



May 30, 2003

The Honorable Richard W. Pombo
Chairman
Committee on Resources
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to urge your favorable consideration of legislation regarding the ratification of certain appointments, promotions, and actions of the commissioned corps of the National Oceanic and Atmospheric Administration (the NOAA Corps). I transmitted this proposal to the Congress on April 20, 2003. It was introduced in the Senate as S. 886 and reported favorably by the Senate Committee on Commerce, Science and Transportation on May 1, 2003.

The Department of Commerce learned earlier this year that the NOAA Corps had appointed and promoted officers internally, without complying with the legal requirements of Presidential action and Senate consent. At the direction of Vice Admiral Conrad C. Lautenbacher, Jr., U.S. Navy (Ret.), Under Secretary of Commerce for Oceans and Atmosphere, the NOAA General Counsel conducted a fact-finding inquiry to determine the extent of the problem, the possible causes, and the actions necessary to correct the improper procedures and institutionalize proper methods. With regard to the responsibility and accountability of the chain of command involved, appropriate administrative action has been taken. In addition, the Inspector General has been advised of this matter. The Department has put in place corrective actions that will preclude such errors from arising again.

It is essential that the official actions taken in the regular course of their duties by the individual officers who were subjects of the appointment and promotions in question not be subject to legal question and that the officers not be prejudiced as a result of the inadequate procedures used by the Corps. The legislation for which we seek your support and approval would ensure that result and address what could otherwise become a source of unnecessary litigation and a major inequity. The legislation would accomplish three goals. First, it would ratify the actions taken by the NOAA Corps personnel not properly appointed or promoted ("de facto officers") to the extent that the only flaw in such actions is that the de facto officer was not properly appointed or promoted. Second, it would ratify the governmental actions taken in relation to the de facto officers, such as providing them with pay, benefits, and retirement pay or service credit, again to the extent that the only flaw in such actions is that the de facto officer was not properly appointed

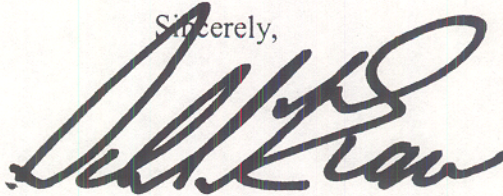
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or promoted. Finally, it would allow the President acting alone to make temporary appointments and promotions of de facto officers as officers in the NOAA Corps, at their current purported grades; such temporary appointments and promotions will expire no later than 180 days after the enactment of the legislation. During that period, the President can submit nominations for these officers to the Senate, and, if the Senate consents to the nominations, the President can appoint or promote them permanently.

Thank you for your support in acting promptly to rectify the status of the officers in our uniformed service.

The Office of Management and Budget advises that enactment of the legislation that I have requested is in accord with the President's program.

Sincerely,

A handwritten signature in black ink, appearing to read "D. L. Evans", written in a cursive style.

Donald L. Evans

Identical letter sent to:

The Honorable Nick Rahall II
Ranking Minority Member
Committee on Resources
House of Representatives
Washington, D.C. 20515