here doing the people's business. A lot of the business we are doing relates directly to the veterans.

So I hope, if we are going to work those 2 days, they are meaningful, hard days.

The PRESIDENT pro tempore. The majority leader.

Mr. FRIST. Mr. President, through the Chair in response, it is our objective to adjourn as soon as we possibly can, completing the business before us. Thus, there is a very good possibility we will be able to finish our work that week.

A lot of people do want to be back at home, and rightfully so, for Veterans Day itself. That Monday before Veterans Day we will have to have a productive day here if our goal is to finish that week.

I do want to keep flexible. Right now, I ask the understanding of my colleagues because it very much depends on what happens over the next several days on the floor of the Senate. That is why we have to keep moving ahead with appropriations and see what happens with the supplemental in conference today, see the progress with the energy and medicare conferences. For right now, we need flexibility, but I think based on the comments the Democratic whip just made, as well as mine, if we have a chance of finishing that week, we can make that a very productive week.

I know we will have a full hour before the vote. I just want to comment very briefly on another issue for 3 or 4 minutes.

THE ECONOMY

Mr. FRIST. Mr. President, it is widely expected that the Federal Reserve will vote later today to keep the short-term interest rates at the historically low level of 1 percent. This is good news for our economy and very good news for American households. Low interest rates are allowing consumers to cut their monthly payments, their debt payments, and to invest their hard-earned money in the American dream, and that is the ownership of a home.

Indeed, sales of previously owned homes have hit their third highest level on record. Yesterday, the National Association of Realtors reported that previously owned home sales rose 3.6 percent to a record annual rate of 6.69 million units in the month of September.

The realtor association's chief economist says the strong home sales are a result of ''the powerful fundamentals that are driving the housing market—household growth, low interest rates, and an improving economy.''

Meanwhile, on Thursday, the Commerce Department will release the data on third-quarter economic growth. Most observers expect the agency will report significant gains. Indeed, if the forecasters are right and the economy does show a 6-percent gain, this would be the fastest upward swing since 1999.

Virtually every region of the country is benefiting from the recovery, as are a host of industries. You read it daily. Sara Lee saw its earnings rise 25 percent. Black and Decker's earnings are up 36 percent. Xerox profits climbed by 18 percent. Also revealing are ''first timer'' corporate profits. For example, Amazon.com reported a profit for the first time in a nonholiday period. Lucent Technologies is posting profits for the first time in 3 years. Corning and AMR, the parent company of American Airlines, both broke a string of 10 quarter losses.

All of this activity is helping to bolster the job market.

The labor market added 57,000 new jobs last month after seven straight months of job cuts.

Wages have gone up, on average, at nearly all income levels. Higher wages combined with lower debt payments and mortgage refinancing options are adding much needed juice to the economic engine.

So I am optimistic about the direction of the economy as it continues on this road to recovery. Even the New York Times credits the Bush tax cut with higher consumer spending.

In the Senate, we will continue to champion policies that work—policies that return tax dollars to the taxpayer yet encourage entrepreneurship and innovation, and that promote even higher levels of jobs and growth.

I ask unanimous consent that 60 minutes remain in order prior to the vote.

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

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF MICHAEL O. LEAVITT TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

The PRESIDENT pro tempore. Under the previous order, the Senate will go into executive session to resume consideration of Executive Calendar No. 405, which the clerk will report.

The legislative clerk read the nomination of Michael O. Leavitt, of Utah, to be Administrator of the Environmental Protection Agency.

The PRESIDENT pro tempore. Under the previous order, there will now be 60 minutes equally divided between the ranking members, or their designees, and there will be 20 minutes under the control of the Senator from New Jersey.

Who yields time?

The Senator from New Jersey.

Mr. LAUTENBERG. Thank you, Mr. President. I will use most of the 20 minutes I have available, and perhaps all of it. But first, I thank the majority leader and the minority leader for accommodating my desire to speak on the nomination of Utah Gov. Michael Leavitt to be Administrator of the Environmental Protection Agency prior to the vote to confirm him.

I was, unfortunately, not able to be here last night. So I appreciate that I have a chance to make some remarks this morning.

A few weeks ago, I placed a ''hold'' on Governor Leavitt's nomination because of serious concerns many of his constituents have raised about his record of enforcing our national environmental laws.

The President has the right to nominate people of his choosing to serve in his Cabinet. That, however, does not obligate anyone to vote for each and every one of them.

I want to make it perfectly clear that I am not impugning Governor Leavitt's character. He has been a public servant for many years and has been credited with many significant accomplishments.

I will vote against confirming Governor Leavitt because I have not had sufficient time to investigate the serious allegations that have been brought to my attention.

In fairness to Governor Leavitt, I asked the Congressional Research Service (CRS) to review and assess the allegations. In a few more days, CRS staff would have been able to get back to me. Unfortunately, the majority has seen fit to force a vote on this nominee today.

Governor Leavitt has waited 2 months. When former President Clinton nominated Katie McGinty to be chair of the Council on Environmental Quality, Republicans delayed her confirmation for more than a year.

Unfortunately, the majority did not honor the holds placed on this nominee, so the process of vetting him properly has been short-circuited. Consequently, we are being asked to vote to confirm an individual nominated to be the nation's highest-ranking environmental regulator—without the benefit of having some answers to some very important questions.

The current ''tide'' of environmental protection in America is at low ebb under the current administration. I don't have enough time here to enumerate the hundreds of rollbacks and dilutions of our environmental laws that President Bush and his administration have foisted on the American people. Given such a state of affairs, I think it would be wise to determine if the nominee shares the same careless disregard for clean water, clean air, land conservation, and global warming as the President.

I had planned to ask Governor Leavitt many questions based on information provided to me by the southern Utah Wilderness Alliance and other Utah conservation and citizens' groups. They have cast serious doubt on the Governor's commitment to enforcing our laws to protect human health and the environment.

In 1998, Governor Leavitt was quoted as saying:

> The national government should establish standards. Local governments must figure out how best to meet them . . . governments must focus on outcomes, not programs.

I agree with the Governor's sentiment that outcomes are what count. The important questions are: Are our rivers getting cleaner? Is the air healthier? Are toxic sites being decontaminated?

On that score, our environmental laws and programs have a proven track record. Even this White House has grudgingly acknowledged as much.

The Office of Management and Budget issued a report recently which concludes that the health and social benefits of enforcing tough clean air regulations during the past decade have been 5 to 7 times greater in economic terms than the costs of complying with the regulations.

When compared to the 1950s and 1960s, before most of our major environmental laws were enacted, we have made outstanding progress. Rivers like the Cuyahoga no longer catch on fire. Air pollution inversions no longer kill 20 people and sicken 4000 more in one fell swoop, like an incident in Donora, PA, in 1948.

These achievements have resulted from the careful implementation of congressional laws. But those laws can only be effective if they are voluntarily obeyed or enforced by EPA and the States. Regulations won't do any good if they are not enforced.

We can be proud of the progress we have made over the past few decades but there is so much more to be done to protect human health and the environment. We can't stop now, but that is what President Bush is trying to do, and I am concerned that is what Governor Leavitt will try to do, too, if he is confirmed. Despite his commentary about ''balance'' and ''stewardship,'' Governor Leavitt's record portrays a dramatically different approach to the environment. His record reveals a disturbing tendency to place the short-sighted economic interests of regulated industries above protecting the long-term health of the public.

I will highlight just a few of more than a dozen examples which illustrate this pattern. As I mentioned before, much of the information that follows has come from citizens of Utah who visited my Senate office here in Washington to complain about problems they saw with respect to Governor Leavitt's willingness to protect their environment. I might add that I know the State very well. I spend a lot of time in Utah. I love it. I love the terrain. I love the Wasatch Mountains all of that of which Utah residents are so proud.

Governor Leavitt has strongly supported something called the ''Legacy Highway'' project. This highway was set to cut through highly significant wetlands next to the Great Salt Lake that provide the breeding ground for 500 American Bald Eagles.

The Tenth Circuit Court of Appeals ruled last fall that the Environmental Impact Statement the Governor's staff prepared was invalid because it ignored obvious harmful impacts. To top that, the alternative they chose would have violated the Clean Water Act.

In another instance, the Governor made a secret deal to remove 2.6 million acres from possible designation as ''wilderness''.

Utah's Sierra Club issued a statement that said:

> Governor Mike Leavitt's environmental track record, which includes working behind closed doors with Interior Secretary Gale Norton to open up Utah's wildlands to polluting industries, suggests that he will be a good fit for the Bush administration, but a disappointing choice for Americans concerned with environmental protection. . . .

Earlier this year, EPA released a report on the States' record of enforcing the Clean Water Act. Utah received one of the lowest scores for enforcement.

Governor Leavitt's ''hands-off'' approach is a recurring theme. He has argued in favor of downsizing and even dismantling agencies like the Environmental Protection Agency. It is not hard to imagine the demoralizing impact it could have on EPA staff if the next Administrator is on record saying that EPA should be dismantled. This viewpoint reveals the importance Governor Leavitt places on protecting our air, water, and land.

Do we really want to return to the days before the EPA was established, when rivers caught on fire and people literally keeled over from air pollution? I, for one, do not relish the results of confirming a ''rollback'' Governor as the guardian of our Nation's environment under a ''rollback'' administration!

Another widely reported matter of concern has to do with a fish hatchery the Governor and his family have owned. The family was served with 33 indictments for illegal fish transfers that helped to spread a severe fish disease known as ''whirling disease.'' This is a serious matter, but pales in comparison to the actions taken by Mr. Leavitt once he became Governor. According to the Salt Lake Tribune and other Utah papers, after being elected Governor, Mr. Leavitt had officials in his administration transfer, demote, or fire as many as 70 State employees who had worked on the fish hatchery indictments.

This whole affair definitely has a nasty smell, and it is not just due to the dead fish!

Utah's Kennecott copper mine is reportedly the world's largest open-pit mine. The ore extracted from this mine has brought enormous wealth to its owners, but has been paid for by the public in the form of extensive environmental damage. Acid mine drainage and the careless dumping of waste rock have contaminated surface waters and groundwater on an unprecedented scale. For at least 10 miles along the Oquirrhs mountain face, clean water is all but impossible to find by the local wildlife. Cyanide leach pads, acid mine drainage, and other forms of dangerous contamination have spread across 20,000 acres of land. Metallic contamination has reached Utah's Great Salt Lake and Jordan River.

Mining has always come with a high environmental price tag, and I will grant that some improvements have been made at Kennecott in reducing its toxic air emissions. But what I find especially noteworthy is that for nearly 20 years conservation and citizens' groups have clamored for a clean-up plan for Kennecott. Yet conveniently, this long-sought-after clean-up plan didn't make any headway until this year, right after the Governor's August 11 nomination to become EPA's Administrator. What a coincidence of timing. He has been Governor for many years now. What accounts for this ''Road to Damascus'' conversion? Is it political expediency?

Utah's U.S. Magnesium Corporation also illustrates Governor Leavitt's environmental ''credentials'' for the job as EPA Administrator. MagCorp, as it is called, is listed No. 1 on EPA's list of toxic polluters. Some years, it falls to No. 2. At a minimum, it is one of the nation's worst toxic polluters.

According to EPA's Toxic release Inventory, MagCorp accounted for more than 90 percent of total chlorine releases in the United States from 1998 to 2000. Since 2000, MagCorp's chlorine emissions have decreased and it now accounts for only 80 percent of the Nation's chlorine releases. But this slight decrease has not resulted from any enforcement action taken by Governor Leavitt's administration. Rather, the reductions are attributable to actions taken by the EPA.

My question is, Why did the EPA have to step in to enforce the law? Tests of the company's waste-water ditches have revealed dioxin contamination at 170 parts per billion. That is 170 times higher than EPA's ''action level'' for clean-up. EPA eventually had to step in where the State had failed to do so. That strikes me as a serious lapse in enforcement responsibilities.

Remember that Governor Leavitt has said, ''The national government should establish standards. Local governments must figure out how best to meet them.'' But in case after case of significant environmental damage, we find that the Governor appears to believe that ''he who enforces least enforces best.'' What good are environmental health standards, if they are being ignored, year after year? Those standards exist for sound scientific reasons and are developed only after years of extensive research and independent peer review.

The plain fact is this: toxic pollution is dangerous to our health, especially to the health of our children and grandchildren. We may not immediately see the lowered I.Q. scores, cancer ''clusters,'' or autoimmune diseases, but make no mistake, they are

among the tragic results when polluters are allowed to flaunt with the law with impunity. Failure to enforce our environmental laws portrays either a sad ignorance of the health costs or, even worse, a knowing disregard for them. In recent years, scientific analysis of the highest caliber has shown that, if anything, our environmental health standards may be too lax.

We have learned, for instance, that children under 2 are 10 times more likely to develop cancer when exposed to the same toxic concentration as adults. An article that appeared in the New England Journal of Medicine last April reported that the concentration of lead in the blood which can lower a child's I.Q. is lower than previously believed. In the latest study published in the New England Journal of Medicine, researchers report that at blood-lead levels allowed under the current health standard, children's I.Q. scores declined by an average of 7.4 points.

We will not be well served by an EPA Administrator who continues, or even accelerates, the pace at which President Bush is dismantling our fundamental environmental protections. The last person we need as Administrator is someone whose philosophy on key environmental issues is less regulation, no matter what the cost to public health and the environment.

I would add that it is not just the Sierra Club and the Southern Utah Wilderness Association who have voiced opposition to this nomination. Rocky Anderson, Mayor of Salt Lake City, who opposed the Governor's ''Legacy Highway'' project, said:

> On environmental issues governor Leavitt and I differ greatly. He's had some great opportunities to provide real leadership, but I think he has been unwilling to spend the political capital to make the important changes. We have serious air quality issues that are simply going to get worse without strong leadership.

The last 3 years have been the ''darkest hour'' of our Nation's commitment to environmental protection since EPA was created. This White House has repeatedly foisted its penchant for secrecy and cover-up on the Environmental Protection Agency. It held back the Children's Environmental Health Report for 9 months. It has hidden and misrepresented the impacts of its New Source Review rule. And for the first time ever, White House officials insisted that the global warming chapter be deleted from EPA's Air Quality Trends Report. You do not have to be an atmospheric scientist or professor to know what is happening because of global warming. We see the trend all over, and we see the consequences of that trend. But the administration will have none of that.

Earlier this year, the administration tried to prevent the release of a report on EPA's abysmal enforcement record. I am thankful the report was leaked to the press. Now we have some of the facts regarding EPA's enforcement record under President Bush:

Enforcement actions against some of the worst environmental violators have been cut by at least 45 percent;

Half of the facilities that violate their toxic limits do so by 100 percent;

13 percent violate their limits by a staggering 1,000 percent; and

80 percent of Clean Water Act violators never receive a formal enforcement action.

This is a total disregard for the law. I think it's time to end the disregard, the secrecy, the obfuscation, and the wholesale abdication of responsibility for protecting two of the Nation's most precious resources: human health and our environment.

My fear is that this abdication won't end with the nominee the Senate is poised to confirm; it will get worse. Therefore, I must vote ''No.'' And I hope many others will vote no to show that we are opposed to this degradation of our environment and to this willful ignorance of the costs that degradation will impose on our society.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Oklahoma.

Mr. INHOFE. Madam President, I had a hard time figuring out whom the distinguished Senator from New Jersey was talking about.

Let me just outline how this side is going to use its 30 minutes. I have a few comments to make, and I may respond to some of the things the Senator said about Governor Leavitt. I understand Senator BOND wants to come down and have about 5 minutes.

I ask if Senator JEFFORDS would mind if Senator HATCH could have our last 10 minutes because he was not able to spend as much time in the Chamber yesterday in order to respond to anything else that has been said about Governor Leavitt.

Mr. JEFFORDS. No objection.

Mr. INHOFE. Thank you very much. I appreciate the cooperation we have had.

First of all, as far as the comments the Senator from New Jersey made about Governor Leavitt are concerned, talking about the Legacy Parkway, let me just mention to him that the construction on the highway began only after Utah had the legal authorization to do so from the various States and the Federal agencies. The 2,000 acres of wetlands would be protected as a nature preserve.

But I think the most significant point, since he is criticizing the administration along with Governor Leavitt, is that all required Federal approvals for the Legacy Parkway project were issued by the Clinton administration after 6 years of study, public comment, and legal review. That was the Clinton administration.

Secondly, on the water quality report, first of all, the report they are quoting is from PIRG, which is another environmental extremist group. It is not part of the Federal Government. The truth is, the PIRG report relied on incomplete data to reach the findings for Utah. When the Utah data was corrected, Utah showed one of the lowest Clean Water Act noncompliance rates in the country.

For example, between January of 2000 and March of 2001, Utah's noncompliance rate placed Utah among the top 10 States with the lowest rates of noncompliance. Right now, 73 percent of the streams in Utah meet all Federal and State requirements. That is a 24-percent improvement over the time since Governor Leavitt took office. It is one of his greatest accomplishments, and here he is being criticized for it.

I have to go back and reread—I wish there were more time to do it. I certainly appreciate Senator JEFFORDS' comments when he said—and this is a quote—

> First of all, it has nothing to do with the qualifications of Mr. Leavitt. I will vote for him and I am hopeful that at some point I will be able to do so. I look forward to that. I consider him a friend. I have worked with him in the past on [various matters].

Gov. Bill Richardson, a Governor with Governor Leavitt, said:

> He has worked effectively with other Governors regardless of party. Obviously the same willingness and ability to work collaboratively with other elected and appointed environmental officials is crucial to the effectiveness of any EPA Administrator. Mike Leavitt is a consensus builder and can bring people together.

That is Gov. Bill Richardson of New Mexico, one of his biggest fans.

We have talked over and over about the accomplishments of Governor Leavitt. He was the chairman of the National Governors Association. He is chairman of the Republican Governors Association, chairman of the Western Governors Association. Under his leadership, the visibility in the West has improved. There have been accolades all over the country on the job he has done as the cochairman of the Western Regional Air Partnership cleaning up the air.

During his 11-year term, we already mentioned 73 percent of Utah streams currently meet all water quality standards compared to 59 percent 10 years ago. And it has all happened since Governor Leavitt took office.

I do not understand at this late hour that finally someone is coming and criticizing him. I have been critical of the debate so far because they have not really talked about Governor Leavitt, except in praising him, but they have talked about misrepresenting the Bush administration's environmental progress.

Now, I think something has to be said that, prior to his markup, committee Democrats submitted 400 questions to Governor Leavitt. And if you compare that to other administrations, when Carol Browner was up in 1993—remember that—she had only 67 questions that came from Republicans—not 400; 67. And, of course, for William Reilly there were just a handful of questions at that time.

Also, going back to the number of days it took between the nomination

and actually becoming the Administrator, for William Reilly it was just 13 days; for Carol Browner, just 11 days; and for Governor Whitman, it was 13 days. Now, this has taken 55 days. And when Senator LAUTENBERG, a few minutes ago, said he has not had time to look at it, my gosh, if he did not need any more than 10 or 13 days for the others, what is wrong with having 55 days? It is certainly more than enough time.

We desperately need to have this man in this office. For weeks we have heard nothing about Mike Leavitt and everything about President Bush, and yet I would like to suggest to you that President Bush's record and accomplishments are second to none.

Let me quote Greg Easterbrook from an op-ed in the Los Angeles Times. He is the senior editor of the very liberal New Republic. He doesn't say many good things about Republicans. He is a Democrat. He is very sympathetic to their causes. He says most of the charges made against the White House are ''baloney,'' made for ''purposes of partisan political bashing and fundraising.'' He also contends that ''environmental lobbies raise money better in an atmosphere of panic and so they are exaggerating the case against Bush.'' In his view, President Bush's new rules for diesel engines and diesel fuel ''should lead to the biggest pollution reduction since the 1991 Clean Air Act amendment.''

Last night I went over all of the accomplishments of the Bush administration. The fact that the Clear Skies legislation is coming up and is going to be the largest mandated reduction in pollutants of any President in history, a 70-percent reduction in sulfur dioxide and nitrogen oxide and mercury. On cleaner fuels and engines, there is the diesel rule. I am prepared to talk about these.

At this point I yield to the minority side for any comments they want to make because, quite frankly, I want to be in a position to respond. I appreciate Senator JEFFORDS allowing the senior Senator from Utah to have the last 10 minutes of our time. We will wait for other Members to arrive.

I yield the floor.

Mr. JEFFORDS. Madam President, I yield the 7 minutes remaining from the time of the Senator from New Jersey to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, I appreciate the time. As I understand it, I am yielded how many minutes?

The PRESIDING OFFICER. Seven minutes.

Mrs. BOXER. Madam President, I rise as a proud member of the Environmental Committee and the chair of the Democratic environmental team. I will be voting no on the Leavitt nomination. The reason is, while I am not pinning all the terrible decisions of this administration regarding the environment on Mr. Leavitt—clearly, he was not there for those—I was very distressed that the questions I asked him were simply papered over or, in some cases—six cases—there was no answer at all. I will explain in a moment.

I am going to divert for a sentence or two to again express my concern about the fires burning out of control in my State. I send my prayers to the people of my State and thank the President for declaring it a disaster area. This was absolutely necessary because we need help from all over the country. These fires are far from out, and the winds are unpredictable.

Our 7,000 firefighters, the heroes of the day again, are out of breath and need relief. We cannot stand back and say the winds will dictate what happens. We have to save lives and homes. I will be going to the State as soon as I can, when it is appropriate, and offer all the help we can.

My colleagues have been so kind and so good in asking questions. Right now we have lost 14 people, 1,518 homes; 501,000 acres are burning, four times the size of Chicago. It is a travesty.

Getting back to the issue at hand, I do not think it is terribly comforting to the American people to hear that the questions I asked were not answered—many of them—because they know we have had many rollbacks. As Senator LAUTENBERG so eloquently said, I have a little scroll I could bring to the Chamber, if I were allowed—I think the rules do not allow for that—and I could let out the scroll all the way past where the Presiding Officer is sitting. It would list, in fairly large type, 300 environmental rollbacks.

I was stunned to hear a Senator on the radio today say that this administration has the greatest environmental record of any President. I can't even respond to that except with the truth. The truth is, we have documented 300 rollbacks.

One of my leaders on this issue, in addition to Senator LAUTENBERG, is Senator JEFFORDS. He has been fighting for clean air harder and longer and with more focus than anyone I know. He could tell you chapter and verse why we are losing the battle to clean up our air. Every time the administration calls something ''Clear Skies, beautiful forests,'' or ''lovely day,'' it is just the opposite when one cuts through it. It is essentially special interest legislation that is rolling back the progress we have made.

If you go to any school in this country and ask the children, do you have asthma, does someone in your family have asthma, do any of your friends, literally almost half the classroom will raise their hands high. This is not the way it used to be.

This is the time when we need strong environmental leadership. Governor Leavitt is one of the nicest people I have ever met. We had a couple of great meetings. But he essentially rolled over my questions, in many cases not even answering them at all, just as if I hadn't asked anything.

Let me tell you about what happened this summer. I call this past summer ''toxic summer.'' Senator JEFFORDS and I held a press conference. Senator LAUTENBERG was there. We documented what has happened just this summer. Let me give you a quick reason why we need a real environmental leader at the EPA.

''Toxic-site cleanups slowing, report says,'' Sacramento Bee.

Spending on the cleanup of hazardous waste sites is slowing under the Bush administration, and that could delay the cleanup of three dozen sites in California, including several around Sacramento. . . .

U.S. is Seeking to Limit States' Influence on Offshore Decisions; California Officials Denounce the Proposed Revisions as an Effort to Bypass Court Rulings. . . .

Whatever happened to States' rights? I thought this administration liked to help States. They are rolling over the States, if the States want to do more cleanup, if the States want to protect their coasts.

EPA's 9/11 Air Ratings Distorted. . . .

We all know Senator CLINTON did a masterful job of holding up this nomination until she got some promises from the administration that she could see exactly what went on behind the scenes and how ''in the days after the terrorist attack, White House officials persuaded the EPA to minimize its assessment of the dangers posed by airborne dust and debris from the skyscrapers' collapse.'' Withholding information is sick. There is something terribly wrong with this administration.

Bush Eases Clean Air Act for Industries.

In one of the broadest changes to air-pollution regulations since the Clean Air Act was first approved in 1970, the Bush administration . . . eased smog rules affecting more than 500 older power plants and some 20,000 aging factories. . . .

This is the issue Senator JEFFORDS has championed.

This is another one from the Los Angeles Times, just this summer. This isn't all the 300. This is just this summer.

EPA Won't Regulate ''Greenhouse Gases''; Environmental Groups' Bid for the Agency to Cut New-Vehicle Emissions is Denied. California May Sue, Saying the Decision Threatens State Efforts.

Later on this week we will vote on the McCain-Lieberman bill. The administration opposes it.

I ask if I may have 2 more minutes from my friend.

Mr. JEFFORDS. I yield the Senator from California 1 additional minute.

Mrs. BOXER. The last chart is frightening.

EPA Eases Rules on PCB-Tainted Properties.

These are the most polluted, dangerous properties. People were not allowed to sell those properties or transfer those properties until they had a plan that EPA signed off on and approved.

Madam President, we need an EPA Administrator with guts and strength and the ability to stand up and say he is going to fight for the environment. The fact that he did not answer a number of my questions tells me that I am

afraid that, in the room when they are debating these issues, Mike Leavitt will be a full team player with the Bush administration and not a team player for the health of the American people.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. I yield time to the Senator from Nevada.

Mr. REID. Madam President, what I want the American people to understand is that this administration's environmental policies are awful, starting with arsenic, the Arctic National Wildlife Refuge, clean air, and what they have not done with Superfund. We can go through a litany of bad decisions. We are going to have a bipartisan bill brought up this week dealing with global warming. The most glaring issue is this administration doesn't believe global warming is taking place.

So when Mike Leavitt called me and said he had been asked by the President to be the EPA Administrator, I said: Mike, why would you want this job, with what this administration has done on the environment?

I said: I like you and I will do everything I can to help you. But you should understand that this administration's environmental policy is the worst this country has ever had.

So I have done what I could to help Mike Leavitt get through this process.

The main thing I wanted to say and why I have such warm feelings about Mike Leavitt goes back many years ago. I was a sophomore in college. I went there on an athletic scholarship at a junior college in southern Utah called the College of Southern Utah. My wife and I decided we were going to get married between my sophomore and junior years, and that we did. Prior to doing that, I went to an insurance agent in Cedar City, UT, by the name of Dixie Leavitt. I didn't know who he was.

I said: Mr. Leavitt, the reason I want to buy a health insurance policy is because my wife may get pregnant and we don't have the money to pay the hospital bill. I want to make sure the insurance policy covers pregnancy.

So we went away to another school, several hundred miles away, to Utah State University. A couple years later, she became pregnant. Well, we were going through the process of contacting doctors, and she has the baby and the insurance policy does not cover maternity. So I call Dixie Leavitt long distance, which I could not afford, to Cedar City, UT.

I said: Mr. Leavitt, I don't know if you remember, but I bought an insurance policy from you. The only reason I bought it was for maternity, and it doesn't cover that.

Without him saying he didn't remember or anything else, he said: Send me the bills. He personally paid those bills.

Now, I have to think some of that goodness rubbed off on his son, Michael Leavitt. I think the story about Dixie Leavitt, whom I have never talked to since I talked to him on the telephone many decades ago, speaks volumes about the kind of man that Mike Leavitt must be because of his father.

I am sorry that Governor Leavitt has accepted this job. I am going to do everything I can, and I hope it works out. Governor Whitman was a total disappointment to me. She had a much stronger environmental record than does Mike Leavitt when she was Governor of New Jersey.

With all the bad things that this administration has done on the environment, it is important to note that at least in this instance they chose a man who has character. I hope that character will come through in the environmental policy of this country and override the bad policies of this administration.

The PRESIDING OFFICER. Who yields time?

Mr. INHOFE. Madam President, how much time remains on both sides?

The PRESIDING OFFICER. There are 22 minutes on the majority side and 5 minutes on the minority side.

Mr. INHOFE. Let me take a minute or two, and then I will yield to Senator BOND. First of all, the Senator from California was talking about the dismal record in Superfund of this administration, and the fact that not enough money has been spent. I want to suggest that there is no correlation between the money raised when they had the tax and the money spent on Superfund cleanups.

In 1996, during the Clinton administration, the tax fund was at its highest level. Yet money spent by the Clinton administration for cleanup was near a 10-year low.

To contrast that, in President Bush's 2004 budget, the money for actual cleanup is near a 10-year high, while the fund is at a low point. In fact, the 2004 request of the President is $1.38 billion, which is higher than 7 of the 8 years of the Clinton administration. So I don't think there is anything to that particular argument.

I also remind the Senator of this: When she talked about people praising the President for his environmental record, many of these people praising the President are not Republicans, they are not pundits. These are Democrats and liberals, who are giving him credit, such as Gregg Easterbrook, senior editor of the liberal New Republic magazine, as I have mentioned.

At this time, I yield 5 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Madam President, I appreciate the opportunity to speak on behalf of Governor Leavitt. I think the President has made an excellent choice in nominating this Governor, who has a great record. I think the environment and the Environmental Protection Agency will be well served by his nomination. At a time when there are many pressing issues facing us in the environmental area, it is important that we have a good leader.

Governor Leavitt is a good leader. He is a Governor, as I was formerly, and I know that he has brought leadership and management skills and a State perspective. He was very successful in Utah, and he will bring success, as the Nation's longest serving Governor, to the EPA. I believe he stands for environmental principles that we desperately need: collaboration, not polarization; national standards and neighborhood solutions; rewarding results, not programs; science for facts, process for priorities; markets before mandates. All of these things are necessary to move forward in improving our environment.

Governor Leavitt has a record of environmental achievement to match his environmental vision. As my colleagues from Utah will describe shortly, because of him the air in Utah and the West is cleaner and clearer. Visibility over the Grand Canyon has improved because of the Governor's role with the Western Regional Air Partnership. I know our friends from Utah are proud that Utah has among the Nation's cleanest watersheds. That has improved dramatically during the Leavitt administration. Utah's most environmentally sensitive land is better protected because of Governor Leavitt's service.

Unfortunately, Governor Leavitt is entering a job in a city where political opponents try to use the environment to make political gains. We heard charges a few minutes ago that he had not answered all the questions. The interesting part is that we went back and looked at similar questions asked of previous nominees, particularly Administrator Brown in the last administration. She was not able to answer those questions dealing with the internal operations of the EPA either. At the time, we understood, and the Republicans confirmed her.

I am delighted that we are moving forward to confirm Governor Leavitt because he cannot be expected to know everything going on inside the EPA. As far as the record of this administration under President Bush, environmental and health benefits from drastically reduced levels of NO_X and SO_X and mercury pollution in the President's Clear Skies proposal are being held hostage by those who want to use global warming as a political issue against the President.

Environmental benefits, improved energy security, and more efficient and reliable electricity protection in New Source Review improvements are being attacked and blocked by the President's political opponents.

Even my own modest incremental suggestions for improved environmental collaboration in the transportation bill were leaked to the press, mischaracterized by the very environmental stakeholders, some of whom we worked with to formulate those improvements.

Fortunately, President Bush is maintaining a strong commitment to the environment and the Environmental Protection Agency. In the face of funding a war on terrorism, growing deficits, and, yes, even tax cuts, President Bush has requested more money for EPA. President Bush's $7.6 billion request for the EPA is $300 million more than President Clinton requested for the EPA in his last budget. President Bush's $431 million request for EPA enforcement is the largest request for Federal environmental enforcement funds in our Nation's history. I just hope that my colleague, Senator MIKULSKI, and I have enough money in the budget of VA–HUD to meet those goals. It is questionable at this point. But we certainly want to achieve the President's funding.

Just last week in the Environment and Public Works Committee, we were able to pick up the broken transportation pieces and fashion a bipartisan agreement on environmental provisions relating to NEPA and the Clean Air Act. I think this spirit of cooperation can serve this body and our Nation's highway needs well, and maybe we can even flow that cooperation into the Leavitt nomination.

I urge my colleagues to follow this new bipartisanship and move forward and support the nomination of Governor Leavitt without delay.

I yield the floor.

Mr. JEFFORDS. Madam President, I rise to support the nomination of Governor Leavitt to be Administrator of the Environmental Protection Agency. I have worked with him in the past on education issues and found him to be insightful and, most importantly, cooperative. That is what I seek from this administration—cooperation. My support for Governor Leavitt brings with it the renewed call for cooperation from this administration on outstanding information requests that I have on important environmental issues impacting the health of our citizens and our environment. I will continue to pursue these requests with Governor Leavitt when he becomes Administrator of the EPA.

This vote should not be seen as an endorsement of the Bush administration's environmental policy but a vote in support of a fine and honorable man who has an extremely difficult job ahead. I look forward to working with him to improve the environmental protection that our country deserves.

Madam President, it has surprised me to hear some Senators use the word obstruction in the context of Governor Leavitt's nomination to be the new Administrator of the EPA. It was a surprise because that is exactly what this administration has been doing—obstructing Congress and our legitimate requests for information. Much of the obstruction has been related to the unfortunate and probably illegal activities of the administration on New Source Review and on other important air quality matters such as multi-pollutant legislation.

As Senators may know, the General Accounting Office released a report last week which looked into the effect that the administration's proposed NSR changes would have on pending enforcement actions. That report strongly suggests that administration political appointees were well aware that the proposed changes would negatively affect swift and environmentally protective resolution of those enforcement cases. Yet they proceeded with the changes anyway.

In the course of the GAO investigation, GAO conducted some very interesting interviews that bear on Congress's right of access to agency information. In GAO's February 12, 2003, interview with Bob Fabricant, then-EPA general counsel, the interview notes say, ''Mr. Fabricant mentioned that they were in the process of putting together a confidentially agreement [to provide access to sensitive NSR documents] with the SEPW staff last year but they never completed the agreement.'' When asked by GAO why the agreement was not completed, ''. . . Mr. Fabricant and Mr. Valeri laughed and responded that the agreement was not completed because of the results of the mid-term elections.'' The GAO interview asked, ''. . . why the results of the election should affect GAO and Congress's ability to conduct oversight. Mr. Fabricant did not respond directly to this question but did say that his understanding is that GAO's access to agency documents is governed by the position of the Congressional requestor.''

This new assertion by the agency will come as a very large surprise to Senators on both sides of the aisles, both ranking and chair, particularly for those whose information requests were made while they were chairmen, as I was, and are still unsatisfied. It appears that the Agency and the administration have adopted a posture, which is not defensible by any statute or precedent, that they will just wait for House of Congress to change parties and ignore requests for information that is their duty and responsibility to provide in a timely fashion. I would hope that my colleagues would see the peril in any administration implementing such a cavalier attitude toward the Nation's elected representatives.

The administration has shown an active disrespect for the legislative branch of government which is most disturbing. This pattern is becoming abundantly clear, whether it is vital environmental and public health information or important intelligence and national security data. This is not a healthy situation for reasoned public policy debates or a well-functioning democracy.

Madam President, I yield the floor.

Mr. INHOFE. Madam President, first let me say to my friend from Vermont that is an excellent statement, and I share his view on the qualifications of our nominee. I look forward to his becoming a historic Administrator of the EPA.

I would like to yield myself 5½ minutes so that I can ensure the senior Senator from Utah has the final 10 minutes.

The PRESIDING OFFICER. The Senator has that right.

Mr. INHOFE. Let me just mention a few things. It seems as if we really do not need to talk about Governor Leavitt. I agree with the praises that many people have made of him. I believe that he is probably the best, most qualified nominee we have ever had, but let me take this time to mention some other things.

I already talked about the record, about the Clear Skies legislation mandating a 70-percent reduction in sulfur dioxide, nitrogen oxides, and mercury. No President in history has ever mandated that. I look forward to getting to the Clear Skies legislation.

As to cleaner fuels and engines, the diesel rule has been applauded all around for the amount of reduction it will bring. The rule requiring new heavy-duty trucks and buses to run cleaner will cut harmful pollutants by 95 percent. That is a huge amount.

Also, in terms of enforcement, I talked about these in more detail last night, but the President has done more in terms of settlements. Just in this short period of time he has been President we have had settlements with Virginia Electric Power, and they are going to spend $1.2 billion to reduce pollutants. The Archer Daniel Midland settlement has taken place under this administration. It is going to total $335 million that will go toward cleaning up the environment; Alcoa, $2.5 million to fund environmental projects; Lion Oil Company will spend $2.5 million to install state-of-the-art pollution control technologies throughout its refinery; and the settlement with Toyota, the same thing, $34 million. These are all settlements in the Bush administration. They were not settled during the Clinton administration. So he has that record, and it is a record that is better than any previous administration.

In terms of his budget proposal, I think the Senator from Missouri covered that very well. In cleaner water, we have legislation right now in the committee that I chair, and with the cooperation of Senator JEFFORDS, we have now passed out a nuclear security bill, waste water security bill, and a chemical security bill. Hopefully, they will be taken up and passed before long.

As far as this administration, on brownfields, nobody has been able to hold a candle to what President Bush and his administration have done in brownfields. I am very sensitive to this because I had an amendment on the brownfields bill that would include petroleum sites, some 200,000 petroleum sites, and that has been used as an example for the greatest single area of accomplishment, in terms of cleaning up these sites. We are talking about

brownfields as opposed to Superfund sites. The legislation will significantly increase the pace of brownfields cleanups. President Bush's 2004 budget proposal provides $210 million, more than twice the level of funding prior to the passage of this legislation. So I would just say that I join with the U.S. Conference of Mayors and the Trust for Public Land in applauding the President for the accomplishments he has made in brownfields, certainly much better than any other administration.

Then lastly, I would just say that the President has actually done not just good enforcement but smart enforcement. Over the last two fiscal years, the EPA and the Department of Justice enforcement has obtained $8 billion in environmental remediation. This is the best consecutive 2 years of enforcement of any prior administration on record.

I repeat that. In his enforcement, this is the best consecutive 2 years of enforcement of any prior administration on record—the Clinton administration and the previous Bush administration. In fiscal year 2002 the EPA compliance assistance centers provided environmental technical assistance to more than 673,000 businesses and individuals to help them comply with environmental laws. I think that is consistent with the fundamental belief of this President that he does not want to just go out and punish people. He does not want to use that for the mark or the indicator as to what kind of jobs have been done. He wants to help people, help people get sites cleaned up.

Comments have been made about the Superfund by the previous speakers. I would only say that the amount of money that has been appropriated for cleanup of Superfund sites is higher than any other administration that this President actually has for the 2004 budget. I appreciate that.

Mrs. FEINSTEIN. Mr. President, I rise to address the nomination of Governor Michael Leavitt to be Administrator of the U.S. Environmental Protection Agency, and to speak more generally on my concerns regarding the impact of EPA policies on environmental issues in California.

I have many concerns about the Bush administration's commitment to advancing strong environmental policy. However, because I believe that it is important for a President to be able to select his own Cabinet, I do not oppose the President's nomination of Governor Leavitt to be Administrator of the Environmental Protection Agency. It is only in exceptional cases that I believe the Senate in its role of advice and consent should reject a nominee.

Governor Leavitt will be assuming leadership of the EPA at a critical time. The Agency stands at a crossroads in its mission. I strongly believe that the administration's environmental policies thus far have moved the EPA in the wrong direction. It will require strong leadership from Governor Leavitt to steer EPA back onto a progressive course.

Many environmental issues must be addressed in the coming 2 years on both a national and State level. I look forward to working with Governor Leavitt if confirmed as Administrator of the EPA, and I am certain that together we will be able to find innovative and efficient solutions to the environmental problems confronting California.

I would like to discuss a few of the issues.

First, I would like to begin by asking Governor Leavitt to take a definitive stance in the battle against climate change. There is strong evidence that most of the global warming that has occurred during the past 50 years is attributable to human activities.

Shamefully, the White House under the Bush administration has chosen to disregard this worldwide problem by thwarting efforts to regulate greenhouse gas emissions.

And given the overwhelming evidence of U.S. culpability regarding greenhouse gas emissions, EPA needs to take a strong stance regarding the enactment of stringent rules and regulations.

The United States must catch up to the rest of the modern world in the battle against climate change.

Voluntary programs are not sufficient. They barely work—and certainly not to the extent necessary to reduce emissions.

We must work to reduce overall greenhouse gas emissions as opposed to merely reducing emissions intensity in the manner proposed by the White House.

Even if we achieve the administration's goals of reducing emissions intensity by 18 percent, the actual amount of emissions will still likely increase.

The recent revisions to the Clean Air Act's New Source Review rules are one example of the Bush administration's disregard for air quality control. These revisions allow aging and inefficient power plants whose permits are up for renewal to continue operating in the exact same manner—environmentally speaking—that they did decades ago.

For example, a coal power plant can conduct major repairs and parts replacement, without updating the pollution control equipment.

It has been years since the problem associated with clean air and powerplants became apparent to everyone, and yet the current administration has pushed through regulations that will let the pollution continue unabated.

I look forward to the upcoming Senate debate and vote on the McCain-Lieberman climate change bill this week. In anticipation of this vote, I encourage the Agency to take a firm stance on climate change.

I want to turn now to address a very important issue for California voters: the joint State-Federal CALFED program designed to improve California's water supply, fishery resources and water quality.

I have been extremely disappointed to date at EPA's lack of involvement in CALFED. EPA can and should take a role in CALFED's water quality program.

I urge the next Administrator of EPA to work closely with California on water quality. Here are some important steps EPA could take:

The CALFED plan proposes to take action on wastewater treatment, bromide reduction at municipal water intakes and new efforts to stem contaminants from abandoned mines.

These actions will be spliced with source water protection, new health effects research on Delta water, as well as comprehensive monitoring and assessment of Delta drinking water quality.

Finally, to assure progress, public and peer review processes will monitor compliance with drinking water standards, and measure performance against consumer water rates.

If EPA partners with California on this program, the benefits could include better tasting water at lower costs, a longer life for Californians' plumbing and consumer appliances, and more reliability from recycling and groundwater storage programs.

A decade ago, there were efforts to deregulate a portion of the radioactive waste stream and allow these wastes to be either recycled into consumer products or disposed of in local municipal landfills.

This effort created such a firestorm of public concern that the Congress prohibited it in the 1992 Energy Policy Act.

Since that time, there has been no effort to try again to deregulate radioactive waste—until now.

Recently, the EPA has announced that in the next few weeks it intends to issue an Advanced Notice of Proposed Rulemaking to consider deregulating the manner of disposal of radioactive wastes.

This action would allow radioactive wastes to be sent to landfills that were neither designed nor licensed to handle such wastes.

Radioactively contaminated materials could also be recycled into consumer products, where they could end up in everything from children's braces to spoons and automobiles.

These are not theoretical risks. The Los Angeles Times has reported that the Santa Susana Field Laboratory in Ventura County, CA shipped hundreds of tons of radioactively contaminated metals from decommissioned old reactors to a metal recycler in San Pedro. That radioactively contaminated metal was then melted down and shipped out into the consumer metal supply.

It is my understanding that these Advanced Notices of Proposed Rulemaking—designed to once again try the controversial deregulation of radioactive waste—are being held until after the confirmation of the EPA Administrator has been addressed.

It is my hope that Governor Leavitt, if confirmed as the new Administrator, will take a hard look at this issue and block this misguided proposal. I know I will be keeping a close eye on the matter.

I would like to now move on to an issue of paramount importance to California.

The degraded air quality in California has reached a crisis point. It is imperative that EPA addresses the various factors contributing to air pollution in California with immediate regulatory efforts.

A bit of statistical background is necessary to understand the breadth of the air quality problems.

California has the worst air quality in the Nation. For example, Los Angeles is the only area in the country that has ''extreme non-attainment'' for air pollution standards.

Two thousand three has been the worst year for smog in southern California since 1997. The Los Angeles basin has experienced unsafe levels of ozone approximately every other day since the first of May.

Legislators and regulators from California are working together to address the sources of air pollution.

I am fighting to remove language inserted into the VA/HUD spending bill that would prohibit California from limiting the amount of pollution that can be released from small engines, those that are less than 175 horsepower, such as lawnmowers and small tractors.

The California Air Resource Board recently approved landmark regulations—which were written with significant input from the small engine industry—that would set strict pollution standards on engines of 25 horsepower or less, but these regulations would effectively be preempted if the language in the VA/HUD bill is signed into law.

These small engines release a disproportionately large amount of pollution based on their size. In California alone, these engines emit the pollution equivalent of 18.3 million cars. Appropriate regulations could cut the emissions from small engines in half.

The EPA must take another look at regulating the obscene amount of pollution that comes from small engines such as lawnmowers and leaf blowers. It is my sincere hope that upon confirmation, Governor Leavitt will direct the EPA to examine this issue further.

The EPA can also help improve California's air quality by granting California a waiver to the Federal mandate requiring States to add oxygenates such as ethanol to its gasoline.

Ethanol is a highly volatile substance. According to the California Department of Environmental Quality, ethanol actually appears to have resulted in an increase in the amount of volatile organic gases that are released into the atmosphere. These gases are implicated in increase levels of smog and ozone in our air.

Ethanol use has increased tremendously in California. In fact, 70 percent of the gasoline used in southern California and 57 percent of that in northern California is now blended with ethanol.

In fact, the conference committee on the energy bill is debating an ethanol mandate that would almost triple the amount of ethanol used in the Nation's gas supply.

California, however, can meet clean air standards without ethanol or MTBE. These oxygenates are not necessary to achieve cleaner air. It is imperative to examine the role of increased ethanol use on current higher smog levels.

Winston Hickox, Secretary of the California Environmental Protection Agency, concluded that:

> . . . our current best estimate is that the increase in the use of ethanol-blended gasoline has likely resulted in about a one percent increase in emissions of volatile organic gases (VOC) in the SCAQMD [South Coast Air Quality Management District] in the summer of 2003. Given the very poor air quality in the region and the great difficulty of reaching the current federal ozone standard by the required attainment date of 2010, an increase of this magnitude is of great concern. Clearly, these emission increases have resulted in higher ozone levels this year than what would have otherwise occurred, and are responsible for at least some of the rise in ozone levels that have been observed.

I urge the EPA to stop the legal wrangling, accept the ruling of the 9th Circuit Court of Appeals, and issue the waiver to improve California air quality.

I now want to discuss my concerns surrounding two specific water contamination issues in California: groundwater contamination by perchlorate, and the deplorable state of the New River that flows along the border between California and Mexico.

Perchlorate is both a naturally occurring and man-made chemical that is used as the primary ingredient of solid rocket fuel propellant. Widespread perchlorate contamination was found in California drinking water in 1997, most of it from the manufacture and improper disposal of the chemical.

According to the EPA, perchlorate poses a serious health risk to human health because it interferes with the proper function of the thyroid and can potentially cause tumors.

I urge Governor Leavitt, if confirmed as Administrator of the Environmental Protection Agency, to both hasten and increase EPA's efforts to identify and hold accountable those entities that have contaminated California's groundwater.

To date, perchlorate has been detected in more than 300 groundwater wells operated by 80 different agencies throughout California.

Collectively, these agencies serve 24.8 million people.

In the Inland Empire, a 7-mile plume has contaminated 22 drinking water wells, jeopardizing water supplies for approximately 500,000 residents.

The next EPA Administrator must direct the Agency to use its powers under Superfund law to compel the companies responsible for this contamination to participate in its clean-up.

On a broader scale, the next EPA Administrator must direct the Agency to set a federal drinking water standard for perchlorate as soon as possible, both to clarify clean-up standards and to provide oversight for the cleanup efforts.

There have been recent suggestions that it will take another 6 years before the EPA can issue a clean-up standard. Six years is an unconscionable delay given that we are discussing pollution of our drinking water supply.

EPA should take conduct site-specific assessments to evaluate the level of perchlorate contamination, and when appropriate, provide replacement water for the communities suffering from contaminated water.

This is a matter of utmost urgency for California because human health is at stake. I strongly believe the EPA must both accelerate and strengthen its response to this problem.

I also want to draw the EPA Administrator's attention to the status of the New River, which flows along the border between California and Mexico.

The New River has been consistently named one of the most polluted rivers in the United State by American Rivers.

The New River flows North from the Mexicali Valley into California's Imperial Valley, carrying with it vast quantities of urban runoff, such as raw sewage, industrial and municipal wastes, such as pollution from factories, and agricultural runoff, including pesticides.

Here is one startling statistic: Every day, the river pumps between 20 to 25 million gallons of raw sewage into California.

This is such a massive amount of horrific pollution flowing into California every day that we desperately need the help of EPA and the Federal Government to develop a solution to this problem.

The EPA has worked in Mexico to build two sewage treatment plants; however, I urge the agency to focus efforts on clean-up strategies in California.

In Utah, Governor Leavitt demonstrated his commitment to clean water when he supported the Colorado River Basin Salinity Control Act. This legislation helped reduce salt and agricultural drainage, and has had beneficial ramifications in California as well.

I applaud Governor Leavitt's efforts in this arena, and I would very much like to see his Clean Water Initiatives expanded to include other imperilled rivers such as the New River in California.

I must also voice my concern about the status of the Superfund Trust Fund. In 1980, citizen concern and outrage over highly toxic sites led to the creation of the EPA Superfund program to locate, investigate, and then clean the most hazardous sites nationwide.

Superfund has not been renewed since it expired in 1995, leaving dwindling Federal dollars to clean-up contaminated sites.

This is a big shift from the Clinton administration, when taxes on chemical and petroleum products provided up to $3.7 billion to clean up toxic waste sites.

As a result, the EPA is cleaning up 31 percent fewer Superfund sites, and taking in 64 percent less in fines per month than it did during its peak.

There are 96 sites in California that are currently on the Superfund national priorities list, the second highest number in the Nation behind New Jersey.

Approximately 40 percent of Californians live within four miles of a contaminated Superfund site.

One site in particular, the Santa Susana Field Laboratory in Ventura County owned by Rocketdyne, has been at the center of years of controversy regarding clean-up standards and funding.

A partial meltdown occurred there in 1959, and over the years other accidents and spills resulted in widespread chemical and radioactive contamination, which the federal government has been attempting to clean up.

EPA has played a key role in overseeing the cleanup.

I have been repeatedly promised by EPA that EPA would maintain that role, that it would ensure that contamination at the facility will be remediated to EPA's CERCLA, i.e., Superfund, standards, and that EPA will conduct a thorough radiation survey of the site to those CERCLA, standards to find the remaining contamination that needs to be cleaned up.

Recently, there have been indications that the administration may be pulling back from those commitments. DOE has said it doesn't want the promised EPA survey to go forward and that it wishes to remove only 5500 cubic meters of radioactively contaminated soil

This plan would leave behind 400,000 cubic meters of soil DOE concedes are contaminated above EPA's primary cleanup goal, and then release the site for unrestricted residential use.

Children could end up playing atop the strontium-90 and cesium-137 from a past reactor meltdown if EPA does not stand firm and stick to the commitments it has made to me.

I take the longstanding promises by EPA seriously, and will be closely watching to see that a new Administrator lives up to them. Governor Leavitt has set an encouragingly progressive precedent in his interactions with the Department of Energy, particularly during his work to remove uranium mine tailings from the Colorado River at Moab, Utah. Now we ask the Governor, in his role as Administrator of EPA, to continue that protective stance.

I applaud Governor Leavitt in his past efforts to ensure that the Department of Energy behaves in an environmentally responsible manner, and I urge the Governor to martial all available resources to continue cleaning Superfund sites.

Among the most serious issues we face as a country is the risk of terrorism, and among the most worrisome of those threats is that a radiological dispersal device—a so-called ''dirty bomb''—could be detonated.

The Homeland Security Agency, with input from a number of other agencies including EPA, has been attempting to develop cleanup standards to remediate the radioactive contamination that could result from such an event.

Some agencies have pushed for cleanup standards far more lax than EPA historically has viewed as protective of human health and the environment.

Given the concern many in this Chamber have about EPA's public pronouncements regarding health risks from the World Trade Center tragedy, I will be looking to the EPA Administrator to stand firm in insisting that any cleanup standards established for the aftermath of a ''dirty bomb'' terrorist event be fully protective of human health and the environment.

These standards should be no less protective than EPA's existing standards for cleaning up radioactive contamination from non-terrorist causes such as spills and accidents.

I support the nomination of Governor Mike Leavitt, and look forward to working with him and the Environmental Protection Agency.

Mr. HARKIN. Mr. President, I will vote to confirm Michael Leavitt to be Administrator of the Environmental Protection Agency, but I want to emphasize that I am hoping that Governor Leavitt will bring change to the sorry record that this administration has had on the environment.

I am concerned by the direction that our Nation's environmental policy is headed. We need an active Environmental Protection Agency, working to protect the health of our people. This administration has been active, all right—actively rolling back the environmental progress our country has made, actively working to narrow the reach of Federal environmental policy, actively working to promote oil drilling in environmentally sensitive areas and actively cutting funding for conservation and anti-pollution enforcement efforts.

Under this administration, we've seen cuts in funding for the EPA. We've seen an increased focus on cutting sweetheart deals with polluters. And we've seen a failure to move forward on new, innovative programs that will help our environment. While environmental regulation requires action and distributes responsibility among Federal, State and local authorities, Governor Leavitt needs to recognize that the Federal EPA is the backstop. The environmental buck will stop on Governor Leavitt's desk. If a State is not acting responsibly and protecting the health and safety of its citizens, Governor Leavitt must step in. I hope that Governor Leavitt will fight for the environment, rather than fighting for the priorities of the White House.

I have concerns with this nominee. A number of environmental watchdog groups have expressed their disappointment about Governor Leavitt's record on environmental protection during his tenure as Governor of Utah. He has a record of supporting a number of projects that were environmentally questionable, such as the Legacy Highway Project in Davis County, UT. It is my understanding that this highway project as originally conceived would harm a significant migratory bird habitat.

But in the end, I decided that Governor Leavitt has the background and qualifications necessary to do this job. As a governor who has a distinguished background not only leading his own State, but also the National Governors Association and the Western Governors Association, he will bring an experienced hand to the leadership of the agency. Further, as the Vice-Chair of the National Governors Association, he pushed through a bipartisan policy supporting working out environmental issues through a collaborative process.

In the area of agriculture, the Administration has delayed the implementation of the Conservation Security Program, a fresh farmer-friendly approach to farm policy that uses incentives to help farmers do what's best for their land and for the air and water they and their neighbors breathe and drink. This bipartisan, bicameral program was a key part of the 6 year farm bill passed last year. Yet, it is still not implemented.

We've also seen a serious pullback from the Clean Water Act. In the face of the SWANCC decision limiting federal jurisdiction on certain isolated wetlands, the EPA has released an Advance Notice of Proposed Rulemaking and policy guidance that pulls back even further. The intent of Congress for the CWA is clear—to protect the waters of the United States, and to reach all waters within Federal constitutional jurisdiction.

The court's decision in SWANCC has removed jurisdiction from intrastate, non-navigable waters where jurisdiction was based solely on the so-called ''migratory bird rule.'' The contemplated changes to the rules pull back much further and would relinquish jurisdiction that the Federal Government clearly has and needs to protect waters of the United States.

One of Governor Leavitt's achievements at the National Governors Assocation was the adoption of a set of environmental principles he calls ''enlibra.'' The term means ''balance,'' and refers to a process of bringing in all the stakeholders in environmental issues together to try to work issues out. I hope that, as EPA Administrator, Governor Leavitt will truly strive for balance—because, unfortunately, there has been very little balance in the environmental policies of the administration he is joining.

Mr. VOINOVICH. Mr. President, I rise today in support of the nomination of Gov. Michael Leavitt to serve as Administrator of the Environmental Protection Agency.

As my colleagues here in the Senate know, I have more than a passing interest in the people who run our Government. Many of our problems have

been caused because we do not have the right people with the right knowledge and skills in the right place at the right time. The process is even more difficult when trying to find people to nominate for controversial appointments like Federal judgeships or high-profile Cabinet officers.

Well, I would like to say that President Bush got it right. Mike Leavitt is clearly one of the best people we could ever get to run the EPA.

I first met Mike while we were both Governors and were active together in the Republican Governors and National Governors Associations. Mike served as NGA vice-chairman, under then-Gov. Tom Carper, NGA chairman, RGA vice-chairman, while I was chairman, and as RGA chairman.

He has established a very strong reputation as a straight-shooting consensus builder with the proven ability to work on a bipartisan basis. On many issues, Mike was willing to take on tough issues—such as internet taxation and unfunded mandates legislation—and worked with both Republican and Democratic Governors to form consensus and move the ball down the field.

During his three terms as Governor, Mike has demonstrated an outstanding ability to efficiently and effectively manage the State of Utah's provision of public goods and services. Time after time, Governor Leavitt has set an agenda in Utah, and each time he has rolled up his sleeves, pulled together broad coalitions, reached consensus, and gotten results.

Under Mike's watch, Utah has hosted the most environmentally friendly Olympics ever, reduced crime, decreased reliance on welfare, reduced unemployment, and improved education funding and performance—all while the State's sales, income, and property taxes have been reduced. In fact, During Mike's tenure as Governor, Utah has been named the best-managed State five times. No wonder he was recently named ''Public Official of the Year'' by Governing magazine.

Governor Leavitt's record on the environment is equally as impressive. Consider: Utah's air quality has demonstrably improved during the Leavitt administration. Utah currently meets all Federal air quality standards; this was not the case when Governor Leavitt started his service. Visibility and air quality in the West have improved because of Governor Leavitt's co-chairmanship of the Western Regional Air Partnership. Utah has among the Nation's cleanest watersheds and water quality has improved dramatically during the Leavitt administration. Governor Leavitt helped protect 500,000 acres of remarkable land in national parks, monuments, recreation areas and wilderness study areas through value-for-value land exchanges with the Federal Government. Utah's Quality Growth Commission, which Governor Leavitt helped establish, has conserved approximately 35,000 acres of critical land in perpetuity, protecting critical wildlife, watershed and historical and agricultural assets in the State. Governor Leavitt helped found Envision Utah, the Nation's largest voluntary quality growth partnership. It was formed to create a vision and implement strategies to protect Utah's environment for future generations.

I cannot think of anyone who is better suited to lead the EPA. Governor Leavitt has continuously demonstrated the tremendous interpersonal skills and management experience necessary to handle the major challenges that the Agency faces during the months and years ahead. He cares deeply about the environment and will pull people together to get things done.

Mike's proven ability to facilitate the creation of positive solutions to multiple problems and interests is exactly what is needed at the EPA's top post. He has established an impressive track record of producing results; one that I believe will continue should he be confirmed as Administrator of the Environmental Protection Agency.

I strongly urge all my colleagues here in the Senate to support Mike's nomination.

Mr. DOMENICI. Madam President, I rise today to support President Bush's nomination of Governor Michael O. Leavitt to be the next Administrator of the Environmental Protection Agency. I am proud to have the opportunity to make a statement for the record that expresses my endorsement of this qualified nominee. President Bush has chosen an individual who understands the importance of a clean and healthy environment and who will ensure that the regulations promulgated by the EPA will be based on sound science, not speculation and conjecture. All too often, these regulations are put into effect not because they will increase health benefits, but because it was the politically expedient thing to do.

Governor Leavitt's record speaks for itself. I think that there is little doubt, on either side of the aisle that Governor Leavitt is extremely qualified to serve as the next administrator of the EPA. He has thrice been elected as Governor of Utah and is currently the longest serving Governor of any State in the Nation. Under this watch, Utah saw a reduction in crime, hosted the 2002 Winter Olympics, and cut taxes. It comes as no surprise that five times during Governor Leavitt's 11 years as Governor, Utah has been voted the best managed State five times. As Governor, he has demonstrated his fitness to serve as our Nation's top environmental official by solving problems through consensus building and cooperation. Governor Leavitt has demonstrated his ability to bring all affected parties to the table, roll up his sleeves and reach a solution. These skills will be of critical importance as the 2006 arsenic regulations approach and we work toward domestic energy security.

Of great concern to the people of my State and the State of Utah is the implementation of the EPA's 2006 arsenic drinking water standard which lowers the maximum allowable parts per billion of arsenic from 50 to 10. Arsenic is a naturally occurring element in my home State of New Mexico and in the State of Utah. Compliance with this regulation comes at a great cost to small communities, those that least have the resources to achieve implementation. The estimated national cost of implementing this new EPA rule is $600 million annually and will require $5 billion in capital outlays.

The EPA estimates that roughly 97 percent of the systems expected to exceed the standard are small systems, those serving fewer than 10,000 people. These small communities lack the economies of scale present in larger communities and are less able to spread out costs. In Governor Leavitt's home State for example, the Utah Department of Environmental Quality estimates that implementing the new standards will require $40 million in capital outlays and predicts that annual operation and maintenance costs will run into the tens of millions of dollars. We need an administrator that will work with these communities so that implementation of this standard can be accomplished as smoothly and painlessly as possible.

There is no doubt that our Nation is facing an energy crisis. The Energy and Natural Resources Committee, on which I serve as chairman, has spent many months and many people have put in long hours developing a comprehensive energy policy that best meets our Nation's energy needs while safeguarding the environment. I have come to the realization that every department of our Government needs to start looking not only at their policies but how their policies affect America's energy future. As we move forward with America's energy policy, it is critical that we have an EPA Administrator who understands our country's energy needs and is able to make assessments that are both based on empirical proof and will protect our invaluable natural resources for future generations. We need an Administrator who will evaluate how our environmental policies affect the goal of energy self-sufficiency. We need an Administrator that will promote scientifically valid initiatives when making assessments on the impact of regulations the EPA promulgates. I have no reservation that Governor Leavitt is the man for the job.

Accomplishing these national priorities will be no easy task. I hope that he has a very successful term because if he does, we will be a more secure Nation for it. I bid him well.

Mr. WYDEN. Madam President, I supported Governor Levitt's nomination in the Environment Committee, but that does not mean that I support the Bush administration's environmental polices. Far from it. Under the Bush administration, the Environmental Protection Agency has ignored

the law and gutted its enforcement. It has been a 30-month polluters' holiday.

I think the record is clear. There is also an enormous gap between the bipartisan approach that Mike Levitt supported in dealing with environmental issues while he has served as Governor of Utah, and this administration. For example, the bipartisan Western Governors' policy states ''Westerners do not reject the goals and objectives of federal environmental laws, nor the appropriate role of federal regulation and enforcement.'' Recently, the EPA Office of Enforcement found that during the past 2 years, only 24 percent of the facilities that were in major noncompliance with respect to the Clean Water Act faced enforcement actions. So the EPA's own enforcement office says on major water violations, there hasn't been enforcement.

Gap number two, the Western Governors Association has always stressed consultation with all the parties and involving the States. Two examples where the administration isn't doing that are on the question of these closed door negotiations with industrial livestock firms, behind closed doors they are talking about amnesty from the Clean Air Act and the Superfund law. Another is the lack of consultation with the States on the proposed rule to limit the scope of the Clean Air Act. Thirty-nine States have objected and said they were not party to that discussion. So on the question of consultation involving States, there is a big gap between the Western Governors and this administration.

The third big gap can be seen in the Western Governors Association positions on the environment where there is a clear commitment to following the law. Certainly that hasn't been done with the Bush administration when it comes to the Clean Air Act. I was on the conference committee that wrote the law in 1990, and I can tell you there was absolutely no question that it was the intent of Congress that powerplants, oil refineries and industrial facilities would be required to install pollution controls. This is a blatant example of the Bush administration's failure to follow the law.

What I am interested in is seeing an effort to go back to the kinds of policies that the Governors, particularly those in the West, have sought to try to bring people together on these contentious issues and find common ground. That has not been what the Environmental Protection Agency has done in Washington, D.C. But that is what is needed.

When Governor Leavitt came before the Environment and Public Works Committee, I was particularly concerned about his willingness to use the enforcement tools of the agency against serious and egregious violations of the environmental laws. My sense is that the collaborative model that he wishes to pursue is one I support. But it is clear, Mr. President and colleagues, that when companies abuse that kind of good-faith effort by government, the government has got to be willing to come down with hobnail boots on those who are putting at risk our air and our land and water. Prior to the committee vote, Governor Leavitt sent me a memo making it clear that he is willing to look at a different enforcement approach than this administration has used in the past. In the memo, Governor Leavitt wrote ''in warranted circumstances I would use the enforcement power rigorously.'' By contrast, during the Bush administration, enforcement has been essentially abandoned, and even the EPA's own internal reports indicate that that is the case.

The American people need an administrator who is going to end this polluters' holiday and put the Environmental Protection Agency back to work protecting the environment. I think that the Governor's ideas about collaboration are important. They are fresh and creative, and I think that if he is willing to do as he pledged to work with members of Congress on both sides of the aisle, that they could revitalize the agency and bring a fresh approach to environmental policy. But it is important for senators to understand that those who talk about collaboration only, without a willingness to back it up with tough enforcement policies, could be talking about just window dressing for business, or really lack of business as usual.

Over the past several weeks, Governor Leavitt has worked hard to convince me he means business. He has reached out and made the extra effort to show he will be no just an advocate for collaboration but also a tough, no-nonsense enforcer when he needs to be. He has also committed to look at the situation involving the City of Portland's sewer overflows during wet weather and whether this is an appropriate case for enforcement, given that the local community is making progress in addressing the situation and that local ratepayers have already spent more than $500 million toward what will eventually be a $1 billion project.

So the Governor, in my view, has made clear that he wants to bring to EPA a fresh and independent approach to these kinds of issues. He has convinced me that he understands that tough no-nonsense enforcement of this country's environmental laws is absolutely essential when the environmental collaborative approach does not work. I will be closely watching how Governor Leavitt follows through on these changes in EPA's approach to enforcement.

It is very obvious to me that there needs to be a dramatic set of changes put in place at the Environmental Protection Agency. My vote today is essentially a vote because I think the Governor of Utah has the potential to do this job right. I am supporting the Mike Leavitt who I know can be a tough, independent administrator of EPA. For all Americans' sake, I hope Governor Leavitt will be successful in bringing about this change in EPA's direction. I want to give him a chance to succeed, and that is why I am supporting his nomination today.

Mr. FEINGOLD. Madam President, the Senate's responsibility to scrutinize and confirm Presidential nominees is an important one, and never more so than when we are considering who should oversee the agency that, as its name indicates, is designed to protect the country's environment.

The individual charged with this responsibility will advise the President on setting the direction for our national efforts to protect the environment. This person will have the power to decide whether to nurture and conserve, or to develop and destroy our Nation's great resources. Throughout my career, I have committed myself to a career of environmental stewardship. I have tried to cast votes and offer legislation that fully reflect and respond to the importance and lasting legacy of America's environmental needs. I thus take this vote very seriously.

At the same time, I also have another tradition to defend and uphold. I have committed myself to playing a constructive role with respect to the Senate's duty to provide advice and consent on the President's nominees for Cabinet or other senior executive branch positions. I take that role seriously as well.

As the Administrator of the Environmental Protection Agency, Mike Leavitt would be charged with unique and historic responsibilities, which will be as important as they are far reaching. In varying ways, all Americans will be affected by his decisions. As the Nation's principal environmental agency, the EPA has responsibility for the protection of air and water resources, for the clean up of toxic wastes, and for the regulation of the quality of our environment.

That is why I am sensitive to the concerns of some that Governor Leavitt will not live up to this responsibility for environmental stewardship if his nomination is confirmed. I have been at odds with some of Governor Leavitt's environmental management decisions, and I am concerned that his background might cloud his judgement and objectivity on a number of important issues and place him at odds with members of the conservation community and with this Senator.

While I am concerned with Mr. Leavitt's professed unfamiliarity with many of the laws that I regard as critical for the promotion of a balanced environmental policy, I am somewhat heartened by his comments that he will give this position ''the full measure of his heart.'' I am encouraged by this commitment to listen to the views of all stakeholders and all points of view and make, in his words, environmental protection a national ''ethic.''

I will take Mr. Leavitt at his word—that he will devote his time and energy

to the proper enforcement of the EPA's policies, rather than circumventing or repealing laws which preserve our dwindling resources, that he will attempt to address the pollution that makes our air unfit to breathe and our water unsafe to drink, and that he will protect our land and water resources. I intend to hold him to his word.

I also will act in accordance with what I feel is the proper constitutional role of the Senate when it comes to confirming Presidential nominees for positions advising the President. I believe that the Senate should allow a President to appoint people to advise him who share his philosophy and principles. My approach to judicial nominations, of course, is different—nominees for lifetime positions in the judicial branch warrant particularly close scrutiny.

For these reasons, I will support Governor Leavitt's nomination today. However, in doing so, I fully recognize that I have an ongoing responsibility to oversee the institution with stewardship of our environmental quality to ensure that it lives up to its duties. The Senate does not, by confirming Mr. Leavitt, discharge its responsibility to protect our resources and ensure that our environmental laws are enforced. I feel a responsibility to listen to the voices of the many Wisconsinites and others who are deeply concerned about this administration's environmental record. I am hopeful that these voices will be heard by Mr. Leavitt and I will be vigilant in ensuring that Governor Leavitt takes his responsibilities with the utmost seriousness.

Ms. MURKOWSKI. Madam President, I join with those of my colleagues who are pleased to see that the nomination of Governor Michael Leavitt to be Administrator of the Environmental Protection Agency will finally be moving forward.

Governor Leavitt is one of the founders of a bipartisan and collaborative approach to environmental decision-making that is a model for dealing with the difficult issues that face us today. His ''En Libra'' philosophy has been adopted by the National Governors Association and is being used by Federal, State, local and private entities throughout the country. He is the former chair of the National Governors Association, the Western Governors Association, the Republican Governors Association and the Council of State Governments. His experience spans the private sector, academia, and government.

Governor Leavitt is without question qualified for the job. In fact, he is superbly qualified for the job. He is the Nation's longest-serving, and arguably most successful Governor, whose tenure has brought unprecedented prosperity to his State, unparalleled efficiency to its management, and unequaled improvements to its environment. Along the way he has strived for and achieved—if not perfect harmony—then a notable reduction in the volume and intensity of debate over the kind of issues that are more often polarizing than they are unifying.

There can be no better recommendation for the individual who is to lead the agency charged with stewardship of our country's environment.

Unfortunately, Governor Leavitt's nomination was treated shamefully by a small handful of individuals bent on using it as an excuse to accuse the current administration of all kinds of environmental wrongs, to perpetuate outmoded and ineffectual approaches to environmental issues, and to cater to the worst kind of unscientific and unsupportable rhetoric—all that Governor Leavitt stands against and that this Senate should repudiate for the sake of our nation's welfare.

My State of Alaska, as many others—especially in the west—has often struggled with environmental restrictions sought by, imposed by, and maintained by interests with very little knowledge of the conditions we live with. Nonetheless, we take our environmental responsibilities very seriously.

We care about our environment, and we try very hard to address serious issues with clarity and common sense. All too often, common sense is lacking when one-size-fits-all solutions are imposed from outside, and based more on fanciful gloom-and-doom predictions than on facts.

The truth is that we have made mammoth strides in improving our environment, and every day we learn new ways to apply research and technology toward doing an even better job.

This administration is providing a breath of fresh air—and I mean that both literally and figuratively—when it comes to environmental issues.

While improvements can certainly be forced—at great cost—by the threat of heavy-handed government enforcement, they come far more rapidly when they are to the participants' economic advantage. There is all the difference in the world between making money and not losing money.

If we look honestly at what works and what doesn't, we have to conclude that reform of the regulatory process is badly needed. Frankly, I commend the administration for being willing to look at new approaches to building a better environment, rather than continuing to hammer at the same old nails.

I am confident that I will not always agree with the positions that Governor Leavitt may take if he becomes the EPA Administrator. Alaska has a number of outstanding issues with the EPA.

We have long hoped to establish Alaska as a separate EPA region, because attempting to administer such a vast area with so few people who have even seen the issues first-hand is an impossible task that often leads to unnecessary and damaging misunderstandings.

We would like to move forward on a determination that better defines the extent of Clean Water Act authority over Alaska's wetlands. We have over 174 million acres of land classified as wetlands, more than all the other States combined. Much of it is neither use for navigation nor connected in any substantive way with other water bodies, or exists solely because it is underlain by permafrost.

We would like to receive active assistance from the EPA in evaluating the long-term health benefits of our reliance on small, diesel-powered utilities.

We would like to receive recognition that uncontrollable temperature inversions due to our climate are the primary reason some of our cities have difficulty attaining compliance with carbon monoxide rules.

We would like the agency to work with us on developing a mechanism that will more effectively deliver grants to Alaska's many rural Native communities.

In fact, the list of issues between us ranges from minuscule to mammoth—from local issues that should be easily resolved to those which require the intervention of the Supreme Court.

I by no means believe that confirming Governor Michael Leavitt will lead to a resolution of them all. What I do believe is that Governor Leavitt will offer comprehensive, impartial and thoughtful consideration. That is all I ask, and all that my constituents ask.

I strongly support this nomination, and I am very pleased to see that it is moving at this time. I would like to think that this marks a triumph for the American people, who have little patience for diversionary rhetoric and divisionary politics. The American people want their Congress to simply do its job, to the best of its ability, and with the welfare of the entire country in mind.

I will vote to confirm Governor Leavitt on behalf of my constituents, on behalf of all Americans, and on behalf of a safe, productive and healthy environment. I urge all my colleagues to do the same.

Mr. NELSON of Florida. Madam President, yesterday on the Senate floor, I voiced my concerns about the Bush administration's weak environmental record and the need to further debate those concerns. I also shared my belief that Governor Leavitt is an able public servant who will likely be confirmed by the U.S. Senate.

In follow up to those remarks and following the vitiation of the cloture vote, I spoke with Governor Leavitt and explained my views on the direction of environmental policy under this President and the need for him to emerge as champion for the environment in an administration that lacks one. I informed him that, having made my objections known, I would vote in favor of his nomination in the hopes that we could forge a strong working relationship to reach suitable resolutions to the many environmental problems, including Superfund issues, that plague my State of Florida and the Nation.

Mr. INHOFE. And with that I ask the minority, do they have anyone else who wants the time?

Mr. JEFFORDS. Madam President, I yield back the remainder of my time.

Mr. INHOFE. I yield at this time the final 10 minutes to the Senator from Utah, Mr. HATCH.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank the Chair. I thank my colleague for reserving his time for me. I also want to pay tribute to the distinguished Senator from Vermont and the distinguished Senator from Oklahoma for their leadership on this matter, for their goodness and kindness in support. I have to say with these two fine Senators we have in the Senate, both of them supporting this nominee speaks volumes of the fine man he is. But I have also heard from a couple of my colleagues whom I respect that they have ''serious concerns.'' Governor Leavitt has had a ''careless disregard for water and air,'' ''a disturbing tendency to ignore regulations,'' ''a hands off approach.'' He is a ''rollback administrator.''

As I understand it, those statements were made this morning. The distinguished Senator from Illinois said that Governor Leavitt has ''turned his back on the wilderness.'' He also said that ''Utah is one of the biggest polluter States in the Nation.''

I cannot blame him too much for making that statement because he is just quoting some of the irresponsible people in the environmental field who basically have totally ignored the facts, which I am going to speak about in a minute.

I am grateful to these two leaders for the kind way they have handled this nomination and for the effective way they have handled it so we will have a final vote on one of the finest Governors in this land to head one of the most difficult agencies in this land. He is a Governor who is known for working with everybody, known for keeping an open mind, known for being honest, known for being active, and known for intelligence. I could go on about Mike Leavitt. He is a very fine man.

Yesterday during the debate on the nomination of Gov. Michael Leavitt to be Administrator of the Environmental Protection Agency, my friend and colleague Senator RICHARD DURBIN from Illinois stood up on the Senate floor and began an attack on the State of Utah and on Utah's Governor. Now this morning, I find that another friend and colleague, Senator FRANK LAUTENBERG of New Jersey, has been following suit. I am certain both of them are sincere, but I am going to show that both of them are absolutely wrong as well.

First, I am very disappointed that my colleagues would spend time highlighting the supposed weakness of another Senator's State and the supposed weakness of that State's top elected official, especially when they are wrong in both instances.

It was very appropriate for the Members of the Senate in the Environment and Public Works Committee to ask the Governor questions orally and in writing about his management of Utah's natural resources and to allow him to provide answers to those questions, but to ignore his answers to those questions and to use the Senate floor to cast aspersions at Utah I find personally offensive.

Secondly, to be frank, I have to say I am especially offended that my colleagues choose this forum to make these attacks with information that is so clearly inaccurate and so cleverly twisted to cast Utah and its Governor in the worst possible light, so I find it necessary to make part of the RECORD the truth about some of the aspersions cast at my State.

Utah is one of the cleanest States in the Nation, and in large part this is due to Gov. Michael Leavitt, so one can imagine my surprise when one of my colleagues comes to the Senate floor to call Utah one of the Nation's biggest polluters and to blame our Governor for it. What does my colleague mean when he calls Utah a big polluter? A more important question is, What does the public think it means when they hear my colleagues say it?

Let me shed some light on where others have sown confusion. One of the principal indexes being looked at by my colleagues is the Toxic Release Inventory, or TRI, which is collected and published by the EPA. The most recent TRI report came out in 2001, but we should keep in mind that the data for that report, or for the TRI, are 2 years old. In other words, the 2001 TRI report makes use of data from 1999.

A very careful distinction must be made before using numbers from the TRI report. Some may believe or wish to cause others to believe that the TRI simply counts up how much pollution goes into our water and our air, but this is not necessarily the case, to say the least. In fact, every time a company uses a chemical and then correctly and legally disposes of it, that is considered a release.

Even if a pound of a certain chemical is properly recycled, that, too, is considered a pound of release. When a mining company takes a pound of dirt and rock and removes metals from it, that leftover soil and rock often contains chemicals from the processing and must be handled according to a very strict environmental set of regulations. However, each pound of that soil and rock is counted as a release under the TRI.

States such as Utah and Nevada have very large mining operations, and because the amount of leftover rock and soil from these operations is very large, these two States show up at the top of the list when all types of releases are combined.

So do TRI numbers really reflect pollution that is going into our air and water? Yes, in some cases. But as I just pointed out, many of the ''releases'' reported under TRI never go into our air or our water but are safely sequestered according to the law.

I quote from the EPA's TRI report itself, 2001 TRI public data release, ES–26:

> TRI reports reflect releases and other waste management activities of chemicals, not exposures of the public to those chemicals. Release estimates alone are not sufficient to determine exposure or to calculate potential adverse effects on human health and the environment.

Most citizens will be more concerned about chemicals actually emitted into the air and discharged into our surface water than they will about leftover rock and soil from mining activities that are legally sequestered. According to the 2001 TRI report, Utah emitted about 19 million pounds of chemicals into the air during 1999, but the same report shows that the State of Illinois released nearly 60 million pounds of chemicals into the air. In other words, according to the TRI, during 1999 Illinois was three times the air polluter that Utah was. I point out that since then, Utah's biggest air polluter, MagCorp, has voluntarily upgraded its facilities and reduced its emissions by more than 90 percent. This is all under Governor Leavitt's management.

Let's look at surface water discharges. During that same year, Utah released 1.2 million pounds of chemicals into the surface water. This was below the average of all States. However, the TRI report shows that New Jersey released 3.7 million pounds and Illinois released 8 million pounds of chemicals into the surface water. In other words, according to the EPA, New Jersey is three times the water polluter that Utah is and Illinois almost eight times the polluter that Utah is.

So what does this mean? Does it mean that Illinois and New Jersey should be labeled as large polluters or, as my State was erroneously labeled, the biggest polluters in the country? No, of course not, and I certainly do not believe that to be the case. I believe they are both beautiful and well run States, just as I know Utah to be.

I think it does mean, though, that the Senators from these two States should be more careful about attempting to pin the ''polluter'' label on my State and on my Governor, and I am not going to stand for it. That is why I am making these remarks today, among other reasons. Frankly, I am going to stand up for this very fine Governor and good person who is known to be a person who works with people of all beliefs and from all parties.

Some of my colleagues and many in the environmental community have been a little too fast and too loose with pinning that unhelpful label of ''polluter'' on others and on the industries that keep our society running.

I have also heard on the Senate floor that Utah has one of the worst records for water quality enforcement in the Nation. This is patently false. There was a report put out by the environmental group that states this falsehood. However, the statement was

based on incomplete reporting on water quality data from Utah.

In an analysis of the complete data, the EPA has in fact determined that Utah ranks among the top 10 States in water quality compliance—one of the top 10 States—and yet we have to put up with this type of unfortunate mischaracterization of my State.

Admittedly, some of my colleagues pay much too much attention to some of these people who are in this game for politics rather than for doing what is right for the environment. I might as well point out that Utah is also in complete compliance with EPA's air quality standards. This is rare amongst States, and it was not the case when Governor Leavitt took office.

I have also heard that Governor Leavitt has turned his back on wilderness in Utah and he supports bulldozing new roads through our national parks. Both statements are false as well, and rather than launch into a long debate about wilderness and BLM roads, I ask unanimous consent that the memorandum of understanding between the State of Utah and the Department of the Interior on State and county road acknowledgment be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. Anyone who reads this document will see that the understanding does nothing to allow new roads or even the upgrade of existing roads.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HATCH. I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. They will also see that the understanding specifically excludes roads in our parks, refuges, wilderness areas, and even in our wilderness study areas. More important, these issues have nothing whatever to do with the Environmental Protection Agency, and that needs to be pointed out.

Finally, I reiterate my love for my beautiful State of Utah and for my good friend Michael Leavitt. In my statement yesterday, I showed that the record is clear that Michael Leavitt is a champion of the environment and that he is widely recognized as one of our Nation's top public managers. I urge my colleagues to put their full support behind his nomination to head up the Environmental Protection Agency and I do not believe they will be sorry. I believe my colleagues will find him to be the great leader that we all know him to be.

MEMORANDUM OF UNDERSTANDING BETWEEN THE STATE OF UTAH AND THE DEPARTMENT OF THE INTERIOR ON STATE AND COUNTY ROAD ACKNOWLEDGMENT

This Memorandum of Understanding (MOU) is entered into between the U.S. Department of the Interior and the State of Utah on this 9th day of April 2003.

Whereas,

1. In a Report to Congress prepared in June of 1993, the Department of the Interior explained that unresolved conflicts over the status of rights-of-way created pursuant to Revised Statute 2477 were creating a continuing cloud on federal agencies' ability to manage federal lands.

2. On August 7, 2002, a bipartisan group of eight western governors wrote urging the Department of the Interior to bring finality to R.S. 2477 disputes in a cooperative manner.

3. On July 16, 2002, the National Association of Counties adopted a resolution urging the Department of the Interior to adopt a policy approach to R.S. 2477 rights-of-way that would allow counties to maintain historical rights of way across federally managed lands.

4. Disputes involving R.S. 2477 rights-of-way have generated numerous expensive and inconclusive federal court lawsuits that have left numerous questions concerning the ownership status of R.S. 2477 rights-of-way unresolved; and the high cost of this litigation has made it difficult for states and counties to assert their rights and for conservation groups to assert their interests.

5. The Department of the Interior has traditionally approached R.S. 2477 issues by trying to define the precise legal limits of the original statutory grant.

6. Most of the asserted R.S. 2477 rights-of-way that actually have been part of western states-inventoried and maintained transportation infrastructure since before the enactment of the Federal Land Policy and Management Act (FLPMA) in 1976 satisfy the statutory requirements of ''construction'' and ''highway'' under almost any interpretation of those statutory terms.

7. The State of Utah has many R.S. 2477 claims, and on June 14, 2000, sent to the Secretary of the Interior a Notice of Intention to File Suit under 28 U.S.C.[1] 2409a(m) to quit the title to those claims.

8. The roads in which the State of Utah and Utah counties assert claims include many roads of continuing importance to rural transportation.

9. Rights-of-way granted under R.S. 2477 are vested property rights that cannot be eliminated or diminished without due process. However, the statutory grant of the rights-of-way did not require the issuance of an identifying record, such as a patent. The resulting uncertainty surrounding the identity and scope of R.S. 2477 rights-of-way has created unnecessary difficulties in federal, state and local transportation and land use planning decisions.

10. The State of Utah and Utah counties have spent considerable time and substantial resources to gather information about road claims and are prepared, if necessary, to litigate those claims.

11. Federal, state and local managers and environmental advocacy organizations have all demonstrated a desire to put disputes surrounding R.S. 2477 to rest and move toward an approach to land management that emphasizes cooperation.

Now, therefore, the parties stipulate and agree as follows:

1. The Department shall implement a State and County Road Acknowledgment Process (Acknowledgment Process) to acknowledge the existence of certain R.S. 2477 rights-of-way on Bureau of Land Management land within the State of Utah, as further described in, and subject to the terms and conditions of, this MOU.

2. For purposes of the Acknowledgment Process only, neither the State nor any Utah county shall assert a right-of-way for any:

a. roads that lie within Congressionally designated Wilderness Areas or Wilderness Study Areas designated on or before October 21, 1993, under Section 603 of FLPMA; and

b. roads that lie within the boundaries of any unit of the National Park System; and

c. roads that lie within the boundaries of any unit of the National Wildlife Refuge System; and

d. roads that are administered by a federal agency other than the Department of the Interior, unless that federal agency consents to the inclusion of the road in the Acknowledgment Process.

3. The State of Utah, or any Utah county, shall submit a request to initiate the Acknowledgment Process for a candidate road and shall reimburse the Bureau of Land Management for the reasonable and necessary cost of processing each request. Each eligible road submitted shall have the following characteristics:

a. the road existed prior to the enactment of FLPMA in 1976 and is in use at the present time;

b. the road can be identified by centerline description or other appropriate legal description;

c. the existence of the road prior to the enactment of FLPMA is documented by information sufficient to support a conclusion that the road meets the legal requirements of a right-of-way granted under R.S. 2477; this information may include, but is not limited to, photographs, affidavits, surveys, government records concerning the road, information concerning or information reasonably inferred from the road's current conditions; and

d. the road was and continues to be public and capable of accommodating automobiles or trucks with four wheels and has been the subject of some type of periodic maintenance.

4. The Acknowledgment Process referenced in this MOU that the Department shall use to acknowledge eligible roads is FLPMA's recordable disclaimer of interest process.

See 43 U.S.C. 1745; 43 C.F.R. subpart 1864. The recordable disclaimer of interest process provides a clear statutory basis for resolving claims and provides an opportunity for public notice and participation. The Utah State Director of the Bureau of Land Management will issue a recordable disclaimer of interest if the requirements of the applicable statutes and regulations, and the terms of this MOU, have been satisfied.

5. By signing this agreement, the Department recognizes that road width and ongoing maintenance levels are essential aspects of road management. Therefore, the scope of a road that the Department disclaims should include a sufficient width to allow the State or county to maintain the character, usage, and travel safety of the road existing at the date of this MOU. For purposes of the Acknowledgment Process only, the width of the road asserted and the width of the road disclaimed shall not exceed the width of ground disturbance that currently exists for the road at the date of this MOU.

6. After the Department issues a recordable disclaimer of interest for an acknowledged road, the State or a county may want to increase the road's width beyond the already disclaimed right-of-way, or to improve the road in a way that substantially alters its character (such as by paving a previously unpaved surface). But the recordable disclaimer of interest process will not be used as a mechanism to substantially alter the characteristics of a road. In cases where the State or a county wishes to substantially alter a road that is subject to the Acknowledgement Process in a way that is outside the scope of ordinary maintenance, it will do so only after notifying BLM of its intentions and giving BLM an opportunity to determine that no permit or other authorization is required under federal law; or, if a permit or

other authorization is required, securing such a permit or other authorization, issued in compliance with any applicable law, including requirements of Title V of FLPMA and the National Environmental Policy Act. In the event a permit is deemed necessary, the Department will make its best effort to process requests for access under Title V of FLPMA promptly and cooperatively.

7. In order to facilitate the Acknowledgment Process in Utah, the Department hereby declares that the requirements for determinations under the ''Interim Departmental Policy on Revised Statute 2477 Grant of Right-of-Way for Public Highways; Revocation of December 7, 1988 Policy,'' dated January 22, 1997, shall be inapplicable to acknowledgment requests submitted in accordance with this MOU. While the 1997 Interim Policy shall still apply to all other requests for right-of-way acknowledgment that are not submitted pursuant to this MOU, the Department recognizes that other interested states and counties may wish to submit proposed MOU's for consideration by the Department that are generally consistent with the principles set out in this agreement.

8. The State, Utah counties and the Department shall work cooperatively to minimize trespass situations on roads that are outside the scope of this MOU.

9. It is understood that the State and counties have evidence regarding the existence of many roads, including those in which they assert no ownership interest. They may choose to use this evidence for other purposes, such as to illustrate whether the land through which the roads run have wilderness-like characteristics or resource values. The Acknowledgment Process will take place independently and without prejudice to any other use of this evidence or other valid existing rights, if any.

10. After submitting a road to the Acknowledgment Process, the State or a county may withdraw it from consideration at any time prior to the actual recording of the disclaimer issued by the Department, for any reason, without prejudice. The submission of a road to the Acknowledgment Process does not prejudice the State's or a county's valid existing rights regarding that road under the law.

11. The Department shall execute any implementing agreements with the State of Utah or Economy Act agreements as appropriate with other federal agencies, as required by applicable statutes and regulations, when effectuating the purposes of this MOU.

12. Activities under this MOU and any implementing agreements shall be conducted in accordance with mutually-agreed upon plans for the classification of information by the State, for the review and release of information, and for cooperation in the preparation of any and all reports to Congress. The release of any information by the Department under this MOU will be in accordance with applicable statutes and regulations.

13. Any expenditure of appropriated funds by the Department will be developed in specific agreements authorized by applicable statutes and regulations and is subject to the availability of funds. This MOU shall not be used to obligate or commit funds or as the basis for the transfer of funds.

14. This MOU shall not be construed as creating any right or benefit, substantive or procedural, enforceable at law or in equity, by a party against the State of Utah, Utah counties, the United States, it agencies, its officers, or any other person. This MOU shall not be construed to create any right to judicial review involving the compliance or noncompliance of the State of Utah, Utah counties, the United States, its agencies, its officers, or any other person with the provisions of this MOU.

Signed 4–9–03
Gale A. Norton
Secretary
United States Department of the Interior.

Signed 4–9–03
Michael O. Leavitt
Governor
State of Utah.

[1] For purposes of this MOU, the terms ''road'' and ''highway'' shall be deemed synonymous.

Mr. CARPER. Will the Senator from Utah yield briefly?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CARPER. I ask unanimous consent that the Senator from Utah be given 1 additional minute and he yield it to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARPER. Mr. President, I am less familiar with Governor Leavitt's environmental record in Utah than is our colleague Senator HATCH. I have known him for more than a decade. We became Governors together in the same year. We were elected in 1992. We know him. We know his family.

I know him to be a thoughtful, decent, caring human being. He is a good manager and a good leader of his State. He has also been a great leader of our Nation's Governors.

I was privileged to serve as Chair of the National Association of Governors at the time he was Vice Chair. He succeeded me as Chair. He is very bright and surrounds himself with excellent people. But what I like best is he is very good at bringing together people with diverse points of view, trying to build consensus. We need that in a lot of areas in our Nation's Capitol these days, and we especially need it with respect to environmental issues. I look forward to voting for his nomination and working with him if he is confirmed.

I thank the Senator for yielding.

Mr. HATCH. I thank my colleague from Delaware. His comments speak volumes as to why we should support Governor Leavitt. I am particularly pleased and grateful for his support in this matter, as I am for the support of the two leaders.

The PRESIDING OFFICER. All time has expired. Under the previous order, the Senate will proceed to a vote on confirmation of the nomination. The question is, Shall the Senate advise and consent to the nomination of Michael O. Leavitt to be Administrator of the Environmental Protection Agency?

Mr. INHOFE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''nay''.

The result was announced—yeas 88, nays 8, as follows:

[Rollcall Vote No. 412 Ex.]

YEAS—88

Akaka	Dole	Lugar
Alexander	Domenici	McCain
Allard	Dorgan	McConnell
Allen	Ensign	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bond	Frist	Nelson (NE)
Breaux	Graham (FL)	Nickles
Brownback	Graham (SC)	Pryor
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Santorum
Campbell	Harkin	Sarbanes
Cantwell	Hatch	Sessions
Carper	Hollings	Shelby
Chafee	Hutchison	Smith
Chambliss	Inhofe	Snowe
Clinton	Inouye	Specter
Cochran	Jeffords	Stabenow
Coleman	Johnson	Stevens
Collins	Kennedy	Sununu
Conrad	Kohl	Talent
Cornyn	Kyl	Thomas
Craig	Landrieu	Voinovich
Crapo	Leahy	Warner
Daschle	Levin	Wyden
DeWine	Lincoln	
Dodd	Lott	

NAYS—8

Boxer	Durbin	Rockefeller
Corzine	Lautenberg	Schumer
Dayton	Reed	

NOT VOTING—4

Bingaman	Kerry
Edwards	Lieberman

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2004

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2800, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2800) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2004, and for other purposes.

Pending:

DeWine amendment No. 1966, to increase assistance to combat HIV/AIDS.

Byrd amendment No. 1969, to require that the Administrator of the Coalition Provisional Authority be an officer who is appointed by the President, by and with the advice and consent of the Senate.

McConnell amendment No. 1970, to express the sense of the Senate on Burma.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask unanimous consent to speak as in morning business for up to 5 minutes.