Indeed, the Committee has legislated on the Headwaters Forest. Informing members also has legal basis under Rule X 2.(a) and (b) of the Rules of the House of Representatives. Members will be better able to discharge their responsibilities under such rules after reviewing the information in this report.

Some may believe that litigation privileges might prohibit use of the records not already part of the Task Force hearing records. However, litigation privileges do not generally apply to Congress. They are created by the judicial branch of government for use in that forum. Assertions of any litigation privileges by the FDIC or the OTS or Mr. Hurwitz related to documents that are disclosed in this report may still be made in the judicial forum.

Committee staff has redacted sensitive information (for example information unrelated to redwoods or debt-for-nature and information involving legal strategy) of certain records and documents to preserve the integrity of the judicial and administrative proceedings. It is expected that the FDIC and OTS may erroneously say that disclosure of certain documents and records will undercut their litigation position. While many of the documents and records disclosed may be quite embarrassing to the bank regulators, embarrassment is no basis for keeping the information about the unauthorized redwoods debt for nature scheme secret. Some

sunshine will expose the unauthorized redwoods agenda of the bank regulators in this case and sanitize the system in the future.

Background and Summary

On December 12, 2000, the Task Force on Headwaters Forest and Related Matters held a hearing that exposed an evolving redwoods "debt-for-nature" scheme undertaken by bank regulators—the Federal Deposit Insurance Corporation (FDIC) and the Office of Thrift Supervision (OTS). Presented at that hearing was substantial documentation and testimony showing how federal banking regulators, swayed by an intense environmentalist lobbying campaign, willingly became integral to a "debt-for-nature" scheme to obtain redwood trees.

In short, banking regulators provided the otherwise unavailable leverage for a federal plan to extort privately owned redwood trees. The leverage used was the threat of "professional liability" banking claims against Mr. Charles Hurwitz, a minority owner of United Savings Association of Texas (USAT), a failed Texas savings and loan.

Mr. Hurwitz was a favorite target of certain environmental activists who wished to obtain the large grove of redwood trees in northern California, redwoods that belonged to a company, the Pacific Lumber Company, also owned by Hurwitz. The environmental interests pressured Congress, the Administration, and the banking regulators to bring the banking actions against Mr. Hurwitz and USAT. The idea was that the actions or threat of actions would lever or even force Mr. Hurwitz into transferring redwood trees to the federal government.

The FDIC suit (Federal Deposit Insurance Corporation, as manager of the FSLIC Resolution Fund v. Charles Hurwitz, Civil Action No. H-95-3956) and the OTS administrative action (In the Matter of United Savings Association of Texas and United Financial Group, No. WA 94-01) against Mr. Hurwitz actually became what the environmentalists and political forces sought: the legal actions were the leverage for redwoods.

The bank regulators knew that their actions would be the leverage for such a debt-for-nature transaction. Between late 1993 and when the actions were initiated,² the bank regulators became more and more enmeshed with the environmental groups, the Department of the Interior, and the White House in the redwoods debt-for-nature scheme. In the end, they ignored every prior internal analysis indicating that they would lose the USAT suit, so they teamed up and brought it administratively and in the courts.

Ultimately, the FDIC suit and their hiring of OTS to bring the separate administrative action forced Mr. Hurwitz to the negotiation table. The bank regulators, in concert with the Department of the Interior and the White House, actually baited Mr. Hurwitz into raising the redwoods issue first, so it would not appear that the bank regulators were seeking redwood trees.³ Indeed the bank regulators still try to propogate the fiction that Mr. Hurwitz somehow raised the issue first, but they can point to no document written evidence prior to September 6, 1995, when Mr. Hurwitz finally submitted and broached the possibility of swapping redwoods for bank claims.

After an intense banking regulator effort to get the redwoods that lasted from 1993 through 1998, the federal government and the State of California switched the plan and purchased the redwood land owned by Mr. Hurwitz's company. They did so as authorized by Congress (P.L. 105-83, Title V, 111 Stat. 1610).

After the federal purchase, the residue was: (1) fatally flawed banking claims that lacked

merit; (2) bank regulators standing alone having been used politically by the White House and Department of the Interior; (3) a group of environmentalists still screaming "debt-for-more-nature;" (4) a federal judge who compared the tactics of the bank regulators to those of hired governments and the "Cosa Nostra" (the mafia); and (5) Mr. Hurwitz who was required to spend upwards of \$40 million to fight the scheme. In short, the residue was a big mess.

However, not until the oversight review and December 12, 2000, hearing of the Task Force did the banking regulators' redwoods "debt-for-nature" motivation, which trumped their own negative evaluation of the merits of their case, become more fully understood.⁴ It was clear after the hearing that the "professional liability" claims would have been administratively closed—never even brought to the FDIC board by FDIC staff for action—had Mr. Hurwitz not owned Pacific Lumber Company and the Headwaters Forest redwood trees.

Instead, intense political pressure, intense environmental lobbying, and White House pressure to pursue the banking claims as leverage for redwoods outweighed the standard operating procedure to administratively close the USAT case, because there was no USAT case. Two sets of banking regulators—the FDIC and the OTS—became willing instruments and partners in the debt-for-nature scheme as they violated their own test for bringing "professional liability" claims. Bank regulators brought the claims against Mr. Hurwitz even though they were more likely than not to fail and were not cost effective.

The banking regulators' own assessment was that their action would have a 70% likelihood of failure on statute of limitation grounds alone. Even if the claims survive the statute of limitation challenges, their own cerebral assessment put less than a 50% likelihood of success on the merits of their claims. These are not the conclusions of the Task Force, although some Members may well agree with them; they are the conclusions of the bank regulators themselves.

Moreover, the bank regulators (OTS and FDIC) held numerous meetings about the redwoods debt-for-nature scheme, and at a critical juncture right before they reversed their recommendation to the FDIC board, they met with DOI. The bank regulators walked away from that meeting knowing that "[i]f we drop [our] suit, [it] will undercut everything." (Record 21). This is the meeting that most likely ensured that the leverage for the redwoods desired by the DOI and the Clinton Administration would become real through filing legal and administrative actions.

These contacts were far outside of normal operating practice for banking regulators and were described by the former Chairman of the FDIC as "shocking" and "highly inappropriate" (Hearing Transcript, 43-44).

In addition, the former FDIC Chairman told the Task Force that environmental reference to redwoods does not have "any relevance whatsoever [on] whether or not you [the FDIC] sue[s] Charles Hurwitz and Maxxam over the failure of United Savings. Whether they own redwood trees or not is absolutely, totally irrelevant."—(Hearing Transcript, page 45). This stinging rebuke from a past FDIC Chairman is a fitting assessment of the actions of an agency caught up in a debt-for-nature agenda that was too big, too political, and too unrelated to its statutorily authorized purpose.

While there were many factors that nudged the FDIC, and by association the OTS, into the debt-for-nature scheme—its own outside counsel, the law firm of Hopkins & Sutter—

provided early and direct links into the environmental advocates who lobbied and advocated for federal acquisition of the Headwaters Forest through a debt-for-nature scheme. In fact, they were selected over as outside counsel other firms because of their environmental connections and ability to handle a redwoods debt-for-nature swap.

In addition, the predisposition of the legal staff of the FDIC and OTS, the strong desires of Department of the Interior and the White House, the creative lobbying of the Rose Foundation and the radical Earth First! protesters (whose effect was felt and noted in the FDIC Board Meeting discussions during consideration of the USAT matter) all allowed the redwoods debt-for-nature scheme to pollute FDIC and OTS decision-making about the potential claims over USAT's failure. Very little if any documentation provided to the Task Force justified, on a substantive basis, the decision to proceed with the banking actions against Mr. Hurwitz and the other USAT officers and directors.

Redwoods and "debt-for-nature" were not part of banking regulators decisionmaking or thought process early in the investigation of possible USAT banking claims—from December 1988 through about August 1993. The notion was first introduced to the FDIC in November 1993, when the redwoods debt-for-nature proposal sent to them by Earth First! was "reviewed" by FDIC lawyers. The first Congressional lobbying of bank regulators promoting redwoods debt-for-nature occurred by letter on November 19, 1993. The first known in-person lobbying of bank regulators by a Member of Congress about potential claims of bank regulators being swapped for redwoods occurred in February 1994. The tainting of any possible legitimate banking claims began with the occurrence of that very unusual meeting.

The documents and records show how the redwoods debt-for-nature notion ultimately permeated bank regulators decisions while they developed and brought their claims against W. Hurwitz. As the claims were kept active during fourteen tolling agreements between bank regulators and Mr. Hurwitz as the leverage against him for redwoods using those claims was applied. And when the claims were authorized and then filed on August 2, 1995, the claims became more leverage.

In the end, the evidence is clear that, but for the environmentalists pressure to get redwoods through debt-for-nature and, but for Congressional pressure to get leverage on Mr. Hurwitz to submit and give up his redwoods to the government, the banking claims would not even have been brought.

Interestingly, it was unknown early in that process whether a settlement for potential USAT claims would be viable at all or include redwoods, or whether the government would possibly purchase the redwoods. In any case, the threat of and actual FDIC and OTS claims brought Mr. Hurwitz to the negotiating table. Prior to the claims being filed, the FDIC conspired with the White House and the Department of the Interior about the importance and role of the banking claims to advance the debt-for-nature redwoods agenda. The OTS was present during some of those meetings and was reportedly "amenable" to the redwoods debt-for-nature strategy.

Even after the outright federal acquisition, which was by purchase, the call became "debt for more nature,"⁵ through a continued use of the bank regulators leverage of suits that were in process already. The claims continued to be used by the federal government to lever Mr. Hurwitz for more nature, at that juncture arguably in violation of the authorizing statute.⁶

What remained at the end of the day were filed claims that would not have been

brought under ordinary circumstances had Mr. Hurwitz not owned redwoods. The bank bureaucracy, with its reason for bringing the claims in the first place having evaporated, continued the fiction: they continued propagating the false notion that redwoods and debt-for nature had nothing to do with their bringing the USAT claims. Mr. Hurwitz raised it first, they said, even as the FDIC told Department of the Interior that they needed an "exit strategy" from the redwoods issue. If redwoods had nothing to do with bringing or pursuing the claims in the first place, then there would be no need for an "exit" strategy from the redwoods issue.

The documentation discovered by Chairman Young and Task Force Chairman Doolittle, which is explained in this report, dispels the notion that Mr. Hurwitz raised the redwoods debt-for-nature first. To the contrary, the federal government, bank regulators included, actually baited Mr. Hurwitz into raising it, and they became uncomfortable when he had not raised it nearly a year after the FDIC suit was filed and months after the OTS suit was brought.

This report synthesizes records and information about the redwoods "debt-for-nature" scheme of banking regulators, the information subpoenaed from the FDIC and OTS, and the information collected at the December 12, 2000, hearing of the task force.

Ordinary Role of the FDIC and OTS: Regulate Banks and Recover Money

As a starting point, it is helpful to understand the ordinary and authorized role of bank regulators when financial institutions fail. The FDIC is the independent government agency created by Congress in 1933 to maintain stability and public confidence in the nation's banking system by insuring deposits. The FDIC administers two deposit insurance funds, the Bank Insurance Fund for commercial banks and other insured financial institutions and the Savings Association Insurance Fund for thrifts.

Other than its deposit insurance function, the FDIC is the primary regulator for banks. It supervises, monitors, and audits the activities of federally insured commercial banks and other financial institutions. The FDIC is also responsible for managing and disposing of assets of failed banking and thrift institutions, which is what it did concerning USAT, 24 percent of which was owned by Mr. Charles Hurwitz. In connection with its duties associated with failed banks, the FDIC manages the Federal Savings and Loan Insurance Corporation Resolution Fund, which includes the assets and liabilities of the former FSLIC and Resolution Trust Corporation.

The OTS is the government agency that performs a similar function to that of the FDIC for thrifts insured through a different insurance fund. The OTS is the primary regulator for thrifts. The responsibilities of the FDIC and OTS overlap in certain instances. The OTS has explained how the two agencies divide those shared responsibilities: the FDIC "seek[s] restitution from wrongdoers associated with failed thrifts" and the OTS "focus[es] on preventing further problems." The USAT case is an exception to these stated policies of federal institutions.

Nowhere in the statutes authorizing the OTS⁷ or the FDIC⁸ is there authority to pursue "professional liability" claims or other claims for purposes of obtaining redwood trees or "debt-for-nature" schemes. The sole purpose of such actions with respect to failed institutions is to recover funds or cash not trees and not nature.

The mission of recovering cash was acknowledged by the OTS and FDIC. (See, Hearing Transcript, page 63, 64, Ms. Seidman (OTS) answered: "Our restitution claim is

brought for cash." Ms. Tanoue (FDIC) answered: "[T]he FDIC considered all options to settle claims, at the encouragement of Mr. Hurwitz and his representative agency, looked at trees, but the preference has always been for cash.") Indeed, this may be why the FDIC and the OTS have consistently maintained that Mr. Hurwitz was the first to bring the notion of redwood trees to them. It is the only position they can take that is consistent with their underlying authority. This being the case, there should have been few, if any, records concerning redwoods produced to the Committee. To the contrary, the records produced were voluminous—and redwoods were even a topic discussed by the FDIC board when it reviewed whether to bring suit regarding USAT.

Chronological Facts and Analysis Regarding the FDIC and OTS Pursuit of USAT Claims

1986: MR. HURWITZ BUYS PACIFIC LUMBER COMPANY AND ITS REDWOOD GROVES

Mr. Charles Hurwitz owns Pacific Lumber Company. He acquired it in a hostile takeover on February 26, 1986, using high yield bonds. Pacific Lumber Company owned the Headwaters Forest, a grove of about 6,000 acres of old redwood trees. That property became desired by environmental groups because of the redwood trees.

After Mr. Hurwitz bought Pacific Lumber Company, he and the company became a target of several environmental groups when the company increased harvest rates on its land. Harvests were still well within sustainable levels authorized under the company's state forest plan, but harvest rates were generally greater than prior Pacific Lumber Company management undertook.

Environmentalists publicly framed the Hurwitz takeover of Pacific Lumber Company, as that by a "corporate raider" who floated "junk bonds" to finance a "hostile takeover" of the company to simply cut down more old redwood tree. It is unclear whether framing this issue in such a way had more to do with intense fundraising motivations aligned with certain environmental groups described in the recent Sacramento Bee series about financing the environmental movement (www.sacbee.com/news.projects/environment/20010422.html) or more to do with ensuring that trees are not cut.

At this juncture, Mr. Hurwitz and Pacific Lumber Company were targets of environmentalists, but his opponents had little leverage to stop the redwood logging on the company's land other than the traditional Endangered Species Act or State Forest Practices Act mechanisms.

1988: HURWITZ'S 24% INVESTMENT IN TEXAS SAVINGS AND LOAN IS LOST

Mr. Hurwitz also owned 24% of USAT, a failed Texas-based thrift bank. The bank failed on December 30, 1988, just like 557 banks and 302 thrifts failed in Texas between 1985 and 1995 resulting from the broad-based collapse of the Texas real estate market. As a result of the failure, the banking regulators say they paid out \$1.6 billion from the insurance fund to keep the bank solvent and secure another owner. That number has never been substantiated by documentation.

Because Hurwitz owned less than 25% of the bank, and because he did not execute what is known as a "net worth maintenance agreement," he was not obligated to contribute funds to keep the bank solvent when it failed. Such agreements (or obligations when a person owns 25 percent or more of an institution) are enforced through what is known as a "professional liability" action brought by bank regulators.

In certain cases, the FDIC and OTS are authorized by law to bring to recover money is

for the "professional liability" against officers, directors, and owners of failed banks. The idea is to recover restitution—money—it took to make failed institutions solvent. This type of claim was brought against Mr. Hurwitz by the bank regulators at OTS after they were hired to do so by the FDIC. The nature of "professional liability" claims are explained well in bank regulator's publication as follows:

Professional Liability [PL] activities are closely related to important matters of corporate governance and public confidence. . . . [They] strengthen the perception and reality that directors, officers, and other professionals at financial institutions are held accountable for wrongful conduct. To this end, the complex collection process for PL claims is conducted in as consistent and fair a manner possible. Potential claims are investigated carefully after every bank and savings and loan failure and are subjected to a multi-layered review by the FDIC's attorneys and investigators before a final decision is rendered on whether to proceed. . . . (Managing the Crisis: The FDIC and the RTC Experience 1980-94, published by FDIC, August 1998, page 266)

Indeed, the bank regulators at the FDIC undertook an investigation of USAT beginning when USAT failed on December 31, 1988, to determine what claims they might have against USAT officers, directors, and owners.

1989-SEPTEMBER 1991: INVESTIGATION
CONTINUES

The investigation of USAT proceeded, and interim reports were issued by law firms investigating potential USAT claims for the FDIC. Environmentalists initiated various non-banking campaigns to block redwoods timber activities of Pacific Lumber Company on their Headwaters land.

OCTOBER 1991-NOVEMBER 1993: BANK REGULATORS FIND NO FRAUD, NO GROSS NEGLIGENCE, NO PATTERN OF SELF-DEALING

By October 1991, the bank regulators determined that there was no "intentional fraud, gross negligence, or pattern of self-dealing" related to officer, director or other professional liability issues related to the failure of USAT (Document B, page 7). They also determined that there was "no direct evidence of insider trading, stock manipulation, or theft of corporate opportunity by the officers and directors of USAT." (Document B, page 14). Bank regulators said that the USAT "directors' motivation was maintenance of the institution in compliance with the capitalization requirements and not self gain or violation of their duty of loyalty." (Document B, page 17) There being no wrongful conduct, bank regulators concluded that they had no valid basis to pursue banking claims⁹ against the owners of USAT to recover money for its failure.

In spite of the determination that there was no basis to file a claim regarding USAT, a determination that was unknown to Mr. Hurwitz or the other potential defendants at the time, the banking regulators and Hurwitz made numerous agreements beginning November 22, 1991, expiring July 31, 1995, to toll the statute of limitations. This gave the bank regulators more time to investigate while they withheld filing of a claim. These agreements are fairly routine in complex cases like USAT.

Beginning in August 1993 while the statute was still tolled, several actions to attempt to acquire the Headwaters Forest were taken in Congress and urged by environmental groups. For example, on August 4, 1993, Rep. Hamburg introduced a bill to purchase 44,000 acres (20%) of the Pacific Lumber Company's land and make it into a federal Headwaters Forest. In August 1993, the first contact between the Rose Foundation (the primary en-

vironmental proponent of advancing USAT claims against Hurwitz to obtain Pacific Lumber redwoods) and attorneys for the FDIC was made.

As early as November 30, 1993,¹⁰ FDIC attorneys were aware of the Hamburg Headwaters bill and "materials from Chuck Fulton re: net worth maintenance obligation" (Record 3A). The handwritten FDIC memo from Jack Smith to Pat Bak notes that the professional liability section "is supposed to pursue that claim." It reminds her not to "let it fall through the crack!" And if the claim is not viable, the banking regulators "need to have a reliable analysis that will withstand substantial scrutiny." (Record 3A)

Pressure to advance claims against Hurwitz in connection with the redwoods in a debt-for-nature swap came in a variety of forms to the FDIC. It first came from Congress on November 19, 1993, in a letter to the FDIC Chairman from Rep. Henry B. Gonzalez, Chairman of the House Committee on Banking (Record 2). Numerous written Congressional contacts with the banking regulators, most urging FDIC or OTS to bring claims against Hurwitz occurred in late 1993 when the debt-for-nature scheme was framed¹¹ and subsequently over the years.

On the same day, Bob DeHenzel, an FDIC lawyer, got an e mail about a "strange call" regarding USAT (Record 1). It was received by Mary Saltzman from a Bob Close, who claimed to be "working with some environmental groups" and wished to talk to whoever was investigating the USAT matter. He had detailed knowledge about a \$532 million claim related to USAT and Charles Hurwitz. He made the comment that "people like Hurwitz must be stopped." He said he was working with an environmental group called EPIC in Northern California. Paul Springfield, an FDIC investigator, documented a conversation he had with DeHenzel that day (Friday, November 19, 1993) about the call from Bob Close. Mr. Springfield verified that the FDIC lawyer, Mr. DeHenzel, was familiar with a Hurwitz connection to forest property:

he [DeHenzel] had some knowledge of the nature of the inquiry [by Mr. Close] as well as the attorney Bill Bertain disclosed by Close. DeHenzel stated that this group was involved in fighting a takeover action of some company by Hurwitz involving forest property in the northwestern United States. Apparently they are trying to obtain information to utilize in their efforts. (Record 1)

Then on November 24, 1993, Mr. DeHenzel, faxed a November 22, 1993, memo he received on November 22, 1993, from the radical group Earth First! to another FDIC staff member. That memo laid out the "direct connection between the Savings and Loans, the FDIC and the clearcutting of California's ancient redwoods." (Document E) The memo introduced the concept that the USAT "debt" (which were only potential claims that FDIC internal analysis had already concluded had no basis) should be traded for Pacific Lumber Company redwoods. An excerpt of the memo lays out the scheme:

Coincidentally, Hurwitz is asking for more than \$500 million for the Headwaters Forest redwoods. So if your agency can secure the money for his failed S&L, we the people will have the funds to by Headwaters Forest. Debt-for-nature. Right here in the U.S. That's where you come in. Go get Hurwitz. (Document E)

The FDIC apparently took Earth First! seriously. Within one month, the FDIC lawyers reported to the acting chairman in a memo that they were "reviewing a suggestion by 'Earth First' that the FDIC trade its claims against Hurwitz for 3000 acres of redwood forests owned by Pacific Lumber, a subsidiary

of Maxxam." (emphasis supplied) (Document G, December 21, 1993, Memorandum to Andrew Hove, Acting Chairman, From Jack D. Smith, Deputy General Counsel).¹² The handwritten note on the top of the page indicates that the acting chairman Hove was orally briefed about the USAT situation prior to the memo.

Thus, well before Mr. Hurwitz raised the issue of redwoods and debt-for-nature directly with the FDIC in August or September 1996¹³ with the bank regulators, its lawyers had received written proposals from the radical group Earth First!, and the FDIC was undertaking a review of the proposals. These were proposals making the connection between Hurwitz, the redwoods, and USAT bank claims.

Then in the close of 1993, a press inquiry report to Chairman Hove on debt-for-nature and the redwoods was received and documented from the Los Angeles Times. The press question was whether FDIC lawyers have considered whether "we could legally swap a potential claim of \$548 million against Charles Hurwitz (stemming from the failure of United Savings Association of Texax) for 44,000 acres of redwood forest owned by a Hurwitz controlled company." (Record 3B)

The redwoods debt-for-nature scheme had been introduced via these various venues during 1993. At the same time FDIC's own analysis had shown absolutely no basis for a banking claim lawsuit involving USAT. However, it was not until early 1994 when the FDIC and their agent, the OTS, adopted the redwoods debt-for-nature scheme, and it became inextricably intertwined in its USAT bank claims. Ironically, it was political forces that enticed the bank regulators, who are supposed to act on bank claims without political influence, into wholesale and willing adoption of the redwoods debt-for-nature scheme.

1994: UNDISCLOSED CONGRESSIONAL MEETINGS
LOBBYING ON THE REDWOODS "DEBT-FOR-NATURE" PLAN

By February 2, 1994, the FDIC attorneys knew the weakness of several of its net worth maintenance claims and it acknowledged that it "can point to no evidence showing that either UFG or Hurwitz signed a net worth maintenance agreement." (Record 5, page 6). They acknowledged the weakness in a status memo (Record 5).

As a result, the FDIC teamed up with the OTS to have OTS attempt to construct an "administrative" net worth maintenance claim against Mr. Hurwitz and his company that owned the redwoods. They believed (but offered no proof that) "the actual operating control of [MCO, FDC, and UFG] was exercised by Charles Hurwitz." (Record 5, page 9). In short, FDIC did not have a claim, but the OTS may be able to bring an action in an administrative forum¹⁴ that was much more conducive to bank regulators, so the FDIC would hire the OTS.

The net worth maintenance claim was important because if it could be established on the facts (i.e., if Mr. Hurwitz owned 25 percent of USAT) or he was somehow in control of USAT) it could mean he would be liable for that percentage of the USAT loss, which totaled \$1.6 billion.¹⁵ In that way the bank regulators could conceivably get into Mr. Hurwitz's assets, including his holding company assets which included the redwoods.

However, in written correspondence and at the Task Force hearing on December 12, 2000—the FDIC and the OTS denied that the litigation concerning USAT and Mr. Hurwitz had anything to do with redwoods.¹⁶ They also denied that their discovery tactics were improper or for the purpose of "harassment."¹⁷ One exchange at the hearing between Mr. Kroener, the FDIC's General

Counsel and Chairman Doolittle, however, typifies the response to the question of whether the bank regulators' litigation had anything to do with redwoods or leveraging redwoods:

Mr. DOOLITTLE. . . . Did this litigation or discovery tactic [harassment through discovery] have anything to do with redwoods or the desire to create a legal claim to leverage redwoods?

Mr. KROENER. It did not. . . .
(Hearing Transcript, page 99)

While they have publicly denied any linkage, their own written words show the opposite. There was indeed a scheme involving politicizing bank claims against Mr. Hurwitz. Mr. Kroener's answer and the repeated denials of a linkage is purely wrong.

A superb example of just how wrong Mr. Kroener's answer was is contained in the previously unreleased meeting notes from a February 3, 1994, meeting between FDIC legal and Congressional staff and a U.S. Congressman. The redwoods debt-for-nature linkage was the point of the meeting.

The high ranking FDIC lawyers working on the redwoods case—Mr. Jack Smith, FDIC Deputy General Counsel, and Mr. John Thomas—and a Rep. Dan Hamburg¹⁸ met on February 3, 1994, to discuss the potential banking claims targeting Mr. Hurwitz.¹⁹ (Record 2A).

The fact that the meeting occurred at all—especially that it occurred eighteen months prior to the USAT claim being authorized or filed—and the notes from the meeting evince that leverage for redwoods was promoted by FDIC lawyers. The notes also show that the FDIC knew claims targeting Hurwitz were invalid and probably could not be used as leverage (Record 2A). Highlights of the Spittler (Record 2A, page ES 0509) meeting notes are as follows.

Rep. Hamburg had "an immediate interest in the case," probably because he had a bill pending to purchase the Headwaters, and the proposal from environmentalists in his district to swap the Hurwitz banking claim "debt" for redwoods had been generally floated. (Record 8A, The Humboldt Beacon, Thursday, August 26, 1993, Earth First! Wants 98,000; 4,500 Acres Tops, PL Says.)

According to Spittler's notes, which are Record 2A, Rep. Hamburg said he was "interested enough over potential filing of the complaint to ask what is about to proceed." And Hamburg [r]ealized that this possible avenue would be lost." The "avenue" he was referring to was applying leverage against Mr. Hurwitz for a redwoods debt-for nature swap, and Jack Smith obviously understood this. According to Spittler's notes, Smith replied, it is "very difficult to do a swap for trees," which means Smith knew that the authority of the FDIC to recover restitution in trees was difficult or impossible.

Smith then told Hamburg about the USAT investigation: "The investigation has looked at several areas. [One c]laim [is] on the net worth maintenance agreements."²⁰ (Record 2A) The other FDIC attorney present, Mr. John Thomas, acknowledged the fatal flaw of FDIC's claim: "[There] have been attempts to enforce this, [referring to the net worth maintenance agreement.] Thomas then said, 'we can't find signed agreement [between] FSLIC [and USAT/Hurwitz]. We never found the agreement.'" Record 2A) Thomas was absolutely correct—because there never was a net worth maintenance agreement signed by Mr. Hurwitz.

Besides the highly irregular nature of any communication between the FDIC and anyone about a case under investigation this communication is incredible for two reasons. First, it shows the willful manner in which FDIC volunteered to get involved in a political issue and mix potential claims with the

redwoods issue. The meeting notes prove that the FDIC lawyers actually secretly briefed a Congressman about the specifics of an ongoing investigation that would become mixed with a political issue.

Second, the timing of the Congressional strategy session was eighteen months before the FDIC board had not even approved filing a claim against Mr. Hurwitz—and its lawyers were then discussing the specifics their investigation of a potential claim in the context of the scheme that would use the potential claim to obtain redwood trees.²¹ The highly irregular nature of this early meeting injected a political dynamic to a case still under investigation. This was obvious to former FDIC Chairman Bill Isaac. He testified to the Task Force that the—

discussions that occurred between FDIC staff and people outside the Agency prior to and during litigation were inappropriate. The fact that those discussions occurred exposes the FDIC and the OTS to the charge that the motivation for their litigation was to pressure Charles Hurwitz and Maxxam to give up their private property, the redwood trees owned by Pacific Lumber. . . . [T]heir repeated contacts with parties with whom they have no business discussing this litigation, congressional and administrative officials and environmental groups, leaves them open to whatever negative conclusions one might care to draw. (Hearing Transcript, pages 15–16).

Mr. Isaac noted the impropriety later again in the hearing.

—that really would have shocked me as chairman to see the FDIC staff having meetings with people outside the Agency about the redwood trees, and . . . congressional officials about a possible litigation we're thinking about bringing involving redwood trees; you know, somehow tying these redwood trees into it, and getting that mixed up in our decision as to whether to bring a suit over the failure of a bank. (Hearing Transcript, page 44–45)

The content of the meeting between Hamburg, Smith (as opposed to the fact that the meeting even occurred), is even more appalling considering Jack Smith's next comment. According to Spittler's notes, he said "If we can convince the other side [Hurwitz] that we have claim[s] worth \$400 million and they want to settle, could be a hook into the holding company." Of course, the "convincing" about valid claims was the leverage, and the "hook" into the holding company was getting company assets, including redwood trees. This was redwoods debt-for-nature. FDIC was part of the redwoods scheme.

Not only does this show that the idea about debt-for-nature was real to the FDIC lawyers, it shows when they promoted it at a congressional meeting in February 1994, more than 18 months before the FDIC lawsuit against Hurwitz was even authorized by the board and 17 months before, according to Mr. Kroener's testimony, Mr. Hurwitz "indirectly" raised the debt-for-nature swap with the FDIC through the Department of the Interior. Contrary to Mr. Kroener's representations to the Task Force, the FDIC legal staff was deeply enconced in the redwoods debt-for-nature scheme well before Mr. Hurwitz raised redwoods with bank regulators.

The contents of the meeting shows irresponsible ends-driven government, from almost any perspective. Mr. Smith was not even talking about investigating and bringing valid legitimate bank claims. He was only talking about "convincing" Mr. Hurwitz that "we have claims." This may even be unethical, because he implied that an invalid, unviable claim (the net worth maintenance claim) may be used as leverage to get redwoods from Mr. Hurwitz.

The FDIC is supposed to be an "Independent agency," that is, it is supposed to

insulate itself from political pressure and disputes. FDIC legal staff suddenly injected themselves into a political issue of emerging national prominence (redwood trees and debt-for-nature using banking claims), an issue beyond the normalcy of banking recovery actions. The meeting notes show that the FDIC attorneys engaged to promote the issue of a debt-for nature swap, and that the design was to merely "convince the other side" that the FDIC had claims worth \$400 million that the agency knew it did not have. This is a sad, sad statement from an "independent" government agency, and it is only the early part of the slide for the FDIC.

Butress what the FDIC lawyers said in the February 1994 meeting to Rep. Hamburg about trees and claims, against what Mr. Kroener and the other bank regulators told the Task Force in sworn testimony:

Mr. POMBO. Ms. Seidman and Ms. Tanoue, the FDIC and the OTS have repeatedly said to the public and the Congress, including this morning, that what the agency wanted from USAT claims was cash, is that correct?

Ms. SEIDMAN. Yes. Our restitution claim is brought for cash. As to any further discussions both relating to the decision to bring the claim that way and subsequent settlement discussions, none of which I took part in, I would defer to Ms. Buck.

Ms. TANOUÉ. I will also say that the FDIC considered all options to settle claims, at the encouragement of Mr. Hurwitz and his representative agency,²² looked at trees, but the preference has always been for cash. . . .

At a minimum, Ms. Tanoue is misleading. Eighteen months prior to even having a claim to settle or having a claim authorized or having a claim filed, her agency's top lawyers were sitting in a Congressional office talking about "convincing the other side" that "we have claims worth \$400 million" and getting a "hook" into a holding company that owns redwoods.

Mr. POMBO. At what point did you start looking at the other options, and you mention trees?

Ms. TANOUÉ. Much of this discussion occurred before my tenure. I turn to Mr. Kroener for elaboration on that point.

Mr. KROENER. . . . We were first offered trees or natural resources assets by representatives of Mr. Hurwitz indirectly in July of 1995.²³

There had obviously been a huge public debate going on regarding this forest. We were not part of that²⁴ but we had lots of communications, others got lots of communications. . . . [and our chairman and general counsel] had responded to inquiries of Congress that were mindful that trees could come into play in our claims, but our claims didn't involve trees; they involved cash. (Hearing Transcript, pages 63–65)

Obviously their claims involved cash, because by law their mission is to replenish the insurance fund with money. Mr. Kroener was wrong when he said their claims did not involve trees, and trees certainly came into play as evidenced by the February 1994 the Rep. Hamburg-Smith-Thomas meeting. Indeed trees were the motivating force that led the FDIC to promote net worth maintenance claims to the OTS.

The clear implication of Ms. Tanoue's answer is that Mr. Hurwitz was the first to bring the redwoods into a possible settlement, but we know that FDIC lawyers were scheming in February 1994 with a Member of Congress to get a banking claim "hook" into the redwoods holding company owned by Mr. Hurwitz. Mr. Hurwitz was not the one who first brought the redwoods into banking claim issue—the environmental groups, FDIC lawyers, and certain Members of Congress had already done so by that point.

Perhaps W. Kroener did not read the meeting notes that he provided to the Task Force

about the February 1994 meeting between FDIC lawyers and Rep. Hamburg when he told the Task Force that FDIC claims did not involve trees until July 1995 when Mr. Hurwitz raised the redwoods to the FDIC indirectly through the Department of the Interior. The claims did involve trees—convincing the “other side” that there is a \$400 million claim and they may “want to settle,” which gets the FDIC into the Hurwitz holding company that has the redwood trees.

As to Ms. Seidman, she stated a fact—that the OTS claim was for cash, which is technically all that it could be for. What she omits is that the FDIC had imparted the redwoods debt-for-nature agenda directly to the OTS on the heels of the February 3, 1994, meeting between FDIC and Rep. Hamburg—and the FDIC did so because its claims were too weak and too small to provide enough leverage for the redwoods (See, Record 33, Record 35 and accompanying discussion infra).

It took less than 24 hours following the FDIC-Rep. Hamburg meeting for the FDIC Deputy General Counsel, Jack Smith, to write to Carolyn Lieberman (now Carolyn Buck), the top lawyer at OTS. (Record 6). The letter (1) forwarded legal analysis of the net worth maintenance claim against the Hurwitz's holding company that owned the redwoods; (2) admitted that FDIC had no net worth maintenance claim; (3) prodded OTS to review whether it could administratively bring a net worth maintenance claim; and (4) in an incredible admission of purpose and intent, the letter notified OTS about the redwoods debt-for-nature scheme. The last paragraph of the one page letter reads:

You should be aware that this case has attracted public attention because of the involvement of Charles Hurwitz, and environmental groups have suggested that possible claims against Mr. Hurwitz should be traded for 44,000 acres of North West timber land owned by Pacific Lumber, a subsidiary of Maxxam. Chairman Gonzales has inquired about the matter and we have advised him we would make a decision by this May. After you have reviewed these papers, please call me or Pat Bak (736-0664) to discuss the next step and to arrange coordination with our professional liability claims. (Record 6)

Clearly, this action, immediately after the FDIC strategy meeting with Rep. Hamburg constitutes direct engagement of the FDIC to promote the claim that would become the leverage for the redwood debt-for-nature scheme.

It is worth stressing that the FDIC that wrote this letter on the heels of the Rep. Hamburg meeting is the same FDIC that testified to the Task Force that their litigation did not have anything to do with trees. How could it not when the FDIC told the OTS that it promised Rep. Gonzalez that the agency “would advise him of its decision about an environmental group suggestion “that possible claims against Mr. Hurwitz should be traded for 44,000 acres of North West timber land owned by Pacific Lumber.

This is debt for nature. It was real in February 1994. It ultimately overrode the fact that the FDIC knew its claim was weak and it led almost immediately to the FDIC hiring the OTS to promote the net worth maintenance claim against Mr. Hurwitz.

This letter was sent three months prior to FDIC hiring OTS to pursue the net worth maintenance claim that FDIC knew it did not have.²⁵ Importantly, it was sent immediately after the Rep. Hamburg meeting—the meeting that tied Mr. Hurwitz's holding company's redwood trees to the USAT net worth maintenance claim against Mr. Hurwitz. The FDIC prompted and then paid the OTS to pursue this claim by supposedly using its independent statutory authority.²⁶

In effect, the FDIC scheme beginning at least in February 1994, polluted the OTS action. What was a “hook” into the “holding company” that owned the redwoods for FDIC, was a “hook” into the holding company for the OTS. In fact, without the FDIC money (which by 1995 totaled \$529,452 and by 2000 totaled \$3,002,825), OTS's five lawyers and six paralegals advancing the claims against Mr. Hurwitz would have been unfunded—and probably not advanced the claim. And without the net worth maintenance claim—by far the largest claim—there would be no hook into Mr. Hurwitz, therefore no hook into his redwoods.

It is helpful to understand why Mr. Smith told Rep. Hamburg that it is “very difficult to do a swap for trees.” It was very difficult for two reasons. First, the claims would not ordinarily be brought because they would fail on the merits, so it would be difficult to exchange a claim that would not have been ordinarily brought. The bank regulators manual explains their policies from 1980 through 1994 for bringing claims as follows:

No claim is pursued by the FDIC unless it meets both requirements of a two-part test. First, the claim must be sound on its merits, and the receiver must be more than likely to succeed in any litigation necessary to collect on the claim. Second, it must be probable that any necessary litigation will be cost-effective, considering liability insurance coverage and personal assets held by defendants. (Managing the Crisis: The FDIC and the RTC Experience 1980-94, published by FDIC, August 1998, page 266)

Second, the claims would be for restitution, and the FDIC could not accept trees in settlement. The FDIC even admits that they would need “modest” legislation to accept trees, which is an admission that their purpose in seeking redwoods is indeed unauthorized.

However, it was political pressure, such as that applied by environmental groups in 1993 and Rep. Hamburg beginning in 1994, that led the willing FDIC (and ultimately its agent, the OTS, after FDIC began paying OTS in May 1994) into ignoring the mission of recovering money on cost effective banking claims.

Instead the FDIC adopted unauthorized missions of providing leverage through lawsuits that are unsound on the merits and would “convince” (the word used by Mr. Smith) Mr. Hurwitz that FDIC had a claim of “\$400 million” so that they could get a “hook into the holding company” and settle the claim for redwood trees. This was exercise of leverage pure and simple.²⁷

February 2 through 4, 1994, were important redwoods debt-for-nature days for the FDIC's legal team. There was the FDIC memo admitting that it had no net worth maintenance claim. Then there was the meeting with Rep. Hamburg about the redwoods scheme. Then there was an odd, but revealing e-mail sent by FDIC's congressional liaison, Eric Spittler, to Jack Smith on February 4, 1994, about a conversation he had with Smith on February 3, 1994, the same day as the Rep. Hamburg meeting. The message was about the selection of an outside law firm to act as counsel on the USAT matter:

Jack, I thought about over conversation yesterday. My advice from a political perspective is that the “C” firm [Cravath] is still politically risky. We would catch less political heat for another firm, perhaps one with some environmental connections. Otherwise, they might not criticize the deal but they might argue that the firm [Cravath] already got \$100 million and we should spread it around more. (emphasis supplied) (Document I)

Indeed, “environmental connections” were a factor in selection of the outside counsel for

the USAT matter. A February 14, 1994, memo about “Retention of Outside Counsel” for the USAT matter (Record 15) from various FDIC lawyers to Douglas Jones, FDIC's acting General Counsel, trumpets the ability of the firm ultimately selected, Hopkins & Sutter, to handle a redwood debt-for-nature settlement:

The firm [Hopkins & Sutter] has a proven record handling high profile litigation on behalf of the [FDIC] and, drawing on its extensive representation of the lumber industry, will be able to cover all aspects of any potentially unique debt for redwoods settlement arrangements. (Record 15, page 8)

The FDIC was clearly planning—even in February 1994 with the selection of an outside counsel—for a redwoods debt-for-nature swap as part of a settlement! This was before they even knew if their potential claims were really claims, and before the FDIC Board had authorized filing of any claims. From the FDIC's perspective, an outside counsel law firm with “environmental connections” that can “cover all aspects of any potentially unique debt for redwoods settlement” is the only choice. (Record 15)

So in February 1994, the FDIC—which denies to this day its litigation against Mr. Hurwitz has any linkage to a redwoods debt-for-nature scheme—selected the outside counsel for the USAT matter because it could handle a debt for redwoods settlement. This firm was an ideal choice for a bank regulator with an agenda to get a “hook” into a holding company that has redwood tree assets that might be traded for bank claims—if they can “convince” the other side that they have valid claims. Mr. Hurwitz's redwood trees were targeted a year and a half before the bank claims were authorized to be filed and seventeen months before he supposedly raised the issue of redwoods “first” with the FDIC.

The FDIC, its lawyers and acting chairman knew of the linkage between bank claims and redwoods, as did their outside counsel, Hopkins & Sutter, which even facilitated numerous contacts, information exchanges, strategy sessions, and meetings during the remainder of 1994 between the bank regulators and environmentalist proponents of a Hurwitz debt-for-nature redwoods swap.

But Ms. Tanoue and Mr. Kroener testified that redwoods had nothing to do with the litigation, hardly an accurate proposition in light of the fact that the FDIC's outside counsel was selected because of their environmental connections and ability to handle a “unique debt for redwoods settlement.” (Record 15)

Indeed, Hopkins & Sutter's “environmental connections” paid off—to the environmentalists advocating a redwoods debt-for-nature scheme. F. Thomas Hecht, the lead partner at Hopkins and Sutter on the USAT matter, in a memo copied to FDIC attorney's summarized the intense lobbying effort [beginning in about March 1994] by certain environmental activists led by the Rose Foundation of Oakland, California, whose principal concern has been to conserve an area of unprotected old-growth redwoods in northern California known as the Headwaters Forest. (Document N, page 1) The memo (Document N, page 3-4) details the following contacts:

On June 17, 1994, Thomas Hecht met with Jill Ratner of the Rose Foundation in San Francisco for an initial meeting at which Ms. Ratner outlined her groups' concerns.

On October 4, 1994, Hecht, Jeffrey Williams, Robert DeHenzel and the Rose Foundation and its lawyer participated in a teleconference at which the claims prepared by the Rose Foundation were presented in more detail.

On January 20, 1995, DeHenzel and Hecht met with Julia Levin of the Natural Heritage Foundation ("NHF"), a group closely associated with the Rose Foundation. The NHF is conducting much of the lobbying effort on behalf of the Rose Foundation and other environmental activists on this issue.

In addition to these more formal encounters, Williams, DeHenzel and Hecht have each been contacted repeatedly by the Rose Foundation and its attorneys to explore the theories in more depth and to urge the FDIC to take action. In each of these meetings and in subsequent telephone conversations and correspondence, the Rose Foundation and its allies have urged three general approaches to the problem including: (a) the imposition of a constructive trust over Pacific Lumber redwoods, (b) the seizure of redwoods using an unjust enrichment theory, and (c) obtaining rights to the forest or, at a minimum, an environmental easement, as part of a negotiated settlement. They have also urged Congressional action, filed a Qui Tam proceeding in the Northern District of California and threatened the FDIC with proceedings under the Endangered Species Act. (Document N, page 3-4)

This is just a sampling of the many instances were the bank regulators own notes and memos show integration between what were still possible bank claims and the redwoods. All of these occurred beginning 18 months before the USAT claims against Mr. Hurwitz were authorized or filed. Record 8 contains several examples of outside contacts between bank regulators and environmental groups about different mechanisms to leverage redwoods using potential banking claims.

1995 The Federal Government Scheme Is Defined—"High Profile Damages Case" In Which Redwoods Are "A Bargaining Chip"

The relationship between the possible banking claims and the redwoods is not just implied by the number of meetings or the extensive evaluations by bank regulators and their lawyers throughout 1994, it was directly stated in the March 1995 memo by F. Thomas Hecht, FDIC's outside counsel:

As their theories have become subject to criticisms, certain counsel for the Rose Foundation have shifted (at least in part) from arguments compelling the seizure of the redwoods to urging the development of an aggressive and high profile damages case in which redwoods become a bargaining chip in negotiating a resolution. This, indeed, may be the best option available to the environmental groups; its greatest strength is that it does not depend on difficult seizure theories. This approach would require that both the FDIC and OTS undertake to make the redwoods part of any settlement package.²⁸ (footnote not in original) (Document N, page 8)

Thus, the FDIC's outside counsel explained and evaluated the best course of action for the environmental groups (never mind the FDIC or the government). The fact is that a high profile damage claim where redwoods were leveraged from Mr. Hurwitz—the environmentalist's best option—is exactly how the FDIC proceeded, particularly after the DOI and the White House engaged with the bank regulators. They swallowed the redwoods debt-for-nature scheme—hook, line, and sinker (as the old saying goes)—beginning in 1994 and continuing into 1995, even though their own analysis showed that their potential claims would not stand.

In spite of these facts, the FDIC has consistently insisted since late 1993 that "there is no direct relationship between USAT and the Headwaters Forest currently owned by Pacific Lumber Company . . . [however], if such a swap became an option, the FDIC

would consider it as one alternative . . ." (Record 28). Indeed, this is exactly what the banking regulators have told the Committee in writing: they have always been open to the idea, but they prefer cash. The documentation outlined above shows that the banking regulators actively pursued a redwoods debt-for-nature agenda using their claims as urged by certain Members of Congress and by environmental groups. However, by this point, the Department of the Interior and the White House had yet to engage. That changed in early 1995.

In February 1995, a host of environmentalists proposed an acquisition of the Headwaters redwood trees to President Clinton, and Leon Panetta (Chief of Staff) wrote back to them saying that budget constraints would not permit outright acquisition (Record 16A). He suggested that they push a debt-for-nature swap or land exchange instead. That action served to lower expectations for appropriated funds for the redwoods, and focused the proponents on continuing to push the redwoods debt-for-nature scheme.

By April 3, 1995, FDIC lawyers were openly attempting to leverage Mr. Hurwitz into settling claims that were still yet to be filed for redwood trees. The redwoods debt-for-nature scheme was alive and active at the FDIC as indicated by the words in this e mail to Mr. Jack Smith from Mr. Bob DeHenzel:

Jack:

Just a note regarding our brief discussion on Charles Hurwitz and exploring creative options that may induce a settlement involving the sequoia redwoods in the FDIC/OTS case: . . . (Record 9)

In these words the FDIC's attorneys were indeed leveraging redwoods by using their banking claims—at least three months before FDIC says that Mr. Hurwitz raised the redwood-debt-for nature idea through his "representative agency" (presumably the DOI), attorneys, four months before the FDIC board authorized the suit against Mr. Hurwitz, and about five months before the FDIC maintains Mr. Hurwitz raised the redwoods swap idea directly with the bank regulators.

Thus, well before the notion of the redwoods debt-for-nature deal was introduced to the FDIC by Mr. Hurwitz (as the bank regulators religiously maintain) the bank regulators were indeed targeting Mr. Hurwitz's redwoods and using their potential claims as leverage to "induce" a settlement. The repeated statements and the sworn testimony of Ms. Seidman, Ms. Tanoue, and Mr. Kroener to the Task Force (that Mr. Hurwitz introduced the redwoods into settlement discussions) is yet another example that directly contradicts what the FDIC lawyers were doing as evidenced by their own writing.

The notes of FDIC attorneys about what they were seeking and why the FDIC and the OTS were cooperating also contradict the testimony of the bank regulators when they say that redwoods had noting to do with the litigation against Mr. Hurwitz. Sometime in mid-1994 (but before July 20, 1994)²⁹, FDIC wished to continue studying their claim and "a possible capital maintenance claim by OTS against Maxxam." In illuminating candor, the handwritten memo articulates why the FDIC lawyers wanted to hire the OTS and double team Mr. Hurwitz:

Why?

(1) Tactically, combining FDIC & OTS' claims—if they all stand scrutiny—is more likely to produce a large recovery/the trees than is a piecemeal approach (Record 10, bates number JT 000145)

So, the senior FDIC lawyer, Mr. John Thomas, contemporaneously wrote that their

strategy with OTS would be more likely to produce "the trees." But their Chairman, their General Counsel, and the OTS Director repeatedly told the committee that the litigation had nothing to do with trees. Were the FDIC and OTS management and their board members so ill-informed about what their attorneys were seeking to achieve? "The trees" is not cash, period.

The other very alarming notion is how integral OTS is to the strategy to "produce" "the trees," according to the FDIC attorneys. The strategy to "combine" FDIC's weak claims with possible OTS claims on net worth maintenance further explains the February 4, 1994, letter from FDIC's lawyers to OTS's lawyers (Record 6).

It transmitted the net worth maintenance claim to the OTS and introduced the notion that the FDIC was considering a redwoods debt-for-nature swap scheme. The FDIC told OTS that they were about to report to Rep. Gonzalez about the potential for the swap. The implication was that viable claims against Mr. Hurwitz (brought directly by the FDIC or indirectly through the OTS) would allow the FDIC to report back to Mr. Gonzalez that they could help get "the trees" because a swap would be more viable. Without the OTS, the FDIC would not have enough leverage to produce "the trees," because by its own analysis, the FDIC claims were losers.

The repeated intra-government lobbying of FDIC and OTS also pushed the bank regulators into the political redwoods debt-for-nature acquisition scheme. This intragovernment lobbying began indirectly by at least May 19, 1995,³⁰ and is first evidenced by notes (Record 11) from a phone call by Ms. Jill Ratner, who runs the Rose Foundation, to Mr. Robert DeHenzel. (Record 11 is a copy of Mr. DeHenzel's notes from that conversation.)

The notes (Record 11) indicate that Ms. Ratner told Mr. DeHenzel about the Department of the Interior (DOI) players who are "very interested in debt-for-nature swap": Mr. Alan McReynolds, a Special Assistant to the Secretary of the DOI, Mr. Jeff Webb, with DOI congressional relations, Mr. George Frampton, the Assistant Secretary for Fish Wildlife, and Parks at DOI, and Mr. Jay Ziegler, an assistant to Mr. Frampton were all discussed as redwoods debt-for-nature advocates. And Record 11A illustrates that the Rose Foundation had done substantial work regarding various mechanisms to transfer the redwoods to the federal government.

The notes indicate that Mr. McReynolds had flown over Headwaters during the week of May 8, 1995,³¹ with Ms. Ratner a primary advocate of various plans to acquire the Headwaters Forest. This was the first indication that DOI was engaging on the redwoods debt-for-nature scheme and probably Mr. McReynolds' first exposure to the concept that bank claims could provide the leverage for the redwoods scheme. There is no mention in the notes that Mr. Hurwitz requested DOI to raise the issue of a redwoods swap or look into it:

Interior is . . . discussions will continue. Webb & Zeigler will continue doing prelim[inary] work to explore whether debt-for-nature would work. (Record 11)

By the time that the DOI engaged in May 1995, the FDIC lawyers were well aware of the "debt-for-nature" transaction that various environmental groups have been advocating to resolve the claims involving Hurwitz and USAT." (Record 12) They were also apparently intimidated by the environmentalists as shown by the two page FDIC memo about a redwoods debt-for-nature letter to FDIC referencing the Oklahoma City bombing and a "call to defuse this situation" by doing a swap (Record 12). The following

excerpt of the memo shows detailed knowledge about the debt-for-nature scheme and a perceived threat of violence related to environmentalist who had pushed the FDIC into it:

As you know, the above-referenced investigation has resulted in attracting the attention of organizations and individuals that have interests in environmental preservation. This has arisen as a result of Charles Hurwitz's acquisition (through affiliates) of Pacific Lumber, a logging company in Humboldt County California, that owns the last stands of old growth, virgin redwoods.³² It has been widely reported that the company has been harvesting the virgin redwoods in a desperate attempt to raise cash to pay its and its holding company's Maxxam, Inc.'s, substantial debt obligations.

The environmentalist's issues are centered on preserving the old growth redwoods through a mechanism of persuading Hurwitz to settle the government's claims involving losses sustained on the USAT failure by, in part, transferring the redwood stands to the FDIC or other federal agency responsible for managing such forest lands. FDIC has received thousands of letters urging FDIC to pursue such a transaction.

The environmental movement, like many others, is not homogeneous and contains extreme elements that that have resorted to civil disobedience and even criminal conduct to further their goals. As a result of the recent tragedy in Oklahoma City, everyone appears more sensitive to the possibility that people can and do resort to desperate, depraved criminal acts. Accordingly we take any references to such conduct, even ones that appear innocent, more seriously. (Record 12)

This excerpt shows that FDIC attorneys were (1) probably somewhat intimidated and (2) already well-versed in the debt-for-nature scheme when Ms. Ratner told Mr. DeHenzel who the DOI players supporting the redwoods debt-for-nature scheme were. The FDIC was keen to the motivations and methods of those who fed the scheme to them. Perhaps the intimate knowledge by the FDIC of the interests and desires of the environmental community came through the numerous pieces of correspondence and legal memos from the Rose Foundation to the FDIC through Hopkins & Sutter.³³ The material showing the constant pummeling of FDIC by these advocates (and the willing acceptance by the FDIC and its outside law firm with "environmental connections") is too voluminous to reproduce. It is contained in the Committee's files.

With the FDIC primed, the Department of the Interior directly engaged with the FDIC. The first known direct contact was a 5:00 p.m. call on July 17, 1995, from Alan McReynolds to Robert DeHenzel.³⁴ The notes taken by DeHenzel (Record 16) indicate that McReynolds, a special assistant to the Secretary of the Interior, asked about the "status of our [FDIC] potential claims and how OTS is organized, etc." He needed "someone to describe our [FDIC] claims and FDIC /OTS roles." He said that the DOI is receiving "calls almost daily from members of Congress and private citizens."³⁵ McReynolds pressed for a meeting that week (the week of July 17, 1995) because of his vacation and travel schedule. At that juncture, DeHenzel's notes say that McReynolds had not spoken to Jack Smith yet.

The following day, DeHenzel consulted about the McReynolds inquiry with "JVT," John V. Thomas, the same FDIC lawyer who attended the Rep. Hamburg meeting in November 1993. Mr. Thomas told him to talk to Jack Smith and Alice Goodman. The notes say that "JVT's reaction—Smith & Goodman should be there with us" (Record 16) for the meeting with McReynolds.

Then the unexpected occurred. On July 20, 1995, Mr. Hurwitz refused to extend the statute of limitations tolling agreement with the FDIC (Record 17, See, footnote 1 on page 2). He had last done so on March 27, 1995, and that extension was to expire on July 31, 1995. As a result, any lawsuit by FDIC regarding USAT claims against Mr. Hurwitz were required to be filed by August 2, 1995, just thirteen days later. It was just three days after Mr. McReynolds contacted the FDIC for a meeting about the potential FDIC and OTS actions against Mr. Hurwitz that the FDIC was told that Mr. Hurwitz would not extend the tolling agreement.

The FDIC was unprepared for this action. They had enjoyed six years and eight months of discovery during which they were lobbied by outside groups and Members of Congress on the completely unrelated issue of pursuing the redwoods debt-for-nature swap. However, the agency had failed to do its job and cobble together enough evidence supporting a banking claim involving USAT and Mr. Hurwitz. They were not ready to file a complaint or drop the case on their own volition, even though Mr. Hurwitz provided voluminous records to the agency in the discovery process, records that defined the facts and illuminated issues raised by the FDIC.

As a result, the FDIC was facing two issues—the request for a meeting with the Office of the Secretary of the DOI and the need to address the fact that they did not have the USAT case prepared after more than six years of investigation.

They addressed these issues internally in a July 20, 1995, meeting between "Mr. Jack Smith, JVT [John V. Thomas, FDIC lawyer], MA [Maryland Anderson, FDIC lawyer], JW [Jeff Williams, FDIC lawyer], and Robert DeHenzel." (Record 18)

It is clear from this meeting that the FDIC lawyers were not anxious to recommend a lawsuit against Hurwitz. They did not have a case, because it did not meet their internal standards. Instead they prefer-red to hinge their action on whether OTS brought the administrative action, the action that they prompted and paid OTS to bring against Hurwitz. This is an odd trigger for an agency that does admit it does not have a case, disavows it seeks redwoods, and is only interested in receiving "cash."

Thus, the FDIC lawyers' behavior is somewhat schizophrenic—on the one hand they know their internal policies will not let them bring a suit, but on the other hand they want to sue Mr. Hurwitz (and not other potential defendants). They then begin constructing the justification for doing so around the notion that the potential claims against Mr. Hurwitz are somehow special-not "ordinary." They also apparently talk of telling Mr. McReynolds what they will do—evidence of further improper coordination with the DOI outside of normal FDIC operating parameters. Mr. Thomas' notes from the internal FDIC meeting (Record 18) explain:

Re: McReynolds-Kosmetsky-Hurwitz-Tolling

Jack [Smith]—we will not go forward if OTS files a case—if OTS does not file suit, we still have to decide our case on the merits before tolling expires

*Memo to the GC [General Counsel] to Chairman—update status of case & recommends that we let Kozmetsky out.

If suit against Hurwitz—we sue only him and not others

Find out if Hurwitz will toll

Write a memo on case status to GC 10 page memo should do it! continue tolling sue or let them go

If ordinary case, we do not believe there is a 50% chance we will prevail therefore, we cannot recommend a lawsuit.

McReynolds-handle same as the Hill presentation (Record 18)

Clearly, the thinking coming out of the July 20, 1995, meeting was that the FDIC lawyers were not ready to make a recommendation on the merits of the case. Continued tolling was not an option because Mr. Hurwitz refused to sign a tolling extension, so the options "sue or let them go" were the only viable options. If it were an ordinary case the preference at that point would be to close the case out—that is let them go.

FDIC lawyer, Mr. John Thomas' later notes outlining some points for that memo to the General Counsel tell us why this was not the "ordinary" case:

"[G]iven (a) visibility—tree people, Congress & press . . . we thought you—[oar]d—should be advised of what we intend to do—and why—before it is too late." (Record. 22)

What Mr. Thomas was saying is that the staff intends to close out the case, and if the FDIC board wants to do otherwise before the case is closed (administratively by the staff or by virtue of the statute of limitations running), then the Board must intercede.

Importantly, the FDIC lawyers deviated from ordinary operating procedures because of the intense lobbying campaign for the redwoods debt-for-nature swap. Clearly, the intense lobbying effort by the environmental groups, by their outside counsel, by the DOI, by the White House, and by other federal entities was effective! At that point the bank regulators bought the redwoods scheme, but were unprepared then to totally disregard there what they knew they should do under their rules and guidelines, so the staff punted the issue to the board.

The FDIC had already injected itself into a political issue. Their dilemma was summed up by Mr. Thomas in notes preparing for a discussion on the USAT claims with the board apparently scribed a few days later:

Dilemma (why they [the FDIC Board] get paid the big bucks)—take:

Hit for dismissed suit

Hit for walking based on staff analysis of 70% loss of most/all on S of L [statute of limitations]

(Record 23)

The action by the FDIC of treating this case differently than the "ordinary" case and the concerted manipulation of hiring the OTS to pursue parallel claims to be used as leverage sends the strong message: if someone wants to influence bank regulators on an entirely collateral issue, and politically manipulate the bank regulators, they can successfully do it.

All that must be done to use the bank regulators to achieve a collateral issue is to pursue two year public relations campaign aimed at them, swamp the bank regulators with cards and letters about the collateral issue, write and submit various legal briefs for them that link the collateral issue, meet with the bank regulators about the collateral issue, organize congressional letters advocating the collateral issue, hold secret meetings with Members of Congress about the collateral issue, hold "protest" rallies outside of their meetings, and do whatever else it takes so that at the end of the day, bank regulators do not follow ordinary procedures.

Indeed, the redwoods debt-for-nature swap became linked to USAT and Mr. Hurwitz just as the environmental groups wished. This was not the ordinary case—it was going to the FDIC Board even though the FDIC admitted their case had a 70 percent chance of being dismissed because of the statute of limitations, and was more likely than not of falling on the merits if they were reached.

Apparently, the FDIC legal staff was prepared to tell McReynolds and "the Hill"

[Congress] the same thing—their course of action described in the July 20, 1995, meeting notes (Record 18). This modified procedure still left the door open for the board to act against staff recommendations and authorize the suit anyway—something that may not have been ideal from Mr. McReynolds perspective, but would still leave open the possibility of the leverage that DOI desired against Mr. Hurwitz.

Then something else changed on July 21, 1995, which was the day following the internal FDIC meeting on their potential claims against Mr. Hurwitz. The change caused the entire approach of the FDIC lawyers to evolve again. What changed was not any new information about the facts of the potential claims against Mr. Hurwitz related to USAT. What changed was not any favorable development in law that strengthened their potential claims against Mr. Hurwitz related to USAT. What changed was not any analysis about the nature or strength of the potential claims against Mr. Hurwitz. All of these things remained the same.

What changed was the realization by the FDIC lawyers, as communicated by a senior DOI official, that (1) the Clinton Administration and the DOI, had adopted and embraced the redwoods debt-for-nature scheme and they wanted the scheme to be successful, and (2) the FDIC's potential banking claims were critical to pulling off that redwoods debt-for-nature scheme. The potential banking claims—the same claims that the FDIC lawyers would have dropped using “delegated authority”—were the leverage that were critical to making the redwoods debt-for-nature scheme work.

That realization occurred when the FDIC lawyers met with Mr. McReynolds on Friday, July 21, 1995, at 11:00 a.m. (Record 19), just as he had requested on Monday, July 17, 1995. Meeting notes indicate that background about the redwoods and endangered species issues associated with the Mr. Hurwitz's redwoods³⁶ were initially discussed (Record 20). Other background about Governor Wilson's task force and the willingness of California to participate in the deal were discussed, as were Mr. Hurwitz's valuations of the property (Record 20). Apparently, McReynolds laid out some of the basics about the redwood acreage. He was familiar with the issue from first hand experience because he had flown over the redwoods with Jill Ratner during the week of May 8, 1995 (See, Record 11):

H[hurwitz] values 8K [acres] at \$500 m. Interior wants to deal it down. H[hurwitz] really wants \$200m total. Calif. Delegation is really putting pressure on. Dallas/Ft. Worth—Base closure³⁷

The FDIC also told McReynolds about the meeting that FDIC lawyers had set for the following Wednesday, July 26, 1995, with the OTS to discuss the USAT matter. They told Mr. McReynolds about the fact that they were doing the memo to the Chairman (the 10 page memo they concluded they needed in their July 20, 1995, meeting amongst the FDIC lawyers, See Record 18). The entry regarding this in Record 20 is reproduced below:

Wed [July 26] 10:30 mtg w/OTS. Memo for Chairman. (Record 20)

Eric Spittler's notes from the July 21, 1995, meeting add helpful details, and they are reproduced below:

\$400,000 expenses on OTS³⁸
Have not decided whether to bring case—won't decide for months.³⁹

Alan McReynolds—Adm[instration] want to do deal

Gov. Wilson w/DOI had task force of 6 groups

Told to find a way to make it happen

CA will trade \$100m in CA [California] timber

ber

Adm[instration] might trade mil[itary] base⁴⁰

Had call from atty. Appraisal on prop[erty] for \$500m. Said they want to make a deal.⁴¹ Don't know how much credence we have from them about a claim. At same time telling them to get rid of claim. He can't cut them down.

If we drop suit, will undercut everything. (emphasis supplied) (Record 21)

So, the FDIC knew—according to the meeting notes—that if the FDIC dropped the suit by letting the statute of limitations run, “it will undercut everything” related to the redwoods scheme that was just discussed with McReynolds. In other words, letting the statute of limitations expire—the “ordinary” procedure and recommendation of the FDIC lawyers at the time—meant the leverage for the redwoods debt-for-nature deal would evaporate, as would the scheme to get Hurwitz's redwoods. Thus, the notes confirm a redwoods debt-for-nature scheme and that FDIC did not really know whether Mr. Hurwitz believed that the FDIC had a valid claim—further evidence of the fact that the claims were indeed weak substantively and procedurally.

In this context—where the FDIC knew its claims (and the claims it was paying OTS to pursue) were the essential leverage for the redwoods—the FDIC lawyers began drafting the memo. Clearly, the agency was struggling with the fact that dropping the claims was inconsistent with what the DOI and the Administration needed to accomplish the redwoods debt-for-nature swap.

The handwritten outline of Mr. John Thomas (Record 22) reviewed the major points in the contemplated for the memo to the Chairman. The outline reiterated the linkage between FDIC and OTS, and it reinforced staff conclusion that the USAT claims against Mr. Hurwitz should be left to expire otherwise the court would dismiss them. Mr. John Thomas' outline clearly show that if this case were “ordinary” it would be closed. Pressure for redwoods was the justification for informing the Board of the staff's intent to close out the case, and the option of pursuing the case for purposes of leverage was therefore left open. Mr. Thomas' outline, which appears to be composed for the 2:00 p.m. briefing of the Chairman on July 26, 1995, (Record 22) is partially reproduced below—

May recall briefed re OTS—[FDIC is] paying [the OTS]—some months ago.

OTS is making progress, but not ready. Thus, tolling again.

OTS staff hopes to have draft notice of charges to Hurwitz, et al. Aug-Sept.

(Apologize for short fuse)—we thought we would be able to put off a final decision until OTS acted. Hurwitz refused to toll.

Normal matter, we would close out under delegated authority w/o [without] bringing it to your Bd's attention.

However, given
(a) visibility-tree people, Congress & press
(b) [OMITTED] we thought you—Bd—should be advised of what we intend to do—and why—before it is too late.

* * * * *

Bottom line: likely to lose on S of L [statute of limitations]—let it go or have ct. dismiss it.

Continue to fund OTS

We'd also write Congress re what & why rather than awaiting reaction

Redwood Swap—Interior/Calif.

Forest—[military] base—FDIC/OTS claim(?)

(Record 22)

This outline reinforces the approach and dilemma described by FDIC lawyers in their

July 20, 1995, meeting. First, there was coordination with the OTS claims to get redwoods. That's because FDIC's possible claims were losers on substantive and procedural (statute of limitations) grounds. Second, ordinary procedures to close out the matter were circumvented due to “visibility” from the redwoods debt-for-nature campaign of the “tree people” (Earth First! and the Rose Foundation), Congress, and the press. Third, the Department of the Interior's “Redwood Swap” was taking shape and FDIC lawyers were beginning to coordinate with DOI staff.

All these factors combined to override the normal course of action, which was to close out the case. Instead, the Board would get the decision. All of this confirmed in John Thomas' own handwritten outline (Record 22), and all of it adding up to show that the redwoods debt-for-nature scheme had a real impact on the approach of the FDIC's lawyers. It had yet to skew the FDIC's final judgment based on early versions of the memo to the Chairman (Document X), but the final version dated July 27, 1995, would reflect skewed judgment.

The memo was drafted, and a version reflecting Mr. Thomas' notes and all of the prior internal staff discussions was produced and dated July 24, 1995. The drafts are Document X, and the final before the reversal is Document X, pages ES 0490-0495. It contains an unsigned signature block. Highlights of this memo are reproduced below and they tell exactly what the FDIC lawyers would advise the FDIC Board:

We had hoped to delay a final decision on this matter until after OTS decides whether to pursue claims against Hurwitz, et. al. However, we were advised on July 21, 1995 that Hurwitz would not extend our tolling agreement with him. Consequently, if suit were to be brought it would have to be filed by August 2, 1995. We are not recommending suit because there is a 70% probability that most or all the FDIC cases would be dismissed on statute of limitations grounds. Under the circumstances the staff would ordinarily close out the investigation under delegated authority. However (evidenced by numerous letters from Congressmen and environmental groups), we are advising the Board in advance of our action in case there is a contrary view. (Document X, page ES 0490) And in discussing the merits, the memo again advised:

The effect of these recent adverse [court] decisions is that there is a very high probability that the FDIC's claims will not survive a motion to dismiss on statute of limitations grounds. We would also be at increased risks of dismissal on the merits. Because there is only a 30% chance that we can avoid dismissal on statute of limitations grounds, and because even if we survived a statute of limitations motion, victory on the merits (especially on the claims most likely to survive a statute of limitations motion) is uncertain given the state of the law in Texas, we do not recommend suit on the FDIC's potential claims. (Document X, page ES 0493-0494)

The memo then discusses the redwood forest matter, an interesting notion given the fact that the FDIC has consistently maintained that the redwoods were not at all connected to their litigation:

The decision not to sue Hurwitz and former directors and officers of USAT is likely to attract media coverage and criticism from environmental groups and member of Congress. Hurwitz has a reputation as a corporate raider, and his hostile takeover of Pacific Lumber attracted enormous publicity and litigation because of his harvesting of California redwoods. Environmental interests have received considerable publicity in the last two years, suggesting exchanging

our D&O [director and officer] claims for the redwood forest. On July 21, we met with representatives of the Department of the Interior, who informed us that they are negotiating with Hurwitz about the possibility of swapping various properties, plus the possibility the FDIC/OTS claim, for the redwood forest. They stated that the Administration is seriously interested in pursuing such a settlement.⁴² This is feasible with perhaps some new modest legislative authority. . . . We plan to follow up on these discussions with the OTS and Department of [the] Interior in the coming weeks. . . . When the Hurwitz tolling agreement expires, we would recommend that we update those Congressmen who have inquired about our investigation and make it clear that this does not end the matter of Hurwitz's liability for the failure of USAT because of the ongoing OTS investigation. (Record X, pages ES 0493-0494).

It is helpful to understand that there were four major versions of this memo drafted and revised. The drafts of this memo are all typed-dated July 24, 1995, and they all reference discussions with the Department of the Interior. These drafts are Document X, which was made part of the Task Force hearing record by unanimous consent.

However, one version of this memo contains numerous handwritten changes, including a date that was changed from July 24, 1995, to July 27, 1995 (Document X, pages PLS 000192-000195). The changes amount to the complete and total reversal in approach to the USAT claims related to Mr. Hurwitz. The July 27, 1995, version is the text that was incorporated into the Authority to Sue (ATS) cover Memorandum⁴³ that was itself dated July 27, 1995. It, with the ATS memo (Document L, EM 00123-00135), went to the FDIC Board, and it recommended the suit against Mr. Hurwitz be brought.

The July 27 final version rolled into the ATS memo also discusses the "Pacific Lumber-Redwood Forest Matter" (Document L, page EM 00129). Therein, it notes the July 21, 1995, FDIC meeting with "representatives of the Department of the Interior [McReynolds], who informed us [the FDIC] that they are negotiating with Hurwitz about the possibility of swapping various properties, plus the possibility of the FDIC/OTS claim, for the redwood forest." (Document L, page EM00129). The memo also says that the "Administration is seriously interested in pursuing such a settlement."

Note what the memo does not say. It does not say Mr. Hurwitz raised the issue of redwoods and linked them in any way to the banking claims. It says that the Administration is negotiating a swap of possible properties, plus the banking claims. When the bank regulators learned of this (probably from Mr. McReynolds on July 21, 1995), the bank regulators should have been very uncomfortable. They had already voluntarily injected themselves into a political dynamic with other government agencies—one of which had apparently taken their statutory obligation to recover cash by using claims that belonged to the FDIC and were not even brought yet. At this juncture Mr. Hurwitz had not raised the prospect of such a scheme with the FDIC.

The only other intervening event between the July 24, 1995, memo drafts and the July 27, 1995, reversal is a meeting on July 26, 1995, at 10:30 a.m. between the FDIC and OTS. Record 26 are the only set of meeting notes from that meeting,⁴⁴ and the notes reiterate the discussion between FDIC lawyers and Mr. McReynolds on July 21, 1995. This puts the OTS squarely inside the redwoods debt-for-nature scheme.

The notes are very helpful to show the degree of coordination between the FDIC and OTS about redwoods and the linkage be-

tween the potential claims and redwoods. They also show how the FDIC polluted the OTS decision-making with the same political dynamic it had been part of for more than a year. The FDIC staff summed up the situation and briefed OTS about all of the important redwoods developments related to Mr. Hurwitz:

J. Smith—
—Hurwitz won't sign tolling agreement with FDIC—need to file lawsuit by 8/12

—J Thomas-chances of success on stat. Limitations is 30% or less

—will continue discussions with Helfer
—Pressure from California congressional delegation to proceed

Dept. of Interior—Alan McReynolds
—Administration interested in resolving case & getting Redwoods⁴⁵

—Pete Wilson has put together a multi-agency task group

—Calif would put up \$ 100 MM of California timberland

—Hurwitz wants a military base between Dallas & Fort worth-Suitable for commercial development

—Hurwitz also wants our cases settled as part of the deal⁴⁶

Two weeks ago-Hurwitz lawyer called Teri Gordon at home & told him he should not be turned off by the \$500 MM appraisal

What is OTS'schedule? How comfortable is OTS w/ giving info to Interior?

(Record 26)

None of the records reviewed contains any banking law rationale for the reversal in the staff recommendation July 24, 1995, (which was to notify the board that they would close out the potential claim against Mr. Hurwitz by letting the statute of limitations run) and the July 27, 1995, approach (which recommended a lawsuit against Mr. Hurwitz). The only explanation for the reversal is the meeting with Mr. McReynolds where the DOI and Administration's desire for leverage was communicated and understood by the FDIC coupled with the meeting with OTS where bank regulators from both agencies discussed the Administration's desire for the redwoods debt-for-nature scheme to succeed. At this juncture, the thinking was that there would be no money for an appropriation for the Headwaters, so a swap of some sort was the only way to acquire the redwoods.

The FDIC board only saw the July 27, 1995, memo. In their meeting they discussed the redwoods scheme when they discussed bringing the action against Mr. Hurwitz (Record 27). As part of his briefing, Mr. John Thomas elaborates on the redwood scheme to the FDIC board:

Mr. THOMAS. This is, of course, a very visible matter. It is visible for something having no direct relationship to this case, but having some indirect relationship. Mr. Hurwitz, through Maxxam, purchased Pacific Lumber. Pacific Lumber owns the largest stand of virgin redwoods in private hands in the world, the Headwaters. That has been the subject of considering—considerable environmental interest, including the picketing downstairs of a year or so ago. It has been the subject of Congressional inquiry and press inquiry. So we assume that whatever we do will be visible.

Interior, you should also be aware—aware, the Department of Interior is trying to put together a deal to the headlines [sic] [Headwaters] trade property and perhaps our claim. They had spoken—they spoke to staff a few days ago about that and staff of the FDIC has indicated that we would be interested in working with them to see whether something is possible. We believe that legislation would ultimately be required to achieve that. But again, if it's the Board's pleasure, we would at least try to find out

what's happening and pursue that matter and make sure that nothing goes on we're not aware of—we're not part of. (Record 27, page 11-12)

Later, Chairman Helfer raised the issue of whether bringing suit enhances the prospect of settlement of non-banking issues, that is the redwoods:

Chairman HELFER. . . . does the FDIC's authorization to sue enhance the prospect—the prospects for a settlement on a variety of issues associated with the case?

Mr. THOMAS. It might have some marginal benefit, but I don't think it would make a large difference. I think the reality is that the FDIC and OTS staff have worked together, expect to continue to work together, and so, I don't think it would have a major impact. It might make some difference, but I think particularly any effort to resolve this with . . . a solution that involves the redwoods would be extremely difficult.⁴⁷ . . . (Record 27, page 16)

These exchanges in the FDIC board meeting about the redwoods are troubling simply because they occurred. They injected factors that had nothing whatsoever to do with the validity of banking claims against Mr. Hurwitz. The advice and recommendations on July 27, 1995, deviated so widely from the approach of staff that would have ordinarily taken to close the case administratively. They deviated even more from the approach they would have taken before the McReynolds meeting on July 21, 1995, where they came to understand that the Administration needed the leverage for the redwoods swap.

The deviation is likely a result of that meeting, coupled with the OTS meeting on July 26, 1995, where they coordinated on the claims they were paying the OTS to pursue and conspired about the need for leverage to get the redwood claims. The FDIC understood at that point that OTS's claims may not be brought for months (or perhaps at all) and they certainly knew that if "we drop our suit, [it] will undercut everything." (Record 21)

The day following filing of the suit, FDIC lawyers sent a memo to their communications department reiterating the congressional and environmental interest due to the redwoods issue. (Record 28) The memo explained conspiracy with the Department of the Interior and how the department had been negotiating for the redwoods using the FDIC and OTS claims. The memo also indicated that it was the Administration that was "seriously interested in pursuing such a settlement." (Record 28, page 2) In addition, as if the FDIC lawyers knew they were doing something wrong, the memo emphasized that "All of our discussions with the DOI are strictly confidential." (Record 28, page 2)

Then the memo went on to suggest that the FDIC should not disclose these discussions or deviate from the prior public statement about redwoods. Basically that statement was that if a redwood "swap became an option, the FDIC would consider it as one alternative and would conscientiously strive to resolve any pertinent issues." (Record 28, page 2)

The work on a redwoods swap by the FDIC and the Department of Interior then grew as indicated by the volume of notes from meetings where other federal entities were drawn into the scheme. There was an August 2, 1995, DOI Headwaters acquisition strategy paper drafted by Mr. McReynolds. It reports the FDIC and the OTS "are amenable to [a debt for nature swap] if the Administration supports it." (Document DOI B). This is blatant evidence of just how political the FDIC's July 27, 1995, reversal was.

There was the August 15, 1995, meeting between DOI, FDIC (Smith), and OTS (Renaldi

and Stems) (Document DOI C, page 2) where it was reported that "FDIC and OTS are wondering why DOI is not being more aggressive with Hurwitz and is permitting [Governor] Wilson's task force to take the lead" (Document DOI C, page 2). This is a stunning indictment of the political motivation of the FDIC and OTS staff.

There was coordination with Congressional offices (Document DOI D).

There was endorsement from the Assistant Secretary of DOI of using the FDIC and yet to be filed OTS claims in exchange for the redwoods (Document DOI E).

There were multi-agency meetings that included the White House ONM and CEQ (Document DOI F and H).

The Vice President was lobbied by Jill Ratner for his support of the redwoods scheme as was the White House (Document DOI G), and bi-weekly conference calls were occurring between the FDIC, the OTS, and the DOI to coordinate on the redwoods scheme by September 1995.

There was the October 1995, memo to the General Counsel of FDIC about a scheduled meeting that was to occur on October 20, 1995 with Vice President Gore about the FDIC and OTS claims and their integral linkage to leveraging redwoods. Mr. Kroener, testified that the meeting never occurred, but the information in the memo is nonetheless illuminating, and it contradicts FDIC's statements that they were not after redwood trees.

The memo verifies that Mr. Hurwitz was not interested and had not raised the notion of a redwoods swap for FDIC or OTS claims. The memo says OTS met with Hurwitz's lawyer and "no interest in settlement has been expressed to OTS." (Record 33, page 2). The memo says that FDIC has had several meetings and discussions with Hurwitz counsel prior to the filing of the lawsuit. Hurwitz has never, however, indicated directly to the FDIC a desire to negotiate a settlement of the FDIC claims. (Record 33, page 2).

This puts to rest the notion that Mr. Hurwitz was or had been interested (or had raised) the notion of a redwoods swap for the OTS or FDIC claim up to that point.⁴⁸ Apparently, the FDIC relied on erroneous representations of Mr. McReynolds to the contrary.

Then, in an incredible self-indictment, the FDIC observes that it is "inappropriate to include OTS" in the meeting to discuss possible settlement with Hurwitz because the OTS claim was not approved for filing, and discussions may be perceived as "an effort by the executive branch to influence OTS's independent evaluation of its investigation" (Record 33, page 2). What exactly, then, did the FDIC think its February 1994 meeting with Rep. Hamburg would do to its independent judgment? What did the FDIC think repeated contacts with environmental groups since 1993 would do? What did the FDIC think that its meetings with Mr. McReynolds right before their staff recommendation changed in July 1995 would do? Why did the FDIC and the OTS meet and have phone briefings with DOI in July, August, September 1996. All of these contacts were just as inappropriate then as they were when FDIC staff wrote the briefing memo for Vice President Gore's meeting. Did the FDIC lawyers take an ethics class sometime between February 1994 and October 1995?

In fact, the FDIC intended to help the Administration force Mr. Hurwitz into trading his redwoods for the FDIC and OTS claims. They wanted to induce a settlement, and their words say it. There meeting with the Vice President was an important meeting, and the memo to Mr. Kroener to prepare for the meeting (Record 33) was remarkably candid:

FDIC has no direct claim against Pacific Lumber through which it could successfully

obtain or seize the trees or to preserve the Headwaters Forest.

FDIC's claims alone are not likely to be sufficient to cause Hurwitz to offer the Headwaters Forest,⁴⁹ because of their size relative to a recent Forest Service Appraisal of the value of the Headwaters Forest (\$600 million); because of very substantial litigation risks including statute of limitations, Texas negligence—gross negligence business judgment law, and Hurwitz role as a de facto director; and the indirect connection noted above, including the risk of Hurwitz facing suit from Pacific Lumber securities holders if its assets were disposed of without Pacific Lumber being compensated by either outsiders, or Hurwitz or entities he controls. (Record 33, page 3) (emphasis supplied)

Two things are clear after reading this passage. First, FDIC staff intended the claim to operate as an inducement, along with the OTS claim, for trees. Second, that there is no other rationale, after reading this evaluation, for the FDIC lawyers to have switched their recommendation between July 24 and July 27, 1995—except that they intended all along to help the Administration by playing a part in inducing a settlement.

After reading this passage, one wonders why the FDIC still attempts to propagate the obviously false notion that their claims had nothing to do with redwoods.

There was the October 22, 1995, meeting that included a cast from DOI, OMEB, FDIC, DOJ, and the Department of Treasury "at which we [CEQ] initiated discussions on a potential debt-for-nature swap." (Document DOI H). That meeting led to FDIC attorney Jack Smith compiling a lengthy memorandum to Kathleen McGinty, the Chairman of CEQ. The memo reviewed issues and answers about the feasibility of various legal mechanisms that might be used to facilitate the redwoods debt-for-nature scheme. (Record 30).

Then in late 1995, Judge Hughes, the U.S. District Court judge who was assigned the FDIC's lawsuit discovered what the FDIC and OTS had done to team up using overlapping authority to harass Mr. Hurwitz (Record 37 and Document A) and the banking regulators' redwood debt-for-nature scheme began to be exposed.

At the same time (November 28, 1995) FDIC lawyers met with Katie McGinty (CEQ), Elizabeth Blaug (CEQ), and John Girmundi (DOI) where it was decided that there would be "no formal contacts until OTS file," (Record 38) and it was acknowledged that "after the administrative suit is filed is time for opening any discussions." However, the FDIC had already had several discussions with OTS about the redwoods swap, as had DOI staff beginning in July 1995, even before the FDIC claim was filed.

The notes from meetings between the FDIC and/or the OTS and environmental groups, government agencies, federal departments, the White House, from September 1995 through March 1996. (Record 31)

1996. FDIC LAWYERS CANNOT FIND THEIR WAY OUT OF THE FOREST—HELP, "WE NEED AN EXIT STRATEGY FROM THE REDWOODS"

By January 6, 1996, the redwoods scheme had come together as planned. John Thomas reported to Jack Smith in a weekly update:

United Savings. OTS has filed their notice of charges. The statute has been allowed to run by us [FDIC and OTS] on everyone other than Hurwitz. We have moved to stay our case in Houston, and are awaiting a ruling. . . . And there is question of whether a broad deal can be made with Pacific Lumber. (Record 36)

Shortly thereafter, on January 19, 1996, the fact that Mr. Hurwitz had not directly brought the issue of the redwoods into set-

tlement discussions became a problem. OTS apparently refused to join the meetings led by CEQ about Headwaters, and an FDIC lawyer reported the refusal to CEQ:

I advised Elizabeth Blaug about this yesterday afternoon. I said that if Hurwitz wanted to have global settlements with OTS and FDIC involved, he would have to ask for them. (Record 36A)

In other words, the *ex parte* agency discussions (without Mr. Hurwitz) about FDIC and OTS banking claims were at least improper, and the impropriety was now realized; however, it was too late.

By March 1996, the FDIC and OTS were deeply involved with promoting the redwoods debt-for-nature scheme, but they had still yet to receive any direct communication from Mr. Hurwitz proposing a redwoods swap for their claims. About March 3, 1996, the FDIC attorneys must have begun to realize that the agency should not be involved in the redwoods scheme. He made the following note on what appears to be a "to do" list:

Tell McReynolds—we need exit strategy from Redwoods. NO collusion.

(Record 32)

So, the FDIC was (and still is) saying to the world that their claims have nothing to do with leveraging redwoods, and seven months after they are brought they "need an exit strategy"? After two years of collusion between FDIC and a half dozen federal agencies, several environmental groups, the White House, and the OTS about a redwood scheme the FDIC wants to talk to McReynolds to ensure that there is "NO collusion"?

And, by August 8, 1996, Mr. Hurwitz still had not apparently raised the redwoods debt-for-nature issue in the context of settling banking claims. Record 40 at page 2 are questions (and the start of draft answers) from Elizabeth Blaug to Jack Smith. Question number one is, "Why doesn't the Administration forget the land exchanges and get Hurwitz to settle his debts in exchange for the trees?" The answer: "would be inappropriate because of independent status of regulators, pending litigation and administrative proceeding. . . ."

This means what FDIC and OTS had done since February 1994 concerning advancing the redwoods debt-for-nature scheme was inappropriate. In addition, if Mr. Hurwitz had really raised the notion of a redwood for bank claims swap, then this question would have been entirely unnecessary. The answer would have been "Mr. Hurwitz raised it, the bank regulators and Administration did not, and we are pursuing that option." But that was not the case. The fixation on ensuring—even as late as August 1996—that Mr. Hurwitz would "first" raise the redwoods issue to the FDIC and OTS is quite illustrative of the fact that he had yet to do it and it was a prerequisite to either banking agency engaging on the redwoods scheme—something that they had already done.

Finally, on September 6, 1996, nearly a year after the FDIC suit was filed, the FDIC and OTS got what they wanted—a direct contact from Hurwitz that "he will propose that the FDIC take certain redwood trees which we will exchange for other marketable property from perhaps Interior." (Record 41) The settlement meeting came the following week, and it is the first time Mr. Hurwitz's representatives raised the possibility of settling the banking claims using redwood trees. (Record 41) The settlement proposal was reject by the *Department of the Interior* within a few days, and it was clear that the FDIC and OTS were not even in charge of settling their own claims. (Record 42) This is additional evidence of the political nature of the FDIC lawsuit and OTS administrative action.

Discussions about a redwood swap for banking claims ebbed and flowed through the remainder of 1996, 1997, and 1998, and the law that authorized the outright purchase of the Headwaters Forest was enacted on November 14, 1997. Then, pursuant to that law, the transaction closed on the last day before the authorization and funds expired, March 1, 1999, and the federal government, with the help of the State of California purchased the Headwaters Forest.

This action left the bank regulators without their "exit strategy" (Record 32) from the redwoods scheme, and with a U.S. District Court judge that somehow began to see the FDIC and OTS cases and coordination for exactly what they were: strong arm tactics of an "independent" agency out of control. In an uncommonly harsh opinion, U.S. District Court Judge Lynn N. Hughes described FDIC tactics of bringing this case as those of the *cosa nostra* (meaning a tactic of making an "offer" that Hurwitz could not refuse). The July 27, 1995, FDIC ATS memorandum somehow ended up on the web page of the Houston Chronicle, and the court allowed discovery on the improper FDIC and OTS coordination and cooperation in the scheme to leverage the redwoods from Mr. Hurwitz.

Conclusion

The OTS case proceeded in the administrative forum, but a decision has still not been rendered. In spite of a late desire by the OTS to keep their claims clean of the redwoods matter, FDIC polluted its and OTS' claim by prompting and paying for OTS to pursue them in the first place as part of the redwoods scheme. OTS also attended several meetings in which details of the redwood swap scheme were discussed well before their claims were noticed or filed, including the critical July 26, 1995, meeting with the FDIC at which DOI and the Administration's desires for the redwoods and need for the banking claims to leverage the redwoods from Mr. Hurwitz were spelled out. The OTS is equally responsible for improper involvement in the redwoods scheme, and the pollution of its claims with a political agenda.

Meanwhile, Mr. Hurwitz has reportedly spent some \$40 million to defend himself from a tactics that equate to those of the *cosa nostra*. Indeed, it is the bank regulators at the FDIC and OTS who shoulder responsibility for advancing a corrupted claim for improper purposes (i.e., to leverage redwoods) that are not authorized by law.

If anyone bears responsibility for corrupting the bank regulatory system—it is the FDIC and OTS legal staff who caved to the redwood desires of the DOI and the Administration. The Directors of the FDIC and OTS should take corrective action and withdraw the authorization for the FDIC lawsuit and the OTS administrative action against Mr. Hurwitz for matters involving USAT. Integrity of the bank regulatory system demands nothing less.

NOTES

¹Therefore, funds appropriated to of any federal entity cannot be used for any activity that even supports acquisition of more Headwaters Forest. If funds are spent for such activities, then they are not legally spent.

²The FDIC action was authorized on August 1, 1995, and filed on August 2, 1995, the final day under the statute of limitations; Notice of the OTS administrative action was filed on December 26, 1995 and the OTS trial began on September 22, 1997.

³This occurred when the concept of purchasing the redwoods outright from Mr. Hurwitz was unlikely due to budget constraints.

⁴The first indication that bank regulators became part of the redwoods debt-for-nature

scheme was rendered by U.S. District Court Judge Lynn Hughes, who observed that the FDIC and OTS were targeting Mr. Hurwitz in a manner that resembled tactics of the *cosa nostra*.

⁵The latest example of debt-for-more-nature is contained in Record 1A.

⁶This violated the "no more" clause, because federal funds were being spent to acquire additional acreage of the Headwaters Forest. The continued pursuit of redwood trees through debt-for-nature by bank regulators in no way diminishes the highly inappropriate involvement of the bank regulators in participating in the debt-for-nature scheme before the statute was enacted or before the transaction was consummated.

⁷12 U.S.C. 1462a et seq.

⁸12 U.S.C. 1818 et seq.

⁹Some non-banking claims (e.g. possible securities law claims) were referred to other entities for investigation.

¹⁰This cooperation was formalized in May 1994 when the FDIC began paying the OTS to advance its claims.

¹¹These contacts were: Rep. Gonzolez to Hove (FDIC), November 19, 1993; Rep. Dellums to Hove (FDIC), December 15, 1993; and in 1994, at least seven written Congressional contacts were made to the FDIC or OTS on the debt-for-nature matter. Interestingly, Rep. Dellums wrote to the FDIC about the redwoods swap on the following dates: December 15, 1993, February 9, 1994, May 27, 1994, and September 14, 1995; and it was reported that on Monday, July 18, 1994, Ms. Jill Ratner attended a fundraiser for Re. Dellums in Oakland, California where she discussed the redwoods issue with the Vice President Gore. "Mr. Gore said, 'I'm with ya,'" Ratner reported enthusiastically to members of the Bay Area Coalition for the Headwaters Forest after the early-morning fundraiser for Rep. Ron Dellums, D-Oakland, in Oakland" San Francisco Daily Journal, Friday, July 22, 1994. (Document J)

¹²In addition on November 30, 1993, Jack D. Smith, sent a memo about "Hurwitz" to Pat Bak (another FDIC lawyer) about two issues—(1) the Hamburg Headwaters acquisition bill and (2) some materials about a type of claim called a "net worth maintenance" claim advising Bak not to "let the claim fall through the crack!" The December 21 memo to Hove from Smith notes that FDIC and OTS are coordinating on this claim because the courts will "not enforce" them and there will be FDIC/OTS discussions about OTS bringing the net worth maintenance claims.

¹³The FDIC maintains that Mr. Hurwitz raised the issue of redwoods directly with the FDIC in September, August or September, 1996 (after the FDIC lawsuit was filed) and indirectly July 1995, through the Department of the Interior (prior to the lawsuit being authorized and filed by the FDIC). There is serious question whether a bank claims for redwoods swap was raised by Mr. Hurwitz or his lawyers prior to September 6, 1996, a year after the FDIC case was filed. (See discussion *infra*.)

¹⁴Such a forum—an administrative law judge at OTS—as opposed to an Article III court would be viewed by bank regulators as more favorable.

¹⁵FDIC admitted in a later memo that its claim against Hurwitz was not enough to leverage his redwoods because it was for a lower dollar amount than necessary and it was so weak on the merits, which is why the OTS administrative action on the same facts became so important to the scheme. (See, discussion *infra* at page 41 et. seq. and Record 33.) This is truly an incredible admission of the redwood purpose on the part of FDIC and is an admission of why the FDIC hired the OTS. Clearly it was to pursue a redwoods debt-for-nature scheme.

¹⁶Bank regulators at the FDIC attempted to do this by saying that they never raised the redwood issue with Mr. Hurwitz. To have done so would be an admission that they intended a redwoods debt-for-nature scheme, but their defense (that Mr. Hurwitz raised it with them first) really not address reach the issue of whether redwoods or a scheme to get redwoods from Mr. Hurwitz had any relationship to their banking claims.

¹⁷Id. See also, hearing transcript at pages 97–100 for the exchange between Mr. Kroener and the Members of the task force when he was confronted with internal FDIC e mail messages indicating that their lawyers were pursuing discovery for purposes of "harassing" Mr. Hurwitz.

¹⁸Rep. Hamburg had introduced H.R. 2866 that authorized the Forest Service to purchase the Headwaters Forest and designate it as wilderness.

¹⁹This meeting was preceded on February 2, 1994 with what appears to be a preparatory phone call between staff of Rep. Hamburg and a counsel to Chairman Gonzolez, Amanda Falcon.

²⁰A net worth maintenance claim automatically attaches to owners who have 25% or more of a failed bank. Under banking law an owner is required to contribute personal funds to keep the bank solvent in such a case. Where ownership is less than 25%, bank regulators often try to get owners to sign an agreement binding them to personal contributions to keep failing institutions solvent. This is called a net worth maintenance agreement. There was no net worth maintenance agreement between Mr. Hurwitz and the bank regulators.

²¹Later Mr. Isaac explained the impropriety of outside meetings revealed in the ATS memo. The meeting with Rep. Hamburg was unknown at the time, but it is a dramatic example of how much the bank regulators polluted their process with a redwood agenda. Mr. Isaac words: "[O]ne of the things that that Agency has always prided itself on is its independence and its integrity and its freedom from the political process. To meet with environmentalists or anybody else, administration officials or congressional representatives, to talk about litigation that is proposed or is ongoing is something that I think was and is highly inappropriate. I find it shocking that people—people did that, and I've never seen that happen at that Agency before and I'm quite surprised by it." (Hearing Transcript, page 45).

²²This is a very odd characterization, given that government agencies to not generally have authority to represent individuals or other entities. If Ms. Tanoue was saying that Mr. Hurwitz somehow raised the redwoods issue to the FDIC through the Department of the Interior, the characterization is not legitimate for several reasons. First, there is no evidence that the DOI is authorized by law to hold such a representative capacity. Second, the characterization is at odds with the fact that the DOI lawyers had been briefed and lobbied by environmental groups years prior to the DOI raising the issue (if indeed they did). Third, the characterization is at odds with the strategy sessions with Rep. Hamburg that are now known to have taken place. Fourth, the characterization presumes that the DOI "representatives" were accurately and truthfully making such an "offer." Absent written proof of such an offer, this characterization is not believable. To the contrary, the written evidence clearly shows that Mr. Hurwitz's representatives were discussing trades of surplus government land for the redwoods at the time.

²³Mr. Kroener is playing with the facts. See footnote .

²⁴(Footnote not part of original) This statement is incorrect, given the notes of the

Rep. Hamburg meeting that show that the FDIC lawyers had willingly promoted their claims as leverage in the redwoods debt-for-nature scheme.

²⁵They had no claim because they “could not find” a net worth maintenance agreement with Mr. Hurwitz.

²⁶When the FDIC finally filed its claim in federal court on August 2, 1995, the federal judge hearing the case, Judge Hughes, said the FDIC and OTS used tools of *Cosa Nostra* (the mafia) against Mr. Hurwitz, uncommonly strong language to describe actions by any party, let alone the federal government.

²⁷Leverage by other agencies—the Department of Labor and the Securities and Exchange Commission was also discussed at the Hamburg meeting. (See meeting note (bates number JS 004216) attached after Record 2A, page 2.) These are Jeff Smith’s records.

²⁸In light of the existence of this analysis by F. Thomas Hecht, one wonders how FDIC can, with any seriousness, keep saying that their claims and litigation had nothing to do with redwoods or a redwood debt-for-nature scheme. Their outside lawyers were analyzing the very debt-for-nature theories lobbied by the environmental groups and they acted as an early conduit to funnel information to FDIC legal staff. Even if one does agree with the positions of the Rose Foundation or Earth First! on this issue (and this report does not address their advocacy or their right under our Constitutional government to free speech and to petition their government), one must question the response of the FDIC and its outside lawyers to that petitioning. If the FDIC is truly operating under its statutory mandate—which is to recover cash—then the proper response to environmentalists or anyone else should have been, “We have a statutory mission, and it is not to help the federal government acquire redwood trees or anything else, period.” Surely, the redwoods agenda should not have permeated the bank regulators’ analysis and thinking as it did.

²⁹The handwritten memo is not dated, but it refers waiting until the fourth quarter of 1994 to make a decision, so this places the memo in late in the second or third quarter of 1994.

³⁰McReynolds, according to his calendar entry, also met on May 16, 1995, with Geoff Webb (DOI) and Julia Levin, with the Natural Heritage Institute. That group had just written a paper for the Rose Foundation on April 19, 1995, entitled “Federal Inter-Agency Land Transfer Mechanisms.” (Record 11A) That paper notes that there are “six federal statutory programs that allow property under control of one Federal agency to be transferred to another Federal agency or into non-federal lands” and it begins laying out the mechanisms to get Mr. Hurwitz’s redwoods into federal ownership.

³¹This date is important. Mr. Kroener’s testimony and representations to the Task Force that it was July 1995, when DOI raised redwood debt-for-nature on behalf of Mr. Hurwitz. The first-hand involvement between Mr. McReynolds and Ms. Ratner (and the flyover) occurred two months prior to the time when DOI is said to have raised the redwoods debt-for-nature swap on behalf of Mr. Hurwitz with the FDIC and OTS.

³²This wholesale acceptance of the environmentalist rhetoric about virgin redwoods in itself shows bias. The author of the memo must be misinformed, because the United States and the State of California already owns tens of thousands of acres of virgin red-

wood stands in California, most of which are parks that will not be logged.

³³Two of the many examples are (1) the September 26, 1994, 43 page legal analysis how the FDIC could impose a constructive trust over Hurwitz’s Pacific Lumber redwoods (Record 13) and (2) the June 29, 1995, letter from F. Thomas Hecht to the FDIC’s attorney Jeffrey Ross Williams that forwarded a legal memo about the Headwaters situation and qui tam claims that had been filed related to the forest. (Record 14)

³⁴The notes do not say that Mr. Hurwitz or any of his authorized representatives asked DOI to broach a redwoods debt-for-nature deal to swap bank claims for redwoods. The FDIC informed Chairman Young that the chain of events leading to McReynolds call was an 8:00 p.m. July 13, 1995, call to Alan McReynolds “at his home” from John Martin, a Hurwitz lawyer, “urging him to contact the FDIC to begin a dialogue to resolve the FDIC’s claims as part of a larger land transaction involving the Headwaters Forest that was being considered by Mr. Hurwitz and the Department of the Interior.” (See, October 6, 2000, letter to Duane Gibson, General Counsel, Committee on Resources, from William F. Kroener, III, General Counsel FDIC contained in Appendix 3) This representation in no way says that Mr. Hurwitz (or his lawyer) initiated the discussion of a redwoods debt-for-nature swap with the Department of the Interior. It artfully says Mr. Hurwitz was “considering” such a proposal—a proposal more likely initiated by Mr. McReynolds.

In any case, the FDIC’s legal relationship on any USAT banking matter was with Mr. Hurwitz, not with the Department of the Interior. Any indirect suggestion by an intermediary, such as Mr. McReynolds, who did not represent Mr. Hurwitz or USAT, does not change that legal relationship or alter the FDIC’s responsibility to keep its claims free of political influence—from in and outside of the government. However, there is considerable question whether McReynolds’ recollections related to a call from John Martin are accurate. Mr. Martin was discussing (with McReynolds) potential swaps of excess government property, such as military bases, for the redwoods, a subject with which McReynolds had experience. Mr. Martin’s notes from his discussions at the time back up his recollection (Record 25).

³⁵It is important to note that notes of McReynolds conversation with DeHenzel do not in any way indicate that Mr. Hurwitz or his lawyers had suggested or urged linking a settlement of the USAT banking claims and Mr. Hurwitz’s redwoods in a swap, which is what McReynolds later said in sworn testimony.

³⁶The Endangered Species Act was preventing Mr. Hurwitz from harvesting redwoods on Pacific Lumber Company’s Headwaters land.

³⁷(This footnote is not in original). This refers to surplus federal properties that were being considered by the government and Mr. Hurwitz on such a swap involving the redwoods. Mr. McReynolds had been working with Hurwitz lawyer, John Martin on potential swaps involving surplus military government property and redwoods.

³⁸(This footnote is not in original). The \$400,000 refers to the approximate amount FDIC had paid the OTS to bring its administrative action up to that point.

³⁹(This footnote is not in original). This could refer to the fact that FDIC had not decided whether to bring its case, and the staff

would recommend at that time that the Board not authorize the suit. Document X verifies that this was the staff recommendation at that time. This could also refer to the fact that OTS has not decided to bring their case.

⁴⁰(This footnote is not in original). Indeed, this is the issue (a swap of redwoods for a surplus military base) that Mr. McReynolds and Hurwitz lawyer, John Martin, had discussed.

⁴¹(This footnote is not in original). The prior four sentences (notes from what McReynolds said) are very important, however, especially when read in context of footnote 25 and 26 of this report. Those sentences are: “Adm[inistration might trade mil[itary] base. Had call from atty. Appraisals on prop[erty] for \$500m. Said they want to make a deal.” Indeed, Mr. Hurwitz wanted to make a deal—swapping redwoods for military bases. That was the subject of the ongoing discussion between the attorney who called McReynolds, Mr. John Martin of Patton Boggs, and McReynolds. Mr. Martin was only discussing possible trades of military bases for redwood land owned by Pacific Lumber. (Record 25) Mr. Martin did not deal with issues related to the banking claims and his notes from conversations with McReynolds verify this. The idea of mixing the bank claims—having been floated for years in Congress, in environmental circles including the Rose Foundation, was likely first raised by someone else, and it was McReynolds who had spent time “flying over Headwaters” with Rose Foundation Director, Jill Ratner, in May 1995.

⁴²(footnote not in original) This confirms the earlier stated conclusion that one of the things that changed on July 21, 1995 was the realization by FDIC lawyers that the Clinton Administration and DOI had adopted and embraced the redwoods debt-for-nature scheme and they wanted it to be successful.

⁴³FDIC decisions to file lawsuits are made by the FDIC Board, and the Authority to Sue Memorandum (ATS Memorandum) is the vehicle through which the FDIC staff lays out the case to the board.

⁴⁴These notes appear to be taken by Bryan Veis of the OTS enforcement branch, and they are the only notes of this meeting produced, despite the fact that there were twelve attendees at the meeting—five from the OTS and seven representing the FDIC. (See, Record 26, page 00933). In the view of Committee staff, there appear to be serious omissions from the production of both agencies related to this meeting.

⁴⁵(footnote not in original) So, it was indeed the Administration that wanted the redwoods, and brought them into the discussions.

⁴⁶(footnote not in original) Note that the FDIC has had no direct contact from Mr. Hurwitz about such a proposal to settle the case using redwoods and they did not until September 1996. The FDIC is simply taking the word of the DOI on the issue.

⁴⁷It is extraordinarily difficult to square this evaluation by Mr. Thomas with the discussion in the July 21, 1995, meeting that he attended where it was noted that, “If we drop suit, will undercut everything.” (Record 21)

⁴⁸Record 35, page 2 and 3 also confirms this fact.

⁴⁹Record 34 also confirms the thinking of FDIC lawyers that “it will take more than FDIC claims to get the trees and FDIC remains an important part of exploring creative solutions to the issue.” This sounds like words from staff of an agency trying to find a purpose, rather than staff of an agency carrying out its statutory purpose. In fact, Record 39, a “Draft Outline of Hurwitz/Red-

woods Briefing” from Mr. Jack Smith’s files, actually states directly how FDIC had strayed from its mission and adopted as its agenda the redwoods debt-for nature scheme: Significant development involving multi-Agency initiative led by Office of the Vice President to obtain title to last privately owned old growth virgin redwoods and place under protection of Department of Interior’s

National Park Service. FDIC plays prominent role in this Government initiative.” The outline also acknowledges that the FDIC, working with CEQ, Interior, other agencies in exploring viability of “debt for nature settlement.” (Record 39, page 2) The date on this outline is May 16, 1996.