

**GALE NORTON NOMINATION**

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**HEARINGS**  
BEFORE THE  
**COMMITTEE ON**  
**ENERGY AND NATURAL RESOURCES**  
**UNITED STATES SENATE**  
**ONE HUNDRED SEVENTH CONGRESS**  
FIRST SESSION

NOMINEE TO BE SECRETARY OF THE DEPARTMENT OF THE INTERIOR

—  
JANUARY 18, 2001

JANUARY 19, 2001



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## GALE NORTON NOMINATION

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THURSDAY, JANUARY 18, 2001

U.S. SENATE,  
COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
*Washington, DC.*

The committee met, pursuant to notice, at 2:38 p.m. in room SD-106, Dirksen Senate Office Building, Hon. Jeff Bingaman, chairman, presiding.

### OPENING STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM NEW MEXICO

Chairman BINGAMAN. Now, moving on to our hearing this afternoon, I would propose to follow the same format that we used this morning. That is, that I would make a brief opening statement, Senator Murkowski would then make whatever statement he would like, we would then call upon the two Senators from Colorado and Governor Owens to introduce the nominee, and then call on Ms. Norton to make her statement.

Once that is completed, we would then go to questions and have an 8-minute round of questions from each member. If there are additional questions after that first round, we will have additional rounds of questions and they will be 5 minutes each. So with that set of ground rules, let me go ahead and make a short statement.

The purpose of this hearing this afternoon is to consider the nomination of Gale Norton to be the Secretary of the Interior. The office of the Secretary of the Interior is one of the highest positions of public trust in our Federal Government. The Secretary is the principal steward of nearly a third of our Nation's land. The Secretary is the chief trustee of much of the Nation's energy and mineral wealth as well.

The Secretary is the principal guardian of our national parks and our most revered historic sites and much of our fish and wildlife. It is the job of the Secretary of the Interior to protect this precious legacy and to pass it on to future generations.

While the President is clearly entitled to appoint Cabinet members who share his political views, the Senate has a constitutional duty to ensure that the Secretary of the Interior will be a faithful steward of the public lands and our national treasures. I have no doubt that Ms. Norton is an extremely decent and capable person, and we have many recommendations to that effect. I do have doubts about some of the policies that she has promoted and whether they are consistent with the responsibilities of the job of Secretary of the Interior.

For over 20 years, she has consistently championed the interests of individuals as opposed to the public interest in many of the issues that come before this committee and before the office of the Secretary of the Interior. She has championed the rights of States as opposed to the Federal Government and the interests of economic development rather than environmental protection in many cases.

These positions may have been understandable for a lawyer representing her clients. They certainly may have been understandable for an attorney general of a Western State, and I have some experience in that regard. They may have been understandable for a Republican Senate candidate. But some of those positions are disturbing, at least to my mind, in a nominee for Secretary of the Interior.

This hearing will afford Ms. Norton the opportunity to state her views on the role of the Secretary of the Interior, explain how she can reconcile her past positions with the responsibilities that she would have entrusted to her in this new position. Her answers to these questions will determine how I am able to vote on this nomination.

Senator Murkowski.

**STATEMENT OF HON. FRANK H. MURKOWSKI, U.S. SENATOR  
FROM ALASKA**

Senator MURKOWSKI. Thank you very much, Chairman Bingaman. I want to commend you and your staff, working with our staff, for the structure of this hearing. I think that with the testimony that we are going to hear we are going to be able to answer many of the questions that we have relative to this nominee.

I want to commend our President-elect Bush for nominating the first woman, the first woman for the Secretary of the Interior. I think it is an outstanding nomination of a candidate who has certainly the knowledge, the experience, to take on one of the most challenging positions in the Executive Branch.

Her responsibility is one in my opinion of balance. She is going to have to balance the protection of our Nation's resources with the realism that we need to develop those resources using the best technology available. I think one of the themes that have been suggested is using the fuels of today to get to the technology of tomorrow.

Now, this is a balance in my opinion that has swung dramatically out of proportion in the last 8 years, as evidenced by the energy crisis that is existing in this country today, more particularly in the State of California, where as a matter of fact to some extent the lights are out.

Now, I have heard criticism that Ms. Norton has been identified with groups that advocate such things as more complete appreciation of the economic consequences of governmental action or a better understanding of the balance provided by the Tenth Amendment to the Constitution. The issue of the power of the Federal Government vis-à-vis the States has always been a contentious issue and it is not going to go away.

But there has always been room for diversity and debate in the marketplace of ideas, and that includes the Department of the Inte-

rior. Did his work as president of the League of Conservation Voters disqualify the previous Secretary, Bruce Babbitt? Did George Frampton's lobbying for and his position as head of the Wilderness Society disqualify him? No. They both had strong advocacies for their point of view. I guess it depends on whether you happen to agree with their point of view. So it is a question of balance.

Now, those on the ideological side of the current protesters are going to be heard through, I think, various members of this committee. Ms. Norton has been accused only of guilt by association, has been tarred with innuendoes and brushed with, I think, misinterpretation.

Well, today let us look at the record and proceed with this nomination hearing. You know, this committee has had a long history of asking tough questions on policy issues and avoiding character assassination, and I know this tradition can continue. Senator Bingaman and I have worked closely together during the time I was chairman and a day and a half or so. We will continue to work closely together when I resume that responsibility, assuming my colleagues on the right are of that particular disposition. And if they are not, we can talk later—no, I did not mean that.

[Laughter.]

Now, I do not think the implication of the Natural Resource Defense Council that Gale Norton is an anarchist should have any place in this society. On the other hand, caution is in order. We need the balance, as I have stated.

I often recall with some amusement when the so-called "cell phone naturalist" drives his or her sports utility vehicle into the national forest. He calls home on his cell phone, looks for direction from his global positioning system, checks the time on his watch. As he communes, I guess, with nature, he makes the decision there and then that no mining, no energy development, should ever take place in this spot. He ignores the fact that each person in this Nation uses about 22,000 pounds of non-energy minerals each day and those minerals must come, they must come from somewhere.

We look at the timber resources, which is renewable. Do we want them to come from the rain forests of South America, where there is very little environmental control, or do we want to bring it along on a renewable basis from our own forests in this country, where we can do it right with the regeneration process?

At the same time, the beauty that this so-called, I guess, cell phone naturalist recognizes, we have to have a realistic claim on protection for future generations. So again, it is a question of balance. Balance is the key in my opinion at the Department of the Interior, and I think Ms. Norton will provide that balance.

The Secretary is responsible for our public domain, the public lands that support the wilderness, recreation, grazing, forestry, mining, oil, gas development, and many, many other uses as well. If we are going to deal honestly with our energy situation, we will need carefully to examine the process for granting right of ways. How can you generate more energy sources if you do not have right of ways? The same can be said for transmission corridors and the needs for rural communities for access.

Unlike the various interest groups who have the luxury of advocating only one position, the Secretary has been given the mandate

to balance those needs and be a steward of the land on behalf of all Americans, not just special interest groups. As a consequence, I think we would all agree that the Secretary has trust responsibilities as well. They go into the Indian tribes. Very frankly, the record there is not a very good one. The management of the trust funds in my opinion has been a disaster. Activities under the mining laws, the Mineral Leasing Act, the outer continental shelf, will all come under her direction.

We have the capability to develop the vast supplies of oil and gas in this Nation in an environmentally sensitive manner and we should do so. What is not being given credibility is the advanced technology that we have been able to develop as we, if you will, evaluate the risks associated with that development.

I am reminded in my own State of Alaska about 15 years ago we brought in the tenth largest field and we used 56 acres. It was called Endicott. It was the technology of 15 to 20 years ago. Given the opportunity, because of our increased dependence on imported oil, which is about 57 percent and the Department of Energy indicated this morning it would be up to 62 percent within the next 4 years, we have an opportunity to open up a portion of the coastal plain. That is 19 million acres up there, an area the size of the State of South Carolina. Yet industry tells us that, if the oil is there, the footprint is 2,000 acres. That is what is lacking in the consideration in my opinion by the environmental community as we look at our ability, by using the technology, to open up our resources in an appropriate manner.

Now, as Secretary you are going to have the responsibility for the U.S. territories. Many people overlook that, but we cannot on this committee because we are the committee of oversight. Our record is not very good there. The Virgin Islands are on the edge of bankruptcy. American Samoa is surviving only by borrowing against its portion of the tobacco settlement. The Northern Mariana Islands has an economy that has been allowed to become totally dependent on immigration and labor situation that simply should not exist under the American flag, and to a large degree it is ignored. Senator Akaka and I have worked very hard on that. We have been over there and observed that situation, and I can tell you it is despicable.

All of these areas require an openness and a willingness to undertake the balance necessary to provide for the needs of this and future generations. I am confident that she will carefully enforce the laws and work with the Congress and particularly this committee.

On a personal note, Ms. Norton has been to Alaska on several occasions and that is several more times than some of the self-appointed experts who want to manage my State. She knows what the effect of decisions made in Washington can be on local economies and how dependent those economies are on the Federal estate. She has, I think, a distinguished record of public service and the respect of those she has dealt with as well. She has also had a record of openness and being directly involved in decisions. I am certainly pleased to support her nomination.

Mr. Chairman, I would like to add for the record the names of 12 governors supporting her nomination: the Governors of Arizona,



Idaho, Nebraska, New Mexico, South Dakota, Utah, Wyoming, Texas, North Dakota, Nevada, and Montana, as well as Colorado.

I thank the chair.

Chairman BINGAMAN. We now have our two distinguished colleagues from Colorado here to introduce the nominee, as well as the Governor of Colorado. So first I will call on Senator Campbell.

**STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL,  
U.S. SENATOR FROM COLORADO**

Senator CAMPBELL. Thank you, Mr. Chairman.

As a member of this committee, I am honored and pleased to be introducing my friend and my colleague of many years, my fellow—

Senator MURKOWSKI. Would you pull that mike up a little bit, Senator Campbell.

Senator CAMPBELL. Sorry.

I am pleased to introduce my friend and colleague Gale Norton from Colorado. She is overwhelmingly qualified and the absolute right person for the Secretary of the Interior post. I have known Gale, as all of us have here at this table, for many years and let me state right up front and for the record, she has a long and distinguished record of doing the right thing always.

She is a consensus builder, which might just be illustrated by her 8 years as Colorado's Attorney General, where she served under a Democratic governor and still accomplished many initiatives for the betterment of Colorado, including Superfund cleanups. For more than 20 years, she has provided leadership on environmental and public lands issues and has demonstrated a responsible, common sense approach in preserving our natural heritage.

In my view, in fact, she is being accused now, as you probably read in the newspapers, of being not centrist enough. But I liken that to the current administration, which has in the last few years advocated tearing down dams. I think if you went to California now and talked to the people who are closing their factories and the lights are shut off in their restaurants and they cannot see the stoplights because they are out on the corners and so on and you talk to them and said, is tearing down the energy-producing dams a centrist view, they would probably say not so and they would agree much more with Gale Norton, who believes in the careful production of energy.

Another significant fact to know about Gale Norton is that she is committed to enforcing the law as it is written and not by rule and regulation. As Attorney General of Colorado, she created an environmental crimes task force to prosecute the most flagrant polluters. She has played a leading role in the cleanup of pollution at mining sites to protect the environment and restore Colorado's natural resources, and she led the way in ensuring a safe cleanup of the Rocky Mountain Arsenal, personally arguing and winning a landmark case in court to force the Federal Government and an oil company to meet Colorado standards for environmental protection and public health, which in many cases are more stringent than Federal standards.

Gale Norton believes that everyone has a role to play in defending and preserving our environment. Businesses and communities, government and people, all need to have a seat at the table.

As you know, in the last couple days nine more large tracts of land have been locked up in the West without any local input whatsoever. Gale believes that local people should be involved in decisionmaking and that their lifestyle that is often dependent on those public lands should be considered.

As a researcher at Stanford University, Ms. Norton researched emissions trading approaches like those later adopted in the Clean Air Act. These approaches created market-based incentives for businesses to reduce emissions. Gale Norton supported the Colorado audit law, a law which was co-sponsored by several Democrats and signed by a Democratic governor, to achieve better environmental protection by encouraging early and full identification of environmental problems and, most important, long-term decisions.

Another issue which is important to many of the members on this committee since they come from public lands States in the West is that of water rights. Gale Norton has championed Western water rights over the years. Growing populations and changing values are placing increasing demands on our existing and limited water supplies in the West, resulting in water use conflicts throughout the country.

Recent conflicts are particularly apparent out where we live, where agriculture needs for water are often in direct conflict with urban needs, like the demand for water for the Endangered Species Act, for recreation and picturesque scenery. In the arid West, naturally scarce water supplies and growing urban populations have increased Federal-State tensions because States have historically had primacy in interstate water allocation.

Debate over Western water centers around the issue of how best to plan for and manage the use of this limited resource. I believe that Gale Norton will be able to use her background in water issues to build a consensus and start settling some of the disputes on water. She was one of the first and early advocates of the Colorado Ute Indian Water Rights Settlement Act, commonly called the ALP, which you, Chairman Bingaman, and I both supported over the years.

As the past chairman of the Indian Affairs Committee and I suppose the next chairman in a few more days again, I believe that Gale will effectively manage Indian affairs with the Department of the Interior, which it has responsibility for. During her 8-year tenure as Colorado's Attorney General, Gale Norton developed a strong working relationship with Colorado's two tribes, the Ute Mountain Tribe and the Southern Ute Tribe. Together they worked on a number of important matters, including water rights settlements and environmental regulation, taxation, and a whole bunch of other complex issues. In fact, she testified a number of times before our committee. She is very knowledgeable in Indian law and she will bring that knowledge and experience of working with the tribes to the Department, and I am confident that she will continue that work.

I have two letters I would ask unanimous consent, from the Ute Mountain Indian Tribe and the Southern Ute Tribe supporting her nomination, Mr. Chairman.

Chairman BINGAMAN. We will include those in the record.

Senator CAMPBELL. Mr. Chairman, Senator Murkowski mentioned the trust fund debacle over there at the Interior Department. All of us on this committee are aware that there is \$2.5 billion of missing money in the Bureau of Indian Affairs accounts that they say is there but nobody can find it. She has made that a priority, to try to straighten that up and make sure the people who actually own that money, the individual Indians living on trust land, will receive their just dues.

Mr. Chairman, the Ute Tribes strongly support her, but in talking with other tribes around the country, they also do. All the ones I have talked to also support her.

She listens to common sense while she searches for common ground. Unlike many in Washington, she understands that real environmental solutions seldom come just from the Beltway professionals. They come from real people with honest concerns for the land and the water, people on the ground dealing with those concerns on a daily basis. She will insist that the Federal Government work with local communities to find the best way to preserve and protect our Nation's natural resources.

I am pleased to say that Gale Norton has my full support and will make an outstanding Secretary of the Interior. Frankly, I am a little disturbed about the opposition. I saw this morning's *Washington Post*, as you probably did, with a full page ad taken out by some of the extreme environmental community, where they have half of her face on the page and half of her face off of the page.

I know that it seems to be in vogue now to disagree with the nominees by embarking on some form of character assassination. But I would compare that senseless business in the *Post* this morning with the very thoughtful and carefully written editorial by our colleague John Breau, who is a man that I think everybody in this body supports, who basically says in his editorial that she is a good person for the job and should be supported. Those shrill voices of the extreme elements of our society we are hearing now in the current process of confirming our nominees, I think they have very limited perspectives and make up in shrillness what they lack in common sense in my view.

Mr. Chairman, as a member of this committee I offer my support once again to Gale Norton, and I thank you.

Chairman BINGAMAN. Thank you very much.

Senator Allard.

**STATEMENT OF HON. WAYNE ALLARD, U.S. SENATOR  
FROM COLORADO**

Senator ALLARD. Mr. Chairman, it is an honor for me to be here to be able to introduce to you Gale Norton, Secretary-designate for the Department of the Interior. I have known Gale Norton for some time. I consider her to be a very close friend. She is a great Coloradoan. She was born and educated in the State of Colorado. Today she enjoys many of the natural resources we have in our great State.

I want to take a few moments to talk about her resume. As you might imagine, she has a long one. So what I have done is I have selected those parts of her resume which I think is very important to the committee's deliberation today as they consider her nomination by the President for Secretary of the Interior.

She graduated magna cum laude from the University of Denver in 1975. Then she went on to graduate from the College of Law with a juris doctor degree in 1978. She is a member of the Law School Honor Society.

She moved forward from that point with her academic credentials to become a part of the faculty of the University of Denver. She is truly an academician. She knows how to evaluate issues, she knows how to talk about the pros and cons of various issues that may come before her. Because of this strong academic background, she was frequently called upon to give speeches and to talk to groups in Colorado and across the country on issues that were important to them in which she was considered an expert.

She went on from the University of Colorado to serve as a law clerk for the Colorado Court of Appeals. In the 1980's she decided to come to Washington and she worked for the U.S. Department of Agriculture, and then moved over to the Department of the Interior as Associate Solicitor for Conservation and Wildlife.

Then she returned back to Colorado, she ran for public office and was elected by the people of Colorado to serve as their Attorney General. She served from 1991 to 1999 as Colorado's Attorney General.

The point that I would like to make to the committee is that Gale Norton has had a broad experience in her life. It includes her having to walk in many of the shoes of somebody who has worked for a Federal agency here in Washington in the Department of Agriculture, as well as in the Department of the Interior. She has had to walk in the shoes of the State from which she was born and educated and representing many of her constituents as the Attorney General of the State of Colorado.

I think that when we look at her academic background, we look at her experience both at the Federal level and at the State level, I think she is uniquely qualified to be the next Secretary of the Interior and I strongly endorse her, because I think her total of 20 years of experience on environmental and natural resource issues will make her a great Secretary of the Department of the Interior.

Thank you, Mr. Chairman.

Chairman BINGAMAN. Thank you very much.

We are honored to have Governor Bill Owens from Colorado here also to introduce the nominee. Please go right ahead.

**STATEMENT OF HON. BILL OWENS, GOVERNOR,  
STATE OF COLORADO**

Governor OWENS. Senator Bingaman, thank you very much. members of the committee, thank you for allowing me to say a few words on behalf of Gale Norton.

It is good to be back in the Senate. Years ago, 25 years ago, I served on the staff of Senator John Tower, and I regret to this day what happened to him, to that fine American, during his Senate confirmation. Years before that I served with Jim Wright. I was

Jim Wright's page in the House of Representatives. I have a lot of respect for what it is you are charged with doing this afternoon.

I guess what I really hope is that we do not take this fine person and tear her apart through this process, because I know Gale Norton, I have worked with her, I have known her for 15 years, and this is a dedicated public servant who has always done what she thought was best for the people of Colorado.

I am going to not be redundant to what my friends Senator Campbell and Senator Allard have already said. You have heard about her distinguished 8-year career as Attorney General. You know, when you are looking to see where Gale Norton comes from it is important to note that she was elected in 1990 in a landslide as a Republican in the same year that Governor Roy Roemer was re-elected by a landslide as a Democrat in Colorado.

The same thing occurred in 1994. Gale Norton won in a landslide on the Republican side, Roy Roemer won in a landslide on the Democratic side. It is because Colorado is a centrist State. It votes for the person, not the party. In voting for Gale Norton, it was voting for a person who really represented the mainstream that I think is the reality of Colorado.

You are going to hear a lot today about a number of issues. Just from a Colorado perspective, we have a self-audit law in the State of Colorado, as do 29 other States in this Union. In Colorado this law passed, for reference purposes, by a vote of 60 to 4 in our House of Representatives, obviously bipartisan; it passed our Senate by a vote of 24 to 8, again clearly bipartisan; was then signed into law by Governor Roy Roemer. It was Gale Norton's job as Attorney General to defend that Colorado law in court, a defense which she performed admirably.

But that law was a bipartisan law, a well-intentioned and I believe successful effort to bring more companies into a partnership in terms of cleaning up the environment. Again, today it has been copied throughout these United States.

You are going to hear about a mine called Summitville. Summitville is a disaster which we are all familiar with in Colorado. Just let the record reflect that that mine was cited in 1983 under the administration of my very good friend Governor Dick Lamb. The environmental failure occurred in 1986.

Gale Norton was elected in 1990. She took office in 1991. She sued the owner of Summitville in 1992, sued the owner again to keep the mine filtering system open when that owner declared bankruptcy, sued the personal owner of that mine in 1996, and 3 weeks ago the current Attorney General, Ken Salazar of Colorado, a Democrat, was able to settle with that owner for almost \$30 million based on the work that he did and based on the work that Gale Norton did. That is one reason I believe that Ken Salazar, our Democratic Attorney General in Colorado, along with four other Democratic attorney generals, has endorsed Gale's nomination.

I am so proud of what she did with Rocky Mountain Arsenal. This is a chemical warfare plant that we have just outside of the Denver metropolitan area. She sued the Federal Government to force a cleaner standard, a higher standard of cleanup, actually to force the Federal Government to follow Colorado's standard rather than Federal standards for the cleanup of that site, and she won

that lawsuit. In suing the Federal Government, she also sued Shell Oil Company.

She has done the same thing with Rocky Flats, our nuclear bomb factory, which also is right outside Denver, Colorado. She has gone to court to allow individuals to sue the Federal Government under the Superfund Act.

This is a lady that is moderate and centrist and has worked hard for our environment in Colorado and I know would do an outstanding job as Secretary of the Interior.

One final issue that I know you are going to hear about. It concerns a legal case called the *Adderand* case in the State of Colorado. It is a case involving minority set-asides and involving a lawsuit against the State of Colorado by a gentleman named Adderand. Colorado had in place a set of required mandatory set-asides for construction projects. Over the years the Supreme Court had successively weakened its standard and in fact made it clear that our *Adderand* case was indefensible in court based on Supreme Court dicta.

So there was an attempt in Colorado to pursue this case to higher courts. Our Governor, Governor Roy Roemer, wanted to pursue the appeals higher. Gale Norton as an attorney and as Attorney General said, we are going to lose if we do so. I know that, Senator Bingaman, you have been an attorney general and I know we have a former governor, Mr. Bayh, Senator Bayh. She said to her client: We cannot win this case and we should not pursue it.

Under Colorado law, the Governor had the right to pursue it and did so by retaining outside counsel, a former Supreme Court justice, and we lost twice in the U.S. Supreme Court. She was fulfilling her oath as an attorney and as Attorney General of Colorado in terms of following what the Supreme Court had told us was legal.

So gentlemen, I really appreciate your courtesy in allowing a Governor to speak to you today. I am telling you that Colorado is proud of Gale Norton. As a State senator, I voted on 266 of Governor Roemer's appointees in my 6 years in the State senate. I voted for 264 of that Governor's appointees. I understand the constitutional responsibility you have to advise and consent. I just ask you to, as I know you will, Mr. Chairman, give this lady a fair hearing. As you do so, I am confident she will be confirmed.

Thank you very much.

Chairman BINGAMAN. Thank you for your statement. Thank all three of you for your statements.

Ms. Norton, I am required to administer the oath to you. But before I do so, did you have family members you wanted to introduce before we went through that formality?

Ms. NORTON. Mr. Chairman, I would like to introduce my husband, John Hughes.

Chairman BINGAMAN. We welcome him to the committee.

[Applause.]

Chairman BINGAMAN. The rules of the committee which apply to all nominees require that the nominee be sworn in connection with her testimony. Could you please rise and raise your right hand, please.

Do you solemnly swear that the testimony you are about to give to the Senate Committee on Energy and Natural Resources shall be the truth, the whole truth, and nothing but the truth?

Ms. NORTON. I do.

Chairman BINGAMAN. Thank you. Why don't you be seated.

Let me ask you three questions. Will you be available to appear before this committee and other congressional committees to represent departmental positions and respond to issues of concern to the Congress if you are confirmed?

Ms. NORTON. Yes, I will be.

Chairman BINGAMAN. Are you aware of any personal holdings, investments, or interests that could constitute a conflict or create the appearance of such a conflict should you be confirmed and assume the office to which you have been nominated by the President?

Ms. NORTON. I have worked with the Office of Government Ethics to review my finances. We have determined that there is one company in which I own stock, that I will divest and so that will not be a continuing conflict. I have also taken additional steps to ensure that appearances of conflict are alleviated. For example, I had a tax-sheltered annuity that was established when I worked with Mountain States Legal Foundation. I will be moving that into another program so there is absolutely no connection with the foundation.

Chairman BINGAMAN. The final question: Are you involved or do you have any assets held in blind trusts?

Ms. NORTON. No, sir, I do not.

Chairman BINGAMAN. Why don't you go ahead with your statement, then. Thank you.

**TESTIMONY OF GALE NORTON, NOMINEE TO BE SECRETARY  
OF THE DEPARTMENT OF THE INTERIOR**

Ms. NORTON. Thank you, Mr. Chairman, distinguished members of the committee. I am honored to appear before you today as President-elect Bush's nominee for Secretary of the Interior. I am pleased to have this opportunity to talk with you and to answer any questions that you might have. I am glad to have this chance to tell you something about the goals that President-elect Bush and I share and which we hope to achieve if you see fit to confirm me as Secretary of the Interior.

As you all know, America is a land of singular beauty. Americans are proud of the many exquisite natural treasures within our shores. President-elect Bush believes, as I do, that the top priority of the Department of the Interior must be to conserve those natural treasures.

One of President-elect Bush's priorities is to protect our National Park System. We plan to return scientists to our parks and to work with Congress to eliminate the major maintenance backlogs that have been obstacles to resource protection, and to do that within 5 years. This initiative would help restore our national parks and ensure a positive legacy of protecting our cultural, natural, and recreational treasures for Americans today and in the future.

The great wild places and unspoiled landscapes of this country are the common heritage of all Americans and we must both con-

serve them and manage them for Americans living today and for the Americans of the future, our children and our children's children. That is our goal.

I don't think any of us here today would disagree on that goal. In that I believe lies the basis for common ground. We have the opportunity for bipartisan environmental cooperation and leadership.

I have worked for more than 20 years on environmental issues. I am proud of my accomplishments: preserving endangered species, cleaning out mountain valleys polluted by mining, working to convert the Rocky Mountain Arsenal from a place polluted by pesticides and nerve gas residues to a wildlife refuge. Based on these experiences, I am firmly committed to a process of consultation and collaboration. We should listen to all voices and involve all citizens. That is fair.

It is also wise. People are a magnificent resource for ideas, for knowledge, for insights. I've lived and worked here in Washington. I've also lived and worked in the great American West. Those of us here in Washington need to be good partners with the Americans living in other parts of this country and in our territories. America is a stronger Nation because of the diversity of its people. These people hold many different views and perspectives. We need to work with them, to involve them, to benefit from their creativity and their capacity to innovate.

One top priority that I want to mention to you today concerns the special responsibilities of the Secretary of the Interior with regard to American Indians. I think we should all recognize that the situation in Indian country is not as it should be. There is much that I believe we can do, in partnership with our Nation's proud Native American tribes, to improve conditions and provide a more hopeful future.

President-elect Bush has said many times that he will leave no child behind. To accomplish that requires that we improve the schools that serve more than 50,000 Native American children. A good education is the key to a better life for any child, whether that child lives in Washington, D.C., or Miami, Florida, or on a reservation in New Mexico. Recognizing the historic relationship of the Federal Government and Native American tribal governments, I will work very hard to achieve real results for every Indian child.

President-elect Bush has proposals to build conservation partnerships, to help States, local communities, and private landowners to conserve wildlife habitat, watersheds, and open space. I am excited by the chance to work together on these proposals. Working together, there is much that we can do to promote conservation in the United States.

Mr. Chairman and members of the committee, I will be candid in telling you that I am both a conservative and a conservationist. I see no conflict there. In fact, I am a compassionate conservative and a passionate conservationist. I believe that too is entirely consistent. If confirmed as Secretary of the Interior, I intend to make the conservation of America's natural resources my top priority.

Using consultation and collaboration, forging partnerships with interested citizens, we can succeed in our effort to conserve America's most precious places. What is more, we can achieve this while



maintaining America's prosperity and economic dynamism, while respecting constitutional rights and nurturing diverse traditions and cultures.

It won't always be easy. It will require a lot of hard work and a willingness to be creative, to think outside the usual boxes. That is the mission that President-elect Bush has asked me to undertake. With your help, your wisdom, and your cooperation, I believe that we can succeed.

Thank you very much.

[The prepared statement of Ms. Norton follows:]

PREPARED STATEMENT OF GALE NORTON, NOMINEE TO BE SECRETARY OF THE  
DEPARTMENT OF THE INTERIOR

Thank you very much Mr. Chairman and distinguished Members of the Committee. I am honored to appear before you today as President-elect Bush's nominee to be Secretary of the Interior.

I am pleased to have this opportunity to talk with you and to answer your questions. And I'm glad to have this chance to tell you a little about the goals that President-elect Bush and I hope to achieve should you see fit to confirm me as Secretary of the Interior.

As you all know, America is a land of singular beauty. Americans are proud of the many exquisite natural treasures we have within our shores. President-elect Bush believes, as I do, that the top priority of the Department of the Interior must be to conserve those natural treasures.

One of President-Elect Bush's priorities is to protect our National Park System, return scientists to the parks, and work with Congress to eliminate the major maintenance and resource protection backlog within five years. This initiative would help restore our national parks and ensure a positive legacy of protecting our cultural, natural and recreational resources for Americans today and in the future.

The great wild places and unspoiled landscapes of this country are the common heritage of all Americans, and we must both conserve them and manage them for Americans living today, and for Americans of the future—our children and our children's children. That is the goal. And I don't think any of us here would disagree with that goal. In that, I believe, lies the basis for common ground and, yes, for bipartisan environmental cooperation and leadership.

Let me tell you a little about how I think we can best achieve this common goal. I have worked for more than 20 years on environmental issues. As Attorney General, I involved local communities, as well as State and federal officials, in the clean-up of the Rocky Mountain Arsenal and the Leadville Superfund site. Our enforcement actions ranged from government sites to private mining interests, utility plants and water exploration.

As Associate Solicitor, one of my proudest accomplishments was helping keep the California condor from becoming extinct. Based on these experiences, I am firmly committed to a process of consultation and collaboration. We should listen to all voices and involve all citizens in decision-making because that is fair. But we also should listen because that is wise. People are a magnificent resource—for ideas, for knowledge, for insights.

I have lived and worked here in Washington. I have lived and worked in the great American West. Those of us here in Washington need to be good partners with Americans living in other parts of the United States and its territories. America is a stronger nation because of the diversity of its people. Those people hold many different views and perspectives. We need to work with them, to involve them, to benefit from their creativity and capacity to innovate.

This approach, I would submit to you, is a fundamentally democratic approach—and it is the approach that I favor, and the approach I will adopt if I am confirmed as Secretary of the Interior.

I also intend to take a "performance-focused" approach. It is not enough for the Federal government to have good intentions—we need to measure outcomes and, when necessary, correct our course so that we get where we aim to go.

To help in this regard, I intend to use as fully as possible the new technologies available to us; to employ the new digital tools, to implement "e-government" effectively as a means to encourage public participation, to make the Department of the Interior more open and more accessible.

Another top priority I want to mention to you today concerns the special responsibilities of the Secretary of the Interior with regard to American Indians. I think

we all recognize that the situation in Indian Country is not what it should be. There is much that I believe we can do, in partnership with our nation's proud Native American tribes, to improve conditions and create a more hopeful future.

President-elect Bush has said many times that he will "leave no child behind." To accomplish that requires that we improve the schools that serve more than 50,000 elementary and secondary Native American students, and increase the educational opportunities available to Indian children. A good education is the key to a better life for any child—whether that child lives in Washington D.C., Miami, Florida, or on a reservation in New Mexico.

Recognizing the historic relationship of the Federal government and individual Native American tribal governments, I am convinced we can do better in this sphere. Indeed, we must do better. With your help and cooperation, I will work very hard to achieve real results for all the children of Indian country.

In addition, I am looking forward to working with the talented men and women who keep the Department of the Interior going from one administration to the next, regardless of which party is in the White House. I want to open the Department's doors of opportunity to all Americans who have the skills and the drive to participate in this great mission of conservation.

President-Elect Bush has proposals to build conservation partnerships—to help states, local communities and private landowners to conserve wildlife habitat, watersheds and open space. Working together, there is much we can do to promote conservation in the United States.

Mr. Chairman and Members of the Committee: I will be candid in telling you that I am both a conservative and a conservationist. I see no conflict there. In fact, I am also a compassionate conservative—and a passionate conservationist. I believe that, too, is entirely consistent.

As I said when I began my remarks, if confirmed as Secretary of the Interior I intend to make the conservation of America's natural treasures my top priority.

Utilizing the approach I have outlined—consultation and collaboration, forging partnerships with all interested citizens and groups including, not least, those most affected by Federal decisions—we can succeed in our effort to conserve America's most precious places. What's more, we can achieve this while maintaining America's prosperity and economic dynamism, while respecting constitutional rights, and diverse traditions and values.

It won't always be easy. It will require a lot of hard work and the willingness to be creative, to think outside the usual boxes. But this is the mission that President-elect Bush has asked me to undertake. And with your help and your wisdom and your cooperation, I believe we can succeed. Years ago, the eminent environmentalist, biologist and Pulitzer Prize-winner, Rene Dubos, advised us to "think globally, act locally."

I think that is still good advice. Let me leave you with one additional thought from Rene Dubos which, I believe also is relevant to us and to our mission today:

"We cannot escape from the past," Dubos said, "but neither can we avoid inventing the future."

"With our knowledge and a sense of responsibility for the welfare of humankind and the Earth, we can create new environments that are ecologically sound, aesthetically satisfying, economically rewarding, and favorable to the continued growth of civilization."

"But the wooing of the Earth will have a lastingly successful outcome only if we create conditions in which both humankind and the Earth retain the essence of their wildness."

Thank you, Mr. Chairman, and thank you distinguished Members of the Committee.

Chairman BINGAMAN. Thank you very much.

Let me start with some questions. Your statement about your priorities is welcome and I certainly heard that with great interest. A few years ago, according to a writing that you did, you described yourself as "a free market conservative, an advocate of judicial restraint, as well as a champion of States' rights." Over the years you have taken some positions on the Takings Clause, for example, on the Federal taxing power, on the Tenth Amendment, on the now long discredited theory about economic due process, which seem, at least as I read some of those earlier writings of yours, to be at odds with mainstream legal thought.

Can you give this committee assurance that, if confirmed, you would feel comfortable enforcing the existing laws and regulations of the Department of the Interior as they now stand?

Ms. NORTON. Mr. Chairman, I have served 8 years in the capacity of a State Attorney General, enforcing the laws of Colorado and of the United States. I feel very comfortable in enforcing the laws as they are written. I will be fully committed to ensuring that our Nation's environmental laws and laws for the protection of natural resources will be fully enforced.

Chairman BINGAMAN. Many of the Republican members of Congress, some on this committee, have been sharply critical of the environmental initiatives and policies of Secretary Babbitt and of President Clinton and his administration. Which, if any, of those legal or policy positions that have been adopted by the Department of the Interior during this last 8 years would you depart from or attempt to change?

Ms. NORTON. There are many things that have been adopted over the past few years. We will be looking at what needs to be changed in our views and at the many things that will remain the same. We will examine issues across the board and apply the best legal standards, as well as the views that I believe many of us would share, to ensure that we are doing the best to preserve our natural resources.

At this point I am not sure where we may depart from the past administration, but we will carefully examine those things and work with this Congress in order to examine issues.

Chairman BINGAMAN. One issue that the President and the Secretary of the Interior, the current Secretary of the Interior, have been roundly criticized about by Republicans here in the Congress is this issue of designation of national monuments. I believe this President has designated 19 areas as national monuments under the authority that he has under the Antiquities Act.

Do you believe that President Clinton's use of that Antiquities Act was appropriate or not?

Ms. NORTON. The goal of preserving lands is an admirable goal and I share the goal of trying to be sure that we are identifying those areas that ought to be natural treasures and setting those aside. The process in which those decisions were made is one that causes me concern. Many of those decisions were made through a top-down process, without consulting the people who are most affected by those decisions.

President-elect Bush has established his view, and I certainly share that, that decisions about the land should be made in a process that includes the people who are affected by those decisions. I would certainly hope that in the future we would hear input from those of you on this committee, from governors, from local communities, before we take actions that are going to deeply impact people's lives.

Chairman BINGAMAN. Would you advocate a repeal of the Antiquities Act or some changes in that basic statute?

Ms. NORTON. The Antiquities Act is something that has been very useful in the past. It has shown its ability to preserve some of our most important national monuments. I would like to see a process of involvement of the people most affected by decisions.

That certainly would be the practice that would be followed in a Bush administration if I am selected to be Secretary of the Interior.

Whether that would require changes in that statute for the long term is a decision that I have not made in terms of what we would advocate and obviously would require congressional action in order to make any of those changes.

Chairman BINGAMAN. On this issue of water rights, do you agree that when the Federal Government reserves land from the public domain that it also impliedly reserves a sufficient quantity of water to fulfill the primary purposes of the land that it has reserved, thereby creating a Federal reserved water right?

Ms. NORTON. The U.S. Supreme Court has established clear standards for determining whether a Federal reserved water right is established with any particular reservation, and it depends on an examination of each particular area and the purposes for that. What it boils down to at the core is the intent of Congress and whether Congress intended when it set aside some land or whether in a presidential proclamation setting aside land the purpose of that proclamation, whether the intent of Congress or the President was to create a reserved water right. That is a decision that needs to be made on a case by case evaluation for each particular reservation.

Chairman BINGAMAN. In the case of areas designated as wilderness, do you have a general view as to whether a reserved, implied Federal reserved water right is intended to be created with the designation of an area as wilderness?

Ms. NORTON. Obviously, it is important for us to preserve wilderness areas and to be sure that those wilderness areas are able to preserve the values that we want to see. One of the issues that I will need to address as Secretary of the Interior if I am confirmed is exactly that issue of water rights in wilderness areas.

As you know, the Idaho Supreme Court recently held that Congress did not intend to set aside water rights when it created wilderness areas. So that decision will be coming up for review. I will carefully study that and work with the Department of Justice. Of course, it is their decision as to what position the United States will take. I will work with them to evaluate that case and determine what the course of action should be following from that.

Chairman BINGAMAN. My time is up. Senator Murkowski.

Senator MURKOWSKI. Thank you very much, Chairman Bingham.

Again, Ms. Norton, let me welcome you to the committee. I was particularly pleased that you chose to mention the plight of the American Indian reservation and the manner in which the Department of the Interior has handled its responsibilities. I would encourage you to evaluate the system within the Department of the Interior, and recognizing that there is a great deal of technology and expertise to be contracted for, as opposed to trying to maintain a function that a trust department or a notarized public accounting firm would guide you into expert procedure for reporting back to the individual Native tribes, because it is an unbelievable set of circumstances.

I would also call your attention, as I indicated in my opening statement, to the plight of some of our territories that are going to

require your attention. The Virgin Islands, I hope, Chairman Bingaman, that we can take some of the members down there and see the difficulty and the debt load that those folks are under and their inability to have any realistic relief other than the reality that we are going to have to recognize some debt forgiveness and try and help them restructure.

It is a tragedy that has been overlooked. The same is true in American Samoa. I have been out there and these are territories that we have simply ignored.

You are going to have to bring together, I think, in order to develop a policy that the President-elect George W. Bush has indicated relative to the energy situation in this country. We have lacked a cohesive policy. We have lacked a direction, and I think partially due to a management style. You know, you have got the Department of the Interior that controls land, controls access. Then you have got the Environmental Protection Agency that is concerned, as they should be, with air quality and environmental sensitivities. Then you have got, say, the Department of Energy.

In many cases, the Secretaries have been going different ways, as opposed to coming together and saying, all right, within the administration we're going to have to address this crisis. As we look at the hearing that we held this morning, a good deal of discussion was on California and the fact that the lights are about out, people are getting stuck in elevators, traffic lights don't work, and revolving blackouts, which suggests we're going to have to do something about the problem, that somebody is going to have to make some decisions. That's why I had mentioned a great deal of effort's going to have to go into balancing this process.

Do you feel that you can bring together within this new administration the wherewithal and the policymakers to resolve and make some decisions about how we're going to relieve our dependence on imports, 56 percent, going up to, we heard this morning, 62 by the year 2004? Our greatest source seems to be coming now from Saddam Hussein. We fought a war in 1992. We lost 197 lives.

We cannot address what to do with our nuclear wastes. Oil prices continue to go up. We're looking towards natural gas now. We're using it faster than we're finding it.

You're going to have to come up with some of these answers with your collective colleagues. How do you propose to do it?

Ms. NORTON. The issues of Americans' being so dependent on foreign oil is obviously a great cause for concern. The idea that people in California this very day are facing serious shortages of energy is another great cause of concern. We will have to pull together all of our resources and work across departmental lines to find ways of addressing those issues.

Obviously, it's going to be difficult to find short-term answers. We'll have to do a lot of planning to be able to find long-term answers. We would hope to work with you to find the right kinds of solutions that would balance environmental protection as well as finding ways of providing the kind of energy resources that need to be available.

Senator MURKOWSKI. I think it's appropriate that I bring up the issue of ANWR because some would be disappointed if I didn't. In any event, many members of our environmental community have

opposed your nomination because of the President-elect's position on environmentally responsible oil and gas exploration in that small portion of the Arctic coastal plain in my State of Alaska. However, the reality is you nor the President currently has the authority to open up this area. Only Congress has that authority.

In this regard I have two questions for you. If Congress is to undertake the debate on this issue, will you commit to aid those debates with the very best science available from the Department of the Interior?

Ms. NORTON. Absolutely. I view the role of the Department of the Interior as helping provide the information to this Congress so that you can make an informed decision. We hope to look at the issues of how we can provide the best scientific evaluation of the environmental consequences, how we can do any exploration and production, if it is done, in the absolute most environmentally conscious way that we can have that happen.

Senator MURKOWSKI. My second question is, if Congress approves a measure to allow exploration and development of the coastal plain and it becomes law, will you uphold the law Congress passes and use all the powers afforded to you to mitigate any potential negative environmental consequences?

Ms. NORTON. I will certainly follow any laws that are passed to be sure that the protection of the important resources of the Arctic National Wildlife Refuge are preserved at the same time that any exploration or production would take place.

Senator MURKOWSKI. Thank you.

Now, moving over to Prudhoe Bay, which was discovered 30-some-odd-years ago, in the search for oil in Prudhoe Bay, which has been providing this Nation with about 20 percent of the total domestic crude oil produced for some 27 years, and it is falling off now as Prudhoe Bay declines. But not looking for it, but as a sidelight, we found some 36 trillion cubic feet of natural gas.

Nobody paid much attention to it because of the cost of getting that gas out when gas was \$2.16 per thousand cubic feet, which is what it was a year ago. Now gas is \$8.40 and, as we look at our reserves and the fact that we're pulling down our reserves, there is more and more thought given to marketing that gas.

In order for this to become a reality, it's going to take a transportation system and it's going to require an investment of about \$10 billion, the largest single construction project that would be on the horizon and larger than anything that we have undertaken in this country. Should the owners of the gas decide to move forward with such a project, the Department of the Interior, through the Joint Pipeline Office, will have an awful lot to say about the permitting and development.

My question to you is, if confirmed, will you act in your role as Secretary to provide all the resources needed to the Joint Pipeline Office in Alaska to help expedite a project of this magnitude if indeed it becomes a reality?

Ms. NORTON. I'm aware of the important need for natural gas, not just because our economy is expanding and there's more demand for energy, but also because natural gas is seen as one of the ways of having the cleanest supply of energy. So it's important for us to have some mechanisms to be able to draw upon gas re-

sources. I will look forward to working with you to learn more about that issue. It's not one that I have had the opportunity, obviously, to discuss the details on. I will look forward to working with you so that we can resolve that issue.

Senator MURKOWSKI. February and March are a good time for a visit to Prudhoe Bay because you can see it as it really is 9 months of the year.

My last appeal to you is, please come visit us in Glacier Bay. Glacier Bay is the number two tourist destination in our State. The number one is Denali National Park, both of which are maintained by the Park Service. But there seems to be a great reluctance on the Park Service to allow the entries of passenger ships during the season, which is only 90 days of the year, to allow 2 ships a day so that the visitors can see this, and to suggest that the environmental damage would be any more than an occasional cigarette butt that somebody might throw over the side of a ship—it's pretty hard to make a case that there's not a more compatible environmental way to see this beautiful area than by cruise ship.

For the life of me, the Park Service just doesn't want to let access in, and they have no good scientific justifiable reason.

Thank you, Mr. Chairman.

Chairman BINGAMAN. Senator Dorgan.

**STATEMENT OF HON. BYRON DORGAN, U.S. SENATOR  
FROM NORTH DAKOTA**

Senator DORGAN. Mr. Chairman, thank you very much.

Gale Norton, welcome to the committee. As we hear the public debate that occurs on this nomination, it occurs to me that various groups describe two different Gale Nortons. One of them is described as bright and charming, interesting, soft-spoken, self-confident, reasonable, thoughtful, and moderate. Another some describe a nominee who thinks on the political fringes, favors polluters, cares little about the environment, is unsympathetic to endangered species, and is a friend of both lead paint and James Watt.

So the question is, who is Gale Norton? I don't know Gale Norton except to have met you last week. We need to separate the fact from the fiction in this debate. Saying that, I recognize that these spotlights that shine on public lives these days can sometimes offer almost perfect vision and other times offer a pretty warped view of what is real.

So I'm going to ask you a series of questions about things that have been said about you and things the you have said, and I'd like to get some response. I kind of feel about the same way as Senator Bingaman feels. I have not made a decision about this nomination, but I do believe that Presidents have the opportunity to send us their candidates and we have an opportunity, of course, under the advise and consent responsibility to ask questions.

You have a very distinguished record. You've done a lot of things. I, too, am a graduate of the Graduate School of the University of Denver and I'm pleased to hear that you were on the faculty. Let me ask you some questions, and I'll try to do a number of them quickly.

Global warming. You have written that there is little consensus over whether global warming is occurring. Do you think there's any

kind of a scientific consensus at all that there is some significant climate change occurring or global warming occurring?

Ms. NORTON. Thank you very much for the opportunity to begin to reconcile the parts of my record and to have the opportunity to explain myself so that perhaps the picture of me that emerges at some point will be a little more clear.

Global warming is an issue that has seen scientific information developing over time, and the further we go through the process the more information we have available. The article that you referred to is something that was written several years ago. I will maintain an open mind and receive new scientific information as it is put forward.

Senator DORGAN. But my question is do you think there's a consensus on any side of this issue? Some would say, you know, while there are doubters certainly, and some respected doubters, there seems to be a fairly overwhelming consensus among most scientists that something is occurring in the area of global warming. Do you share that view?

Ms. NORTON. It does seem, based on my evaluation, which is not a scientific one, that there is beginning to be more of a consensus that global warming is occurring. There is still disagreement as to the causes and the long-term future. Obviously, there is disagreement about what ought to be done in that regard.

I will certainly rely on scientific information as it becomes available and evaluate the information as it is presented to me.

Senator DORGAN. Thank you.

Let me ask you about the issue of the Fifth Amendment Takings Clause and some of the comments that have been made about your position on that. You have indicated that the Government must pay compensation when its actions interfere with private property rights, in an article you wrote or a speech you gave. And you talked about the fact that it may even extend to a property owner's right to pollute. Could you tell us what you meant by that?

Ms. NORTON. The issue of private property rights is something that is important to me beginning from the time that I worked with farmers and ranchers who feel very strongly about the land that belongs to them, who care very much as stewards for that land. I think it's important for government to be able to work with the people who feel closest to land and to try to find ways to reconcile with them, ways of protecting the environment and allowing people to use their property.

In an article I once was talking about extreme examples of environmental analysis and the analysis of takings laws. The idea of a right to pollute is not something that I support. That was actually a phrase that is taken from some work that I did earlier on the concept of emissions trading. The idea of emissions trading, of the ability to find economic incentive ways of dealing with pollution, is something that early on was called an emissions credit, a right to pollute. That is a tradeable concept that has now been embodied in the Clean Air Act and it has very widespread, very mainstream acceptance.

It is absolutely not clear from that article that that was the way in which I was using that phrase and I recognize that. I do not sup-



port the concept of a right to pollute, as many people have tried to characterize that.

Senator DORGAN. I'll try to come back to that in a future round. But let me just ask on the takings issue. You believe that local governments have a right to be involved in zoning? For example, if you have a home in Denver and I buy the lot next door and put up a sheep barn and bring in 2,000 sheep, you have a right to complain about that because that violates zoning? Or, because they say I can't put up sheep or put up a sheep barn and house some sheep next to your house, have they taken something from me?

Ms. NORTON. The concept of zoning and the way in which we use our property are things that do require an evaluation of property rights. I think it's certainly appropriate for a local government to say you can't put a sheep ranch right next to a residential community.

Senator DORGAN. And that is not a taking?

Ms. NORTON. That is not a taking.

Going back to the ancient aspects of common law, there have always been limits on using property. You cannot use property in a way that harms the property of your neighbors, and that's a concept I wholeheartedly agree with.

My view of property rights is, as it applies to the Department of the Interior, what inspires me to want to find ways of working cooperatively with landowners to have incentive-based approaches, to encourage them to enhance habitat on their property or to protect endangered species on their property. I think we can find very cooperative ways of working with farmers and ranchers and other landowners that are based on recognition of the importance of property rights and to tie that in with protection of the environment.

Senator DORGAN. Mr. Chairman, I'm just about out of time. I want to just ask two very brief questions and you can perhaps answer them at the same time. One is, do you support the Endangered Species Act, what are your thoughts about that? Second, can you just briefly describe your feeling about States' rights overriding tribal self-government's rights with respect to Indian nations?

Ms. NORTON. I support the Endangered Species Act and the preservation of endangered species. I've been privileged to work on the protection of species like the California condor, on the endangered fish species in the Colorado River. I think we've seen some accomplishments there that hopefully will allow those species to survive. So I do support that.

As to States' rights and tribal sovereignty, those are complex legal questions. It boils down I think to the idea that decisions of government are often best made when made closest to the people who are affected by those decisions. What is true for States is true for tribes. Self-government is very important and I support that as a concept.

Senator DORGAN. Mr. Chairman, I'm out of time.

Thank you very much for your responses.

Chairman BINGAMAN. Thank you.

Senator Domenici.

**STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR  
FROM NEW MEXICO**

Senator DOMENICI. Thank you very much.

First of all, let me say to you that I did not know that you were also a Denver University graduate. I can say it that way because I graduated from their law school a long time before you ever got involved.

First I want to thank the three public officials who testified in your behalf. I think each one of them contributed in a very special way, the two Senators first, in kind of shedding a positive, shedding a view of you that from my standpoint I had already arrived at. I read most of the attacks and allegations and then I read the reality of them, and I had already concluded that President Bush wants you to be his Secretary of the Interior and that you ought to have the job, that you see more of what you feel and see and think about public land issues in tune with his philosophy, and that's as it should be. If as a matter of fact that does not suit every single Senator, then they have prerogatives.

But to bring up ideas that would diminish the fact that you can serve him well by doing what he thinks is the right thing to me does not make any sense. I believe you're entitled to the job.

I'd like to say, I read the newspapers that are associated with your history. That would be the *Rocky Mountain News* and the *Denver Post*. And I'm actually very pleased with both of their editorials. I would say to anyone that thinks the negative record that is being made here is the other side of Gale Norton, that they ought to read these editorials.

I mean, they say in the first three paragraphs of each one that you are competent, you're a wonderful legal scholar, you bring people together, and while the environmentalist community does not agree with you on everything, in many instances such as the reserved water debate, that you are in tune with the legal issues and that you have indeed been on the right side of most of those issues, even if there are some who would not like that view.

Now, I would say for the record, from this Senator's standpoint, I read the Summitville mine issue in its entirety. I believe you have done everything appropriate in that regard and the State of Colorado's lucky to have you represent them in that issue.

Now to the third person that testified in your behalf, let me say to the distinguished Governor, who I've recently had an opportunity to meet—everyone should know, I met him in the campaign of George W. Bush, so there's no doubt about it. We are right, on the same side. I think today, for those who are thinking that there are two sides to this very, very scholarly Attorney General, I think you have convinced me and you should convince most Americans that you know her best and the side that you have described as the positive side of her is the real Gale Norton. I don't think there's any question about it. You did a marvelous job and I thank you.

Madam soon-to-be Secretary, I would be very upset if you didn't disagree with the Secretary of the Interior who is leaving in some respects and on some issues. As a matter of fact, if you choose to be as mellow about the way you feel about some of his decisions, I might not vote for you. Who knows. I mean, you ought to honestly tell us that many of the things he has done and that he put on the

books of this country are not exactly what George Bush for President wants, but you will comply with the law and hopefully you can make some changes.

Changes in what? Changes in the endangered species law. Not that it should be abolished, but we are so timid and so frightened we won't even consider an amendment to it now when even the administration and the Republicans agree, because somebody is fearful that you shouldn't tinker with that law. Well, it's not working very well.

You want to know about it, come down to my State and see how the Bureau of Reclamation is about to determine that our water is all Federally controlled because of an endangered species. We aren't going to let that happen. We don't believe the endangered species, in that case a minnow that's preserved there, that we should let the Government run all of our water up and down the Rio Grande, our only real water supply. And we're not going to let that happen.

I'm very pleased this election occurred because I believe you're not going to let it happen. When you see the equities of that, you're going to work toward some habitat and cut out the fighting that's been going on down there.

My last observation is, if you weren't willing to take some new views on energy supply as it pertains to your properties, the properties you will run for all of us, then I would not be voting for you, because I believe we need some changes. We have a detailed report on energy supply from the public domain. It was issued only 2 months ago. I urge that you read it. It says on properties that have been withdrawn there are 200 trillion cubic feet of natural gas. It is worth looking at those in light of our energy dilemma when we use 20 trillion a year. That's 10 years supply. There ought to be a darn good reason for locking it up when California's got their lights out today and maybe tomorrow they won't have any industry left.

In conclusion, I assume you would be willing to be tasked by the President to work on energy issues as you work on the other issues and to look at those in light of your policy decisions; is that correct?

Ms. NORTON. Senator Domenici, I would be proud to work on trying to solve those difficult problems.

Senator DOMENICI. My last one has to do with Indians. You talked about what you might do and you left out one big thing, so I would ask you to include it, because you talked about what the President-elect said. He said to the Indian leaders in New Mexico as a public statement that he would put \$1 billion in this year's budget for Indian public schools. I think you should add that to your testimony, and since he said it I would hope you would agree that you will support it.

Ms. NORTON. I will strongly support that.

Senator DOMENICI. What we've got now is a school system where the buildings are falling down, the Indian kids are in buildings we would not have other than Indians in, and he wants to get rid of the problem in 5 or 6 or 7 years. We've been working on it for 5 or 6. I laud him for it and I think you should support that.

Thank you very much, Mr. Chairman. I yield.

Chairman BINGAMAN. Senator Wyden.

**STATEMENT OF HON. RON WYDEN, U.S. SENATOR  
FROM OREGON**

Senator WYDEN. Thank you, Mr. Chairman. Ms. Norton, thank you for the chance to have visited with you.

I believe the American people will vigorously resist exploitation of public lands by private interests. I also believe that they will not resist and in fact will welcome an Interior Secretary with creative ideas for forging consensus, both to protect our treasures and be sensitive to our economic needs.

Anyone who believes it can't be done ought to just take a look to my right—he likes to say he's always to my right—where Senator Larry Craig sits. He and I worked together to resolve one of the most contentious natural resource issues last session dealing with timber harvests and payments to rural counties. So, it is possible to find consensus on these issues.

I can tell you as a westerner, I share the view that one size does not fit all. When you're trying to comply with environmental law, what works in the Bronx may not necessarily work in Pineville, Oregon. But you have to convince me in these hearings that, as you provide flexibility to States and various other parties, your bottom line will be unwavering: All Federal environmental laws must be complied with, and you will have to enforce them.

Finally, I will tell you I am concerned about the approach that you have supported in the past with respect to self-policing. Here again, it's a matter of degree. I like the idea of having people come forward and take the initiative, but I'm concerned in a number of cases like Summitville, where that approach was allowed to go on for too long, and I hope that you will take a different position.

Now, for purposes of my question I'd like to follow up on what Senator Bingaman asked about in terms of enforcing the law. You said categorically you would and we appreciate that. But I have an article that I'd like to submit for the record from the *Denver Post*, where, when you disagreed with the affirmative action program in Colorado, they had to go out and hire outside counsel to represent the State.

Now, I know absolutely nothing about the affirmative action law in your State. I'm against quotas. Affirmative action can certainly be improved. But would you do that again or have your attitudes changed, because when you told Senator Bingaman you would carry out the laws of the land as they are written and I have in front of me the Governor having to go out and hire outside counsel to carry out a State statute, that doesn't seem to square.

Ms. NORTON. Senator Wyden, I appreciate the opportunity to respond to the questions that you have raised. Let me begin with the last point, on affirmative action. As Governor Owens described in his comments—and I thank him for his warm comments toward me—the program in question was not a State law. It was a program that was adopted on a discretionary basis, and that program was later held to not comply with the standards established by the Federal courts and so that program was essentially thrown out by the courts.

As Attorney General it is my responsibility to advise the agencies of State government and I provided that advice to them. They felt that, and I concurred, that it would be stronger for them to have

someone else who had not provided the advice that I did to them, and they went forward with a different attorney and they were not successful. I think my position on that was vindicated.

As to Summitville, I think there has been some misconception that Summitville was an example of self-policing. It was not. It was a situation that was a company that did not comply with the laws that were in effect. My office took a very vigorous role in trying to deal with the Summitville mine situation.

When we heard that that company was going into bankruptcy and had plans to just walk away and not operate the water treatment system, that cyanide would be flowing down into the river, we immediately stepped in to get a court order to prevent that from happening. We worked in the bankruptcy court to obtain as much as we could through that company's bankruptcy to try to use that money for the cleanup process. We cooperated with EPA, with the other State agencies, to try to have a coordinated approach.

As a result of that coordinated approach, working with the State and the Federal regulators, we have taken actions to deal with what was a disastrous and awful situation.

Senator WYDEN. I know you cooperated with the Federal Government. But my concern is, when it was in your court, my sense is you were slow to deal with the issue. For example, the *Denver Post* on November 10, 1995 took you to task when they said that the environmental task force, with which you worked closely, was debating whether to extend the statute of limits on environmental crimes. You ultimately decided not to press the issue. They thought you should, rather than take it to the Federal Government.

I guess my concern is, as with the answer on affirmative action, I gather that there you felt you would lose, so you wouldn't challenge the law, the law that is on the books. On the Summitville question, I think there was an opportunity for the State to have demonstrated leadership earlier on. These are some of the philosophical questions that I think need to be explored.

Now, in your comments to Senator Dorgan you touched on an area that is very important to my constituents and that's the Endangered Species Act. I happen to believe that we can protect these species and be sensitive to local communities. You challenged the constitutionality of the Endangered Species Act in an amicus brief that you filed in the *Sweethome* case. Now, I would like to know whether you would no longer file that brief today, given the opportunity to serve in this position, and whether that's what you meant when you told Senator Dorgan you supported the constitutionality of the Endangered Species Act.

Ms. NORTON. Let me first address an unfinished point as to the Summitville matter, and that is that criminal prosecutions did occur. My office worked with the Federal agencies. And yes, we were frustrated by the fact that we had a short statute of limitations. We felt that in that situation, working through the environmental crimes task force that my office took the initiative in establishing, that it was best for us to work cooperatively with the Federal agencies.

That has resulted in, I believe, the strongest possible action being taken against the operator of that mine. We have recovered—

just recently they've recovered millions and millions of dollars against that operator, that will go into the cleanup of that site.

As to the Endangered Species Act, I was involved in a piece of litigation that dealt primarily with the interpretation of the act and how that would be applied. The States of Arizona and Colorado filed a brief in which we said that it should be interpreted in one way. The U.S. Supreme Court decided that it should be interpreted differently. I will certainly uphold the position taken by the U.S. Supreme Court and will enforce the Endangered Species Act.

Senator WYDEN. I have a number of other questions, Mr. Chairman, but the light is on. I appreciate it.

Chairman BINGAMAN. Thank you very much.

Senator Craig.

**STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR  
FROM IDAHO**

Senator CRAIG. Mr. Chairman, thank you very much.

Gale, it is really an honor for all of us to have you before this committee for your confirmation hearings. As the crowd was gathering, I had never seen so many photographers in my life. Now, as a politician I was extremely jealous. I mean, I work at trying to get a crowd out like this and they never come.

I couldn't imagine that that crowd had assembled for you. Really, I thought they'd come to see Ben's new bike. If you don't know, Ben's got a beautiful new bike that he's going to have in the Inaugural Parade the day after tomorrow, and it is a gorgeous sight to behold, I am told. I was quite confident that's why all of you photographers had assembled.

Not the case. The case was that you had been promoted in a way that just does not meet the standards of the record. And it is exciting for me not only to hear your Governor, but your colleagues, your two Senators, begin to set that record straight, and we have heard repeatedly again here today that somehow what has been said about you over the last good number of days, when literally the Senate has placed a gag order on you and your colleagues, simply doesn't seem to match.

So it's always fun, exciting, and appropriate that we have you here to speak in your own words, as you are doing so well at this moment, on these kinds of issues.

My colleague from Oregon Ron Wyden mentioned the success that he and I had recently on a piece of legislation that dealt with public lands and communities of interest that had been dramatically depleted of their resources for schools and counties and roads and bridges over the last decade because we have reduced logging on our national forests by over 80 percent.

Now, having said that, I am not going to suggest that you come and return to that. But what I am of the belief, and you've mentioned it at least three times in your statements, and I've kept track, you've used the word "collaborative." That is an exciting new term that the national preservationists shudder at. Ron Wyden and I implemented it for local communities to begin to work together with all of the stakeholders of interest at those local community levels to resolve the current crisis in the relationship between

economies and local communities and the public lands around them.

The reason the national preservationists don't like that term and the reason the photographers have assembled today and the reason the word has gone out about you is that they are losing their top-down authority to control the way decisions are made without public participation, without the collaborative process. Most importantly, without this community or this committee of jurisdiction.

I find it interesting, Gale, that your predecessor who is soon to be leaving his office treated this authorizing committee in this way. He said: "It is a highly partisan debating society, staffed by munchkins that wrangle a lot." Now, I know that aggravated the "h" out of me, and my guess is if you continued to treat us like your predecessor has it would begin to aggravate the heck out of my colleagues on the other side.

You see, collaboration not only is important for local communities of interest today, it is extremely important for all of us, working with you, to arrive under the law at the way we resolve these public land disputes when they occur, but, most importantly, to establish long-term policy that impacts our States and these valuable lands and the treasures upon them.

As you know, yesterday the President again in great pride and gesture announced new monuments. Let me tell you briefly the story of one that occurred in Idaho in the last few weeks. It is to recognize internment camps where Japanese Americans were held during World War II. It was a time in our Nation's history we will not repeat and we are embarrassed about. And that area, an internment camp in Jerome County, south central Idaho, should be recognized. I agree and the whole of the delegation and our Governor agree.

Herein lies the problem. And as I describe it to you, you will know all so well why I had to publicly oppose the designation—not the intent, not the purpose, and not the value. We were told it was going to happen, some 70,000 acres of land set aside for the designation. I said to the gentlemen at Interior and Council of Environmental Quality: Do you realize that within your area there is an irrigation canal and a right of way for that canal for the Minidoka Irrigation District? Do you realize there is also a road right of way and that you're creating a new level of bureaucracy and a whole new relationship that this irrigation district and road right of way, county in this instance, will have to establish with the National Park Service? If you move your lines a little bit and you adjust a little bit, you can still have the purpose, but you avoid the conflict.

Their answer was basically they didn't care. They wouldn't hold a public hearing. They wouldn't listen to the public. They wouldn't incorporate the interests of the broader area to adjust the boundaries to avoid the conflict. They seemed to be an awful lot interested in politics and not very interested in local involvement, in collaboration, and, if you will, a rather democratic process.

So it is exciting to me that you would use the word "collaborative." Oh, it's inflammatory, because it suggests that all of us ought to be involved in decisionmaking on the resources of our public lands.

I find it also interesting that you're being attacked over States' rights and Tenth Amendment issues. We are not a democracy. We are a representative republic. We are a union of States, and we are still that even though some would like to deny that. This means that States should and must have equal standing when it comes to deliberations that involve them, their resources, and their people. Somehow over the last 8 years we've just forgotten all about that, or at least some have who preside within the Beltway of this city.

You and I may differ a little bit on States' rights, but I think we understand the relationships, the value of States and governors and our responsibility to them, but also our responsibility to the Nation and to the resources involved.

I look forward to working with you. I think you will be confirmed by a large and substantial vote of the U.S. Senate, because the billing that you're getting isn't holding up. The record will set you free, because it is an outstanding record of service to the public, service to the resources and to the environment that we all love.

I thank you for your willingness to commit yourself to what you have committed to for the next 4 years and I am confident that we will have a collaborative working relationship that involves both Democrats and Republicans, that we will not see king-like actions being dictated to us by a Bush administration, recognizing that all of us ought to have a piece of the action. That's the way our country works in a republic through a democratic process.

Thank you for being with us.

Ms. NORTON. Thank you.

Chairman BINGAMAN. Senator Graham.

**STATEMENT OF HON. BOB GRAHAM, U.S. SENATOR  
FROM FLORIDA**

Senator GRAHAM. Thank you, Mr. Chairman, and welcome, Ms. Norton.

I would like to talk some about the issue that Senator Craig has just explored, and that is collaboration. My particular interest is your views on the role of the States and the Federal Government and particularly the Department that you have been nominated to head in the management of natural resources which are either within that State or adjacent to that State. Could you give us some general statement of your philosophy as to what should be the role of the States in determining uses of natural resources that are in properties owned by the Federal Government, but either within or adjacent to those States?

Ms. NORTON. Thank you, Senator Graham. The very difficult issues of trying to manage public lands are best illuminated by the information that comes from the people who know those lands the best. The Federal Government obviously has control of its lands and constitutionally it is the Federal Government that makes the decision about those lands, and there is no mistake that it is Congress and the Federal Government that have control over those issues.

We ought to have, though, a cooperative working relationship with the States. When decisions are made in a way that involves the States, those I think are the best decisions in the long run.



A few years ago I worked with Senator Hank Brown, when he was in your midst, on the issue of wilderness areas in the State of Colorado. As State Attorney General, I worked with him in trying to deal with some of the water issues that came from the designation of that wilderness area. We worked with environmental groups and local governments, trying to find the best way of handling those issues that was really tailored to what we needed in Colorado to be able to preserve our wilderness.

What you need in Florida is obviously different than what we needed in Colorado. There are no "one size fits all" solutions. So I would hope to work with the States to be able to find the things that would best fit each State.

Senator GRAHAM. Well, I am pleased at that response. The particular issue or application of that issue that I am concerned with is the use of the Outer Continental Shelf which is adjacent to our State. For 20 years through Republican and Democratic administrations here and in Tallahassee, if there has been one issue which has united our State, it is an appreciation for the potential vulnerability of both our environment and our economy to oil and gas development in the Outer Continental Shelf. For approximately 20 years, the Congress has repeatedly passed a series of moratoriums against any additional grant of leases in that, off the coast of Florida.

I was concerned when I saw an item issued by the National Ocean Industries Association urging the Minerals Management Service to include offshore moratoria regions in the agency's next 5-year Outer Continental Shelf leasing program. Could you comment as to what you feel should be the significance of a State's determination in opposition to further Outer Continental Shelf leasing in areas adjacent to that State?

Ms. NORTON. Consistent with the idea of trying to take into account the wishes of local communities, President-elect Bush has made clear that he supports continuing the moratoria on offshore leasing as to California and as to Florida, where the States have opposed that offshore activity. There are, as you know, some areas that are not covered by that because the process has already taken place, and those issues will need to be dealt with on a case by case basis.

Senator GRAHAM. Would you believe that other States such as North Carolina, which has taken a similar position, would be accorded the same treatment that California and Florida would be accorded?

Ms. NORTON. We would work with the officials from those States to try to reach an appropriate solution.

Senator GRAHAM. During the administration of the first President George Bush, there was not only the continuation of moratorium on existing leases, but a buy-back program for leases, particularly in the area of the Florida Keys. Would you support an expansion of that lease repurchase program to other areas adjacent to States which have taken a position similar to Florida's?

Ms. NORTON. That, Senator, if an issue that I will have to explore more and learn more about as I move into the position of Secretary if I am confirmed. I will be happy to work with this committee and with you to try to resolve that issue.

Senator GRAHAM. I would hope that early on in your administration that we would have the opportunity to sit down and develop a plan that would be acceptable to the administration and to the States affected for that purpose of eliminating the threat that is represented by leases, many of which are many years old, to the environment and economy of those States.

There is an immediate issue now and that is a proposal for the grant of a drilling permit on one of those leases in the vicinity of Pensacola, Florida. Would you plan to work with my State and other States that might be subject to such a potential drilling to assure that the wishes of the State are fulfilled?

Ms. NORTON. Yes, Senator Graham, I would be quite interested in working with those States and in learning more information about that issue so that we can make a good decision.

Senator GRAHAM. When we met in my office we talked about some of your principles as they relate to private property rights and I tried to suggest a few hypothetical cases in order to elucidate how those principles might apply in a reality case. If I could suggest another of those hypotheticals, assume that the unfortunate situation should occur that a drilling permit were to be granted for one of these currently outstanding leases. The effect of doing so would have an adverse effect on the value of private property adjacent to where those wells might be drilled. It would also have an adverse effect on commercial activity, such as hotels and motels.

Would you support Federal compensation for commercial and private owners who experienced a reduction in the value of their property as a result of the Federal Government first granting the leases and then granting the drilling permits to utilize those leases?

Ms. NORTON. Senator, it is important to recognize the impact of any Federal action on the people who are affected by it. There are legal standards for determining when compensation is appropriate. That kind of situation is probably not the sort of situation where direct compensation is ordinarily paid under the court system.

The issue of compensation is usually a legal issue that depends upon the statutes and the court analysis. We also need to bear in mind that sometimes ways of trying to compensate people, whether that is direct compensation or whether it is ways of trying to mitigate the harms that are caused by an action, are also things that ought to be taken into account from a policy perspective in trying to be sure that when we have a benefit to society the burdens of that are appropriately and fairly spread across other people within society.

To the extent that there are impacts upon people who are affected by a government program, whether it is people in Florida in the kind of situation that you describe, of whether it is people in the West who are affected by government decisions about Federal lands, those are things we ought to take into account and we ought to look at the whole range of different ways of trying to make sure that everyone is as satisfied as we can have with the decisions that are made.

Senator GRAHAM. Mr. Chairman, my time is up. I would like in the next round to come back and pursue this a little further.

Chairman BINGAMAN. Very good.

Senator Campbell.

Senator CAMPBELL. Thank you, Mr. Chairman.

Gale, have you read the papers lately and read some of the paid-for advertisements that have been put in the paper about you, about how bad you are?

Ms. NORTON. I've seen a few of those, unfortunately.

Senator CAMPBELL. Hurt your feelings?

Ms. NORTON. Well, I have to say it doesn't hurt my feelings that much because it doesn't sound like me.

Senator CAMPBELL. It doesn't sound like you to me, either. But I have to tell you, as one who was in that pool for Interior for a while, am I glad you got it. My wife's particularly glad you got it. I am seriously glad because I know you could do a better job than I could anyway.

My colleagues have talked about a lot of things. I wanted to focus just a little bit on Indian issues since I'm the chairman of that committee, and one in particular that you're familiar with and you've worked on yourself for years and years, the so-called Animas-La Plata. Years ago when Secretary, the last Secretary, came in for his confirmation, he made a commitment that he would do everything he could to get that built. But unfortunately, because the environmental community did sue under the Endangered Species Act, everybody over there in Interior went kind of limp and lost their spine and decided not to pursue it, and so we had to redo the whole thing.

Senator Bingaman, Senator Allard and I and Senator Domenici, the four of us worked hard on this revised bill that you're now familiar with, that the President recently signed as part of the omnibus package.

I just wanted to get your commitment that you're going to do the best you can to get that thing built. As you know, in 1988 when we first passed it it was supposed to be built by the year 2000, and if we did not the tribes would have the opportunity to go back and pursue a lawsuit against the Federal Government. They signed off on the lawsuit. We actually paid them to give up that lawsuit on condition we build it. We paid them and the thing wasn't built.

Well, under this new bill now we're off in a whole new direction and hopefully we'll get it built. We wrote the bill as tight as we could, but there's no doubt in my mind the environmental community do not want any kind of compromise or consensus. They want to kill that project, end of story. They want to kill that project. They're already talking about going back to court and saying that the Justice Department wasn't involved in the discussions and a whole bunch of other things to try to stop it in the courts again.

I would hope in your tenure that we'd have a little more courage over there and not just simply knuckle under at the first threat of the environmental community going back to sue to stop that project again. It's the right thing to do. The States of Colorado and New Mexico have collectively spent over \$50 million on building water projects, pipelines, as their part of the agreement. We have given the tribes over \$57 million. In fact, there'll be \$10 more million under this bill that goes to them as part of the agreement to get them to relinquish some of their rights.

We know, those of us who worked on it, it's the right thing to do. But we have not been able to get the past administration to

show some courage and get that thing built. I would hope that you would do that.

Ms. NORTON. Senator, as you well know, the history of Animas-La Plata reflects so much of the tragic history that American tribes have faced in the past. There was a settlement reached. It was approved by Congress, and yet that settlement was completely disregarded when it came time to really carry through.

As the Attorney General of Colorado, I looked at that from the issue of the water rights for the tribes and warned that we would be back in litigation that would go on for decades if we did not keep some of the commitments that had been made to the tribes. I support the efforts that you have engaged in. I personally participated in meetings that had the attendance of the number of people here today, who were concerned about Animas-La Plata and about trying to reach further resolution of the issues in a way that would carry forward the commitment to the tribes.

I look forward to working with you to be sure that we can follow through now that Congress has reached a resolution.

Senator CAMPBELL. Well, we detailed in some depth in this bill all of the environmental things that we've complied with. In fact, we've complied with everything that we had to from the Federal level. So that will be in your corner if you have to end up in court defending the thing.

Let me also mention that Senator Domenici talked a little bit about the President's commitment to Indian school construction. I was with him when the President made that commitment in Las Cruces in front of 13 tribal chairman. He did commit \$920 million to \$1 billion the first year that he's in office. Senator Dorgan has taken the lead many times around this place in committee and on the floor, too, talking about just the horrendous conditions of Indian schools, where children are expected to learn with broken windows and drafty walls and just unbelievably unsanitary and dangerous conditions. They can't learn in conditions like that. It's as simple as that, they can't.

I'm just very pleased that the President-elect has made a commitment to doing something about that construction. But that construction will come through your Department and so I just wanted to alert you to that. I would hope you would support that, too.

Ms. NORTON. That has my wholehearted personal commitment.

Senator CAMPBELL. Thank you.

Last, Senator Murkowski and I spent a good number of hours and in fact even introduced a bill to try to straighten out this mess with the trust assets that you're aware of, this missing \$2.5 billion that I mentioned in my opening statement. The administration opposed that bill and we couldn't get the thing moving because they think for some reason they have the expertise to be able to do it.

But just yesterday in the *Denver Post* there was another article, another story about how they are not straightening it up. It is still a mess. I mean, they've got, they estimate, over 100,000 missing documents, they've got documents stored in trash bags and old cardboard boxes full of rat feces in warehouses in New Mexico and around the country. I just am still not sure that they're going to be able to straighten it up in house.

But I would hope you would also make that a priority and work with Senator Murkowski and Senator Bingaman and I, who are all very concerned about that.

Ms. NORTON. It's alarming to hear that we have such large amounts of money that ought to belong to the Indian people themselves that has become lost somewhere in the bureaucracy of the Department of the Interior, and I will do what I can to work to straighten that out. I will work with this committee to try to find the best way to resolve that so that we can see that it's all straightened out at some point in the future.

Senator CAMPBELL. I appreciate it.

Thank you, Mr. Chairman.

Chairman BINGAMAN. Senator Bayh.

**STATEMENT OF HON. EVAN BAYH, U.S. SENATOR  
FROM INDIANA**

Senator BAYH. Thank you, Mr. Chairman.

Ms. Norton, thank you for being with us. I want to express my appreciation for the courtesy you paid me of coming to visit and acknowledge that we have several friends in common whom I have a great deal of respect for, including the former attorney general of our State, who I happen to be having dinner with tonight, so maybe I'll continue my queries with him this evening over dinner.

Let me just give you my framework that I would ordinarily apply for hearings like this and making decisions on confirmations like this. I customarily would feel that the President is entitled to a great deal of deference in choosing members of his Cabinet, for a couple of reasons. First, that I, in most circumstances, would express support for the willing of the American people as demonstrated by at least a plurality in the recent election; and secondly, because the remedy for public policy disputes is almost always, or almost always should be, take it to the next election. If you have a difference of opinion, take it to the voters, let them decide.

There'd be a caveat for that, though, when it would come to examples of public policy that might have long-lasting consequences, not susceptible of being remedied in the next election, or any time soon. So just to give you sort of the parameters of my thinking, it would be: Short-run policy differences, take it to the next election; long-term consequences for policy changes not susceptible to remedy any time soon, maybe not quite as much deference in those sorts of cases.

So with that as a background, I'd like to start by asking you some questions of broad policy or philosophy and then get to a couple of specific examples. I'm going to start by—Ben had to leave, but I think he and Governor Owens and several others alluded to some of the ads that have been run and to some of the characterizations comparing you to Mr. Watt and that kind of thing. Those sorts of things, I want to make clear, are unfortunate. From our personal interaction, I can tell you're a person with a very pleasant demeanor and a conciliating manner, which I think is good. I don't know Mr. Watt, so I can't speak to him, but some people have said there's a stylistic difference.

My concern is more of a substantive nature. Based upon his actions when he headed this Department, or some of the positions he has taken publicly or in the institute that he helped to found, can you give us an example of an important public policy with which you disagree with Mr. Watt?

Ms. NORTON. Senator, that is difficult for me in a respect that you might find surprising, and that is I don't know everything that Jim Watt thinks about issues. I have only really spoken with him once in the last 10 years. I am not in constant communication with him and discussion of policy issues.

I think we might have issues in common, but in the 20 years since I worked at Mountain States Legal Foundation at the same time Jim Watt did I've had a lot of different experiences. My experiences at Mountain States Legal Foundation were in defending some wonderful people of the West, defending ranchers and farmers and small business people who were very earnest about the things that they did and who in good faith really felt strongly about their land and their ability to make decisions.

Since that time, I've also had the opportunity as Attorney General to deal with people who did not have that kind of a regard, to deal with people who thumbed their noses at the environmental laws, who flagrantly violated those laws. Those people, some of them are spending time in prison because of our prosecution of them. We recovered tens of millions of dollars in fines and penalties against those who violated Colorado's laws.

I think the reality of who I am is different from the characterization of who Jim Watt is. I mean him no disrespect, but I am my own person.

Senator BAYH. Thank you. I think you know that some have raised questions and want to draw analogies between you and Mr. Watt because of your association long ago, and you can understand why they would—I think you answered my question sufficiently and I appreciate that, but I think you can understand why they would be looking for perhaps some specifics to say, look, I wouldn't be like him, or the philosophy in some particular respects. I recommend that to you.

Secondly, again from a broader philosophical term, you've been an eloquent spokesperson for the rights of individuals, of States, of businesses. As a former governor, certainly the interests of States certainly resonates with me. You've expressed some doubt about some different Federal statutes—the Endangered Species Act, the Surface Mining Act, the Clean Air Act, the Americans With Disabilities Act. My question would be that if there is not a compelling national interest in these cases, when would you find—when is there a compelling national interest in protecting the American people in these or other areas? Philosophically speaking, when should the national interest be predominant?

Ms. NORTON. As an attorney who has dealt with constitutional issues and dealt with those issues from the perspective of a State Attorney General and as someone who has represented other States as an attorney, I look at the ways in which laws are structured. Because I might disagree with the way in which the law is structured and the kinds of mandates it puts onto a State, I don't necessarily disagree with the goals of those laws.

I support the Endangered Species goals of preserving and protecting endangered species. I think that mining operations ought to be reclaimed, as the Surface Mining Reclamation Act requires. I think that we ought to provide opportunities for people with disabilities. In fact, the second law review article I ever wrote was about providing access to mass transportation for those with handicaps.

There are many things where we may disagree about the ways in which laws are structured, where the States might like to see more control in their own ability to make decisions and the Federal Government might like to see more control lodged with it. But there is a broad national consensus behind those laws and that should not dissuade us from pursuing the goals of those laws.

Senator BAYH. Your concern was not that there was not a legitimate national interest or even that national legislation was inappropriate; it was simply in the specifics, the details of the different acts?

Ms. NORTON. There are oftentimes ways in which the Federal Government can reach the same result in two different ways and one of those results can impact very heavily on the States and cause problems for States in being able to implement it, while another way of reaching that same end point is one that allows the States and the Federal Government to work cooperatively together. I've tried to work for those areas where that kind of cooperation can take place.

Senator BAYH. Thank you.

Is there a light on? I don't want to go on and on over my time here, Mr. Chairman.

Chairman BINGAMAN. You have 13 seconds.

Senator BAYH. 13 seconds. Ah, well. I can't do more in that amount of time, Ms. Norton, than thank you again and say that perhaps in a round of questioning tomorrow—and I apologize for having to slip out. We've got multiple balls we're trying to keep in the air around here.

But I noted that Senator Graham was asking about some aspect of takings and I'm interested in some of your thoughts about that. Perhaps we can pursue that in the next round of questioning. But again, I appreciate your presence here today and your visit and your willingness to address our questions. Thank you.

Chairman BINGAMAN. Senator Thomas.

**STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR  
FROM WYOMING**

Senator THOMAS. Thank you, Mr. Chairman.

It's interesting—welcome, Gale. It is nice to have you here. It's interesting how sometimes you're asked to differentiate yourself from Mountain States, but seldom do we ask others to differentiate themselves from the League of Conservation Voters. It would be something we probably ought to try.

I agree with my friend from New Mexico that we need to take some different approaches to resolving the problems that are involved in resource management. Taking a different approach than the previous Secretary in solving these problems, however, doesn't

preclude concern for our natural resources, and I think that's what you've said.

The last 8 years, this previous administration, the relationship between the agency and people in the West has been pretty marked by distrust and I think we need to change that. It's time, I believe, for a new chapter in the Department of the Interior which reflects cooperation as we search for conservation goals and public access, which I think is one of the things.

I'm particularly interested, as you know, in parks. In our last budget, the administration put more emphasis and more dollars into acquisition than they did on maintenance, and yet we talk a lot about backlogs, which are real, and we need to do something about that. Would you support a plan and the management necessary to carry out a plan to maintain the current needs and pick up on those needs in order to safeguard our parks?

Ms. NORTON. Senator Thomas, I was very surprised to learn that, despite the fact that we have an almost \$5 billion backlog in maintenance and care for our national parks, the outgoing administration cut back on the budget for maintenance of our parks. I think it's very important and President-elect Bush has made clear that it is very important to him that we adequately maintain our national treasures.

Senator THOMAS. I certainly agree.

One of the issues, of course, in States that are 50, 60 percent owned by the Federal Government is the question of multiple use. Very important. We've talked about it generally. How would you sort of intend to guide the Park Service and Bureau of Land Management with regard to access and multiple use of those resources?

Ms. NORTON. I value the preservation of our lands and I value the ability of people to use those lands in an appropriate way, and I recognize that where we come from in the West often the only way to effectively live people's lives is to have access to the public lands. When vast portions of many of our States are owned by the Federal Government, the ability to have access to those Federal lands is very important. I will work to be sure that, again, those local issues are resolved with an eye toward what makes sense on a local basis, trying to figure out those things on a collaborative basis that are going to work best in each of those States.

Senator THOMAS. I can't resist a follow-up on an issue that's now involved in Yellowstone and Teton with respect to snow machines in the winter. I don't think anyone suggests that we continue to do what's been done in terms of the machines, in terms of the noise, in terms of exhaust. But in fact, rather than to seek to find clean machines, to change the management, why, the Department has just wanted to terminate that kind of access.

What would you think about taking a look at seeing if it couldn't be changed so that access and preservation of the resources couldn't go together?

Ms. NORTON. I've been out cross-country skiing in the quiet of a snowy day in the forest and had snowmobiles go by, and I know that people can be disturbed by that. And I also know that wildlife can be disturbed by snowmobiles. But I'm hopeful there are ways that we can reconcile those issues. I would look forward to working



with you to see if there are avenues of trying to allow us to use our resources so that all of that can be satisfied.

Senator THOMAS. There's an interesting—and the process is more the issue, Jackmar Hills in Wyoming. They studied for about 3 years in terms of an EIS and the NEPA to figure out how to handle it. They came up after all the public input and so on with some plans, and then the Secretary arrived, took a look at it, and suggested a different plan and they discarded all that's been done.

Now, this is pretty destructive to the NEPA process and to the EIS process. Do you think that's an appropriate way to deal with those kinds of issues?

Ms. NORTON. Obviously, I'm not familiar with the details of that particular situation, but we would hope to use correctly the processes that call for scientific study and public input to reach the right kind of well thought out result.

Senator THOMAS. We've dealt again in the endangered species for 10 years at least on delisting grizzly bears, and all the scientists have indicated that there's indeed numbers that exceed what the plan was. The difficulty, of course, is designing some sort of rules on habitat. In any event, it's gone on forever. I've suggested and will probably introduce again the proposition where when you list an endangered species you also have to have a plan for recovery, so that there is some effort, which is the purpose of endangered species, is to find recovery, but it just goes on and on.

What's your reaction to that?

Ms. NORTON. I would look forward to working with you to study that issue in more detail.

Senator THOMAS. Well, it's a tough one.

I'm sharing all our little problems with you. Wild horses. It's pretty clear when you have any critters out on a range of some kind there's a limit to how much grazing there can be and how many units can be there. But of course, in years past, why, they starved to death or whatever, which we don't want them to do now. We haven't seemed to be able to come up, despite a lawsuit, which was in favor of doing some limitation, to finding a solution.

It just seems like we need to commit ourselves to coming up with an answer and getting the question resolved. I don't know that I expect an answer, but I do want to share that situation with you and hope you'll take a look at it.

I'm excited about your opportunity to be Interior Secretary and certainly am delighted that you're here, and thank you.

Ms. NORTON. Thank you.

Chairman BINGAMAN. Senator Smith.

**STATEMENT OF HON. GORDON SMITH, U.S. SENATOR  
FROM OREGON**

Senator SMITH. Thank you, Mr. Chairman. Ms. Norton, welcome to this committee.

In 2002, one of the loveliest places in the State of Oregon is going to celebrate a hundredth anniversary. It is the Crater Lake National Park. Can you commit to me today that we will have an appropriate celebration, that Ron Wyden and I will be invited?

Ms. NORTON. I would be happy to see Senator Wyden and you, Senator Smith.

Senator THOMAS. Be careful of that.

Senator SMITH. Gale, I appreciated the chance to visit with you the other day, and I think I mentioned to you my hope that you would find a way to enforce our environmental laws, to keep an environmental stewardship, but that you would remember a human stewardship that we have as well. I commend to you a model that the Oregon delegation, Republican and Democrat alike, pursued with Bruce Babbitt, that separated our State from, as far as I know, all the others in terms of national monuments that have been designated.

We found a way to create 170,000 acres of wilderness in the High Steens and we did it without destroying the economy of Harney County. We respected the heritage of the people that was there, that are there. I think it's a credit to the joint goal that we ought to have of leaving the environment better, but remembering that people count in the environment as well.

I could go over tons of local issues, like the Umatilla Project, where we exchange water to leave water in rivers. So many creative things can be done if we just work together instead of yell at each other. The Oregon salmon plan, our governor developed that with a Republican legislature. It has not had any standing in the environmental community because it's not driven by Washington, D.C.

A lot of things can work if we'll start working together. I hope you'll bring that spirit to this job. I have reason to believe you will.

I'm going to submit a written question to you about fiber optic facilities on public land and I hope you'll give us a response on that. It will require a more detailed answer than you're probably able to do now, but it matters a great deal to fiber optics spreading throughout the West and how the BLM and the Forest Service respond to those.

But I'd like to quote in conclusion, Mr. Chairman, a person that I know as more than just a Democrat, a person I know as something different than just a committed environmentalist, a person that I know as more than just a Coloradan. His name is Representative Mark Udall. I know him as a cousin. My mother is Jessica Udall.

Mark Udall said: "She is articulate, highly intelligent, and hard-working. She is certainly knowledgeable about natural resource law and is regarded as someone who can work effectively in a bipartisan way."

If it's good enough for Mark, it's good enough for this Udall. And I hope my colleagues will vote for you in a bipartisan way.

I noted with interest this rag with half of your face on it and I thought back to my own political experience in seeing things like this. I even saw one about my colleague Senator Wyden because he did a bill with Representative Craig by some of these same outfits. I've got to tell you, it's not helpful, because it isn't true. This is at best full of half-truths and in fact I believe it is a gross defamation of a public servant.

I look forward to casting an enthusiastic vote for you.

Thank you, Mr. Chairman.

Chairman BINGAMAN. Thank you.

Senator Burns.

**STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR  
FROM MONTANA**

Senator BURNS. Thank you, Mr. Chairman.

Gale, thank you for stepping forward and doing this, because public service is very good service and you've chosen to do it in a very difficult area, in a time of need where we have the reevaluate some things that are happening with our natural resources.

It seems as though the last administration, they did not manage resources, and it seems like their policies intentionally set up areas where there would be conflicts, and so they managed conflicts. I like your approach much better, that we manage our resources and we also do it at the local level.

I was interested in the remarks of my friend from Oregon Senator Smith because he is coming on the Commerce Committee and I chair communications. I've always held that just because a kid is born in Rifle, Colorado, or Jordan, Montana, or Embler, Oregon, remote as those areas are, those kids deserve the benefit of distance learning and the same educational opportunities as those who were born in more urban areas and have a broader spectrum of curriculum.

We have been denied—and when you hit the word “access” that is key because of not only the siting of towers for wireless broadband access to the Internet or ability to interact in distance education with our learning centers, like in his case Oregon, Oregon State, and our University of Montana and Montana State, and other, Rocky Mountain College and MSUB, but to access, to actually use those lands as a connector of communities.

I think that's what we're all about, is bringing communities together, not only under the guise of education, but also how we interact on environmental problems, how we deliver and manage health care for our elderly that live in those remote areas, because we know that is changing every day. Telemedicine is a real part of the fabric of each one of us in our small communities.

So I am very, very excited about your approach to those kind of issues and how they serve rural America. I am not blessed with a great urban area in the State of Montana. I said this morning I represent a State that has a great deal of dirt between light bulbs, and we have to deal with that. If you look from Eureka, Montana, to Alzeta, Montana, it is further than it is as the crow flies from Chicago to Washington, D.C.

And those people deserve all the benefits that this free land offers and they should have them, and through that is through this thing of communications. I've always been on the Commerce Committee. I've worked in this area of communications and distance learning and telemedicine and those areas of hooking communities together to where we can solve problems and those areas.

So I welcome your approach. I too have fallen victim to the Antiquities Act. I'm sure that we can work together on some of this area because it has taken in some areas which I think is very sensitive to those people that live in that area. Everybody in Washington, D.C.—and I regard this place as 17 square miles of logic-free environment. But we are hammered by groups that do not believe that the people that live along the Missouri River or in eastern Montana or western Dakotas have faces. What about their next

generation? What about their kids and their kids and their grandkids?

What about our Native Americans that are on our reservations, that we can't even build schools for and build water systems? I've been very lucky. I've got two big water systems going in on the Rocky Boy and the Fort Peck. The basic thing of water.

Gale, your approach—it was mentioned a while ago about water. How many of us have created a vision of what will this country look like in 2015, 2020, 2030, and our demand for fresh water, and where will we get it? Water management, as in spectrum management, as in management of hooking together communities. I think that's part of our responsibility here, is to be a part of a vision. It doesn't hurt to stop and dream a little bit and to think where we want to be in 20 years, and I think you've thought that out.

I thank you for your visit. I thank you for your visit with our group down there. We're just a rogue group, but nonetheless we appreciate your commitment to what we think are the values that I think all Americans embrace. So I appreciate.

The national parks, we are behind. Glacier and Yellowstone and the area in between is one of our greatest resources in the State of Montana. We want to maintain that as we build the Going to the Sun Highway and we do some things on infrastructure that allows people to enjoy that tremendous view and tremendous uplifting of American values that's represented in the grandeur of those two parks.

So we really appreciate you. I was taken by Senator Graham, who wanted to make sure that you wanted to honor the moratorium of no offshore drilling as far as the State of Florida was concerned. And I'm sure that the Senator from California is also concerned about the same thing. I would also ask them if they would support us if my State wants access for exploration and management of our natural resources. We want access. So ours is another request. If we honor theirs, will they honor ours? I think that's a logical question.

Thanks again for coming and I'm going to support you wholeheartedly and I look forward to working with your Department and working with Ben Campbell, and we've done some great things for the reservations. We've got water settlements to do and we must do that, and deal in the area of jurisdiction to make sure that every people, all the people who live on reservations, are represented evenly and fairly.

Thank you for coming. If you want to respond to that, I don't know. You may.

Ms. NORTON. I think I will let your statement speak for itself and thank you very much.

Senator BURNS. Thank you, Mr. Chairman.

[The prepared statement of Senator Burns follows:]

PREPARED STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR FROM MONTANA

Thank you, Mr. Chairman, for the opportunity to address the Committee this afternoon. I welcome Ms. Norton to this hearing and thank her for giving us the opportunity to engage in this discussion today. After meeting with Ms. Norton, I am impressed with her intellect, her good ideas, and most importantly, her willingness to listen. That is a quality we can always use more of in this city.

There is no doubt that today we will hear a lot of different opinions on the role of the Secretary of the Interior, and on the appropriate uses of public lands. This is a subject very close to my heart, because my home state of Montana contains so much public land. Montanans are affected very deeply by decisions regarding federal land, because they are the ones trying to make a living on that land, or live next to it, or use it for recreation.

One example of the heavy-handed decision making displayed by this last administration was completed just yesterday when President Clinton declared 149 miles of land on the Missouri Breaks as a National Monument. I have expressed my disappointment in this action many times, to Secretary Babbitt, and yesterday to the President. Neither of them understand why I am so opposed to the designation. In their minds, it is an action to "protect" the area. And I ask them, "Protect it from what?". Protect it from the ranchers and the people who have kept that area looking almost exactly the same as it did 200 years ago when Lewis and Clark came through? The Montana Legislature passed a resolution saying, "We don't need a special Monument designation." The BLM's Resource Advisory Committee, which was made up of people with all kinds of interests, did not recommend any special designation.

The problem with this designation is that it was not done in the spirit of cooperation. The people who ordered it don't understand how it will affect people, and how it makes Montanans and other Americans mistrust government agencies when they ride into town and make all these rules without one concern for the ranchers, for the communities, and for the other people who have to bear the cost of these decisions.

As you can see, it is very possible for the Department of the Interior to be a one-way street and hand down regulations unilaterally. I know that with Gale Norton at the helm, this will not be the case. As a person who understands the vast spaces of the West, I am confident that we can count on her to be open and fair. Besides the fact that she hails from the Rocky Mountain West, I support Gale Norton because she brings outstanding credentials to the job. Having served as the associate solicitor of the Department of the Interior, and as the attorney general of Colorado, her knowledge regarding public lands policy will serve her well. She will look for answers to the hard questions, and I am confident she will find them just as she has elsewhere.

There are a few specific issues I would like to mention to note how important they are in Montana, and also for many other states. When we look at public lands, energy development and access to public land are vital to Montanans. These issues will be coming up again and again over the next few years, and I look forward to working with my colleagues in the Senate and with the Secretary of the Interior to craft sound policy with respect to maintaining a reliable supply of domestic energy and making sure our public lands are available to the public.

When you look across this country, you see high prices for petroleum, for natural gas, and electricity. This means high fuel prices, and pressure on families who are trying to heat their homes, and manufacturing companies that have to shut their doors because they simply cannot afford to keep the power running. I realize this is not a hearing for the Secretary of Energy, but there is no way we can form a comprehensive energy policy for this country without considering the role that public lands play. I trust that as Secretary of the Interior, Gale Norton would keep this in mind, and work with Congress to make sure we are making wise use of our public land resources.

Secondly, I want to talk about access. As far as I am concerned, the best role for government is to stay out of people's lives whenever possible. When we look at the record of the previous administration, it is obvious that this was not the philosophy where public land use was concerned. In fact, the goal seemed to be the opposite, to have government rules and restrictions so thick that no one could ever use public land for whatever reason. I am ready to end that era and start down a different road, and I appreciate the fact that Ms. Norton understands the role of private property owners and how that plays into public land management. I look forward to working with an administration that calls on Congress to help with establishing things like National Monuments and Wilderness Areas, rather than making scores of rule changes without the involvement of the stakeholders.

Another area that the Department of the Interior must consider are policies concerning telecommunications and rights-of-way for the cable needed to expand high speed Internet access. Over the last year we have run into situations during Interior Appropriations season where the Department wanted to dramatically increase lease fees for fiberoptic wire running across BLM land, which would pose a severe threat to economic development in my state and others. I just want to bring this matter to your attention as an example of how the policies of these agencies need to adapt

as the world changes with the dawning of the information change. There are so many new opportunities, I want to be sure they are not lost because of antiquated rules.

These examples that I have mentioned are complicated problems, that will require well thought out answers, and I am confident that Gale Norton is the right person to lead the Department of the Interior in that effort. Just as we will need to work together in this evenly divided Senate, we will need to have people in place within the Cabinet who know how to listen, and how to cooperate. Ms. Norton has proven through her many years of public service that she is able to bridge the gap between people who do not see eye to eye.

I am here today to offer Ms. Norton my wholehearted support in her nomination for the Secretary of the Interior. She is the right person for this job, and I cannot imagine how we could find anyone better qualified. I look forward to working with her.

Chairman BINGAMAN. Thank you.

Senator Cantwell, you will ask the final set of questions.

**STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR  
FROM WASHINGTON**

Senator CANTWELL. Thank you, Mr. Chairman. I appreciate that opportunity, being the new member on the committee.

Ms. Norton, welcome to the committee. Again, I've heard compliments by former colleagues of yours, our attorney general, so I appreciate your work. Obviously, the Secretary of the Interior is a very significant position for our entire country, but has a significant impact on the Pacific Northwest. So I'd like to—I know there's been a lot of conversation and dialogue about your statements, but I actually was curious about your thoughts on a comment that President-elect Bush made recently—it was in the *New York Times* on the 14th of this month—in which he said “I understand the Western mentality and I want the Western mentality represented in this administration.”

He went on to say that “We've got lawyers looking at every single issue, every single opportunity to reverse the actions Mr. Clinton has taken in the waning weeks of his presidency.”

So I wanted to get your thoughts about that comment because, obviously, I look at the Western mentality maybe from a little bit different perspective, although I don't think that means that I have munchkins working as my staff or I'm joining the debate society here. I just believe from many parts of Washington State where we've had explosive growth that those environmental policies have allowed us to grow and preserve a great quality of life.

In fact, the last 5 years I've spent hiring a lot of people in a company that grew from about 15 in 5 years to over 1,000, and I can tell you that one of the number one questions they asked was about the environmental quality in the Northwest. In fact, I had to convince a candidate at one point in time to join the company because we really did have urban growth boundaries in the State of Washington in the Puget Sound area to protect the quality of life and the State that that person was coming from didn't have those urban growth boundaries.

So to me the Western mentality means also preserving a great quality of life. I know that that's a hard challenge.

My specific questions come on two areas where the Northwest has managed, because of these policies, to implement good plans. The first of that is, under the Endangered Species Act, the habitat

conservation plans. In fact, I was just in the State last week and heard from some of the timber industry who wanted to brief me on how much success they had made under those HCP's.

My first question is, do you plan the request the necessary funding for the Fish and Wildlife Service so that those HCP's and further HCP's, the habitat conservation plans, can continue to be implemented?

Ms. NORTON. Thank you for that question. President-elect Bush has said that he very much values the efforts being made to preserve the salmon, and it's certainly consistent with the philosophy that I have discussed of trying to work with the locals to recognize the important efforts that have gone into the Pacific Northwest efforts to maintain the salmon population.

While I don't know all of the specifics about that, that's something I certainly plan to study if I'm confirmed as Secretary of the Interior. But I do know that President-elect Bush has made clear his desire to work towards the efforts recognized by the Governors of the States affected by the salmon issues in the Pacific Northwest to try to have preservation of the salmon.

Senator CANTWELL. Thank you for that, for that answer.

The second question is similar, a situation where I feel like we've made great progress, on protection of the Hanford Reach that was designated, and I know you had some questions earlier about the Antiquities Act, but our community was working well before the development of that as a national monument, trying to work out an agreement. So there had been a lot—in fact, there had been developed a local plan. So, while not 100 percent consensus, there had been a local plan.

In that regard, this is a particular area playing a vital role in salmon recovery and covers over 195,000 acres of the last undammed stretch of the Columbia River. So in thinking about moving forward in some of the statements, what will you do to make sure that we preserve that as a national monument and will you commit to not making any changes in that unless consulting with the Northwest delegation?

Ms. NORTON. I again look forward to learning more about that. I'm not really familiar with that particular area and with what the status of that area is. So I'll look forward to learning more from you about that.

Senator CANTWELL. So is that something that we could get a comment, again not to take the rest of the remaining few minutes of the committee's time, but is that something we could get a comment giving more details on, because it is a project that we would want to know your support of?

Ms. NORTON. We could certainly look at providing some comments for the record on that, some written comments.

Senator CANTWELL. Thank you very much.

Thank you, Mr. Chairman, for that indulgence.

Chairman BINGAMAN. Thank you very much.

We'll plan to recess until 9:00 tomorrow and at that time we'll continue with any Senators that haven't had a chance to ask the first round of questions. If they're not here, we'll start with the second round.

Thank you very much.

[Whereupon, at 5:03 p.m., the hearing was recessed, to be reconvened on January 19, 2001.]



## GALE NORTON NOMINATION

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FRIDAY, JANUARY 19, 2001

U.S. SENATE,  
COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
Washington, DC.

The committee met, pursuant to notice, at 9:00 a.m. in room SH-216, Hart Senate Office Building, Hon. Jeff Bingaman, chairman, presiding.

### OPENING STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM NEW MEXICO

Chairman BINGAMAN. The committee will come to order.

The committee resumes its consideration of the nomination of Gale Norton to be Secretary of the Interior this morning. The idea was that we would pick up where we left off yesterday, in the 8-minute first round of questions, but according to the information I have here the only Senators who have not had a chance to ask their first round of questions are Senators Nickles and then our new members, Senator Feinstein, Senator Kyl, and Senator Shelby, and I do not see any of them here.

I know that again, today, just as yesterday, Senator Feinstein and perhaps some of the others are detained in the Judiciary Committee with that hearing as well, and so we will go ahead with the second round of questions and limit this to 5 minutes per Senator and go around and ask those questions and see if there are additional questions Senators have. I will start and ask my questions.

### STATEMENT OF HON. FRANK H. MURKOWSKI, U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. Mr. Chairman, since we have changed rooms and I have already gone to the wrong room, I can cite that there is nobody waiting in the other room, but I do want to join you in welcoming again for the second day our nominee and look forward to resolving all of the questions that the members have and, as long as the roof does not leak, we ought to be able to finish this today.

Chairman BINGAMAN. All right. Let me follow up on some of the issues that were raised yesterday. Some of those, some of your responses obviously were general, and the questions were general. Let me try to get down to more specifics.

On the Endangered Species Act you indicated that you supported the goal of the Endangered Species Act, or at least that is what I understood you to say, but differed on the interpretation of certain provisions of the act. If your interpretation in that *Sweet Home*

case had prevailed, as I understand it, the Fish & Wildlife Service would not be able to enforce the protection of habitat that was critical to the survival of a threatened or endangered species. That was the position I believe you took in that case, and had your position prevailed it would have significantly limited the ability of the Federal Government to protect endangered species as they currently do.

Since your cosigning of that amicus brief in the *Sweet Home* case is one of the few public statements we have to judge your views on the Endangered Species Act, I guess I would like to ask not just whether you support the goal of the Endangered Species Act but whether, in fact, you still adhere to that interpretation of the act.

**TESTIMONY OF GALE NORTON, NOMINEE TO BE SECRETARY  
OF THE DEPARTMENT OF THE INTERIOR**

Ms. NORTON. Good morning, Mr. Chairman and members of the committee. It is a pleasure to join you again today to talk about my background and some of the goals that President-elect Bush and I wish to pursue if I am confirmed as Secretary of the Interior. The Endangered Species Act, as I said, I do support the goals of that, but I also want to make clear that I will apply that act as it is within, and as the courts have interpreted it.

The issue in the *Sweet Home v. Babbitt* case, one that did talk about habitat on private lands and, as we address specifically in the brief, on State-owned school lands, and that was the issue that we addressed specifically from the perspective of the States of Colorado and Arizona in the brief that was filed.

That issue would not have limited in any way, whichever way the court decided, the ability of the Fish & Wildlife Service to enforce the provisions that prevent private parties from taking or harming or from in any way directly impacting the species themselves. All of those would have remained completely intact.

The courts have decided that, in addition to things that affect the species directly, the Fish & Wildlife Service has the ability to regulate habitat on private land and I will enforce that provision.

Chairman BINGAMAN. Well, thank you very much for that response.

Next, I wanted to ask about the Surface Mining Act. I know you alluded to this yesterday, but again, just to clarify, in an amicus brief that you filed in 1980, or you cosigned, I gather, you argued that the Surface Mining Control and Reclamation Act was unconstitutional. As I understand it, the Supreme Court in that case ruled against the position you advocated. I guess the question is whether you still harbor concerns about the constitutionality of that act, or have problems with the current Department of the Interior interpretation of the Surface Mining Act.

Ms. NORTON. The Surface Mining Act, as you know, is designed to require the reclamation of property that has been mined and to ensure that mining takes place in an environmentally acceptable way, and that is something that I support. There were some differences in the way in which that was to be implemented and specifically as to the role of the States in implementing that. The U.S. Supreme Court directly addressed the issue of the State v. Federal

in that act, and I will certainly enforce the law in the way that it has been interpreted by the U.S. Supreme Court.

Chairman BINGAMAN. You were asked by several Senators yesterday about your view of the Takings Clause in the Constitution and the extent to which you believe that there is an obligation on the Government to compensate for takings in areas where they have not compensated in the past.

There was an article in the *Wall Street Journal* yesterday, also dealing with that same issue, and saying that a market-based approach outlined by Ms. Norton in her writing would be to require the Department of the Interior to pay for habitat required to help preserve endangered species. Under current law, the agency forces landowners to maintain habitat. The change, she writes, would force the Government to develop spending priorities, and then they go into some quotations from your writing. Could you clarify for us whether you believe that the Takings Clause needs to be reinterpreted in some way by the Department of the Interior?

Ms. NORTON. The issue that has been addressed by Congress and that has been very difficult for Congress to resolve in the Endangered Species Act has been the impact on private landowners and how we can best reconcile the impact on landowners with the need to preserve endangered species, and we want to see both of those kinds of things taken care of because we both care about farmers and ranchers and their ability to use their property, as well as the important desire to protect endangered species.

The issue is largely one that is before Congress in terms of any reforms that it might make in the Endangered Species Act that would allow it to have some way of resolving those issues. The Takings provisions, as the U.S. Supreme Court has interpreted them, provide very specific guidelines as to when compensation is required. Beyond that is a question that Congress may want to consider to provide either additional compensation or in some other way to help resolve those issues.

Chairman BINGAMAN. But you see that as a responsibility of Congress if it decided to compensate for takings in ways that the Supreme Court has not said are required?

Ms. NORTON. That is basically correct, but I would also like to pursue in that same spirit the proposals that President-elect Bush has made to provide landowner incentive programs like the one they have in Texas that provides voluntary assistance to private landowners to enhance habitat of endangered species, that provides technical assistance and some financial assistance to landowners in that way, and that is something that we would like to explore. I think that is the kind of innovative approach that helps reconcile those issues.

Chairman BINGAMAN. Thank you very much. My time is up.  
Senator Murkowski.

Senator MURKOWSKI. Thank you, Senator Bingaman.

Evidently, last evening the Secretary of the Interior issued a series of orders. Now we have not been able to get copies of those orders yet, but they could have severe impact on Western States and particularly my State of Alaska.

This was done without any public process of any kind, and to suggest it was in the dark of the night, if it was not, it was close

enough. In some cases, allegedly, these changes would overturn policies that have existed within the Department of the Interior for nearly 20 years. Some evidently involve designating wilderness study authority by the BLM. Some of it involves seismic activity in Arctic Alaska and the prohibition of seismic activity in various areas. Some of it evidently involves Alaska Native Corporation lands and trust responsibilities of the Secretary.

Now, obviously, neither one of us knows specifically what we are talking about, but I would ask if you would commit to this committee that if you are confirmed you will review these actions by the Secretary, Secretary Babbitt.

Ms. NORTON. Yes, Senator Murkowski, I will certainly take a look at those actions. I am not familiar with—as you said, we are not familiar with what might be in those actions taken.

Senator MURKOWSKI. Well, since this is both a question and an answer opportunity, as well as an opportunity for members to make statements, I abhor this type of activity that represents special interest activities and pressures that evidently are prevailing within the Department of the Interior at this late date without the input of our Governor, without the input and consultation of the members of our Alaska delegation.

Now, that leads me to another question with regard to your trust responsibilities. We have some situations in Arctic Alaska where there are Federal lands next to State lands. We have an actual case in point, where we have what appears to be a successful discovery on State land that is very close to Federal land. The question specifically is, what responsibility do you have to ensure that the Federal lands and anything beneath the Federal lands are not drained from activity on State land, and how do you propose to ensure that that is not occurring on Federal lands?

Ms. NORTON. Senator Murkowski, I would be happy to take a look at that issue and to work with you in helping resolve it, but at this point in time I do not really know enough about the situation in question to really have an opinion for you at this time.

Senator MURKOWSKI. Well, are you prepared to do everything in your power to protect the Federal oil and gas reserves from being drained from non-Federal lands?

Ms. NORTON. I will certainly enforce the rights of the United States to ensure that the property of the United States is adequately protected.

Senator MURKOWSKI. One additional question. We have a number of wildlife sanctuaries in the United States where oil and gas is recovered. One that comes to mind is the Paul J. Rainey Wildlife Sanctuary in Louisiana. It is my understanding that the National Audubon Society earns somewhere in the area of \$50,000 a year from royalties. The Michigan Audubon Society has reaped benefits of hundreds of thousands of dollars from oil and gas leases in the Baker Wildlife Sanctuary.

Now, a question of just whose control these wildlife sanctuaries are, and there are others as well, and some may overlap into your area of responsibility, but it does concern me that in the particular case of Alaska the Audubon Society is seeking to prevent our Alaska Native people from the same type of commercial activities, and I would ask if you can assure me that as Secretary you will not

discriminate against Alaska Natives and their legitimate claim to the subsurface rights of their land.

Ms. NORTON. Senator Murkowski, I certainly want to respect the rights of everyone, the Alaska Natives, the Native Americans in the lower 48, all of those in every part of the United States who are going to be impacted by the decisions of the Secretary of the Interior. I will do my best to take into account the rights of everyone.

As to the issue of the oil and gas production that is taking place within the areas that you mentioned, it is my understanding that those, the Rainey Wildlife Preserve is something that is owned by the Audubon Society itself, and that it has satisfied itself that there are ways of having energy production occur at the same time that the wildlife are protected. I would like to explore exactly what they have learned from that to see what we can do from the parkland perspective to make sure that we are in that same way reconciling the protection of species as well as the need to satisfy the energy that we need for our economy.

It, I think, is something that certainly we can first learn from, but also I think it is important to look at that model for what we do with the resources that come from energy development. President-elect Bush has proposed that the revenues from any Arctic National Wildlife production would be used for environmental purposes, for conservation for alternative energy sources and so forth.

Senator MURKOWSKI. Thank you very much. My time is up. I will wait for a second round.

Chairman BINGAMAN. Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman. Ms. Norton, the reason we are asking you all these questions is that if ever there was a field that needed a uniter rather than a divider, it is natural resources. My sense is you have made significant shifts in a number of positions between yesterday and today's questioning.

For example, on the Endangered Species Act, after you challenged the constitutionality of the Endangered Species Act in the Oregon case years ago, you told Senator Bingaman that now, not only would you follow the interpretation of the courts, but, in effect, somebody else would have had to go out and file the brief that you filed back then. So, on the Endangered Species Act, the right to pollute, and global warming science, it seems to me there have been significant shifts in your position.

I want to explore some other areas that are important to me, and let me go back to the Summitville case we talked about yesterday. As you know, this was a case where a vast amount of toxic waste spilled into the Alamosa River in your State. Colorado was supposed to supervise that mine. It was the State's job. The State did not do it. It seems to me it did not watch-dog private parties, and then was pretty late in terms of getting the Federal Government involved.

My question to you is: as Interior Secretary, what would your policy be to prevent more Summitvilles, not just deal with the problem after it is out of the barn, but what would you do as Secretary to prevent more tragedies like Summitville?

Ms. NORTON. Senator Wyden, first let me clarify a question that you asked, and that was on the Endangered Species Act. The brief

that I filed dealt with one small portion of the act with one provision of the act, and not with the entire act.

Senator WYDEN. But it challenged the constitutionality of the statute, Ms. Norton.

Ms. NORTON. No, if I may correct you, it did not challenge the constitutionality of the entire Endangered Species Act. This brief was filed after I had spent time as the attorney who was primarily responsible for the administration of the Endangered Species Act for several years at the Department of the Interior.

I had been involved in trying to restore the population of the majestic condors of California, and to work for many other species to ensure that they would not become extinct during our lifetimes. It is very important we do those kinds of things, and undermining that entire act, that is not the thing that we were attempting to do.

Senator WYDEN. I heard you tell Senator Bingaman somebody else would have to go out and file that brief at this point because you support the law as interpreted by the courts. Do you want me to take back what I earlier said? I, frankly welcome the position that you are articulated yesterday to Senator Bingaman, and we might want to leave it at that.

Ms. NORTON. Well, I will certainly uphold the Endangered Species Act and the concept of preserving endangered species is something that I view as very important. It is one of the responsibilities of the Department of the Interior that I will vigorously pursue.

Senator WYDEN. Preventing more Summitvilles.

Ms. NORTON. A very difficult challenge is to determine how we can go forward with utilizing our natural resources and protecting the environmental values of our lands at the same time. Summitville was a tragedy for the State of Colorado. We dealt with that situation once it occurred as well as we could.

We went into court, dealing with obtaining an injunction to prevent the mine operator from walking away from the mine, with going into bankruptcy court to recover as much of the resources as we could to apply those to cleaning up the mine site. We worked with the United States in seeking to ultimately recover from those who were separated from the corporation that had operated the mine, but were nevertheless part-owners of that, and so we pursued that case very vigorously.

We also learned in Colorado that to prevent future problems like that one of the things that we would look at was strengthening our laws and we made several changes in the law to be sure that we could prevent that sort of thing from happening in the future, that we would have the resources in terms of mine inspectors to deal with that sort of situation, so the State of Colorado learned from that experience.

I would hope to take some of those same things and examine the Federal laws to see if there are appropriate changes that should be made. At this point I do not really know exactly what particular changes that we would propose. That is the kind of thing, though, that I would be learning from my past experiences and bringing that to the responsibilities of Secretary of the Interior if I am confirmed.

Senator WYDEN. The reason I ask the question is that to be preventive you have got to go after private parties early and watchdog them, and what still concerns me about your record is that after the problem is out of the barn you are willing to go after the Federal Government, you are willing to sue the Federal Government, but to me, if you are going to have a preventive orientation you have got to be able to take on private parties early on when problems develop, and I want to ask you about the *Asarco* case as well as the Summitville.

Chairman BINGAMAN. Could you hold that for your next round?

Senator WYDEN. I would be happy to, Mr. Chairman. I did not know time was up.

Chairman BINGAMAN. Senator Craig.

Senator CRAIG. Good morning, Gale, and welcome back before the committee. This is your first exposure to this committee, and I am sure you have watched or observed the actions of this committee in the past, but one of the things I think we are very proud of in this committee is the bipartisan way in which we work.

We wrangle a bit, according to Secretary Babbitt. I do not know that we are munchkins, but this last year this committee by many voice votes produced the largest volume of legislation of any committee in the U.S. Congress, and that has been the record of this committee both under Democrat and Republican leadership, and I think all of us are proud of that.

It probably also demonstrates the sensitivity of this committee to the issues it has to deal with, largely the public domain, and certainly energy, and we have worked very well together, and I am pleased about that, and I look forward to having you as a part of that bipartisan mix as we move down the road.

Senator Wyden and others have expressed concern about your relationship to the Endangered Species Act, and I think you have clarified that well, but Mr. Chairman, for the record, let me read parts of a letter that came to us that I think is tremendously valuable in how it demonstrates Gale's actions as a public official, a national public official, to the Endangered Species Act. Senator Wyden expressed concerns about that. He and I work very closely with State Foresters out in our States, because of our States. This is a letter from a State Forester in the State of Nevada. I think it is worth reading in the whole.

It says, "I would like to apprise the committee of my professional experience with Secretary-designate Gale Norton. I served as Deputy Director and Interim Director of the U.S. Fish & Wildlife Service from 1986 to 1989. During these years, Ms. Norton was assigned as associate solicitor for my agency, and we dealt with some of the most contentious issues of the time. As a careerist, I can attest that Gale gave professional counsel of the highest caliber. She never injected partisanship or evidence of political agenda.

"Indeed, while others in the Department may have suggested otherwise, she repeatedly interpreted the law, gave solid advice, and defended those of us making the final decisions. One specific action seems most exemplary of Gale's integrity. The potential listing under the Endangered Species Act of the desert tortoise was one of the most controversial facing the newly installed Bush ad-

ministration in 1989, and I know well about that issue. We held hearings out in Barstow, California, and out in Palm Springs.

“Secretary Lujan then was new to the agency and the provisions of the act. As the Interim Director of the Fish & Wildlife Service, I had to decide a listing that would have great impact on my home State of Nevada as well as other States. Gale Norton was there to provide even-handed legal advice, tempered with common sense personal advice. Essentially, Gale said, do what is right under the law. We did. The tortoise was listed, the species was improved, growth has been accommodated, and Nevada is the fastest-growing State in the Nation, peoplewise, along with the tortoise. That is my input.”

And he goes on, but I ask unanimous consent that that become a part of the hearing record.

Chairman BINGAMAN. We will include that in the record.

Senator CRAIG. It is always nice to have testimony from professionals and careerists who watch political appointees, as you were at that time, deal in a forthright and evenhanded way. I think that once again, based on past actions, your actions before the Department of the Interior demonstrate exactly what you have been saying before this committee over the last 2 days.

Gale, when I first came to Congress we were worried about the condor. We were also worried about the B-1 bomber, and I said at that time that Congress was more successful in getting the B-1 to fly than they were a condor to fly. There was a little truth at that time, and that was the early eighties. You mentioned in your opening statement your relationship to that issue. Would you give us a little bit more of your experience in dealing with the condor, and your work inside the Department at that time?

Ms. NORTON. When I came to the Department of the Interior as associate solicitor the number of condors in the wild was dwindling. We watched with great concern as that population dwindled even further. There was a big controversy about whether we should leave those condors in the wild or should bring them in for a captive breeding program. As that debate had gone on, we had seen more of the condors in the wild die from the causes that were too often related to the actions of man. That is the kind of issue, of course, we will grapple with at the Department of the Interior with other species.

The difficult decision that faced us was whether to bring those condors in. Over the objections of many in the environmental community, who said they should remain in the wild, that they were a symbol, and that bringing them into captivity would destroy that symbol, we made the decision to bring them into captivity, and through a successful captive breeding program condors have once again been released into the wild. Condors once again fly in the skies of the Western United States.

It is a small population. It is certainly not yet out of danger. We took actions that were tough to be able to make that decision to have that species preserved from extinction.

Senator CRAIG. Thank you, Gale. I think my time is up.

Chairman BINGAMAN. Senator Graham.

Senator GRAHAM. Thank you, Mr. Chairman.



Mr. Chairman, yesterday in my round of questions I talked about the Department of the Interior and its role in the management of Outer Continental Shelf properties, and I would like to continue with some further questions in that regard.

Yesterday, Ms. Norton, in your comments you indicated that President-elect Bush and yourself were fully supportive of the existing moratoria on new leasing in California and Florida waters. Is that correct?

Ms. NORTON. That is correct, Senator.

Senator GRAHAM. As Secretary of the Interior, therefore, would you oppose including existing moratoria areas in the Mineral Management Service's 5-year plan on which work has now begun?

Ms. NORTON. Senator, I will be happy to look at that issue at this point I am not familiar with the details of that 5-year plan and the implications of that, and so I will need to study that once I am confirmed, if I am confirmed.

Senator GRAHAM. But if you are fully supportive of the existing moratoria in California and Florida, would it not be inconsistent then to consider including in the 5-year lease plan which is currently being developed by the Mineral Management Service areas that are currently subject to that moratorium?

Ms. NORTON. Unfortunately, I simply do not know enough about the implications of that to be able to respond in a meaningful way.

Senator GRAHAM. What would be some of the implications that might make it consistent with a position of being fully supportive of the existing moratoria and yet also be supportive of including those same moratoria areas in the Mineral Management Service's 5-year lease plan?

Ms. NORTON. I would like to find out what criteria are involved in placing something on that plan, and whether it is something that reflects the moratoria. I am not sure why that program would not reflect the conditions of the moratoria that are in place, and so I would like to find out why the Department might be placing them on that list, despite the moratoria.

Senator GRAHAM. And despite the fact that you and the President-elect fully support those moratoria.

Ms. NORTON. That is correct. I would like to find out if there is such a reason. That is not obvious on its face.

Senator GRAHAM. I also understand from yesterday that you would give respect to the wishes of individual States as it related to determining their path relative to oil and gas development in Outer Continental Shelf areas adjacent to those States, is that correct?

Ms. NORTON. I'm sorry, could you please repeat that?

Senator GRAHAM. You also indicated that you would, and I use the word respect the wishes of individual States in determining the oil and gas development on Outer Continental Shelf properties adjacent to those States, and I use the specific example of North Carolina.

Ms. NORTON. The wishes of individual States are certainly at the core of President-elect Bush's support for the existing moratoria, and I would be happy to explore with this committee and with you any additional views by other States. We are clear as to Florida and California and their desires to have continued moratoria. We

would seek the input from additional States in order to determine exactly what circumstances should apply as to those States.

Senator GRAHAM. On July 24 of last year, Chevron and its partners, Conoco and Murphy Exploration and Production Company, filed a lawsuit against the U.S. Government. That lawsuit seeks compensation for lease bonuses and rentals that had been paid to the Federal Government, exploration costs, expenses incurred for the preparation of environmental studies, and development plans and opportunities, costs associated with the project.

This suit primarily involved a current lease that those firms have on properties adjacent to Florida, specifically near Pensacola, Florida. As Secretary of the Department of the Interior, would you recommend that the administration settle this lawsuit?

Ms. NORTON. Because that is a matter in litigation, and because it clearly seems to involve very complex legal issues, it would not be appropriate for me to take a position at this time. It is the type of thing that I will certainly work to become familiar with if I do become Secretary of the Interior, and would be happy to obtain your input in helping to resolve that issue.

Chairman BINGAMAN. Can you withhold for the next round?

Senator GRAHAM. I will withhold for the next round.

Chairman BINGAMAN. Senator Campbell.

Senator CAMPBELL. Thank you, Mr. Chairman. I have known Gale for many years and, very frankly, I am very comfortable with her positions and, if we were to take a vote right now, I would certainly vote for her. I do not know if we are going to get to that today or not, but I would rather use my time to make a couple of comments.

Chairman BINGAMAN. Let me just—not taking from your time, let me just clarify. My intent would be to leave the record open for committee members to file questions up until 5 o'clock today, and then leave it to soon-to-be-chairman Murkowski to call the committee back to session next week for a vote.

Senator CAMPBELL. Thank you for the clarification. Does my time start over?

Senator MURKOWSKI. Let me comment on that if I can, because—I want it not to count on your time, but for the record I think it is appropriate, and I do not object to the proposal by Senator Bingaman, but the previous nomination for Secretary of the Interior, Secretary Babbitt, from the standpoint of the actions of this committee, the hearing before the Energy Committee took place January 19, 1993, and again the hearing before the Energy Committee took place at a continued hearing January 21, 1993.

The nomination was reported from the committee on January 21, 1993 and confirmed by the Senate that same date, January 21, 1993, so on the sense of conformity, why, we have moved out with dispatch previously, but I have no objection to the proposal by Senator Bingaman, but wanted the record to note the action of the committee, and I would yield again back without loss of time to Senator Campbell.

Chairman BINGAMAN. We will start your time again.

Senator CAMPBELL. Thanks, Mr. Chairman. I would like to start out by asking unanimous consent to submit two things for the record, one an editorial from the *Denver Post* of January 11, 2001

very extensively exonerating Gale Norton from any responsibility in that Summitville mine mess, and another letter from the current Attorney General of Colorado, Ken Salazar, in which he does endorse her nomination.

Let me tell you, Gale, some of the questions you are being asked maybe ought to be asked better of some of the other nominees. What has happened is that the DOE, the EPA, the Ag Department, Interior, it seems like everybody back here now has a piece of the action, if I can use that word, on American public lands, and yet the Interior Department, they seem to focus when things go wrong on the Interior Department, but that should tell you we need a lot of interagency cooperation. I am sure I can speak for most members of the committee to tell you we look forward to that, so it is not so confusing to us.

But since the Endangered Species Act has been brought up two or three times, I want to comment on that. I happen to be a supporter of the Endangered Species Act. I think the original intent was good and support it, but I think that it has been used in a number of times rather than for saving a species, for doing something else, like stopping growth, and in my time I would like to mention a couple of things you are probably very aware of, the difficulty we have in getting the Animus La Plata built is because of the lawsuits filed under the Endangered Species Act on the squawfish, the humpback chub, and some other kind of fish that years ago used to be designated as suckers, or trash fish.

I would point out that the Federal Government was responsible for killing the fish in the first place. We provided the money to Colorado and Mexico to poison 90 miles of waterways and then we throw up our hands in great astonishment years later and say, my gosh, fish are no longer there, therefore we have to put them on the endangered species list.

But times have changed. The Navajo dam has been built, and I do not think you can talk to anybody in Senator Bingaman's, the northwest part of his State, or the southwest part of my State, that would say that we ought to tear down that dam to comply to the letter of the law in the Endangered Species Act, because under the letter of the law we are supposed to also provide the former habitat. We cannot do that. We simply cannot do that. Times change. Water temperatures have changed.

In the case of the Navajo dam the waterways have been stocked with trout. They are now gold medal fishing areas. I think only a nut would say we ought to tear that all down so that we could return the habitat to the fish that we intentionally killed. That is how the thing has gone awry.

As an example, I did a hearing in northern Colorado a few months ago and a gentleman came down from Montana—excuse me, Wyoming to tell us a story of on his ranch how he had a dry pasture but he had water rights to be able to irrigate that pasture, and so he put a ditch in. There was nothing living. It was just dry as a bone in that area. He put a ditch in, and lo and behold the pasture became productive that some mice moved in. They were not there before. They migrated in, people's meadows jumping mice, and I am sure you are aware of the problems those have caused in Colorado.

The mice moved in because there were now seeds and plants to eat. When the ditch silted in, as they all do—you have to clean them every year. Anybody that ranches knows that. When the ditch silted in and the water could no longer get there, he wanted to clean the ditch, he was prevented by the Federal agencies from cleaning the ditch because now it was the habitat of the mouse that wasn't there before. So when the ditch silted in, the whole thing went dry again and the mice left, and he lost the production of that field.

I think those are examples of where the Endangered Species Act has kind of gone awry, and I know that some people are almost scared to death to say that we ought to revise that, or we ought to make some changes in that to express the reality of what is going on out in the hinterlands of America.

The environmental community, I mean, it is like touching a third rail when you suggest that thing needs to be revised, but it does need to be revised, and I am not a bit shy about saying it, and I do not expect you to do that. That will not be your job, it is ours, but there have been several bills introduced that would make some revisions.

Senator Kempthorne, who is now the Governor of Idaho, introduced a bill a few years ago. We could not get it moving. The present administration does not support any revisions at all, but I think as time goes on and we see how it often is abused, that we are going to have to make some revisions, so I just want to throw that out, because I really do not have any further questions to ask you.

I think you are going to be a very fine Secretary of the Interior, and I am just convinced you are going to do your job with great diplomacy and stature.

Thank you, Mr. Chairman.

Chairman BINGAMAN. Thank you.

Senator Dorgan.

Senator DORGAN. Ms. Norton, again thank you very much for your testimony yesterday and today. I would like to ask some questions about a range of issues. First, grazing rights, and grazing fees.

In western North Dakota we have a good many ranchers that graze their cattle on public lands. Most of that is Forest Service, and not BLM jurisdiction, but one of the early battles we had in this administration some 7 or 8 years ago was on the issue of grazing fees, and actually there was a bipartisan group of us that fought back on some of those issues. Can you just give me your view of some of the broader issues on grazing, especially grazing fees on public lands?

Ms. NORTON. In the West the use of public lands for cattle grazing is one of the key parts of our agricultural economy. It is a use that has taken place for generations, and many of the ranches in the West are based on having that core of public lands available.

I know many ranches who are wonderful stewards for the land who really take great pride in their ability to work with the Federal agencies to manage those lands well and to ensure that their livestock are not causing problems for those lands. The overpopulation by livestock on those lands can be destructive and that is

something that the agencies need to be aware of. They need to manage those lands appropriately.

The issue of the amount of money that should be charged to ranchers for grazing on public lands is an issue that I know has been very controversial. It is something that requires a weighing of the different values and appropriate attempts to try to determine that level of fee that would make sense. It is not an easy magic number that one can simply determine, and I know for you all that has been a very difficult battle to try to find that right level. I will certainly work with you to try to provide all of the information that is necessary to provide information about how we are managing those lands and what the impact of cattle on those lands are so that you can make that determination.

Senator DORGAN. Senator Domenici and my colleague Senator Craig, I think yesterday, were trying to draw you out some to figure out in what areas would you seek to be very different than the current Secretary on issues at Interior, and I think my colleague from New Mexico, Senator Domenici, said I hope you are different in a range of areas.

I hope you will be very aggressive in a range of areas in a significantly different way. Can you describe to us how you view your role as a new Secretary of the Interior if you are confirmed, and how it compares to what has been happening in Interior in the last 8 years?

Ms. NORTON. I plan to move into the Department of the Interior, if I am confirmed, and really learn about all of the different issues and the things that have been done. I know that what is reported in the press is often quite different from the real scientific basis for a decision, or the statutory basis for a decision, so I would be looking across the board at those things that have been done in the past to evaluate those things.

I would see one primary difference in my desire to involve the people who are most impacted by decisions in making those decisions. Certainly in the Western United States there has been a large concern that their voices have not been heard, that the current Secretary of the Interior has not listened, has not sought to provide the input that those in the West would like to have.

I would like to be sure that when we make decisions we are making those with the input from all of those that are affected, with the voices of ranchers, with the voices of environmentalists, with the voices of everyone who is concerned about these decisions heard as a part of the process. In Colorado we have some ranchers that I know who went through a process of trying to decide how their mountain valley was going to be managed for the long-term future, and it involved public lands and private lands.

It is a beautiful mountain valley, and it is near the Crested Butte ski area, and that process is one that started with the environmentalists and the ranchers very much at odds. They were able to sit down together and find common ground, to realize that no one wanted the entire valley to be ski condos, that people wanted to see those scenic vistas preserved. By working together they were able to come up with solutions.

Now, if Washington, D.C. had been the decisionmaking place, without the people who directly knew that land making those deci-

sions, I don't think we would see the kind of cooperative working relationship that eventually came forward. That's the type of decisionmaking that I would like to foster.

Chairman BINGAMAN. Senator Thomas.

Senator THOMAS. Thank you, Mr. Chairman. Welcome back again, Gale. I want to pursue this. One of the difficulties we have had certainly is having input that mattered. I was recently at a meeting with Secretary Babbitt. He mentioned in his talk ten times partnerships. Well, the experience we have had with partnerships is kind of one horse and one dog, kind of that relationship.

What I would like to hear you talk a little bit about is cooperating agencies. We started that last year, which was a specific way of States and adjoining counties being involved. We have had experience of going through the NEPA process and then having the Secretary or an Assistant Secretary come out at the end of it and put out a different proposal altogether, so how could we strengthen this idea?

I understand on Federal lands that the Federal Government has a responsibility for the final decision, but if we are going to talk about partnerships, if we are going to talk about cooperating agencies, maybe you could—and I guess you expressed yourself, but how could we sort of ensure that there is a legitimate input into these kinds of proposed partnerships?

Ms. NORTON. If I am confirmed as Secretary of the Interior I plan to work with the Western Governors, with the Attorneys General, whom I know as personal friends, with the officials on a State basis and a local basis, to begin a process of involving them. From them, we need to move out to the private sector groups that are also to be impacted by our decisions, and to begin on a case-by-case basis as we see important decisions arising, finding appropriate ways of inviting everyone who would be affected to have an input into that process.

It is going to be a continuing dialogue. You know best in your State who are the people that are really going to be impacted by something, and looking to your guidance in finding those who should be involved in a particular decision would be the kind of feedback that I would hope to get, and that applies on a bipartisan basis.

I think each of you know and understand your own State, and each of you has an appropriate role in expressing to Federal agencies what your concerns are, and I would hope to have that kind of input from both sides of this table.

Senator THOMAS. One suggestion. I think when we go into these, particularly with cooperating agencies, there ought to be a well-defined definition before they begin as to what the various rules are. It makes it much easier.

On another matter, as you know, on BLM lands, lands that have been nominated often for wilderness, but never acted on by the Congress, which is required, and they are managed forever as wilderness when in fact they have never been designated, what is your reaction to that?

Ms. NORTON. Senator, when Colorado established wilderness areas in the early 1990's we went through a process, with Senator Hank Brown taking the lead on that, to have input and comment

on all the various areas to determine which ones should be protected as wilderness and which ones should be handled in other ways, and it is that kind of process of making decisions about the management that need to go forward, and that creates a system of having some areas that are managed as wilderness and some areas that are managed in other ways. We just need to determine for the various areas of land what is the appropriate usage for those lands.

Senator THOMAS. The difficulty is that there never has been a determination. They are nominated. Therefore they are managed that way without having made a decision.

Would you comment—we have heard several times before, would you comment on the difference between a role of Attorney General, or the lawyer representing his client or her client as the State, as opposed to the head of an agency? Is there a difference as to how you look at the law?

Ms. NORTON. There is a very big difference, Senator, between the role of the Attorney General and the role of an agency head, and something that Senator Wyden raised in one of his questions is an example of that. An Attorney General is not one who has the regulatory inspectors and does not have the people that make the policy decisions on health issues, environmental issues, under the Attorney General's jurisdiction. The Attorney General is referred cases from various agencies and acts upon those things when problems arise.

Colorado is a little different than some other States. I know, Senator Bingaman, in your role as Attorney General of New Mexico you had the ability to go forward with some environmental criminal prosecutions. In Colorado, the Attorney General does not have the independent ability to do that, but needs to obtain a referral from the State Health Department before being able to go forward with any sort of environmental criminal prosecution.

We worked closely with the agencies. We were counsel for the agencies and advised them. We answered questions for them as time went on. The Attorney General is a law enforcement position. I took seriously my responsibilities to enforce the laws of the State of Colorado and to represent the agencies that were the executive agencies for the State.

Senator THOMAS. Thank you.

Chairman BINGAMAN. Thank you.

Senator Burns.

Senator BURNS. Thank you, Mr. Chairman.

Last year, we appropriated \$1.6 billion to deal with the fires of 2000. As you well know, I think, the West was hit last year, New Mexico being one of those areas of wildfires, and I am interested in how you are going to approach how we are going to use that money in restoration, and any plans at all, and prevention, on how we are going to use those dollars to prevent that devastating kind of situation to happen again.

Ms. NORTON. I know that your State was more seriously impacted by the fires than the State of Colorado, but even for us it was devastating to see.

I remember last summer looking across the Denver area and seeing huge clouds of smoke across the landscape, and even in downtown Denver you could smell the burning wood from our forests

that were on fire. My husband and I went to drive through the mountain areas after the fires were over and we saw entire hill-sides that had been destroyed by the fires, and through the efforts of some valiant firefighters we saw that even though a huge area of burned forest had unfortunately left nothing but charred wood there were a few homes that were still left standing.

That is something we do not want to see again. We want to do what we can, to be as proactive as possible to see that we are using the funds provided by Congress wisely to deal with the problems, to find ways that we can have healthy forests that will not be susceptible to those huge fires taking place in the future.

Obviously, Colorado's lands were Forest Service, Department of Agriculture lands, and they have the bulk of the areas that might be impacted by this, but the Department of the Interior has a serious responsibility here, and this is something that I will certainly have as a very high priority for myself.

Senator BURNS. I would suggest that with the appropriation of these funds and how the different agencies of BLM, and I would hope that the BLM—I have said, you know, we can get a lot done if there is some cooperation between agencies. In other words, if the approach of the BLM to their forests and grasslands is the same as the forest service is with basically their forestlands, and the same sort of policies, those policies kind of fit hand in glove whenever we talk about forest health, range health.

You see, I have always maintained that there was a society that was not funded by the Government that probably had more to do with the increased carrying capacity and the health of our grasslands than anything that the Government ever did, and that was the Society for Range Management, and I know you are familiar with those people and the work they do. That was all funded by the different organizations that used those lands, principally in the grazing areas. You are familiar with the Taylor Grazing Act?

Ms. NORTON. Yes, sir, I am.

Senator BURNS. You know, we get to talking about fees and what we want to do about grazing. There is a law in place that gives us the guidelines on how we ought to approach grazing on public lands, and that was the Taylor Grazing Act, and the reason it was passed, it gave some permanency to those folks who use and own permits on public lands for grazing, and I think we get to thinking outside the box. We put the Taylor act to one side, and we forget that the guidelines are there to help us make the decisions as far as grazing is concerned, and make sure those grazings are well within the environmental guidelines that this country wants to do with those lands.

I have always said that if livestock was completely taken off of the public lands, that there would be no wildlife, because there would be no water reservoirs, there would be nothing that could even sustain life in some areas of our country on BLM lands if it was not for grazing and some work on it.

So I would like to be involved a little bit whenever you start talking about how you are going to spend that \$1.6 billion. That is quite a lot of money, but I think we can put it to good use for environmental reasons and also that we look upon our lands with a common-sense point of view. We cannot continue to let a fuel build



up and then hit some drought years and think of it as—the only other element that is missing here for disaster is lightning, and it is not man-made. About the time you think you are in control of this old Earth, you know, there is a man upstairs that changes our mind about that whole thing.

But I would hope we could work closely together on restoration and range health and also forest health in the BLM.

Also, it is going to be—one of my priority items in the next 4 years, anyway, is the rebuilding of the infrastructure of our national parks, especially our services that handle people. We have two of the crown jewels. Part of Yellowstone is in Montana. Although it is a little sliver we still claim it, and I have an ongoing argument with Senator Thomas and the Senator from Idaho, but we know that infrastructure needs are way behind, and I look forward to working with you and the Director chosen to direct the Park Service in establishing some priorities as far as infrastructure to handle people, and the impact that people have.

You know, we found out that some of the greatest polluters in the world are, the enemy is us, and so we have to deal with those.

Thank you, Mr. Chairman, I appreciate the opportunity, but those are two areas where I have serious concerns, and also the Taylor Grazing Act. I think it is very, very important we get back to the basics and start thinking of those lands as a resource in western North Dakota and Montana, and BLM and Forest Service grasslands, and help those people out, because that does impact real people.

Chairman BINGAMAN. Senator Daschle, our Democratic Leader, asked me to ask this question of you. Recently, the Fish & Wildlife Service wrote a biological opinion on the management of the Federal dams on the Missouri River aimed at protecting endangered species. Would you aggressively work with the Corps of Engineers to implement that opinion?

Ms. NORTON. Senator, I am not thoroughly familiar with the opinion that was issued by the biologists, and I know that endangered species biological opinions are based very heavily on a study of the science of endangered species and what those species require. I would hope to work with the Fish & Wildlife Service and the Corps of Engineers to determine what is appropriate and to examine the decisions that have already been made.

Chairman BINGAMAN. Let me ask about national monuments. We talked about it some yesterday. You indicated in one of your responses yesterday that you would be carefully reviewing the national monuments that have been designated and seem to give the impression that you might endorse efforts to overturn some of those designations. Could you indicate anything about the standards you would be using, or the criteria you would be using in reviewing these monument designations to determine whether they were appropriate or whether they should stand, or whether you would try to take some action to contradict them?

Ms. NORTON. With monument decisions having been made so very recently, clearly we have not had the opportunity to even define what the range of options might be, much less what decisions would be made in choosing between those options, so at this point

in time we are not really prepared to make any sort of determination on what would happen with the monuments.

It clearly is a decision that can have a huge impact in various States, and we would hope to seek input from those who are affected to determine what course of action is appropriate in terms of management of those monuments and in terms of how those tracts of land should appropriately be handled, but I do want to emphasize that the process that we would expect to go through in the future with looking at additional designations of land would be one quite different from that utilized by the current administration.

I think it is appropriate to have a thorough understanding of the impacts of monument designations before those designations are made, and that happens by involvement of the people within the States affected. I would certainly see that the Bush administration, if I am confirmed as Secretary of the Interior, or even if I am not, that the Bush administration would be attempting to involve people in the making of those decisions in the future.

Chairman BINGAMAN. Yesterday, I asked about the issue of Federal reserved water rights. During the Reagan administration the Department of the Interior Solicitor overturned the previous agency policy and issued an opinion that the Federal Government would not recognize an implied Federal water right for wilderness areas and would not assert reserved Federal water rights on behalf of the United States.

Now, that opinion was suspended and later withdrawn by the Clinton administration. Would you seek to return to the policies that the Reagan administration had in place with respect to water rights?

Ms. NORTON. Let me first make clear that the issue of reserved water rights for wilderness areas and for other important public lands is not an all-or-nothing kind of issue. As Attorney General of Colorado I was an ex officio member of the Colorado Water Conservation Board, and that board established in-stream flow water rights for the protection of fish and for the health of public lands and we worked with the Federal agencies to have State in-stream flow rights that protected especially the fish populations in a number of public land areas.

We also worked on having areas where water was reserved specifically for endangered fish species. We worked with, I believe it was the Forest Service, although it may have been the Department of the Interior, in having a combination of Federal and State mechanisms for protecting the water in some very sensitive environmental areas, and so there are many different mechanisms that are available to Federal land management agencies in trying to reconcile Federal reserved water rights with our traditional State water allocation programs, so I would hope to work with the State agencies in dealing with that.

As to reserve water rights from a legal perspective, the question is, was the intent of Congress, or of the President if it's a presidential proclamation, what was the intent in reserving a particular tract of land, and that requires an in-depth legal look at the issues that surround any particular reservation of land, and we would continue to look in depth at those sorts of issues as we are making determinations about reserved water rights.

Chairman BINGAMAN. Thank you. My time is up.

Senator Murkowski.

Senator MURKOWSKI. Thank you very much, Mr. Chairman.

You know, we have heard from some of our members about the concern they have over Federal lands off-shore, 3 miles off-shore and, as you and I both know, in many cases there have been leases that have been sold, competitive bids, the Federal Government has taken the money and never issued the leases.

I certainly respect the rights of any State to express its opinion on whether or not it chooses to have OCS activity beyond the State borders, beyond 3 miles. I think, though, it represents a contingent liability of the Federal Government, that at some point in time they are going to have to address the disposition of these leases and if they are not going to be issued, then is it not appropriate that there be some settlement, that they return the bonus bids and get on with it and resolve the dispute one way or the other?

Ms. NORTON. As Attorney General of the landlocked State of Colorado I've not had much opportunity to deal with off-shore leasing, so I would look forward to learning more about those issues so that I can work with you on that.

Senator MURKOWSKI. Well, the problem I have is the States that do not want it have every right to express that, and I think we should respect it. On the other hand, I am a little frustrated from time to time because there is no support from those States that do not want it to the States who do want it, and those States that do not want it have to have the energy, but fail to recognize that it has to come from somewhere, so I would hope that there would be a little more sensitivity to the reality, as we see in California.

This energy has to come from some place, and if you use the technologies that we have seen developed, particularly in the Gulf of Mexico, where we are leasing now in 6,000 feet of water, and drilling and recovering with remarkable success rates and a minimum of environmental damage because obviously the country needs the energy.

But I would suggest that it would behoove your Department to kind of total up how much you collected over the years in lease sales, and every issue of the leases, and these do represent an obligation and there is ongoing litigation, and could you provide this committee with that information at an appropriate time, if you are confirmed?

Ms. NORTON. Certainly at an appropriate time we would be happy to work with you on providing the information that you're looking for.

Senator MURKOWSKI. I do not want my colleagues to misunderstand my intention, but the leases ought to be canceled and the money returned. Are you aware of the number of natural resource development activities on National Wildlife Refuge System land under the jurisdiction of the U.S. Fish & Wildlife Service?

Ms. NORTON. Senator, I would look forward to becoming more familiar with that.

Senator MURKOWSKI. Well, let me help you out. There are 76 activities on wildlife refuge systems under the U.S. Fish & Wildlife Service that cover gas and oil exploration. There are two that cover gravel extraction. There are two that address hydro power genera-

tion. There are 16 that involve mineral exploration. There are 10 active mines. There are two that are involved in salt-making, and 10 in water extraction, for 118 activities on National Wildlife Refuge System lands. That seems to have some degree of compatibility with the States and the Federal system.

I would like to also add for the record this list which I have before me of U.S. Fish & Wildlife Service refuge lands as inventory, and I would also like to note an article from the *Wall Street Journal* that appeared yesterday, January 18, and it reads as follows:

"There has been oil and gas production on Federal wildlife refuges in Louisiana for nearly 60 years, resulting in the drilling of 1,605 wells. Refuges on Louisiana's Federal wetlands are home to ducks, geese, shrimp, crab, deer, alligators, fish, and fur-bearing animals, but largely as a result of the demanding environmental requirements for operators there have been few adverse consequences from drilling."

It gets a little personal here, but it says, "if Louisiana can do it, why can't Alaska? We already have experience in Alaska. A good example is Prudhoe Bay, which has produced 20 percent of our domestic oil since it was developed more than 26 years ago. It has done so in a way that is both economically viable and environmentally safe."

I might add, this is written by Senator John Breaux, and I would ask that it be entered into the record.

Lastly, let me enter into the record a series of letters into the record. One comes from the head of the San Manuel Band of Mission Indians, the other comes from the Governor Gutierrez of the Commonwealth of the Northern Marianas, the Native tribal government and the Governor of Guam, and a list of some 20 Attorneys General, including the Attorneys General of Idaho, Alabama, Colorado, Illinois, Washington State, American Samoa, Delaware, the Indian Attorney General, Kansas, Nebraska, New Hampshire, Oregon, South Carolina, Texas, Virginia, Mississippi, Nevada, Ohio, Pennsylvania, South Dakota, Utah, and Wyoming.

And Mr. Chairman, I think this certainly tells the character of a person by those who have worked with that person, and I am just going to read one paragraph of this letter of submission with these names of the Attorneys General in support of our nominee.

It says, first, in the early nineties Gale worked with Attorney General and Governors in an effort to force the U.S. Department of Energy to comply with Federal environmental laws at its facilities around the Nation, the emphasis on force the U.S. Department of Energy to comply with Federal environmental laws.

Gale helped lead the fight to ensure that the Department of Energy would be responsive to the States and comply with the law and refocus on cleaning up Rocky Flats in Colorado and other sites around the Nation.

I will not go further with the letter, but I think it expresses for itself the confidence that the Attorneys General have in our nominee.

Chairman BINGAMAN. We will certainly include the letter and the article by Senator Breaux in the record.

Senator WYDEN.

Senator WYDEN. Thank you, Mr. Chairman.

As I indicated, Ms. Norton, I want to ask about the *Asarco* case. The *Denver Post* reported that when you were the Attorney General of Colorado the people in the Globeville neighborhood had to sue this company, Asarco, to clean up the heavy metal emissions from a smelter there, and these were citizens who felt that what the State had been able to secure was pretty much insufficient. They went out and sued, and they got \$20 million, and apparently were especially angry that the State testified against them at trial.

So you had a situation where the State, in their view, was not very helpful to them, and then the State went out and testified against them at trial. Now, you have spoken favorably about what is known as outcomes measures, and that is a fancy way of focusing on the bottom line, the result. Yet, what the State got does not seem to be very good results for the people of this particular neighborhood. Would you like to suggest that you will take a different approach at the Department of the Interior in this area as well?

Ms. NORTON. Senator, I welcome the opportunity to explain something more about the situation that you have raised and the issues that surround it.

First of all, as to the specific issues at Asarco, my office worked with the State Department of Health in attempting to clean up what had been a long-term metal smelter that had emitted heavy metals that had contaminated the property who were in the surrounding areas, and the health department solution included going out and cleaning up the properties, the front yards of people whose yards had been contaminated by various heavy metals, and so that was a part of the proposal that the health department had in place, and the question was whether that was an adequate proposal.

It is my understanding that the witnesses you're talking about were representatives of the State Health Department, rather than the Attorney General's office, who were talking about the scientific validity of the cleanup measures that they had put into place, but beyond that is the bigger question of whether those citizens had a right to recover damages or not.

We had a parallel situation in another area where citizens tried to file suit to obtain reimbursement for their individual damages, and the mining company that was involved in that case said that no, any money that was paid to the State ought to be sufficient, that those individual citizens did not have even the right to file suit.

My office went into court in opposition to the mining company and said yes, indeed citizens do have a right, and that the Federal law has not overturned that right to be able to go into court to protect themselves from pollution that is caused by Superfund sites, and so my office supported the right of individual citizens to be able to obtain damages in court from pollution that is caused at Superfund sites.

Senator WYDEN. I would like to see that case that you referred to, because the reason I have asked about Asarco and Summitville in particular is because my concern, as I look at your cases, and I went back and reviewed everything that I could get my hands on last night, is that you are willing to be tough with the Federal Government fairly late in the game, after a significant amount of damage is done, but I want to see somebody as Secretary who will take

a more aggressive preventive approach early on, which means that very often you step on some toes of private parties.

Now, with respect to this question of drilling for oil, and energy development, as you know this was one of the, perhaps one of the key hallmarks of the presidential campaign. the President-elect said he was going to drill for energy, and made it a focus of his campaign.

We have heard where you are not going to support drilling, and support the current moratoriums, and that is welcome. Where do you want to support drilling for additional energy, and if the focus of your answer would be Alaska, I would like to hear what amounts of energy you believe you think you could derive, when you think you could derive it, and how much could be done to prevent environmental damage?

The reason for asking is, we basically have not been able to flesh out what was one of the key issues in the presidential campaign, and it is a key issue for Interior, and perhaps you could illuminate where the administration will be on actually drilling for energy.

Ms. NORTON. Senator, you have raised two questions. Let me respond to those. As to my willingness to go after private polluters, if you look even at the two sides that were the biggest causes of concern for me as Attorney General of Colorado, Rocky Mountain Flats and the Rocky Mountain Arsenal, and all of those are, indeed, Federal facility sites, they are areas that were hugely polluted by nerve gas residues, by pesticide residues from production of pesticides, and by plutonium trigger production with nuclear residues.

Those were huge issues for Colorado, because those are located very close to the Denver Metropolitan Area, and so they had to be a top priority for me as Attorney General. There were private operators at those sites as well. The private companies, Shell Oil Company at Rocky Mountain Arsenal and Rockwell International at Rocky Flats, paid to the State millions of dollars in penalties and in damages for the expenditures of money at the cleanup of those sites, and so we went aggressively after those companies to ensure that they were held responsible for the contamination that they had caused, and for any failure to meet State and Federal environmental laws.

We were very aggressive in that, and I certainly would apply the standards of ensuring that, whoever it is, that people comply with the Federal environmental laws.

As to the issue of trying to resolve the energy problems we're currently facing, right now we're seeing shortages in California. Those shortages are short-term problem, but they are indicators of a very long-term and very serious problem. The area that President-elect Bush addressed in his campaign promises was that he would look at the Arctic National Wildlife Refuge and at production in that area.

I have been told that production there would impact only about 2,000 acres in an area that is well over the size of many of our States, and trying to do that in a way that is very environmentally responsible would be one of the challenges that we would face, and what we would have to do is look at the environmental mechanisms that can be put forward as to how to do that production in

the most responsible way, and that decision would ultimately be that of you and Congress to decide whether that would go forward or not.

It is not in the power of the President, it is not in the power of the Secretary of the Interior to decide to open the Arctic National Wildlife Refuge. That is a decision for Congress. The steps they are talking about are ones like doing any exploration only in the dead of winter so that the tundra itself would not be affected. It would only be ice on top of the tundra where any vehicles might roll on, so that the tundra itself would still be protected by all of the ice that is ordinarily over it.

Those are the kinds of measures that are being discussed, and we would certainly look to ways of trying to satisfy you that an environmentally sound approach could be done to try to look at reserves that we have heard are estimated to be larger than Prudhoe Bay, the largest oil area ever found in the United States.

Senator WYDEN. Mr. Chairman, I suspect my time is up. I would very much like you to furnish me and the committee in writing your estimate of how much energy could derive from Alaska, when it could be derived, and if you can amplify on the steps you could take on environmental protection I would very much like to have that, and appreciate—

Senator MURKOWSKI. If I may help the Senator from Oregon out, this committee has on two occasions, under both Republican and Democratic leadership, reported out on bills covering exploration in Alaska, and we should make those files available to you and your staff as well. There has been EIS's done and estimates given on numerous occasions by the Department of the Interior, and I think you would find those very, very helpful, and I am sure that we would be happy to provide the nominee with that information.

Senator WYDEN. If my friend would yield, I think your point is a good one, and you have been very fair with this Senator not just on Alaska issues but others. The reason I ask Ms. Norton is, of course, we have a new administration coming in, and that is why I would like her assessment and why I ask her the questions. I want the record to show that I think Senator Murkowski, next week's chairman, has certainly been fair with all of us on these matters.

Senator MURKOWSKI. I just wanted to let you know we have an abundance of background material within the committee for your review.

Chairman BINGAMAN. Why don't we take 5 minutes of questions from Senator Nickles, and then we will take a 10-minute break after that.

Senator NICKLES. Mr. Chairman, thank you very much. I might mention in response, staff tells me that EIA, under the Clinton administration, estimated 1 to 1½ million barrels per day from ANWR for 20-plus years. I might also mention in the Prudhoe Bay area, which originally had production up to 2 million per day, it is now less than 1 million barrels a day.

Prudhoe Bay is declining and in my opinion we need ANWR to supplement that, or else we are going to have an even greater dependency from what we discussed yesterday with this committee, with Senator Abraham.

I also want to put in the record a list of enforcement actions that Secretary, or actually Attorney General Norton did against private corporations, which included the Shell Oil Company, which has over 10 million in fines against Shell and the Army—anyway, a whole list of corporations where you made fines and had settlements and agreements, and I will include that in the record.

Ms. Norton, have you ever been to ANWR?

Ms. NORTON. Unfortunately no, I have not.

Senator NICKLES. Have you ever been to Prudhoe Bay?

Ms. NORTON. No, I have not.

Senator NICKLES. I would encourage you to visit both. I think it would be helpful. It was certainly helpful to this Senator, and I would encourage other Senators to visit both. I think it would be very enlightening, and help us in our discussions.

Ms. Norton, I want to mention just a little bit about the Antiquities Act, and I know Senator Bingaman addressed this a little bit, but these are going to be mostly comments, not so much questions. I believe the Clinton administration is showing real contempt of Congress and real contempt of Governors and real contempt of the Constitution in his exploitation abuse and I think exceeding certainly the intent of the Antiquities Act. He has thrown, including January 17, adding another nine areas under the Antiquities Act, squeezing them in for a total of about 5.7 million acres.

There is an article in the *Washington Post* that said, "oh, he has done as much as any President in the lower 48 as Theodore Roosevelt." Theodore Roosevelt completed, or did total acreage of 1.5 million acres. President Clinton has done 5.6 million acres. In other words, President Clinton has done a total of about almost four times as much as Teddy Roosevelt. He has done more than any other President by a large amount, with the exception of Jimmy Carter, which did the Alaska national lands bill.

I might mention as well, he did his first one, President Clinton did, in September 1996, right before the election, and that dealt with 1.7 million acres in Utah. He did that as a press release, and not in Utah, but in Arizona. He did it for political purposes. He did not consult with the Governor. He did not consult with the congressional delegation. He did not consult with local officials. He did it as if he was king.

We did not see any more after the election. We did not see any in 1997, any in 1998, we did not see any in 1999, but in the year 2000, another election year, all of a sudden we have another slew of presidential abuse of the Antiquities Act, no consultation, and now for a total he went from 1.7 million acres, now 5.7 million. In other words, he has added another 4 million acres, including about a million acres this week in eight different sites.

Let me assure you, maybe I am all for protecting these sites, but I am very against this process. I just spoke to the National Governor, or the Republican Governors Association. I think Governors, elected officials, should have some say-so, some input, some degree of input on whether or not these areas are going to be declared wilderness.

The President also, and it is not under your jurisdiction, but in one letter to the Forest Service he wants to take one-third of the Forest Service and basically declare it wilderness, 58.5 million



acres. The State of Oklahoma is 44 million acres. That is almost one-and-a-half times the size of the State of Oklahoma, and he is saying it is off-limits to roads and any activity whatsoever. That is absurd. He does not have that authority. He has exceeded his authority.

If you read the Antiquities Act, in 1906 it was written for the purposes—it is only a couple of paragraphs, but it says limits in all cases shall be confined to the smallest area compatible with proper care and management of the objects to be protected. He is abusing the statute, and I would encourage you to be vigilant in saying, wait a minute, let's repeal those and have Congress and Governors and others look at what is the rightful protection of these areas.

I will assure you this committee passes a lot of bills, a lot of land bills, a lot of wilderness bills. We are happy to protect national monuments. We are happy to protect areas that need to be protected, but in the process we will listen to officials from the States, we will have hearings, what is the proper boundary, instead of having it dictated from the Secretary's office or the President's office without local input, without consultation, as if they know exactly what is right in boundaries.

I am offended by the President's contempt of Congress. I am appalled by it. He is abusing this act, and I mention that to you because I don't want this administration to do it, I do not want any administration to do it, Republican or Democrat. I feel very strongly about protecting our precious resources, and I want to do it, want to conserve it, but I want to have some democracy involved in the process and not a dictatorship, not an emperor.

And again, I think the Clinton administration both in the Forest Service—there is a real abuse of this power, and I think he has really abused the Antiquities Act, and I would urge you to be aggressive—as he has been aggressive in trying to have a land grab without local input, I would urge you to be aggressive in repealing this, rescinding it, or suspending them, until we have time for congressional and local review and input.

Thank you, Mr. Chairman.

Chairman BINGAMAN. Thank you. Senator Schumer is trying to balance his responsibilities here with his responsibilities on the Judiciary Committee, and has asked to be able to ask his 5 minutes before our break, so go right ahead.

Senator SCHUMER. Well, thank you, Mr. Chairman, and I thank all of the committee members for their indulgence, and I thank you, Ms. Norton, for appearing here and for making yourself available to all of our questions.

I have to tell you, being new to this committee and new to many of these issues, I am still in the process of familiarizing myself with the issues the committee deals with, and with your record. Having said that, I do want to tell you up front, as I told you privately, I have some strong concerns about your environmental record, and I would like within the time available to just explore a few.

The first is, I would just like to talk a little bit about a very important issue in my city, which is the issue of lead paint. It was something you were involved in, and I want to say I do not think it is fair to take nominees to task for whom they represent in pri-

vate practice, so that is not the issue. I just want to get your view on this issue up front, because I think it is relevant to some of these discussions in terms of corporate responsibility.

As I understand it, the dangers of lead in paint became widely known a long, long time ago. It has been known as a neurotoxin since the 1920's, and 14 countries, from Britain to Yugoslavia, banned the use of lead in interior paint between 1909 and 1934.

Now, just tell us—now, it was not banned, of course, until 30 or 40 years later. Just tell us, do you believe that the lead paint industry bears some responsibility for the health problems caused by lead paint poisoning? I know when we talked privately we talked about it being chipped off the walls and all of that, and that would certainly be true after they stopped putting the lead in paint, but what about over the years where they may have known—and I do not want to prejudge that—that this was poisonous and yet continued to sell it?

Ms. NORTON. Senator Schumer, I appreciate the opportunity to talk with you about that, and to talk with the rest of the committee members.

To further that conversation that we had, I represented a company that was involved in the production of lead for paint many years ago. The question came to me as a former Attorney General after I had left office, and there were those who, following the tobacco settlement, had tried to predict which industry would be essentially the next tobacco, and there were several of those that were named, but one of those was the lead paint industry, and so I came at it from that question of comparing what that industry had done with what the tobacco industry had done.

When I was an Attorney General examining the question of whether I should file suit against the tobacco companies I was appalled by their conduct. When I looked at the corporate documents, when I found that even as we were considering filing suit there were still things taking place that we consider to be marketing to kids, that their activities appeared to violate Colorado's antitrust laws, and its truth-in-advertising laws.

I looked at the record of the lead paint industry, including the company that was my client, and there I found a record of responsible corporate behavior, that as scientific evidence became available as to problems, they responded to those problems. The issues that first came out were essentially with worker safety, and they took steps to deal with their factories, with the safety of painters applying lead to walls, and things were done to try to deal with those sorts of issues.

When it became apparent, or when it became rumored that there might be problems with lead on the walls that were deteriorating, and the children were being exposed to that, the companies commissioned studies at Harvard and at Johns Hopkins—

Senator SCHUMER. Do you know what year that was, approximately?

Ms. NORTON. It was in the late 1940's, and at that point they found from those studies that, indeed, there was a problem, and so instead of doing what the tobacco companies have done, which was essentially to hide any conflicting evidence, they went to public health officials and said, we recognize that measures need to be

taken, and they eventually entered into a process with a number of different medical groups and so forth, including the American Pediatric Association, that resulted in voluntarily taking most of the lead out of paint and this was done in, I believe, 1955.

The Federal Government did not ban lead in paint until 1978, and so these companies essentially voluntarily took their product off the market long before the Federal Government acted, and I view that as very, very different.

Now, I do also want to say that the companies recognize, and I certainly recognize, that there are problems for our children that are caused by deteriorating lead paint, as with any other things in our homes that may have decayed in homes that are 50 or 75 or 100 years old.

The best way to resolve that is for the landlords who own that property, or for the people who reside in that property to take the measures that fit that particular property, and the States that have been most successful in dealing with those things have strong records of enforcement of standards against landlords to be sure that properties are handled appropriately.

Senator SCHUMER. Let me ask you this, just two quick questions, and I know my time has expired. The 5 minutes goes fast, and I am sorry I missed the first round. I have been juggling back and forth, that is the problem.

First, do you think the companies bear any responsibility, and second, if they knew before the late fifties when they took the lead off the market on their own, but if they knew in the late thirties or forties that lead was harmful, and obviously that would be open to some dispute, but if they knew, would you feel they had responsibility?

Ms. NORTON. The companies are participating in the processes of trying to find the right solutions. The solutions require working with State legislators, which they have done, in trying to help in formulating programs that will be effective. Obviously, as Secretary of the Interior I would not be involved in any of those issues. Those are not Department of the Interior issues.

Senator SCHUMER. I am just trying to, on an issue that I know a little bit about, want to sort of get your feel for things, because the issues are similar. Some of the issues are similar in terms of corporate responsibility and all of that kind of thing.

So just to ask you again, do you think they have any responsibility themselves in terms of liability, in terms of all of these types of issues, where they might have known earlier than before it was taken off the market? The analogy would be to tobacco.

Ms. NORTON. Those are issues that are in litigation. I know from my own evaluation that I believe these companies acted responsibly, and the law, I believe, recognizes good corporate behavior, and companies that are willing to work with State legislators and EPA and so forth to try to craft appropriate solutions.

This is not just a simple problem that can be resolved quickly. It is an issue that is going on right now, with Federal funding for programs to help in cleaning up on a home-by-home basis those kinds of problems, and I think those kinds of Federal programs should certainly be encouraged.

Senator SCHUMER. Thank you, Mr. Chairman.

Chairman BINGAMAN. Thank you very much. We will take a 10-minute recess.

[Recess.]

Chairman BINGAMAN. The committee will reconvene and continue with the questioning.

Senator Craig, you are next.

Senator CRAIG. Mr. Chairman, thank you.

Mr. Chairman, for the record, I would like to provide some information on the Asarco Globeville site mentioned by Senator Wyden.

There is a newspaper article that states the Norton actions and how she helped, the press releases on the settlement issue by Gale Norton and the Democrat head of the Department of Health, about the important relationship between the private plaintiffs and the State of Colorado and an Asarco Globeville settlement.

I think it is important that those questions have been asked, that the record be full as it relates to that, because it clearly demonstrates I think the role that Ms. Norton played as Attorney General, and the successes that were had there by the State of Colorado and the plaintiffs involved.

Chairman BINGAMAN. We will be glad to include that in the record.

Senator CRAIG. I listened with great interest, and Senator Schumer is now gone, to his line of questioning as it related to Gale's involvement with the paint industry.

I think it is also important, because I was looking at background papers that I have available to me, as it relates to that relationship. I know that Gale's critics have suggested she does not care about the health and safety of children because she represented a paint company, NL Industries, that 50 years ago manufactured lead-based paints.

Her former clients voluntarily discontinued marketing of this for indoor use 50 years ago, and I think Ms. Norton has mentioned that well before the Federal Government restricted the use of the paint, the company no longer makes paint but produces a safe alternative additive to improve the quality. It is important that that be said, once again, I think, for the record.

What is most important is that Gale's client did not violate any State or Federal laws in manufacturing paint, from my understanding, although 50 years later we have heard about the risks of lead point. She did not represent the company in any lawsuits, it is my understanding, and if any of what I am saying is incorrect, Ms. Norton, please correct me, but only monitored regulatory activities at the Department of Housing and Urban Development and EPA.

What I also find interesting is that the Department of the Interior is not involved in the removal of old paint from homes, or lawsuits against the company to clean up housing projects. While all of us who are associated with our Federal Government I think are concerned about this, and Ms. Norton has expressed her concern, we all understand that old houses with old paint in them clearly represent a risk for children and there is litigation and huge claims for monetary damage out there, and I hope that we can all work together on this issue, because it is important.

One thing I want to broach, Mr. Chairman, what I have been pleased to hear from Ms. Norton is her endorsement of the collaborative process as it relates to our stewardship responsibilities. Clearly, she is entering and I believe will enter a role of substantial stewardship, probably one of the greater of our government as it relates to public land resources, and Senator Wyden and I have worked very closely on this issue of stewardship for the last several years in trying to craft a situation that would bring stakeholders together, and I think we have been successful in doing so.

I hope and I believe that the brightest opportunity for the future for a Federal land management protection relationship is taking the decisionmaking more closely to the local level through a stewardship collaborative concept, and we are trying to set some of that template here, and I would hope that you, Ms. Norton, would lead us in that area. I think it is extremely valuable in the future.

Many of us are frustrated and fatigued by the conflicts that have gone on at the local and State levels. While here they may stage a demonstration and hang a banner, out on the ground is not only combat at times, in certain terms, it is terribly frustrating. It is destructive of communities, of people, and we just now had Senator Dianne Feinstein join us on the committee. She is not with us today, but she is a new member of the committee.

She and I worked together very closely to legislate on this side the issue of a collaborative process in northern California, better known as Quincy, frustratingly only to see this administration badly damage the intent of Congress in that area.

But you can play a very valuable role with us. What I would ask of you is your willingness to work with Senator Wyden and myself as we work with USDA, and you will play some role in it, Interior will, in making sure that the laws we just passed, where there is a collaborative process integrated into it, that the regulation for that administration of a local collaborative process at the community level for the use of these resources become real and meaningful. I would trust I would have your help in that, but I would like to hear it for the record.

Ms. NORTON. As I understand what you and Senator Wyden have been able to accomplish through your collaborative process, that is exactly the type of model that I would like to follow in many areas, and I would certainly be enthusiastic about working with you to implement that through the Department of the Interior.

Senator CRAIG. Well, Ron and I worked very well together, as most of us do on this committee. This coming year we have got a variety of initiatives we want to undertake, and working cooperatively with you and the new Secretary of Agriculture, Ann Veneman, because of her role with the Forest Service, I think can be most helpful in terms of, in quantum leaps toward reducing conflict, and most importantly bringing about productive management policies.

Thank you.

Chairman BINGAMAN. Thank you very much.

Senator Cantwell.

Senator CANTWELL. Thank you, Mr. Chairman and Ms. Norton. It is great to see you again today. I have a couple of questions that I do not think have been covered by the committee that I would

like to understand your general views on, and then some specifics to those.

The first is the 1872 mining law, and obviously there has been quite a bit of debate throughout the last couple of years on possible changes to that. Obviously, we allow prospectors to stake claim on public land and obtain for a fee a title to that, so there have been several attempts by Congress to reform the mining law, so I do not know if you have general views on the 1872 mining law and proposed changes that you would like to see.

Ms. NORTON. The 1872 mining law, as you know, clearly forms a large part of the history of the West, and Colorado, that has a mining background, is something that has seen the development of that.

When I was in college I took a course on mining law, or mining history of Colorado, and we went to all of the various old mine sites and explored those. Today, we also want to see some balance with environmental protection, and I know that Congress has several times in the past struggled with the question of how those issues can be reconciled, how we protect our environment, how we prevent problems like the Summitville situation that occurred in Colorado, and I would be happy to work with you in trying to find those kinds of solutions.

At this point I do not have any particular proposals or particular ways in which I think those ought to be reconciled, and I would be open to working with you and with other members of the committee as Congress makes those types of decisions.

Senator CANTWELL. If I can be a little more specific on that issue, in this past year the Bureau of Land Management published the final 3809 rule as it related to regulating surface mining on public lands, and since the 1872 law claims no provisions for environmental protection these rules were essential for protecting the natural resources on public lands.

As Secretary of the Interior, what will be your position on these rules, and will you ensure that they remain in place?

Ms. NORTON. Certainly we do want to see that there are appropriate environmental protections on the public lands. It is my understanding that those regulations were very controversial, that the National Academy of Sciences had done a study that recommended a different course of action. I would look to study the existing regulations. As I go into office I'm not yet familiar with those regulations, and so at this point in time I can't really express an informed opinion about those regulations. I would look forward to becoming familiar with them.

Senator CANTWELL. So are you saying that you would seek changes in them because of what you have heard so far?

Ms. NORTON. Thank you for clarifying. I do not yet have an opinion about what course of action we would follow. I just have not studied those regulations I do not know the content of those regulations.

Senator CANTWELL. Do you think there needs to be administrative rules on environmental protection for the 1872 mining law?

Ms. NORTON. You're asking essentially a legal question, and I don't know the answer to that. As a policy matter I think it is appropriate for the Federal Government to look at regulations to en-

sure that an appropriate level of regulation is in place, because we do want to see mining take place, when it does, in a way that is compatible with protection of our environment and I will work to be sure that we are doing mining, when it is appropriate, in such a way, but at this point in time I don't know whether those regulations embody that or exactly what the situation is with those.

Senator CANTWELL. And just so I can be clear for the record, you are not saying you will oppose them, either. You are just saying you do not have a position.

Ms. NORTON. You're correct. I'm essentially saying I do not yet have a position on those, and it's my understanding also that I think there may be some litigation with those, and so it's not appropriate for me to state an opinion, and at this point I do not have a formed opinion.

Senator CANTWELL. But again, if they have been part of the Administrative Procedures Act and adopted as rules, as Secretary of the Interior you would have to uphold those rules.

Ms. NORTON. I would follow whatever the legal requirements are.

Senator CANTWELL. Okay. If I could change to another subject, and I do not think this has been covered in depth. I am sorry, Mr. Chairman, if it has. On tribal sovereignty, obviously this is an important issue for the tribes of the Northwest. Can you describe your views in general on tribal treaties, and the basis for tribal sovereignty and your views on those treaties?

Ms. NORTON. Yes. As a general matter, first of all I start with my own experience in working with Colorado's tribes, and we have worked together on first of all the negotiation of a gaming compact. I was one of the negotiators in working with our two tribes in Colorado, the Southern Utes and the Ute Mountain Tribe, on dealing with their compact issues and from that we developed a working relationship that extended on to other issues as they came up.

I have a great deal of respect for our tribes, and I have that same level of respect for the other tribes of America. My philosophy overall is that decisions are best made when they are made closest to the people, and the people who are most impacted by those are involved in their decisionmaking. That carries to the tribes themselves, that self-government is something that is very important, is very appropriate for them to be able to make decisions on those issues that impact them.

The Department of the Interior has a trust responsibility, and I take seriously that trust responsibility in recognition of the independent ability of the tribes to make decisions for themselves. I will try to work to have that right balance in fulfillment of our role. I look forward to working with the tribes and dealing with the issues that are raised by the relationship between the tribes and the Federal Government.

Senator CANTWELL. I cannot quite—

Chairman BINGAMAN. I think you are out of time.

Senator CANTWELL. The lighting does not quite reflect that from here, Mr. Chairman. Thank you for the opportunity.

Chairman BINGAMAN. Senator Graham.

Senator GRAHAM. Thank you very much, Mr. Chairman. I have final questions relative to Outer Continental Shelf, and they relate to the fact, as I mentioned earlier, that the Minerals Management

Agency is contemplating another series of leases, beginning in March of 2002.

One of my concerns, and it goes to the questions that were raised by Senator Murkowski, is that the law under which those leases are granted postpones until after the lease many of the most significant environmental questions. For instance, site-specific environmental impact statements do not occur until after the lease is granted.

Compatibility with the State's coastal zone management plan does not occur until after the lease is granted, so you have a situation of a company which has paid a substantial amount of money to secure a lease, and then they request a permit to develop that lease, such as a drilling permit, and they encounter this delay because of the appropriate environmental reviews. It seems to me that it would make more sense to try to do as much of that at the front end and, if there is a site that is found to be inappropriate for environmental reasons, you do not grant the lease in the beginning.

As Senator Murkowski suggested, the current process also puts the Federal Government in considerable financial risk, because you have companies who assume they have got a vested right which is being denied them because of the environmental reviews.

All of that background is to say, would you consider withholding of the offer of new leases for this next 5-year period that begins March 2002 until Congress has had an opportunity to review the law and possibly consider modifications which would, in fact, try to put these environmental reviews at chapter 1 and not chapter 5 or 6 of the lease, and therefore avoid some of the problems that we are currently facing?

Ms. NORTON. That certainly raises a very interesting question. I'm afraid I do not have a basis for yet having formed an opinion on that, but I would be happy to learn more about it.

Senator GRAHAM. I look forward to pursuing that with you, Ms. Norton, and let me just clarify one of my earlier questions that I asked about your position on whether areas that are currently subject to a moratorium be included in this next 5-year plan that begins March of next year.

I did not mean to suggest that the Minerals Management Service was recommending that, but rather that I suspected, based upon a letter, that the industry would be urging that the sites be included in the 5-year plan and that you are going to be the point of pressure for that industry interest, and I was very pleased, therefore, that you indicated that, as President-elect Bush has previously indicated, you would support a continuation of the moratorium on leasing in those areas adjacent to California and Florida which are currently prohibited.

Ms. NORTON. President-elect Bush has made his position clear, and I certainly am supportive of that.

Senator GRAHAM. I would like, in my remaining time, to start some questions on the National Park System, beginning with funding. During the campaign, President-elect Bush indicated his intention to focus funds on the maintenance backlog at the National Park Service. That was very good news. I would like to indicate that in my opinion the funding crisis facing the National Park Sys-



tem goes considerably beyond the maintenance backlog. There are also significant operational issues and resource protection issues.

I would just suggest, if you would, visit a place like Ellis Island National Park and look at the kind of problems that exist there, or in State, Biscayne National Park. What would be your position on looking at those operational needs and resource management needs that also are going to require significant additional resources?

Ms. NORTON. One of the highlights of my time at the Department of the Interior when I was associate solicitor was visiting Ellis Island as their visitor's center was under construction, and being able to see the plans being put into place for facilities there, and it is a very special part of our history.

I have not had the opportunity to visit some of the other areas, but look forward to seeing what we can do to improve both the maintenance and the operational budgets for those parks. It is very important to President-elect Bush, and very important to me that we take care of our important national treasures, and that requires that we put the money into the park service budget to be able to appropriately manage and appropriately restore those important places.

Senator GRAHAM. Thank you.

Chairman BINGAMAN. Senator Dorgan.

Senator DORGAN. Mr. Chairman, thank you very much, and Ms. Norton, again, thank you for being here. We do not agree on all issues, but one would expect that to be the case. I think you have made a good presentation to this committee, but I want to be candid with you about something. I think you are highly intelligent, very capable. I mentioned James Watt yesterday during my questioning, and I did that deliberately. You and I have talked about James Watt in the meeting we had in my office. Both in style and substance I felt that his tenure here in Washington was destructive, rather than productive, and if I felt for a minute that there was anything close to that in what you would bring to the Interior Department, I could not in any way cast a positive vote for you.

Now, you have worked for him for some while and have been associated with him, and I know you admire him, but I just want to say that to you because I felt so strongly—I was here in the U.S. House at the time. I felt so strongly his approach was so destructive, and in fact working together we can be productive. Democrats, Republicans, people who do not agree, can come together and be productive, and that style was in my judgment very destructive, and so I want to say that to you, even as I say I think you are highly intelligent and capable. I think you have made an awfully good presentation to this committee yesterday and today.

Now, let me, having said that, give you an opportunity to answer some questions, because all of us are getting material from everybody, people who think you are wonderful, and there are a lot of them, including people in my State and Democrats who I feel good about in my State, but there are people who think that you ought not to be confirmed. Let me read a couple of things and just ask you to respond to them, because they are on the record, they are in the papers, and I want you to be able to respond to them.

Before that, let me ask one question on behalf of the tribal chair in North Dakota. He says, it is our understanding that Ms. Norton advocated an honorarium on placing land into trust on behalf of Indian tribes. Is this true? I was asked to inquire about that.

Ms. NORTON. I have not taken a position on the issue of placing lands into trust, and I know that is a significant issue, and that there are a number of decisions about that pending at the Department, but I have not had the opportunity to study any of those. For the most part I think that is a decision that needs to be made on a case-by-case basis.

Senator DORGAN. You have taken no position at this point?

Ms. NORTON. That is correct.

Senator DORGAN. Some question the instinct—I think Senator Wyden talked a little bit about it—the instinct of being perfectly willing to go after the Federal Government but not quite so interested in going after private polluters, and the material that some of your critics would give us, the *Denver Post* editorial that responds to it.

Globeville residents hired their own lawyers to strengthen the weak clean-up from Norton's efforts. The State testified against the residents in the lawsuit, refused to clean up polluting powerplant so the Sierra Club had to do so. Citizens and the Feds went after Louisiana Pacific after Norton refused to; Norton's office refused to take on Conoco.

I mention all of that to you only because that part of the material that comes on the negative side with respect to the Norton nomination, and if this were all accurate it would tell me the instinct does not exist to say, all right, wherever pollution exists, public or private polluters, Federal Government, or big corporations, I am going to be aggressive, I am going after them.

Give me your sense of that. Are these criticisms just off the mark? Are these folks all wet?

Ms. NORTON. One of the patterns that exist in several of the criticisms is that something happened and then eventually somewhere down the line was a Federal prosecution, with the idea that nothing happened in between, and what that misses is the tremendous amount of work that people on my staff invested in trying to deal with those problems.

There are several of the cases that you cited where people on my staff put in years of work in trying to bring polluters to justice, in trying to solve problems. They worked with the State Health Department in trying to get companies to follow the law, and when those companies did not follow the law they worked to take action against them.

We brought together, and I was the impetus for creating a cooperative Federal, State, and local task force to deal with environmental crimes in Colorado. As a result of that, we looked at who was best equipped to go after a particular situation. Sometimes that was the local district attorney, sometimes it was my office, sometimes it was the Federal agencies, but just because the people who ultimately got the credit were the Federal agencies doesn't mean my office wasn't involved. The dedicated people on my staff put in many hours of work, many years of work on those cases, and

it disturbs me that they are not getting credit for the tremendous work that they did on these issues.

Senator DORGAN. If I might just ask you to respond to this. In the newspaper it said, even some Republicans are troubled by the record. Martha Marks, head of Republicans for Environmental Action, said that a rival group created by Ms. Norton and others in 1997 was financed by mining, timber, chemical, oil, and coal companies. Valid criticism?

Ms. NORTON. It's my understanding that the group that is headed by Martha Marks did not even endorse President-elect Bush in his campaign for President.

I worked initially with an organization that was designed to point out the many environmental accomplishments of Republicans. One of the things we did was survey Republican Governors to look at their brownfields programs, their ways of trying to protect endangered species on lands within the States, their programs for improving on the ways in which we dealt with pollution within the States, and to bring that information together and to highlight that.

The effort was one that was intended to show that there are good, creative, innovative ideas being done in the States, there are programs that Republican members of Congress were supporting that were adopted by Congress, and to highlight those kinds of things, and that was the effort of the group. I am not really associated with that group at this point in time, but it is an effort that I helped launch.

Senator DORGAN. Ms. Norton, you have, I think, made a good presentation in the last 2 days and done so with great skill, and I appreciate it.

Chairman BINGAMAN. Thank you very much. That concludes the third round of questions, and I would intend that we start a fourth round and see if there are other questions by members that still need to be asked in this session and, if not, allow members to file any additional questions by 5 o'clock, as I indicated before.

I had two or three other questions I wanted to ask. Last year this committee spent a lot of time, a couple of weeks, on legislation to provide full funding for the land and water conservation fund, and that would be at the authorized level of \$900 million. Would you support and recommend continued full funding of this land and water conservation fund? Do you think that needs to be a priority?

Ms. NORTON. President-elect Bush has made clear that one of his goals is full funding of the land and water conservation fund, and through the Department we would work to put that goal into place. He wants to see that the States' portion of that funding is available so that States can work toward preserving areas within their States that they see as appropriate in addition to the Federal efforts.

Chairman BINGAMAN. Also, the Conservation and Reinvestment Act, CARA, which was debated here extensively, provided for dedicated funding for several other conservation programs, wildlife conservation, historic preservation, coastal conservation, urban parks, and conservation easements. Do you support the goal that was in that bill of having annual funds committed for those kinds of conservation programs?

Ms. NORTON. I certainly support the general goal, as I understands it. We will be looking at the particular budgetary issues and studying that budget as it comes up and look forward to working with you as we flesh out how that would actually be carried forward.

Chairman BINGAMAN. Thank you. This article I referred to in the *Wall Street Journal* yesterday had a portion of it here where it said that some of your friends—it refers to a gentleman with the Competitive Enterprise Institute who is urging market-based ideas to be incorporated into the Department.

One idea mentioned here is to turn over Federal land for management experiments by States and private groups to help solve the chronic staffing shortages in the Bureau of Land Management. Spelunking groups could help run scenic caves, mountain-climbing groups, he suggested, could take over the management of certain designated ridge tops, off-road motor cyclists could be assigned some areas.

Obviously, I think there are some dangers involved with turning over management of public lands to private groups such as that. I guess my question would be, as the Secretary of the Interior, would you be a strong advocate for adequate funding for the various Federal land management agencies, the BLM in this particular case, so that we would not even get to the discussion about whether we ought to be assigning responsibility for management to some of these private groups?

Ms. NORTON. I believe public-private partnerships are something that should be used to serve our public lands. In Colorado we have had a lot of experience with the State and with local governments working with private organizations to be able to further public goals and I found, as I was looking through my materials in preparation for this, that the Department of the Interior has benefitted from 90,000 volunteers helping with our parks and our refuges and so forth.

And that is a very important resource for us to be able to use, that is more employees than the Department has, people who are willing to help out with preservation of our resources, so I want to use that. I do not want to just turn things over and to neglect our responsibilities. As a Federal agency we need to ensure that we are exercising the appropriate Federal oversight role and ensuring that everything is done properly.

We also ought to explore the ways of magnifying our ability to care for our lands by using those other people who are also enthusiastic about those lands.

Chairman BINGAMAN. Let me just mention one other subject. Last year, Congress passed a bill that Senator Campbell and I sponsored called the Indian Land Consolidation Act. This was designed to deal with the problem of Indian allotments, the interests that Indians, individual Indians have, that they have not been able to develop those lands because of such a fractionated ownership and pattern.

I would just call that to your attention. If this legislation is going to be successful in clearing up any of this for the Indian owners of that land, we are going to have to have the support of the Sec-

retary of the Interior in the implementing of the law and in the funding of the effort to do this, so I call that to your attention.

Ms. NORTON. Mr. Chairman, I look forward to working with you on that.

Chairman BINGAMAN. Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman. I would ask the nominee relative to the point that the chairman brought up with regard to CARA—and as you know, that was something that this committee worked on. I worked with Senator Landrieu in the committee and Representative Young in the House worked on this legislation, and we finally drafted a kind of a left-handed CARA-light compromise that funded it at about \$1.6 billion.

However, the Department of the Interior led us to believe that the allocation levels would be a little different than what they are indicating they are now, so there is some discrepancies, and I would ask you, when you have time, assuming you are confirmed, that you would review the allocations so we can get a better understanding of where the differences are. Is that fair enough?

Ms. NORTON. I would be happy to examine that.

Senator MURKOWSKI. I appreciate that. I noted for the record the so-called tobacco report card which I have before me, and it cites specifically that Colorado and North Dakota and Washington took the lead in negotiations that led up to the 1998 settlement and they highlight your contribution and activity in this area and it says, then-Colorado Attorney General Ms. Norton was a critical player in the negotiations from the beginning, and it goes with further accolades as to your contribution, and I would suggest this be included in the record, Mr. Chairman.

Chairman BINGAMAN. We will be glad to include that in the record.

Senator MURKOWSKI. The Park Service recently made a decision to install photo radar cameras on the George Washington Parkway. Are you aware of that?

Ms. NORTON. No, I wasn't.

Senator MURKOWSKI. Well, if you are driving over 55 miles in a 50-mile zone the cameras will take a picture of your license plate and deliver you a speeding ticket in the mail. I am not going to debate the merits of that, but it is rather curious, and we talk about State's rights here, and you are going to be—you are seen as a protector of State's rights.

Now, I am not sure that the Park Service should be using cameras in Virginia where the Virginia Governor vetoed a bill that would have allowed photo radar. If you have not looked into this matter I would suggest you prepare yourself, because it is a legitimate State's rights issue, and who has the authority, the State of Virginia, or the Federal Government? I would be interested in having your determination of that.

Senator CRAIG. Frank, that really does sound like Big Brother's watching.

Senator MURKOWSKI. Well, obviously, Big Brother is watching. Like many national parks, our Denali National Park, which is the number 1 tourist destination in our State, is struggling to accommodate an increasing number of visitors. The single road access into the park is a disaster waiting to happen.

We only let buses in there for the most part. If you have not taken that bus ride it starts at 4 o'clock in the morning. You get back about 9 or 10 o'clock at night, and it is beautiful, magnificent, but it can scare the hell out of you. I would ask that you assure me that you will seek to review visitor access to the number 1 tourist destination in our State, Denali, and try and give us some assurances as to how the Park Service is going to meet its obligation to handle the visitors.

Unfortunately, outside the park we have got a strip mall now because of the concentration of access in one area, and it just simply cannot work.

Lastly, and I think that I can wind my questions up here with asking—and this is to alleviate some of the concerns of my good friend from Oregon, Senator Wyden—with regard to the availability of the executive summary on the potential of oil production from the coastal plain of the Arctic National Wildlife Refuge, and this is May 2000 and I would provide these, of course, to all members, but this report was requested by this committee in a letter dated March 10, and the request asks the Energy Information Administration to develop a plausible scenario for Arctic National Wildlife Refuge, development consistent with the most recent U.S. Geological Survey, and so this is very timely.

The report contains an environmental assessment, projections of future daily production rates using USGS resource estimates. The coastal plain study includes 1½ million acres of ANWR, and 92,000 acres of Alaska Native Inupiat lands, and State of Alaska off-shore lands out of the 3-mile limit which are expected to be explored and developed if and when ANWR is authorized for development.

The coastal region, which comprises approximately 8 percent of the 19-million acre ANWR area, is along the geologic trend that is productive in the Prudhoe Bay area 60 miles West.

It goes on to say, and I quote, “this is the largest unexplored potential productive on-shore base in the United States.” The 1002 area is now closed to exploration and development. The USGS made the following estimates in 1998 of technical recoverable oil and natural gas liquids from the ANWR coastal plain, and mind you, this is old data.

There is nothing current because there has not been any exploration allowed, but the estimate is that a 95-percent probability, that is 19 in 20 chances, that there is at least 5.7 billion barrels, a 5 percent probability, 1 in 20, that at least 16 billion barrels of oil can be recovered. That is equal to what we would import from Saudi Arabia over a 30-year period, and thirdly, the mean expected value estimate is 10.3 billion barrels of recoverable oil.

But you know as well as I do that oil is where you find it, and where you look for it you usually do not find it, but the likelihood, according to the geology, suggests that you will very likely find it in this area.

By comparison, the total 1998 U.S. proved reserves of crude oil were estimated to be 21 billion barrels, and the 1993 estimate of undiscovered technically recoverable oil for the on-shore lower 48 States was about 23 million barrels. EIA postulated yearly development rates of the resources without specifying the efforts of various levels of oil prices and technological advances.

In any event, the estimates are as follows: low and high ANWR yearly development rates ranging from 250 to 800 million barrels per year. Projected ANWR peak production ranged from 650 to 1.9 million barrels per day across the six cases, and I could go on and on, but I think it is appropriate to recognize that we do have a current study done by the Clinton administration Energy Information Agency, which is an objective agency, and I would encourage my colleagues to read it, and I would ask the staff to give Senator Wyden the first copy.

Senator WYDEN. I have it.

Senator MURKOWSKI. We have already given it to you?

Senator WYDEN. We have.

Senator MURKOWSKI. We work quickly. Thank you.

Chairman BINGAMAN. Thank you.

Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman.

Ms. Norton, I have one last question with regard to this matter of enforcing environmental laws, and it revolves again around what happened in Colorado, where you said you were unable to defend that affirmative action program.

In the *Rocky Mountain News*, July 20, 1997, you said, in your words, that it was rare to have someone in effect beg off carrying out a particular case like that. My last question to you is, are there any rare instances that you can foresee, as Secretary of the Interior, where you would not enforce a Federal environmental law?

Ms. NORTON. The situation that you address was a fairly unique one, because it was a question of determining what the constitutionality was of a State program and I had already issued some opinions that became public in a related situation, and the arguments that the State would need to make in defending the program in question would have been different than the ones that I was already on record with.

Senator WYDEN. That is what you said yesterday, but you described your conduct as rare, and I appreciate that. What I want to know is, do you foresee any rare instances, if confirmed, where you would be unwilling to enforce a Federal environmental law?

Ms. NORTON. I do not foresee any situations where I would not be enforcing the Federal laws. As Secretary of the Interior, my responsibility is to enforce those laws, and I would take very seriously that responsibility.

Senator WYDEN. I appreciate the answer. Let me also, because I have obviously had a number of pointed questions during the course of these hearings, express my thanks to you for your answer to Senator Craig on the county payments bill.

As you know, that is a very contentious issue. Both of us took a lot of flak to try to write the bill. I had environmental groups running ads with me embracing chain saws because I wanted to try to come out with a creative new approach in this area, and I think the question Senator Craig asked about implementing it and your willingness to work with us is welcome.

My question, however, is, given the stress that was placed, and appropriately so, on collaboration, can you give the committee another specific example of an issue where you basically like to try to bring people together and prevent a train wreck? That is what

the two of us did on this question of the relationship between timber harvest and payment to counties. It should have been done several decades ago, when the spotted owl fight began, because you could have prevented a train wreck there.

Give us, if you would, one specific example of where you would like to try to bring people together, foster this collaboration, and prevent a train wreck in the natural resources area.

Ms. NORTON. In so many different land management issues that is going to be appropriate, and it is difficult for me to say that in such-and-such a county, such a State—

Senator WYDEN. I am talking about a general problem. We dealt with a relationship of timber harvest to pay for the schools and roads, and there was tremendous concern that there was an incentive to harvest more just to help the schools and roads.

Senator CRAIG and I got in the middle of this and settled it so that, in effect, we had a balanced approach and brought these warring camps together, and I would like to see if, in a policy area, there is another train wreck that you would like to try to prevent, given the fact that you have probably used the word collaboration 50 times or more in the course of these hearings, and if you could give us a specific example of an area where you would like to foster it on your watch.

Ms. NORTON. I would say one specific area would be in dealing with the endangered species habitat. There are a number of species where the States have tried to come up with recovery plans and work with local officials in coming up with those. I would like to see what we can do to go beyond just the pure enforcement of the Endangered Species Act, which, of course, I would do, but really try to find ways to restore endangered species, and to be able to do that you need to have the active involvement and support of many different people.

Senator WYDEN. So you would be willing to bring together environmentalists, people from the timber industry, a variety of sectors, to work particularly on the question of a collaborative approach to dealing with habitat under the ESA?

Ms. NORTON. Yes, I would.

Senator WYDEN. Thank you, Mr. Chairman.

Chairman BINGAMAN. Senator Craig.

Senator CRAIG. Gale, in your home State last year we put together the Upper Colorado collaborative effort on issues of fisheries and brought those together, and that is one you are obviously going to be involved in in the future as that works its will. The good news is, I do not have any more questions, Mr. Chairman. I do have some closing remarks, and I will make them when everyone completes their questions.

Chairman BINGAMAN. Senator Graham.

Senator GRAHAM. Thank you, Mr. Chairman. The good news is I just have a few remaining questions. The chartering act of the National Park System sets this as our standard of stewardship. It says that we shall leave each of the parks, quote, “unimpaired for future generations.” With that as the standard, let me outline what I think are some of the challenges that the park system is going to be faced with in the next period, and ask what you believe these



challenges will entail in terms of resources and possibly changes in park policy.

The population of the United States as of the year 2000 was approximately 275 million. According to the Census Bureau, the population of the United States in the year 2100 is estimated to be 571 million, so we are going to have more than a doubling of the population of the country.

There will be other changes as well. One is that more of that population will be urban and assumedly will want to have access to an outdoors experience. No. 2, it is going to be an older population. Today, the population in the United States approximately 11 to 12 percent is over the age of 65. Within the next 30 years it will be almost 18 percent over 65. It will also be less traditional.

For instance, today the population of nonwhite Hispanics in the United States is 71.4 percent. By the year 2100 that will drop to 40 percent. The Hispanic population will comprise one third of the population of the United States in the year 2100. What do those kind of demographic changes on one of the institutions which is most significant in our national culture, the National Park System, say to you about the kind of policy and resource challenges that the park system is going to be faced with in the immediate future to get ready for that longer horizon future?

Ms. NORTON. The parks are a tremendous resource, and should be accessible to people. We need to look at each of the parks and determine how best we can marry together the preservation of the resources that we want to preserve for the very long term and the ability of the American people to enjoy those parks.

The accessibility of park resources to those who are elderly or handicapped is an important consideration, and there are things we can do in many of our parks to make that more available and more accessible. It is a wonderful challenge and a wonderful opportunity to be able to look at the resources available to us and to try to find ways to allow those resources to be best available for people to enjoy.

One of the other things that I'm enthusiastic about as part of President-elect Bush's platform is the ability to provide Federal money through the land and water conservation fund to States to address, not through the National Park System specifically, but through each State's own individual planning to have recreation areas and to have open space areas that are available to serve the people of our urban areas.

It is wonderful to have the parks I love in the West, but those are not as accessible to people in the urban areas of the East. The Department of the Interior mission I think needs to expand towards having an eye toward helping States and local governments provide resources that will serve all of the people of America.

Senator GRAHAM. I am very encouraged by what you just said. I think we sometimes lose sight of the fact that the national parks are somewhat the capstone of a larger system to provide outdoor and recreational experiences for our people, and that that system is interrelated.

For instance, if there are inadequate State or local parks to provide more active recreation there will be pressure on the national parks to be providing that opportunity, which could lead to the det-

riment of the national parks' primary mission, which is resource experiences and protection.

That is why I think the CARA bill that Senator Murkowski and Senator Bingaman referred to earlier is so important. It was the mechanism by which we could provide some reliable sustained and more or less efficient Federal participation in integrated local-State-national effort to begin to meet our current and particularly these enormous future needs that we are going to have for outdoor recreation and the protection of critical national resources, so I very much appreciate your eloquent statement to that effect and, should you be confirmed, that would be an area which I am certain this committee, and I would offer myself specifically, would be very interested in working with you towards achieving.

Chairman BINGAMAN. Senator Cantwell.

Senator CANTWELL. Thank you, Mr. Chairman, and again, thank you for your indulgence on these important questions as they relate to the country, but obviously to our unique regions as well.

If I could turn to—and I am not sure how much you have commented on NEPA, but I mentioned yesterday that I joined the committee as a long line of representatives from the Northwest. I think we have had, as I have said, for the last 50 years all but 5 years in which someone from the Northwest was not on this committee, and one of my predecessors, Scoop Jackson, was chairman of the committee for a great number of years and actually was the author of the National Environmental Protection Act.

So as I look at the year ahead and what changes—I know that you have made comments on NEPA. In fact, part of your testimony before the House Resources Committee a couple of years ago, you stated that, start the devolution of authority in the environmental area back to the States by amending NEPA. Specifically, Congress should require that agencies consult at an early stage with State and local governments in developing environmental impact statements. It should be clear in NEPA that an environmental impact statement is not adequate if it does not address fully the State and local concerns.

If confirmed, are you going to advocate for amendments to NEPA, that is my first question, and if so, what specific amendments would you pursue?

Ms. NORTON. Thank you for that question and the opportunity to talk about that issue. I believe the environmental impact statement process and the idea that the Federal agencies ought to examine the environmental impact of their actions is something that is quite important. We were talking earlier about the endangered species in the Colorado River, and that really was a tragic example of Federal agencies working to eradicate a fish species that a few years later we decided we needed to be putting in huge efforts to try to restore, because they eradicated them so fully they were endangered now.

That is the kind of thing that in the history now of having NEPA in place I believe we have often prevented from occurring, and that is what that function ought to be. I am not sure whether the issues that I expressed as a State Attorney General are going to be the same views that the Federal administration will choose to pursue, but I certainly would like to see from a personal perspective the

idea that the States having a more active role in the NEPA process take place.

It may be possible to do some of those, or to accomplish some of the same results through an informal process of working together between the States and the Federal agencies without formal amendments to the National Environmental Policy Act.

Senator CANTWELL. So at this point you are not saying whether you propose amendments?

Ms. NORTON. At this point I do not have any specific proposals for changes to the National Environmental Policy Act and, frankly, there are many, many things that are going to be on my agenda for dealing with the Department of the Interior issues, and I anticipate that those are the things that will really be occupying my time.

Senator CANTWELL. Thank you. So just one follow-up on that, because there is obviously a very prime purpose for NEPA, and that is to provide the public with pre-decision information about the environmental impacts, and so you do believe that is an important process to NEPA?

Ms. NORTON. I certainly do believe it is important to provide the public with all of the best scientific information that we can acquire for making environmental decisionmaking. I am absolutely committed to the idea that the decisionmaking should be based on the best science, on the best analysis of environmental issues that we can find and, as Secretary of the Interior, would anticipate, if I am confirmed, trying to be sure that our decisions are really made in a fully informed way with full public participation.

Senator CANTWELL. Thank you. My time is almost up, but I did want to ask, on 3809 regulations, I think it is believed by the Department of the Interior that they are consistent with the National Academy of Sciences. You said earlier you did not think they were consistent with that study.

Ms. NORTON. This is an issue that, of course, I want to study if I am confirmed. I have heard reports that they are not consistent, but I don't have any firm basis for that, other than the third-hand reports, essentially, that I have heard about those regulations, so I will be happy to form some first-hand opinions.

Senator CANTWELL. Thank you. Thank you, Mr. Chairman.

Chairman BINGAMAN. Thank you very much. I think everyone who has been here has been able to go through a fourth round of questions. Senator Craig indicated a desire, before we concluded the hearing, to make a closing statement. Why don't you go ahead at this point, then Senator Murkowski, if he has any additional statement, or anybody else.

Senator MURKOWSKI. It would be your intention, then, that this would pretty much conclude the hearing?

Chairman BINGAMAN. I would expect, unless there are some burning questions that Senator Cantwell wished to present, or Senator Craig or yourself. There are only four of us here. Did you have additional questions?

Senator CANTWELL. If I do, I believe time is open until 5 o'clock today to submit questions in writing.

Chairman BINGAMAN. Yes. Questions can be submitted by any member up until 5 o'clock today for the record, so Senator Craig, go ahead with any statements you would like to make.

Senator CRAIG. Well, Mr. Chairman, thank you very much, and again, Gale, thank you for the time you have spent with us, and the very frank and forthright way in which you have responded to our questions.

Yesterday, I think Senator Campbell, who you know well, opined that he was glad that it was you and not he who had been selected by President-elect George W. Bush to be our new Secretary of the Interior. I am quite confident I know why he said that.

I have watched over the past 2 weeks. You have been bitterly criticized and broadly characterized. You have become the subject of banners and a bumper sticker or two. Your critics have questioned your integrity, your judgment, your personality, and your views, so I guess my final question to you is a simple one. Why do you want to be the Secretary of the Interior of the United States of America?

Ms. NORTON. Over these last few weeks I have found myself occasionally wanting to find some calm in all of the chaos, and when I do so I think about a place that causes me to feel serene, and that place is Bear Lake in Rocky Mountain National Park. It is a beautiful, beautiful place. It's a timeless place.

The job of Secretary of the Interior is one that, in the time frame of the Western lands it is a brief instant, but I would like to play my role in seeing that those areas are preserved. I want to see that we do the best that we can for the people of the West and the other people who are affected by the decisions made here in Washington. I have been privileged to have worked with many people of many different views over the last 20 years, and I want to put into effect what I have learned from all of those many people.

The Department of the Interior is a wonderful place with a long history. The opportunity to work on the important issues that the Department of the Interior faces and, most importantly, the opportunity to be a part of the lands and the history of that department is something very important to me. It is an opportunity that, despite the criticism that inevitably comes to someone who plays this role, I would gladly go through that in order to be able to play some part in the important decisions that America will make as to our natural resources.

Senator CRAIG. Well, Gale, thank you. I feel very privileged that I may play a small role in helping you fulfill that dream and responsibility. Thank you for being with us.

Chairman BINGAMAN. Senator Murkowski, did you have any additional questions or statement?

Senator MURKOWSKI. Let me just submit a dozen additional letters of support, from Eli River Indian Community, to Kovosack Associates, to the Colorado Cattleman's Association on behalf of your nomination and I would ask that they be entered into the record.

Chairman BINGAMAN. They will be entered into the record.

I would also indicate all the letters of support and opposition as well that have been received by the committee up until the end of business today will be included in the record.

Senator MURKOWSKI. Let me compliment you, Senator Bingham, and your professional staff on the manner that we have worked together now that the committee is equal, 10 members on each side, and with the agreement that our two leaders put together to encourage an expedited process of the various nominees for Secretary and the manner that we have been able to work together collectively on the nominations under our area of responsibility, the Department of Energy, Spence Abraham yesterday, and again yesterday and today the Secretary of the Interior nominee, Gale Norton.

I think it represents an ongoing relationship that we have had, whether we are in the minority or the majority. I have been on this committee since the time of the late Scoop Jackson, and I think the productivity of this committee is evident in the material that was passed out relative to the fact that we do an awful lot of activity. We are the highest ranking committee in the U.S. Senate for productivity, and if anybody would like to see the charts the staff would be happy to provide them, and we are going to continue that.

We have got new members, and we have got some contentious issues. We have got a new administration, but we have significant responsibilities in the area of the environment, in the areas of energy, and it is going to call from some decisions, and we have never shrunk from that responsibility.

So I would, as a consequence of structure of where we are going to leave off today, call the committee to order as chairman after the 20th to report out the nomination, subject to the members' individual opportunities to express themselves in a vote. I trust that is agreeable with you?

Chairman BINGAMAN. Yes, that is certainly agreeable. That would be the logical way to proceed. Thank you very much for that statement.

Let me thank you, Ms. Norton, very much for your patience with all committee members and your forthright responses to the questions. I think we have had a constructive hearing, and there has been a lot of issues explored, and I, for one, have a better idea of your views, and I appreciate very much your willingness to respond, and I will look forward to seeing the responses you provide the committee to the written questions.

Senator MURKOWSKI. And I would intend to try and canvas the members as early as possible next week to find a compatible time that we can report out the nominees, hopefully by Tuesday.

Chairman BINGAMAN. That will certainly be appropriate. With that, the committee will stand adjourned until the chairman calls another meeting. Thank you.

[Whereupon, at 12:10 p.m., the hearing was adjourned.]



## APPENDIXES

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### APPENDIX I

#### Responses to Additional Questions

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##### RESPONSES TO QUESTIONS FROM SENATOR AKAKA

###### NATIVE HAWAIIANS

*Question.* I am pleased to hear that you intend for American Indian issues to be a top priority for you as the Secretary of the Interior. As you know, I have long supported the rights of indigenous peoples on an international level as well as domestically. I'd like to discuss the issues involving Hawaii's indigenous peoples.

Public Law 103-150, commonly referred to as the "Apology Resolution" was signed into law in 1993. In summary, the resolution apologizes to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawaii on January 17, 1893, and calls for reconciliation between the United States and Native Hawaiians. In 1999, representatives from the Department of the Interior and the Department of Justice began public consultations with Native Hawaiians as the first step of this process of reconciliation. On October 23, 2000, the Departments released a report about the public consultations with recommendations for additional steps in the reconciliation process.

The reconciliation process is an incremental process of dialogue between the United States and Native Hawaiians to resolve a number of longstanding issues resulting from the overthrow of the Kingdom of Hawaii. The Department of the Interior has had the lead in this process as the agency that deals with indigenous peoples within the United States jurisdiction. What assurances can you provide regarding the continuation of this important process between Native Hawaiians and the United States?

*Answer.* While I am unfamiliar with the details of the issues between the United States and Native Hawaiians, if confirmed as Secretary of the Interior, I will work with all parties to seek consensus and ensure cooperation throughout the country. I look forward to learning more about our relationship with Native Hawaiians and working with you on the reconciliation process.

*Question.* One of the recommendations from the report released on October 23, 2000, is the establishment of an office within the Department of the Interior to focus on issues involving the indigenous peoples of Hawaii, Native Hawaiians. The office would continue to facilitate the reconciliation process and would assist Native Hawaiians in addressing the political and legal relationship between Native Hawaiians and the United States. What are your thoughts regarding the implementation of this recommendation?

*Answer.* I have not had an opportunity to read the October 23, 2000 report. I will need to review the report, its recommendations and any actions that have been taken on this matter more thoroughly before decide how to proceed.

###### GLOBAL WARMING

*Question.* As the only island state in the United States, Hawaii is vulnerable to a number of climate change scenarios. I am particularly concerned that you have expressed skepticism about the reality of climate change, and discount the serious threat it poses to the U.S. and other countries. Satellite data on atmospheric temperatures, measurements of sea surface temperature, evidence of increasing concentration of greenhouse gases in our atmosphere, and continuing sea level rise indicate that we are in for some changes. Pacific islands are uniquely vulnerable to many of the potential impacts of climate change. It is projected that there will be

changes in patterns of natural climate variability (such as El Nino); changes in frequency, intensity and tracks of tropical hurricanes and typhoons; and changes in patterns of ocean circulation. Pacific islands are also likely to experience increased ocean temperatures and changes in sea level (including storm surges and sustained rise).

Can you share your views on global warming? How will your views affect the Department of Interior's role in climate change efforts and interagency cooperation regarding global warming?

Answer. As I stated in my testimony on Thursday, January 18, 2001, I believe the issue of global warming must be based on the best possible scientific understanding of the problem. There is a growing consensus that global warming is occurring at some levels, and that is my understanding of current science. On the other hand, there is still substantial research that must be done to determine the causes of the phenomenon and the appropriate public policy responses to any adverse effects linked to the problem.

#### NATIONAL PARKS—FINANCING

*Question.* I was pleased to hear of your "full support for a strong national park system" at our recent meeting. As you know, our national parks are facing increased visitorship at levels that far exceed predictions. As a result, infrastructure and utility systems at national parks are overtaxed, campgrounds are overcrowded, traffic is a problem, and there is general decay of visitor facilities. In addition there are 33 new parks since 1987 and a number of unfunded mandates that draw on the Park Service's funds. The national park system is not only our domestic crown jewel for investments in public spaces of great natural beauty and historical significance, but is the best in the world. I know you would agree that we must not under invest in the park system of the U.S.

You have said that the way to deal with unfunded mandates is to reel them back in—to start returning money as well as responsibility back to states. Do you consider the increasing scope and number of national park units to be an "unfunded mandate"? If that is the case, would you de-authorize or un-fund the new units of the national park system?

Answer. I agree with you that the National Park System is a crown jewel among our public spaces. I strongly support the National Park System and am committed to improving and enhancing it. I do not believe that the establishment of new park units constitutes an unfunded mandate in the traditional sense of that term. Nor do I support deauthorizing or defunding new units of the National Park System. President Bush pledged to seek increased funding for the National Park Service to eliminate the backlog of major maintenance and construction and resource restoration over the next five years. I look forward to working to fulfill that commitment.

*Question.* How do you propose to ensure that the Park Service has an adequate financial base to meet the basic infrastructure demands and provide quality visitor facilities and interpretation? In addition to increased appropriations, would you look favorably on such options as increased user fees and other financial reforms?

Answer. At this time, I am not familiar enough with the Department's programs to maintain the National Park System to provide specific recommendations with respect to additional measures that might be implemented to meet the System's needs. However, I look forward to working with Congress, the States, user groups, and other stakeholders to ensure that the National Park System has sufficient resources to operate and maintain our national Parks and provide adequate services for the over 270 million annual visitors to the Park System.

*Question.* During both Republican and Democratic Administrations, Congress has authorized new parks to conserve our natural and cultural heritage. In the 106th Congress, four new units were created and several park expansions authorized, including Great Sand Dunes National Park in Colorado (sponsored by Members of Colorado's Republican delegation).

In his statement of September 13, 2000, presidential candidate George Bush said that "first priority should be given to maintaining existing holdings." What is your view of the need to continue adding nationally significant resources to our national park system?

Answer. I support President Bush's statement. The National Park Service estimates that the backlog for major maintenance and construction is approximately \$4.9 billion. One of my top priorities will be to seek increased funding for the National Park Service to eliminate this over the next five years. At this time, I do not have a separate position with respect to the addition of new park units.

*Question.* Do you intend to place a limit on recommending new units?



Answer. I am not familiar enough with this issue at this time to answer this question. I believe generally that the decision about whether to add a new unit must be made on a case-by-case basis. Any decision to add a new unit also requires Congressional action. I support the President's statement that our first priority must be to maintain the existing units in the National Park System.

*Question.* Can we afford not to preserve significant resources while we deal with the backlog issue?

Answer. I recognize the importance of preserving significant resources whenever possible. However, I also support the President's statement that our first priority must be to maintain the existing units in the National Park System.

*Question.* Are there any types of areas that you believe are not represented in the park system that deserve further study and analysis?

Answer. I am not familiar enough with the specific units included in the National Park System to respond to this question at this time.

#### NATIONAL PARK SERVICE—DIVERSITY ISSUES

*Question.* Over the last ten years I have been an advocate for increased recognition of diversity within national parks. I have initiated studies for park service units that tell the story of Japanese-American internment camps, historic and cultural trails in Hawaii, as well as the story of West Coast immigration, and a bill on the Peopling of America. I believe that the interpretation of how America has become a diverse national is important for us all.

How do you think your role can foster a greater appreciation of our national parks to a wider constituency and broaden the identification and interpretation of new park units that tell the story of all peoples?

Answer. I am not familiar enough with the specific education programs associated with our National Parks to respond to your question at this time. However, I share your desire to have our National Parks represent the diversity of experience and cultures that make our country unique. I look forward to working with you and the Congress to broaden the appeal of our National Parks.

#### ENDANGERED SPECIES

*Question.* As you may know, the state of Hawaii has over 300 endangered and threatened species—more than any other state in the U.S. And twelve more species are being proposed by FWS this week. Yet our state receives relatively little funding through the federal Section 6 program and our State funding for endangered species programs is very small. In 1997 Hawaii enacted State legislation establishing incentives for private landowners to improve habitats on their properties. In essence, the measure authorizes the state to enter into "safe harbor" agreements with landowners who voluntarily improve habitats. The State, conservancy groups, and the FWS endorses such approaches that allow planning on a "habitat" level as opposed to a "species" level.

Do you believe that there is a federal role in protecting habitat as part of the interpretation of the Endangered Species Act?

Answer. The Endangered Species Act gives the federal government an important role in preserving habitat for endangered and threatened species. I support programs like the one you have described in Hawaii to encourage private landowners to preserve habitat for species.

*Question.* What steps would you take to encourage habitat-wide planning for conservation of endangered species on private lands?

Answer. If confirmed, I am committed to work with the States and landowners to use tools like habitat conservation plans, State Candidate Conservation Agreements, and Safe Harbor Agreements to help save species and their habitat.

*Question.* Would you support the current initiatives to work with landowners on Habitat Conservation Plans that include "safe harbors" and "no surprises" agreements?

Answer. Yes.

*Question.* Would you support new programs and increased funding for state and community-based conservation and education programs for endangered species, provided to states with the greatest number of endangered species issues?

Answer. I am not familiar enough with the formula for distributing section 6 funds to the States to respond to your question about allocation of federal funds. I look forward to working with you, the Congress, and any other interested stakeholder in identifying new programs or tools that could be used to recover endangered species.

## INSULAR AREAS

*Question.* President Clinton established the Interagency Group on Insular Areas (IGIA) by Executive Memorandum on August 9, 1999. The memorandum states that “the IGIA shall work with the Secretary of the Interior to identify issues concerning American Samoa, the Commonwealth of the Northern Mariana Islands, Guam and the U.S. Virgin Islands,” to make recommendations to the President concerning Federal Government policies and programs affecting these areas.

Do you plan to continue the IGIA process or will you propose an alternative approach to improving federal-territorial relations to include the White House?

*Answer.* Based on my current limited familiarity with IGIA, it appears that until a better approach is developed to improve federal-territorial relations, the IGIA offers the best means to coordinate federal policies and programs concerning the territories.

*Question.* Because of the geographic locations of most of the territories and their non-inclusion in national policies, the territories often do not share in the economic prosperity of the nation. The unemployment rates in the territories are in the double digits. As the Secretary of the Interior, what actions can you take to assist the economies of the insular areas?

*Answer.* I am not familiar enough with the economies of the territories to be able to make specific recommendations at this time. However, I look forward to visiting the territories and meeting with their respective leaderships to work towards improving the unemployment rate now in existence. I plan to ask for a meeting with the territories’ representatives in the Congress to help determine the array of options that are available to the Secretary to assist in economic development.

## RESPONSES TO QUESTIONS FROM SENATOR BAYH

*Question.* You have, in the past, advocated a broader interpretation of takings law than has been adopted by the Supreme Court. Specifically, you have written that economic liberties have not been adequately recognized in the courts. For instance, you have suggested recognition of a “homesteader’s right to pollute.” Can you elaborate on your current thinking on what types of regulatory action constitute a “taking” of private property and when compensation would be due?

*Answer.* As I mentioned during my confirmation hearing, I did academic research on the concept of emissions trading in the early 1980s. At that time, an emissions credit was sometimes referred to as a “tradeable right to pollute.” On the assumption that emissions trading might begin with a recognition of the current emissions level at various facilities, the initial level of pollution was considered to be acquired by “homesteading,” just as the earliest settlers of land acquired rights by being the first ones to develop an area. Inherent in this concept is the idea of starting with the “homesteaded” (i.e., baseline) level of pollution and trading “rights to pollute” (i.e., emissions credits) to reduce present or future levels of pollution in the most economical way. Thus, to me, a “homesteading right to pollute” is one mechanism that lawmakers might select to begin establishing an emissions trading market, much like the one that Congress created through the Clean Air Act Amendments. Emissions trading is one example of the innovative approaches to environmental issues that I have championed throughout my career.

Unfortunately, this personal understanding of the terminology was not apparent in my speech that was reprinted in the Harvard Journal. The speech was never intended to imply an unfettered “right to pollute” as some have interpreted it. The speech was clear, I believe, in indicating that I was simply describing a range of competing views regarding property rights and the environment.

I recognize that not every federal action or regulation that adversely impacts a property owner constitutes a taking under the Fifth Amendment. The Supreme Court has articulated guidelines setting forth what constitutes a taking that must be compensated. I support the Supreme Court’s interpretation of the takings clause of the Fifth Amendment and do not believe that it unduly restricts federal regulatory activity.

*Question.* How would these views impact your decisions as Secretary of Interior?

*Answer.* I will protect the federal government’s interests in its lands and enforce all environmental and land use laws that apply to the lands and interest managed by the Department of the Interior.

*Question.* For example, if a company proposed a mine next to a national wildlife refuge and there were concerns that the mine would negatively impact the refuge (e.g., create hydrological problems), how would you proceed? Would you oppose the mine and call for federal, as well as state, environmental permits for the project? Would denial of the permit be a compensable taking?

Answer. While the actions to be taken in response to your hypothetical would depend on the particular facts, if confirmed as Secretary of the Interior, I would expect to examine the legal authorities available to the Department, coordinate with other federal agencies, and utilize our powers to appropriately protect federally owned lands and resources.

The question of when compensation could result from denial of a permit requires a fact specific analysis based on the U.S. Supreme Court's guidelines regarding regulatory takings. Generally, the courts have required that property impacted by regulation must no longer have any economic use before compensation is required.

*Question.* In 1980, you coauthored an amicus brief on behalf of the Mountain States Legal Foundation (*Andrus v. Virginia Surface Mining and Reclamation Association*, *Andrus v. State of Indiana* and *Virginia Surface Mining and Reclamation Association v. Andrus*, considered together) that argued that the Surface Mining Control and Reclamation Act (SMCRA) was unconstitutional because "land use regulation is beyond the authority of Congress to regulate as interstate commerce." Is this still your view?

Answer. The Supreme Court ruled in 1980 that SMCRA is constitutional. I support the Court's ruling as the law of the land and will enforce the law.

*Question.* You testified that you did not oppose the goals of SMCRA, but rather the law's "structure" or details. Can you be more specific about the parts of its structure to which you objected?

Answer. I did not oppose the underlying goal of SMCRA to provide for the environmentally responsible siting, operation, and reclamation of surface coal mines. The question addressed in the brief was whether this regulation should be done by the federal government under the Commerce Clause, or by the State as a type of land use regulation. The U.S. Supreme Court determined that this was appropriately a federal function, and I will exercise federal regulatory authority accordingly.

*Question.* In addition, you testified that you disagreed with the Endangered Species Act, the Clean Air Act and the Americans with Disabilities Act's "structures" rather than their goals. Is the common "structure" in these laws a federal determination of environmental harm or environmental remedy?

Answer. As I stated during the hearing, I support the fundamental goals of the Endangered Species Act, the Clean Air Act, and the Americans with Disabilities Act. I have previously expressed the view that some aspects of these laws should be vested in State, as opposed to federal, hands. These are primarily the aspects that do not have an interstate impact or that assume control over government officials and resources. I have, however, always recognized an important federal role as well. For example, the determination of which powers should be exercised by the States and which by the federal government is primarily a question for Congress to consider as it designs federal programs.

*Question.* Do you agree that there are instances in which a national, rather than a state-by-state approach to environmental protection is warranted?

Answer. Yes, see also my answer to the previous question.

*Question.* Are there instances in which uniformity and certainty across state lines might lessen the burden of compliance with a national environmental goal?

Answer. It is certainly possible that in some circumstances uniform regulations may facilitate compliance with a national environmental goal. As a State official, I frequently heard businesses request uniform nationwide rules to facilitate compliance. I sometimes supported and sometimes opposed these requests.

*Question.* In 1995, in *Babbitt v. Sweet Home*, the Supreme Court held that the Fish and Wildlife Service could prohibit activities that degraded endangered species' habitat on private land. You coauthored an amicus brief arguing that the authority of the Secretary of Interior under the Endangered Species Act did not extend to activities on private lands. As Secretary of Interior, you would be charged with protecting endangered species with all the authority given you. Would you use your authority to protect species habitats on private land?

Answer. The Endangered Species Act prohibits private landowners from taking endangered species. The U.S. Supreme Court interpreted this to prevent destruction of habitat on private land. As I stated during the hearing, I am committed to enforcing the Endangered Species Act, including the U.S. Supreme Court's interpretation. In addition, I will seek to use incentives and other innovative tools to encourage landowners to preserve habitat for species.

*Question.* Would you recommend that the Department purchase the habitats outright or acquire easements?

Answer. I believe that the Department should consider a variety of options to preserve habitat for species. In some cases, acquisition of habitat may be appropriate; in other cases, the Department may seek to obtain easements on privately-owned

land. I also support various innovative tools, such as habitat conservation plans, to preserve habitat. I believe that the Department should evaluate these and other options on a case-by-case basis to determine which option will achieve the best results in any given situation.

*Question.* Will you request additional funding in the Department's budget for such acquisitions?

*Answer.* I am not familiar enough with the level of resources that would be required to fund such acquisitions, or with the potentially competing needs of the Department, to respond to this question at this time. If confirmed as Secretary of the Interior, I would look forward to working with you, and Congressional appropriators, on this issue.

*Question.* The national park system was created in 1916 "to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. How would you recommend reconciling the "conservation" mandate and the "enjoyment" mandate?

*Answer.* I believe that in managing our National Parks, we can achieve the appropriate balance between conservation and public access or enjoyment. I believe that this must be done a Park-by-Park basis, with input from all interested stakeholders. I am committed to working with States, local communities, user groups, and the environmental community to ensure that we achieve that balance at our National Parks.

*Question.* In its 2001 edition of *National Park System Management Policies*, the Park Service states that where there is a conflict between conservation of resources and providing for enjoyment of them, conservation should prevail. Do you agree with this policy? Would you seek to change this policy? [1.4.3]

*Answer.* I am not familiar enough with the Park Service's policy to respond to this question. I look forward to reviewing the policy and would be happy to discuss this with you in greater detail at a later date.

*Question.* In the last Congress, many of us in Congress and on this Committee [particularly Senator Landrieu, who could not be here today] worked to enact legislation—the Conservation and Reinvestment Act [CARA]—that would provide a permanent, stable source of funding for federal and state Land and Water Conservation Fund activities. We will try again this Congress to enact the CARA legislation. An area of significant debate was whether federal land acquisition authority should be subject to blanket limitations, such as a prohibition on purchases west of the 100th meridian. Others suggested financial limitations on federal land acquisition authority. Would you recommend that the Department relinquish existing land acquisition authority in exchange for guaranteed funding?

*Answer.* I recognize that CARA was a highly contentious issue in the last Congress and that it caused sharp divisions among the members of the Committee. I never took a position on CARA and am unfamiliar with the details of the legislation at this time to say that the Department of the Interior should relinquish existing land acquisition authority in exchange for guaranteed funding. As the final decision on these matters would lie with Congress, I would be willing to sit down and discuss this in greater detail with you and other members of Congress if confirmed as Secretary of the Interior.

*Question.* Would you recommend any limits or prohibitions on how states could spend their allocation of Land and Water Conservation Fund monies?

*Answer.* President Bush committed to full funding of the Land and Water Conservation Fund, including the state-side grant program. I am unfamiliar with the details of the state-side grant program to say whether or not changes should be made to the program.

*Question.* Although CARA legislation was not enacted in the last Congress, the Interior Appropriations bill did include \$450 million in a Lands Legacy account for acquisition of lands to be identified by the Secretary of Interior and approved by Congress. Do you intend to submit a list of priority acquisition properties?

*Answer.* I understand that the Conference Report accompanying the Interior Appropriations Act for fiscal year 2001 specifies the lands to be acquired with the \$450 million in Federal acquisition money appropriated last year. As to the fiscal year 2002 budget submission, President Bush committed to seek full funding of the Land and Water Conservation Fund. It is my intention, if confirmed as Secretary of the Interior, to handle budget requests for Federal land acquisition money in a manner agreeable to Congressional authorizing and appropriations Committees.

*Question.* Congressman James Hansen has sent a letter to President-elect Bush that contains a list of regulations he believes the new Administration and Congress should reverse. The list includes Park Service snowmobile prohibition regulations, regulations limiting air tours of the Grand Canyon, reinterpretation of the Park

Service's management policy regarding the dominance of its conservation mandate, restrictions on personal water craft in the national parks system, national monument designations and hard-rock mining regulations. There are many other federal resources protection initiatives mentioned in the letter. You testified that you would be reviewing those rules and regulations. What analytical framework do you intend to use to review these rules and regulations?

Answer. I have not reviewed the Hanson letter or the numerous regulations and policies that were finalized in the last months of the Clinton Administration. At this time, I have not developed criteria or an analytical framework to review these regulations or policies. I would be happy to discuss this with you further after I have an opportunity to review the regulations and policies and make an independent assessment as to whether further action with respect to any of them is necessary or appropriate.

*Question.* In other words, how will you determine which policies should remain in effect and which should be reversed?

Answer. At this time, I do not have a specific set of criteria that will be used to evaluate regulations and policies. However, if I am confirmed as Secretary, I would be happy to discuss the process that we intend to use to determine which policies should remain in effect and which should be reversed. At a minimum, we will comply with all applicable federal laws and regulations.

*Question.* Will collaboration with the affected parties will be part of your review process?

Answer. Yes.

*Question.* Do you intend to enforce the regulations under review in the interim?

Answer. If confirmed as Secretary of the Interior, I will comply with the policy set by the White House with respect to the implementation of regulations and policies under review. Beyond that, because I have not yet been confirmed, I have not had an opportunity to assess what level of enforcement, if any, is appropriate for regulations or policies under review.

*Question.* There has been significant discussion about the 19 National Monuments designated by the President under the Antiquities Act. Do you support statutory changes to the Antiquities Act?

Answer. I am not familiar enough with the details of the designation process under the Antiquities Act to have made an independent assessment as to whether statutory changes are necessary or appropriate. At this time, I have not taken a position with respect to statutory changes. I look forward to learning more about the process and working with you on any legislative changes that the Congress may wish to pursue.

*Question.* Will you recommend adequate funding for the new monuments in your FY2002 budget proposal or will you recommend a two-tier funding system for existing monuments and those designated by the Clinton administration?

Answer. I am not familiar enough with the level of resources that would be required to protect and maintain each of the National Monuments, or with the potentially competing needs of the Department, to respond to this question at this time. At this time, I am not aware of any proposals to recommend a two-tiered funding system for existing monument. If confirmed as Secretary of the Interior, I would look forward to working with you, and Congressional appropriators, on the issue of funding for national monuments.

#### RESPONSES TO QUESTIONS FROM SENATOR BINGAMAN

*Question.* Your writings and speeches include many examples of your support for limited Federal involvement in natural resource issues. If confirmed, you will be the nation's principal voice for protecting the Federal areas and wildlife under the Interior Department's jurisdiction. Can you give us any examples that show a similar passion for advocating the Federal interests for which you will be responsible?

Answer. As Associate Solicitor of the U.S. Department of Interior, I worked to uphold federal interests on issues ranging from the Endangered Species Act (the California Condor species reproduction project) to habitat restoration (Como Lake restoration project). I respect federal lands and support strong federal management of its properties. As Attorney General, I assisted Senator Hank Brown in resolving difficulties so that Colorado's wilderness bill could be passed. I also worked to see that the Rocky Mountain Arsenal was sufficiently cleaned up and urged Congress to create a wildlife refuge there.

*Question.* Your published writings have embraced an expansive theory of the takings clause which would go far beyond guaranteeing just compensation when property is taken for public use. You have appeared to support a theory which would severely limit the power of the Federal (and local) governments to regulate

private property. Is this an accurate description of your views? If so, how does this comport with your willingness to effectively enforce the various environmental laws under the jurisdiction of the Secretary of the Interior?

Answer. I have consistently sought to find a balance between competing constitutional interests reflected in the Fifth Amendment's takings clause and Congress's power under the Commerce Clause and the Tenth Amendment. I will protect the federal government's interests in its lands and enforce all environmental and land use laws that apply to the lands and interest managed by the Department of the Interior.

*Question.* In various writings, you have made clear your opinion that many areas should be the exclusive jurisdiction of the States to regulate, where the federal government has no right to be. In 1980, you argued that all land use regulation "falls outside the commerce power, and . . . is a traditional function reserved to the states under the tenth amendment." In a 1996 speech, you said the cause of State sovereignty has "lost too much" by the otherwise bad facts of the civil war, and that States "need to be able to make their own decisions." As the steward of some of the most nationally significant and vulnerable federal lands, your comments raise the question of what role, if any, you see for the federal government in the areas of clean air, clean water, endangered species habitat protection, and wilderness preservation. Are there environmental gains made during the last century that you would be willing to abandon in the name of states rights and property rights? Why do you feel "we lost too much?"

Answer. The federal government has an important role to play in federal land management and national goals of environmental protection. I will enforce the air, water, wilderness and endangered species protections embodied in federal law. At the same time, I am willing to work with states and other constituencies to find balanced and non-bureaucratic ways to advance environmental goals.

*Question.* You have testified in support opening the coastal plain of the Arctic National Wildlife Refuge to oil and gas development. Outside of areas where oil and gas development is legislatively prohibited, are there instances in which you believe public lands should be closed to commercial or industrial development in order to preserve environmental, scenic, cultural, or historic resources? What do you believe is the most appropriate balance between protection of sensitive national resources (such as within a wilderness study area or national monument) and development of oil or gas or other mineral resources?

Answer. Appropriate management of public lands, whether for recreation or energy development, must be done in compliance with applicable laws and regulations. If confirmed as Secretary of the Interior, I will strive to obtain balanced management of our sensitive national resources as appropriate.

*Question.* Last Congress Senator Stevens and Secretary Babbitt reached a compromise on legislation to phase out commercial fishing within the inner waters of Glacier Bay National Park. Similarly, Senator Murkowski and I reached a compromise on legislation (which was enacted into law) specifying where commercial fishing would be allowed to continue in the park and where it will be eliminated. Do you support these agreements?

Answer. I am unfamiliar with the specifics of these agreements. Nonetheless, if confirmed as Secretary of the Interior, I will seek to fulfill all legislative requirements.

*Question.* As you know, subsistence uses are not allowed within the "old parks" in Alaska, including Glacier Bay and Denali. However, subsistence uses are allowed in the newer additions to those parks as well as in other park and preserve areas. What is your opinion as to whether subsistence uses should continue to be prohibited in the old park areas?

Answer. I have not taken a position on whether or not subsistence uses should continue to be prohibited in the old park areas. I understand that this a complex, legal issue that I would need to review in greater detail before forming an opinion or deciding how to proceed.

*Question.* The State of Alaska has filed suit against the National Park Service claiming that it has jurisdiction to the waters of Glacier Bay. The United States is defending its interests with the assertion that the State of Alaska is not entitled to these submerged lands. Do you agree with the Federal government's position?

Answer. I am unfamiliar with this litigation.

*Question.* In the past, you have publicly criticized the National Environmental Policy Act (NEPA). Do you see yourself playing a different role as Secretary? Are there administrative actions that you plan to pursue with respect to NEPA? If so, what are they?

Answer. In 1998, while Colorado Attorney General, I testified before the House Resources Committee on implementation of NEPA and recommended, based on my

experience, amendments to NEPA that would improve the process. If confirmed as Secretary of the Interior, I will ensure that the Department fully complies with the requirements of NEPA. At this time, I do not have any administrative actions that I plan on pursuing with respect to NEPA.

*Question.* As Secretary, would you request sufficient funds to enable the Fish and Wildlife Service to complete Endangered Species Act consultations in a timely manner? If there were a movement in Congress to freeze staff levels of biologists conducting consultations, would you support or oppose it?

*Answer.* The Endangered Species Act establishes a deadline for the completion of consultations under section 7 for federal actions. I understand that the Fish and Wildlife Service does not meet the statutory deadline in the majority of cases. I am not familiar with the specific causes for this failure and do not know at this time what additional funding, if any, is needed for staff biologists dedicated to section 7 consultations. I look forward to working with the Congress to determine what level of funding is appropriate for the Fish and Wildlife Service to meet its statutory obligations under section 7.

*Question.* Do you believe that any of the species currently listed under the Endangered Species Act as endangered or threatened should not have been listed? If so, please give examples.

*Answer.* I do not have any specific information at this time to conclude that any individual species should not have been listed under the Endangered Species Act.

*Question.* During the past Administration, lands of national conservation importance, including all of the national monuments designated on BLM lands, were placed under the administration of the BLM instead of the National Park Service. At the time, the decision by Secretary Babbitt to keep these lands under the BLM was somewhat controversial. Do you believe national monuments, conservation areas and other lands of significant natural and cultural values can be appropriately managed by the BLM for conservation purposes, or should would an agency such as the National Park Service be more appropriate?

*Answer.* I am not familiar enough with the situation to respond to the question. I look forward to working with the Congress and the land management agencies, to ensure that all public lands are managed appropriately and consistent with the law.

*Question.* In recent years the BLM has taken steps to reinventory certain BLM lands in Colorado and Utah for potential wilderness study area designation, with respect to lands which were excluded from the original WSA review conducted under section 603 of the Federal Land Policy and Management Act. Do you think this reinventory is appropriate? In general, will you support a policy of reevaluating BLM lands for potential future designation as wilderness as a component of the BLM's land use planning program?

*Answer.* In general, I support the designation of certain areas as wilderness areas or wilderness study areas. I believe such designations should be made in consultation with the States, local communities, and affected stakeholders. I am unfamiliar with the specifics of the BLM's reinventory and BLM's land use planning program. I would have to review the current program before deciding how to proceed.

*Question.* The Forest Service recently completed the Roadless Area Conservation Rule which prohibits new road construction into approximately 58 million acres of national forests. The rule does not affect road construction associated with exploration or development of leasable minerals that are presently leased. Do you have any thoughts on the rule as it related to activities under the jurisdiction of the Interior Department?

*Answer.* No. The rule does not affect any activities of the Interior Department as these leases are specifically exempted from the final rule. I am reluctant to speak to the roadless rule generally because it was not promulgated by an agency within the Department of the Interior.

*Question.* The Department of the Interior has deleted the Beaufort Sea area offshore from the Arctic National Wildlife Refuge from recent OCS oil and gas sales to protect the refuge from such adjacent activity until Congress addresses the future of the 1002 area. Do you agree that MMS should continue to defer offering oil and gas sales in this area until Congress addresses the future of the 1002 area?

*Answer.* I am unfamiliar with the specifics of MMS' action and would need to review it before deciding how to proceed.

*Question.* During your tenure as Associate Solicitor for Conservation and Wildlife at the Department of the Interior, you unsuccessfully defended an attempt by the Department to deny public review of the draft oil and gas report required by section 1002 of ANILCA relative to ANWR. In *Trustees for Alaska v. Hodel*, the Ninth Circuit held that the government wrongfully denied the public access to the 1002 report, an action that would have undermined NEPA's intent to allow public input be-

fore Congress acts. In taking any future actions regarding the 1002 area and development of ANWR, will you commit to full and informed public involvement in planned actions of the Department?

Answer. If confirmed as Secretary of the Interior, I can assure you that I will comply with all statutory requirements including those related to public participation.

*Question.* During the 107th Congress, the Senate unanimously passed a bill to implement immigration reforms in the Commonwealth of the Northern Mariana Islands ("CNMI"). This Committee has held several hearings over the years and established a record indicating that serious problems exist in the CNMI. The current immigration system administered by the local CNMI government is inconsistent with long-standing U.S. immigration policy. The most disturbing result of CNMI's current immigration system is the consistent and increasing documentation of human rights abuses which alien workers suffer. As Secretary, will you support our Committee's efforts to enact legislation that will implement immigration reforms in the CNMI?

Answer. While I am not familiar enough with the CNMI situation to answer this question with specificity, I will work with the Committee to make sure the immigration system in place on the CNMI is fair and workable. I will endeavor to provide the Committee with information to evaluate appropriate changes.

*Question.* The General Accounting Office recently issued a report criticizing the Department of the Interior for insufficient oversight of assistance to the freely associated states. One problem has been that the Office of Insular Affairs, within the Department of the Interior, has not had enough resources or personnel. Are you prepared to request sufficient levels of funding for this office?

Answer. At this time, I am not familiar enough with the Department of the Interior's budget to make a determination on the appropriate level of funding for the Office of Insular Affairs or any bureau within the Department of the Interior. If confirmed as Secretary of the Interior, I will seriously evaluate the recommendations of the General Accounting Office before determining how to proceed.

*Question.* Within the next ten years, the licenses for over 200 Western hydroelectric projects will be subject to renewal by FERC. The licensing process is complex, and involves a number of stakeholders including states, local governments, recreational river users and the various Federal land management agencies. The Federal agencies, industry and FERC have been working hard the past several years to create solutions for resolving delays and other concerns raised by the relicensing process. Their Interagency Task Force has made significant progress in developing administrative reforms that will make the hydropower licensing process more efficient and effective. Are you willing to actively support the recommendations of the Interagency Task Force and allow them a fair opportunity to succeed?

Answer. I am unfamiliar with the specific reforms being developed by the Interagency Task Force, including the work they have undertaken to date and the recommendations they are considering. As a general matter, I support collaborative decisionmaking and look forward to working with the Task Force.

*Question.* What is your position on the mandatory conditioning authority of the Federal land and resource agencies contained in the Federal Power Act? Will you fully support the resource management agencies in imposing on FERC licenses such conditions as are necessary to protect the resources under those agencies' jurisdiction?

Answer. I have not had an opportunity to review the mandatory conditioning authority of the Federal Power Act but I recognize the resource management agencies have an important role to play in FERC relicensing. I look forward to working with FERC and others to ensure that natural resources are protected during the relicensing process.

*Question.* A recent AP article reports that, as a lawyer in private practice, you represented the Alaska State Legislature in a subsistence fisheries regulation dispute with the Department of the Interior. As part of your work for the legislature, you assisted the Mountain States Legal Foundation in writing an amicus brief for a Federal lawsuit opposing Department of the Interior oversight of fishing in Alaska. Some opponents of the regulations are challenging them in court. Will you recuse yourself from this matter since you were recently involved as a private attorney?

Answer. Under the terms of the Committee's recusal policy, I will recuse myself for a period of one year from any involvement or decisions relating to this litigation. I also will consider my commitments as a lawyer under legal ethics rules regarding a longer-term recusal and, if I am confirmed, will consult with the Department of the Interior Office of Ethics to avoid any appearance of impropriety.



## RESPONSES TO QUESTIONS FROM SENATOR CANTWELL

*Question.* The Hanford Reach National Monument covers 195,000 acres and is the last undammed stretch of the Columbia River. This area also plays a vital role in the recovery of salmon in the Pacific Northwest, which has direct linkages to treaty obligations with the Native American tribes and Canada. What will you do to assure that this new monument receives the necessary funding to fully protect the resources within its boundaries, as well as maintaining its original boundaries? Will you consult with myself and other members of the Northwest congressional delegation before any changes are proposed and made?

*Answer.* At this time, I do not know what resources will be necessary to manage all of the national monuments, including the Hanford Reach National Monument. I can commit that I will not take any action with respect to the Hanford Reach National Monument without consulting with you and other interested members of the Washington delegation, as well as the State and affected local communities. I look forward to learning more about the Hanford Reach National Monument and working with you to obtain the resources necessary to manage the Monument.

*Question.* My home state of Washington has successfully developed several Habitat Conservation Plans that are an integral part of our state's response to Endangered Species Act listings. As Secretary, will you make funding for the U.S. Fish and Wildlife Service HCP program a priority to help ensure the ongoing success of these HCPs?

*Answer.* I believe HCPs play a very important role in protecting endangered species, and I will work to see that they are adequately funded.

*Question.* The General Mining Law of 1872 allows for mining of minerals from public lands without royalty payments to the Federal government and without provisions to protect the environment. Many view this law as subsidizing environmentally harmful mining on public lands at taxpayer expense. What specific reforms will you support of the General Mining Law of 1872?

*Answer.* I have not had an opportunity to review the various concerns that have been raised with respect to the implementation of the Mining Law of 1872. Therefore, I am not in a position at this time to make specific recommendations regarding potential reforms. However, I look forward to learning more about the Mining Law and would welcome the opportunity to work with Congress as it considers proposed reforms.

*Question.* On November 21, 2000, the Bureau of Land Management published the final "3809 rules" regulating surface mining on public lands. Since the General Mining Law of 1872 contains no provisions for environmental protection, these rules are essential to the protection of our natural resources. What position will you take on these rules? What actions will you take to ensure environmentally sound mining operations on public lands?

*Answer.* I have not had the opportunity to review the Part 3809 regulations in detail. I also understand that these regulations have been challenged and that litigation is pending. Therefore, I cannot comment on these regulations. As a general matter, however, if I am confirmed as Secretary of the Department of the Interior, I will work with the Bureau of Land Management, the States, mining companies, and environmental groups to ensure that mining on public lands are conducted in an environmentally responsible manner.

*Question.* During the hearings you responded positively to upholding the Solicitor's opinion regarding tribal treaty responsibilities. How do you plan to ensure that the next Solicitor will support this opinion?

*Answer.* As I stated during the hearing, President Bush has committed to strengthen Native American self-determination by respecting tribal sovereignty, encouraging economic development on reservations, and working with the Tribes to reorganize the Bureau of Indian Affairs and the Indian Health Service to better serve their needs. I support this commitment and will work with each of the agencies within the Department to achieve President Bush's pledge. I am not familiar with the specific details of the Solicitor's opinion.

*Question.* Do you agree that the Minerals Management Service and the Congress should continue the offshore oil drilling leasing moratoria off the coasts of Washington, California, Florida and Alaska?

*Answer.* President Bush pledged to support the existing moratoria on OCS leases. It is my understanding that includes not only existing Presidential and Congressional moratoria on oil and natural gas activities off the coasts of California and Florida, but also the Congressional and Presidential moratoria on oil and natural gas activities off the coasts of Washington and certain parts of Alaska. If confirmed as Secretary of the Interior, I will adhere to this commitment.

## RESPONSES TO QUESTIONS FROM SENATOR DORGAN

*Question.* If we open the Arctic National Wildlife Refuge to drilling, what would happen to the price of oil in the lower 48 states?

If we started drilling in the Arctic Refuge tomorrow, how long would it take until we would see the first barrel of oil? I understand the Arctic Refuge would yield a 5-6 month economically viable supply of fuel. What is your understanding of the economically viable supply the Arctic Refuge is projected to yield?

*Answer.* As part of a national energy policy, President Bush committed to opening up ANWR to environmentally responsible exploration. He further proposed to dedicate the estimated \$1.2 billion to be earned in bonus bids to fund research into alternative energy sources such as wind, solar and biomass. As to the unquantified revenues to be earned from production, he proposed the creation of a Royalties Conservation Fund to fund conservation programs, including the reduction of the maintenance backlog on Federal lands.

As I stated during the hearing, if confirmed as Secretary of the Interior, and if a bill is enacted authorizing exploration in ANWR, I will work to ensure that any development is done in an environmentally safe manner using the latest technologies and the best science.

According to information contained in a publicly available May 1998 report prepared by the Department of the Interior, the technically recoverable oil within the 8% of ANWR available for commercial development is between 5.7 billion and 16 billion barrels, with a mean estimate of 10.3 billion barrels. I am not familiar enough with the global supply and demand of oil and its impact on prices to respond as to specific impacts of production from ANWR. I also am not familiar enough with the situation to know when the first barrel of oil would be produced.

*Question.* The United States has a government-to-government relationship with tribes that should be honored. In recent years, there have been a number of attempts to attach legislative "riders" to appropriations bills that would be detrimental to tribal sovereignty, such as efforts to impose a moratorium on tribal 638 contracts and compacts, to re-distribute Tribal Priority Allocations (TPA), or to limit tribal sovereign immunity. As Secretary of Interior, if confirmed, would you oppose efforts to erode tribal sovereignty?

*Answer.* I am not familiar with the specific riders that you refer to in your question. If confirmed as Secretary of the Interior, however, I am committed to fulfilling President Bush's pledge to strengthen Native American self-determination by respecting tribal sovereignty, encouraging economic development on reservations, and working with the Tribes to reorganize the Bureau of Indian Affairs and the Indian Health Service to better serve their needs.

*Question.* On November 6, 2000, President Clinton signed a new Executive Order to help ensure better federal agency consultation and coordination with Indian tribes when developing policies, regulations, etc. affecting Indian country, as is consistent with our long-held federal policy of Indian self-determination. As the Secretary of Interior, if confirmed, would you abide by the spirit of this Executive Order by consulting with tribes on the policies and regulations developed by the Interior Department that affect them?

*Answer.* I am not familiar with the details of the Executive Order. However, as a general matter, I strongly believe that federal decisions should be made in consultation with the groups most affected by them. In the case of decisions or regulations affecting Indian Tribes or Tribal lands, I am committed to consulting with the Tribes, as well as the States and other local communities.

*Question.* We have made some progress, especially in FY2001, for meeting the funding needs of Indian Country. In fact, we increased funding by \$1.1 billion government-wide for Indian programs in FY2001. However, this progress is merely undoing the funding cuts to Indian programs that occurred during the Reagan and Bush years. By 1989, federal funding for Indian programs had fallen to \$2.5 billion [in 1990 constant dollars]. Great needs continue to exist, however. The poverty rate for Native Americans is 26%, they are 5.3 times more likely to die of tuberculosis, 3.3 times more likely to die of diabetes, and 3 times more likely to die in an accident, and the schools young Indian children attend are among the worst in the nation. Given the great need that exists and the federal trust responsibility we have to Indian people, will you submit budgets for the Bureau of Indian Affairs that reflect the needs in Indian country?

*Answer.* I am not familiar enough with the level of resources that would be required to meet the needs in Indian Country to fully respond to this question at this time. If confirmed as Secretary of the Interior, I would look forward to working with you, and Congressional appropriators, to obtain sufficient funding to address the legitimate needs of the Indian Tribes. At a minimum, I am strongly committed to

seeking funding to achieve President Bush's pledge to dedicate \$928 million over the next five years to address the maintenance backlog in Indian schools and to construct six new schools in Indian Country.

*Question.* I believe tribal colleges are a key to economic development and economic success for Native Americans. Tribally-controlled colleges are dependent on federal support because they are located on federal trust territory and are only (at the most) 25 years old, so they do not have an alumni base or financial reserves. The Tribal Colleges Act authorizes funding of \$6,000 per enrolled full-time Indian student; but even with the increase in funding I fought for and won in FY2001, the colleges are funded at only \$3,477 per student. Would you be supportive of efforts to increase tribal college funding to the authorized level of \$6,000 per student?

*Answer.* I am not familiar enough with the Tribal Colleges Act program to respond to this question at this time. I look forward to learning more about the program and the amount of additional resources that would be needed to increase federal funding to the full authorization level. I would be happy to discuss this with you in greater detail at a later date.

*Question.* In the Dry Tortugas, off the coast of Key West, the federal government is almost finished creating a preserve in which fishing and boating would be sharply curtailed. In several marine protected areas the government has worked with all relevant stakeholders to develop a scientifically and economically sound and environmentally-sustainable management plan. Would you support continuation support of the Dry Tortugas and other marine protected areas?

*Answer.* I am not familiar enough with the details of the Dry Tortugas preserve to respond to this question at this time. I would be happy to follow up with you at a later date after I have had an opportunity to learn more about the Dry Tortugas.

#### RESPONSES TO QUESTIONS FROM SENATOR FEINSTEIN

*Question.* There are currently 36 undeveloped oil leases situated on the Outer Continental Shelf off the coast of California. Development of these leases has been strongly opposed by the state of California and the associated local coastal communities. This Administration has signaled its intent to prioritize the development of domestic oil and gas sources. Will you encourage development of offshore leases in states like California where there is strong and persistent opposition to the development of such leases? Past administrations have used their executive authority to place a moratorium on offshore oil and gas drilling in currently undeveloped areas. Would you recommend that such a moratorium be continued under this administration? Would you view such a moratorium, or any other environmental regulation that prevents development of a lease, to be a taking under the Fifth Amendment of the Constitution?

*Answer.* President Bush pledged to support the existing moratoria on OCS leases. He also committed to working with California and Florida leaders and local affected communities to determine on a case-by-case basis whether or not drilling should occur on existing, but undeveloped leases. If confirmed as Secretary of the Interior, I will honor these commitments and promise to work with all parties to reach a consensus on how undeveloped leases should be handled and the extension of existing moratoria.

*Question.* There are now well over 1,000 species that have been federally recognized as threatened or endangered species. The Endangered Species Act compels the Secretary of Interior to identify habitat that is critical to the recovery of those species and protect that habitat from further degradation. Many have alleged that our limited success in recovering species is due to our failure to protect the habitat upon which these species depend. In states like California, where there are a large number of listed species and a great deal of habitat that has been identified as "critical habitat," protection of this habitat has been controversial. How would you interpret the Interior Department's obligations to protect and conserve the critical habitat of these threatened and endangered species? Do you consider efforts to protect species' habitat on private lands to be a violation of private property rights that would require compensation of the affected landowners? How do you plan to ensure that the Interior Department fulfills its duty to recover listed species? Do you continue to hold the view that the ESA Section 7 prohibition against taking endangered species does not apply to habitat modification?

*Answer.* The Endangered Species Act requires the Secretary of the Interior, acting through the Fish and Wildlife Service, to designate critical habitat for listed species. Under the law, the Fish and Wildlife Service is further required to ensure that activities authorized, funded, or carried out by federal agencies do not jeopardize species through the destruction or adverse modification of critical habitat. I am commit-

ted to enforcing those requirements. I am also committed to work with private landowners to preserve habitat through habitat conservation plans, safe harbor agreements, and other innovative tools.

As I stated during the hearing, I believe that the determination of whether a regulatory taking has occurred must be made on a case-by-case basis under the guidelines set forth by the Supreme Court. Under those guidelines, I believe it is clear that the federal government can ordinarily enforce the take prohibition of section 9 of the Endangered Species Act without triggering the compensation requirement of the Fifth Amendment of the Constitution.

I am not familiar enough with the efforts that are currently being made by the Department to recover species to respond to this question at this time. However, I am committed to returning the focus on the Endangered Species Program to recovering species. In addition to working to ensure that recovery plans are developed and implemented for all listed species, I look forward to using incentives and other innovative tools to encourage recovery efforts by States and private landowners. I look forward to working with Congress, the States, private landowners, the environmental community, and other interested stakeholders to achieve this goal.

*Question.* The Interior Department recently announced its denial of a permit for the Glamis Imperial gold mine that was proposed for development in Imperial County, California. This mine was rejected on the grounds that it would have caused undue degradation to the site's environmental and cultural resources. Do you think it is appropriate under current mining law for the Secretary to reject mines like the proposed Glamis Imperial Mine on these grounds?

*Answer.* I am not familiar with the specifics of the Glamis mine proposal or the basis on which the mine was rejected. I look forward to learning more about the proposed Glamis project and working with Congress to ensure that all new mining projects maintain an appropriate balance between legitimate mineral development activities and preservation of important environmental and cultural resources.

*Question.* The Federal government receives royalties from private oil and gas companies that extract oil and gas resources from federal lands. Recently, the Interior Department finalized regulations to ensure that oil royalties paid to the federal government are based upon the fair market value of that oil. This new policy will ensure that taxpayers receive equitable compensation for these resources and is expected to generate approximately \$67 million in additional revenue. Are you prepared to support this new rule which fairly compensates taxpayers for oil taken from federal lands? The Secretary of Interior has the discretion to accept these royalties as either payment-in-kind or payment-in-value. Historically, there have been few instances of royalties being paid in-kind. As Secretary, would you encourage the use of royalty payments in-kind?

*Answer.* I share with you a desire to ensure that the American taxpayer is fairly compensated for resource development on Federal lands. However, I am unfamiliar with the details of this rule. If confirmed as Secretary of the Interior, I will review the rule, along with the statutory obligations on royalties collections and then decide how to proceed.

*Question.* Recently, the National Park Service developed a detailed plan for the future management of Yosemite National Park. This plan was developed after considerable input from all of the affected stakeholders and over 10,000 members of the public submitted comments to the agency. Central to this plan is the notion that visitors to the park should be encouraged to leave their personal vehicles outside the park and travel through the park on a park transit system. As Secretary of Interior, will you actively support implementation of the new Yosemite Valley Management Plan? Will you be aggressive about developing similar management plans for the many other national parks that are suffering environmental degradation because their management practices have not kept pace with the growing numbers of visitors?

*Answer.* I am not familiar with the details of the Yosemite Valley Management Plan. As a general matter, I support the concept of management plans for our public lands and believe that they represent an important decision-making tool for land managers. For these plans to be successful, I believe it is important that they be developed in consultation with the affected States, local communities, affected stakeholders, and environmental groups.

*Question.* In 1998, the U.S. Fish and Wildlife Service adopted a policy for Tule Lake and Lower Klamath National Wildlife Refuges in California and Oregon that prevents irrigation on commercial farmland on the refuges unless sufficient water is available to sustain the refuges' marshes. Do you support this policy which gives priority to the refuges' ecological resources over commercial farming? The National Wildlife Refuge System Improvement Act of 1997 set new requirements for the management of refuges. In response, the U.S. Fish and Wildlife Service issued regula-

tions establishing procedures for determining what uses are compatible with the mission of the refuge system and the mission of each individual refuge. Do you believe farming is compatible with the mission of the Tule Lake and Lower Klamath National Wildlife Refuges? What uses would you deem to be incompatible with the mission of the national wildlife refuge system?

Answer. I am not familiar with the details of the Department's 1998 policy.

I have not yet had an opportunity to review the Compatibility Policy, and am not in a position at this time to assess how it might affect the Tule Lake and Lower Klamath National Wildlife Refuges. I am also aware that the Fish and Wildlife Service recently issued a draft Appropriate Uses Policy that may impact activities on refuges such as Tule Lake or the Lower Klamath. I look forward to learning more about the Fish and Wildlife Service's policies implementing the National Wildlife Refuge Improvement Act and about the 530 Refuges in the National Wildlife Refuge System.

*Question.* The Department of the Interior, with the concurrence of the Hoopa Valley Tribe, announced on December 19, 2000, a plan to restore the Trinity River in California. The decision is based on 20 years of scientific research and public involvement. It completes a process supported by the Carter, Reagan, Bush and Clinton Administrations and has enjoyed bipartisan support in the Congress. Will you commit your Department to follow through on the decision and implement the Trinity River restoration program?

Answer. I am not familiar enough with this restoration plan to respond to this question at this time. I look forward to working with you to learn more about this plan and the Department of Interior's role in implementing it.

*Question.* Do you believe that any government action or regulation which negatively affects the value of property must be compensated under the takings clause of the Fifth Amendment? Do you recognize that this is not the standard called for under the takings clause as it has thus far been interpreted by the U.S. Supreme Court? If you do not believe that any diminution in value must be compensated, what is the threshold you believe is required under the U.S. Constitution? Do you hold the view that the above interpretation of the takings clause would have the effect of limiting government regulatory actions and have a chilling effect on regulation?

Answer. Not every federal action or regulation that adversely impacts a property owner constitutes a taking under the Fifth Amendment. The Supreme Court has articulated guidelines setting forth what constitutes a taking that must be compensated. I support the Supreme Court's interpretation of the takings clause of the Fifth Amendment and do not believe that it unduly restricts federal regulatory activity.

*Question.* If confirmed as Secretary of the Interior, you will be involved in many issues where various stakeholders will argue that you may not take a certain action because it would run afoul of the takings clause. For example, an oil company might argue that you cannot deny a permit to drill or explore an offshore oil lease because it would give rise to a taking of that lease interest under the takings clause. Assume that the effect of denying the permit would not be to completely devalue the worth of the permit. Current Supreme Court precedent in such a case can fairly be interpreted as indicating that this is not, in fact, a taking. Your views as stated in various law review articles on this issue, I believe, can be fairly stated to be contrary to that precedent. How would your view of the takings clause inform your decision as to whether or not to grant or deny the permit?

Answer. I will comply with the law. The Fifth Amendment does not prohibit a federal agency from taking actions that will affect property rights; rather, it provides that such takings must be compensated. The Supreme Court has set forth guidelines to evaluate when a regulatory action constitutes a compensable taking. If an action by the Department results in a taking, the question of whether and to what extent compensation is required must be decided on a case-by-case basis consistent with the law and Supreme Court precedent.

*Question.* You will have jurisdiction over the natural resource damages (NRD) provisions of Superfund should you be confirmed as Interior Secretary. The NRD provisions call upon polluters to restore the natural resources harmed by their actions. NRD liability has been a critical part of the law in California where these provisions have been imposed to require polluters to restore our treasured natural resources and to truly make the public whole. For example, in the Montrose Chemical case, Montrose discharged tons of DDT through storm sewers and into the ocean off the Palos Verdes Peninsula, doing significant damage to ocean life. On December 19, 2000, after years of litigation, Montrose finally agreed to pay—under the NRD provisions of Superfund—roughly \$73 million to restore Palos Verdes Peninsula. You have expressed the view that it is not proper to impose liability upon polluters

for actions they took before Superfund was enacted. If your view were to prevail within the Interior Department, however, Montrose Chemical would probably not have been held liable for these costs because its actions took place between 1947-1971. Is it your view that Montrose should not be held liable for the damage it caused to these natural resources in California and that taxpayers should be required to pay to restore these resources?

*Answer.* I am not familiar enough with the specific facts of the Montrose case to respond to this question. More generally, however, I recognize that the Department of the Interior is responsible as a land manager and trustee of natural resources for recovering damages for the restoration of natural resources under its trusteeship. As I stated during the hearing, I am committed to enforcing the law, including any decisions of the federal courts that define the scope of liability for continuing injuries to natural resources resulting from pre-1980 activities.

*Question.* As you may know, for many years California and the federal government have been engaged in a long-range planning effort to restore the San Francisco Bay Delta. This planning effort, dubbed CALFED, resulted in a Record of Decision (ROD) last year. The ROD calls for various immediate actions to stave off the extinction of several runs of endangered salmon, and longer range actions to improve the water supply reliability for California's urban and agricultural water users. Would you seek and support appropriations to implement the ecosystem restoration elements of CALFED this year? Would you continue the Interior Department's active role in the CALFED program?

*Answer.* I have not yet had an opportunity to review the CALFED program. I look forward to learning more about how the program has worked in the past, the details of the latest agreement, and the results that have already been achieved. I know that CALFED has many good components—building on a partnership between the federal and State governments; local community involvement and local decision-making whenever appropriate; and regulatory certainty for landowners. I also understand that Congress did not provide funding for CALFED last year in part because the program's authorization had expired. I am certainly willing to work with you, Senator Feinstein, and others in Congress on authorizing language to address the fundamental goals of the program. I anticipate that the Department will continue to play an active role.

*Question.* The Horseshoe Bend Wildlife Area in Siskiyou County is managed as a unit in cooperation with lands administered by the U.S. Forest Service and the California Department of Fish and Game, primarily for its value as a winter deer range and for other wildlife values. Concerns have been raised and recognized by the Bureau of Land Management (BLM) that cattle grazing allowed in the Horseshoe Bend Wildlife Area has damaged the habitat. Since the Area was established in 1977 and enlarged in 1993, BLM's primary charge has been to manage the Horseshoe Bend Area primarily for wildlife values. What steps can be taken to improve and maintain the range habitat and adjacent riparian habitat and protect it from damage caused by grazing?

*Answer.* I am not familiar enough with the specific facts of the Horseshoe Bend Wildlife Area to respond to this question. I look forward to learning more about this Area and would be pleased to follow up with you at a later time.

#### RESPONSES TO QUESTIONS FROM SENATOR GORDON SMITH

*Question.* Over the past year, both BLM and the US Forest Service have attempted to increase substantially the fees charged for rights-of-way across federal lands for fiberoptic facilities. These attempts not only occurred outside the normal process for revising fee schedules but—in effect—changed the basis for calculating fair market value on federal lands. Over the next 18 months, both BLM and the USFS will make important decisions to potentially revise the right-of-way fee schedules—especially for fiberoptics.

Will you commit to work with me and this Committee to ensure: an open, consultative process for developing these revisions? that well-accepted standards and practices for establishing fair market value will be used? that, in their anticipation of collecting more money, these agencies do not jeopardize their policy goals, or the President-elect's commitment to rural development?

*Answer.* I am aware that the appropriate fee schedules for fiber optics right-of-ways is an important issue to Congress. I will commit, if confirmed as Secretary, that the Department of the Interior will work with the Committee to ensure an open, consultative process for revising the fee schedules, that well-accepted standards and practices for establishing fair market value are used, and that President Bush's commitment to rural development is not jeopardized by these revisions.

*Question.* The agencies have let a contract to collect market data to form the basis of fee schedule revisions. I have heard from a number of sources that the configuration of this market study does not conform with standard property evaluation practices and is therefore likely to be deeply flawed. Will you assure this Committee that unless and until this market study is revised to ensure that the data it collects is appropriate and conforms to acceptable practices, it will not be used to make any recommendations or decisions on the revision of fee schedules?

*Answer.* I do not know the details of the market study but I will review it and then decide on the appropriate way to proceed.

*Question.* In Oregon, we have nine federally recognized Indian Tribes—all of which have important cultural ties to federally-managed lands both within and outside of their reservation lands. For public lands that are of cultural and historical significance to Tribes, but outside of the lands held in trust for Tribes, are you willing to work with Indian Tribes and local stakeholders to accommodate Tribal requests for protection of, access to, and ceremonial use of Indian sacred sites by the Tribes?

*Answer.* Yes, so long as such accommodation does not interfere with the Secretary's other responsibilities to manage federal property outside of trust lands. I strongly believe that decisions regarding the use of our public lands should be made through an open, collaborative process whenever possible, that involves consultation with all affected stakeholders, including States, local communities, Tribes, land users and environmental groups. I am not familiar with the Department's position with respect to the protection of Indian Sacred Sites, but will work with the Tribes on a case-by-case basis to address any concerns raised regarding the protection of Sacred Sites.

*Question.* Do you believe it is important to avoid adversely affecting the physical integrity of such sites in federal land management decisions, as set forth in Executive Order 13007 (Indian Sacred Sites)?

*Answer.* I am not familiar with the specifics of Executive Order 13007. However, in general, I believe it is important that the Department work with the Tribes to preserve and protect Indian Sacred Sites whenever possible, consistent with the responsible management of our public lands.

#### RESPONSES TO QUESTIONS FROM SENATOR GRAHAM

*Question.* Do you support a "no net loss" policy for private lands?

*Answer.* I believe that the acquisition of lands can be an important tool to achieve a shared conservation goal. In some areas where the federal government already owns the vast majority of land, careful consideration must be given to the social, economic and environmental impacts of further acquisitions.

*Question.* Do you support the use of land acquisition as a conservation tool when adequate compensation is provided?

*Answer.* Yes.

*Question.* Do you support the addition of National Park units to the system?

*Answer.* In general, I believe that the decision about whether to add a new unit must be made on a case-by-case basis. I also recognize that any decision to add a new unit also requires Congressional action. I am aware that the National Park Service is currently facing a substantial maintenance backlog, estimated to be as high as \$4.9 billion. I support the President's statement that our first priority must be to maintain the existing units in the National Park System.

*Question.* What are your plans for funding the Land and Water Conservation Fund?

*Answer.* President Bush campaigned on full funding of the Land and Water Conservation Fund (LWCF). The LWCF Act authorizes that up to \$900 million a year can be appropriated to fund LWCF programs.

*Question.* Under both President George H.W. Bush and President Bill Clinton's Administrations, many new national wildlife refuges were established using the Land and Water Conservation Fund. Do you support or oppose the use of the Land and Water Conservation Fund to establish national wildlife refuges?

*Answer.* Section 7 of the LWCF Act authorizes the use of LWCF monies for the acquisition of national wildlife refuge system lands. I support the use of funds from the Land and Water Conservation Fund for the acquisition of land for conservation purposes, including acquisitions for the National Wildlife Refuge System.

*Question.* Would you place any new limitations on the establishment of new national wildlife refuges?

*Answer.* I do not have a position with respect to the establishment of new national wildlife refuges at this time. However, I am aware that the Fish and Wildlife Service has identified a substantial maintenance backlog on refuge lands, as well as sig-

nificant shortfalls in the operations budget. I believe that these issues must be taken into consideration as proposals to expand the National Wildlife Refuge System are reviewed.

*Question.* The federal side of the LWCF is critical, but the state side is just as critical. The National Recreation and Park Association estimates that state and local governments need approximately \$55 billion dollars over the next five years to meet recreation demand and facility restoration needs. What is your position on funding the state side of the LWCF?

*Answer.* President Bush campaigned on full funding of the Land and Water Conservation Fund (LWCF) and voiced support for the state-side program. The LWCF Act authorizes that up to \$900 million a year can be appropriated to fund Federal land acquisition and the state-side LWCF program. If confirmed as Secretary of the Interior, I will strive to fulfill this commitment.

*Question.* From a broad perspective, can you describe the characteristics of the situations where you believe that federal actions such as regulation or rulemaking should result in compensation to a private property owner?

*Answer.* The question of when compensation could result from government action requires a fact specific analysis based on the U.S. Supreme Court's guidelines regarding regulatory takings. Generally, the courts have required that property impacted by regulation must no longer have any economic use before compensation is required.

*Question.* Would you say that your view today of the characteristics where compensation should be provided have changed through the course of your career?

*Answer.* My views on takings issues have been greatly informed by judicial decisions in these areas over the past 20 years. For the most part, the jurisprudence of takings developed by the courts generally reflects broad positions I have supported over the years. However, while I continue to have a healthy respect for state and local property interests, if confirmed as Secretary of the Interior I have a mandate to maintain public lands consistent with the requirements of Congress and the United States Supreme Court. My prior views are consistent with my desire to be a strong steward of the public lands under my supervision.

*Question.* If so, how are they different today than in the 1980s or early 1990s?

*Answer.* My approach on takings issues have not changed since I became the Colorado Attorney General. Many issues that were unresolved in the 1980s have been resolved by judicial decisions. I will enforce those laws if confirmed as Secretary of the Interior.

*Question.* There are often federal actions that increase the value of private property such as flood protection and navigation dredging. Do you support these types of federal actions?

*Answer.* Generally yes, depending upon the particular situation.

*Question.* Will you support a recoupment of the benefits provided to these private property owners in the form of fee for service or payments to the government?

*Answer.* I am not familiar with what specific issues of this type would be within my responsibilities at the Department of the Interior, and what statutory provisions might govern such actions. In Colorado, we frequently used similar mechanisms as new projects were developed, so that those who benefited from projects shared in the financing. Some of these mechanisms may appropriately be useful for federal programs.

*Question.* How do you plan to prioritize the Department of Interior's budget with regard to its existing responsibilities and any new compensation programs you might undertake?

*Answer.* I am not familiar enough with the Department's budget or the full extent of its responsibilities to respond to this question at this time. President Bush has recommended that landowner incentive programs to protect additional wildlife habitat be funded. He also has campaigned on full funding of the Land and Water Conservation Fund.

*Question.* Your views and those of the President-elect on the development of oil and gas resources in the ANWR are clearly known. Is this position indicative or your views on development of oil and gas resources in all sensitive, federally-owned environmental lands?

*Answer.* President Bush campaigned on the need for a comprehensive national energy policy that decreases dependence on foreign oil and natural gas. He proposed to review currently restricted Federal lands potentially containing oil and natural gas reserves to determine whether such lands should be opened to environmentally responsible and regulated exploration. If confirmed as Secretary of the Interior, I will seek to fulfill this commitment and ensure that any development on Federal lands complies with all environmental requirements.



*Question.* If development does proceed in the ANWR, how much oil is anticipated to be extracted?

*Answer.* According to information contained in a publicly available May 1998 report prepared by the Department of the Interior, the technically recoverable oil within the 8% of ANWR available for commercial development is between 5.7 billion and 16 billion barrels, with a mean estimate of 10.3 billion barrels.

*Question.* What is the anticipated price impact in the continental U.S. and when do you anticipate this effect to be felt if development does proceed in the ANWR?

*Answer.* I am not familiar enough with the global supply and demand of oil and its impact on prices to respond as to specific impacts of production from ANWR.

*Question.* What is your position on the status of Puerto Rico as a U.S. territory?

*Answer.* I have not taken a position. As I understand the matter, issues surrounding the status of Puerto Rico have been the responsibility of the White House since the administration of President Kennedy.

*Question.* One of the largest questions facing our National Parks today is use. To what degree, where, and how should our parks be available to the public for use. What are your views regarding the Department of Interior's role in managing use of national park resources?

*Answer.* I believe that our National Parks should be accessible to broadest range of public uses consistent with the law and the need to maintain an appropriate balance between access for everyone and protection of the resources in the National Park System. The Department, and the National Park Service in particular, is responsible for managing the National Parks in such a way as to meet those obligations.

*Question.* Do you believe it is appropriate for the Department of Interior to restrict use in National Park lands when it is determined that impairment as defined in the National Park Service Organic Act is occurring?

*Answer.* The Department of the Interior must manage National Park Service lands in a manner consistent with the National Park Service Organic Act.

*Question.* During your remarks when President-elect Bush nominated you to be Secretary of Interior you focused on partnering with private landowners and local governments. With regard to national parks, can you describe your view of how the Secretary of Interior should balance a desire to cooperate with landowners and local governments and his or her responsibility to protect public lands? At what point should the Secretary of Interior use enforcement action to protect public lands?

*Answer.* Partnerships with private landowners and other incentives are simply additional tools that the Department can use to achieve shared conservation goals. For example, in the case of protection of endangered species, the Department must work with private landowners because they own the habitat of over 50 percent of all listed species. These partnerships, however, are not a substitute for enforcement actions. As Secretary, I would remain committed to enforcing the law.

*Question.* If use is restricted in national parks, do you believe that compensation to private property owners is required? If so, can you define the types of scenarios where you believe compensation would be appropriate.

*Answer.* The Supreme Court has set forth guidelines to determine when a regulatory taking has occurred. That determination must be made on a case-by-case basis. At this time, I am not familiar enough with any proposed or final use restrictions in our National Parks to identify those that might trigger a takings claim.

*Question.* While this issue is not in the jurisdiction of this Committee, it is in the jurisdiction of the Department of Interior as well as the Environment and Public Works Committee on which I serve. In 1997, Congress passed the National Wildlife Refuge System Improvement Act which amended the Refuge System Administration Act of 1966. It was the first "organic" legislation for the National Wildlife Refuge System. It contained a series of directives for the Fish and Wildlife Service which they have carried out over the last several years. On January 16, the Fish and Wildlife Service published draft rules on: 1) mission, goals, and purpose; 2) recreation; 3) appropriate use; 4) wilderness stewardship. These draft rules have undergone an extensive amount of review by the Fish and Wildlife Service and are ready for public comment. They will be finalized during your tenure at the Department of Interior. Do you plan to complete this work in a timely manner?

*Answer.* I am aware that the Fish and Wildlife Service released last week four new proposed policies and one final policy implementing the National Wildlife Refuge System Improvement Act. I have not yet had an opportunity to review these policies. Therefore, at this time, I am unable to comment on when they will be finalized.

*Question.* Do you plan to respond to all public comments on this rulemaking, regardless of their origin?

*Answer.* Yes.

*Question.* In May 2000, the U.S. Fish and Wildlife Service issued final agency policy on preparing Comprehensive Conservation Plans required under that same law. The policy requires each refuge to conduct wilderness reviews as part of the planning process. Refuges must review both lands that have never been studied and lands that were previously reviewed but not recommended for wilderness designation to determine if they currently qualify for this designation. Do you agree with this policy?

*Answer.* I am not familiar enough with the specific elements of this policy to respond to this question at this time.

*Question.* If confirmed, will you propose changes to this policy?

*Answer.* I am not familiar enough with the specific elements of this policy to respond to this question at this time.

#### RESPONSES TO QUESTIONS FROM SENATOR JOHNSON

##### CARA

*Question.* What are your views on this legislation? Did you support it? Why or why not?

*Answer.* I recognize that CARA was a highly contentious issue in the last Congress and that it caused sharp divisions among the members of the Committee. I never took a position on CARA. With respect to enhanced funding for conservation programs, President Bush made a number of commitments consistent with the broad goals of CARA. These commitments included a pledge to seek full funding for the Land and Water Conservation Fund and a proposal to establish an incentive program for private landowners to preserve land and protect rare species.

*Question.* While some additional funding was provided for conservation programs in the Interior Appropriations bill last year, most of these programs will continue to be chronically under-funded according to the authorization levels for these that have been enacted. Moreover, PILT is still under-funded with harms states like mine that have a high level of federal lands. How do you propose to address this?

*Answer.* As to the funding for CARA type programs included in the Interior Appropriations Act last year, I have not had an opportunity to immerse myself in these details. I do agree that the payment in-lieu-of taxes program is vitally important in those States with significant federal lands. However, at this time, I am not familiar enough with the level of funding for conservation programs or with the potentially competing needs of the Department, to respond to this question with any specificity. If confirmed as Secretary of the Interior, I would look forward to working with you, and Congressional appropriators, on this issue.

*Question.* In addition, funding for wildlife protection is also under-funded from authorized levels. States, by themselves can't address these needs. While some additional funding for these programs were also provided last year, more needs to be done. How do you propose to address this?

*Answer.* I appreciate that many programs may have been under-funded relative to the authorization for such programs, including wildlife protection. However, at this time, I am not familiar enough with the level of funding for conservation programs contained in last year's Interior Appropriations Act or with the potentially competing needs of the Department, to respond to this question with any specificity. If confirmed as Secretary of the Interior, I would look forward to working with you, and Congressional appropriators, on this issue.

##### RURAL DRINKING WATER

*Question.* In recent years, the Bureau of Reclamation has been given the responsibility of oversight for a number of large scale rural drinking water projects that have brought a dependable source of clean, safe drinking water to many rural areas. These projects are critically important to the health and well-being of these communities.

Much of my home state of South Dakota, for example, is plagued by water of exceedingly poor quality, and the Mni Wiconi, Mid-Dakota, Perkins County and Lewis and Clark rural water projects are efforts to help provide clean water—a commodity most of us take for granted—to the people of South Dakota. I am a strong believer in the federal government's role in rural water delivery and our nation's infrastructure, and I hope to continue to advance that agenda.

Over the years, it has become increasingly difficult to find the necessary funding for these projects due to the decreases in the Bureau of Reclamation's budget. The Bureau has been helpful over the years, but they frequently need help promoting their budget requests through the Interior Dept and OMB.

Do you support the Bureau of Reclamation's new role as an oversight agency for these rural drinking water projects and will you prioritize the Bureau of Reclamation funding in your Department of the Interior budget request?

Answer. I understand that the Bureau of Reclamation has taken on an increasing responsibility for the delivery of clean, safe drinking water to many rural areas throughout the western United States, including South Dakota. However, I am not familiar with the extent of the Bureau's role in this regard or how it may impact other Bureau responsibilities. I look forward to learning more about this program and would be happy to discuss this with you further at a later date.

#### DISABILITIES

*Question.* Concerns have been raised about the level of compliance of federal lands and facilities with the American Disabilities Act. You have expressed some concern in the past about federal requirements of the American Disabilities Act. This was a law that was proudly signed by President Bush. It has been reported that you considered filing suit when you were attorney general in Colorado opposing federal requirements under the ADA that required renovations of the Colorado statehouse to include a wheelchair ramp.

How do you propose to ensure that all federal facilities under the Department of the Interior's jurisdiction comply with those requirements? How do you plan to ensure that facilities will comply with the requirements of the ADA?

Answer. I am committed to the goals of the ADA. While I was still in law school, I wrote a law review article supporting access to mass transit for the handicapped. In a speech, I noted that one application of the ADA to the State Capitol might infringe on the State's powers under the 10th Amendment. However, no suit was ever seriously contemplated. However, I am committed to complying with the ADA regulations. I will work with each of the bureaus within the Department of the Interior and offices across the country to ensure that the Department is in full compliance with the law.

#### TRIBAL EDUCATION

*Question.* Tribal Education for Native Americans has been a high priority for me throughout my 14 years in the United States Congress. I have seen very few advances in funding of education programs for Native Americans nor in school construction funds. In tribal K-12 education facilities alone there is a \$1 billion backlog.

It is important that we find ways to improve the educational opportunities for Native Americans so that we can help them get out of the cycle of poverty that they constantly face. I have introduced legislation that would allow tribal schools to issue bonds to attract private financing. But more needs to be done on the federal level.

I would like to know what your intentions are in upholding the Federal Government Trust responsibility of educating our Nation's Native American Children?

Answer. I am committed to fulfilling President Bush's pledge to educate Indian children in safe and structurally sound schools. I will request funding from Congress to meet the commitment to provide \$928 million over the next five years to eliminate the current backlog of renovation and maintenance requests, as well as to fulfill the promise to construct six new schools. Schools with the most urgent needs will be given priority in funding requests. I would welcome the opportunity to talk with you regarding the provision of bonding authority to tribal schools.

#### HOMESTAKE

*Question.* Homestake Gold Mine in Lead, SD is closing its facilities after 100 years of operation. One of the possibilities for use of the existing mine is a physical particle lab that would be run by the National Science Foundation. I expect that some legislation will be needed to turn over the land and that some logistical and legal details may need to be worked out.

I am hopeful that we can work together to address this situation. It sounds like this could be the kind of public/private partnerships that we should be encouraging with these and other issues that are before us today.

Answer. I am not familiar with the specific proposal, but look forward to learning more about it and working you to transform the old Homestake Mine into a new facility for the future.

#### RESPONSES TO QUESTIONS FROM SENATOR LANDRIEU

*Question.* The Water Resources Research Act of 1964 (Public Law 88-379) established the state water resources program within the Interior Department. Last year

Congress re-authorized this program for an additional five years in Public Law 106-374.

The Act authorizes a program of water-related research and training of scientists and engineers to enter fields of water research and management. The program is administered by state water resources research institutes at 54 land grant colleges in each of the 50 States, and in the Virgin Islands, Guam, the District of Columbia, and Puerto Rico. The program is under the general guidance of the Secretary of the Interior and administered by the U.S. Geological Survey.

Through this partnership of the U.S. Geological Survey, state government, and higher education, the water resources research institutes have the capability to provide important support to the states in their long-term water planning, policy development, and resources management efforts. They support research on all topics related to water resources and the management of water resources. The institutes' outreach and information transfer activities are important tools for stakeholders in the water resources management community. The nationwide network of water institutes, in collaboration with USGS, provides an efficient and effective method to meet the diverse water resource needs in different parts of our country.

Are you familiar with the state water resources research institute program or the work done by the Colorado Water Resources Research Institute at Colorado State University?

Answer. I am not intimately familiar with the research institute program at Colorado State University. I have a strong working relationship with CSU's president, Al Yates, and look forward to seeking his input regarding these programs. I have always supported creative federal/state partnerships to further national goals. To the extent the federal government works with State institutions to better understand the effect of government decisions on State water resources, I hope to support and expand such programs.

*Question.* How could a federal/state partnership such as this be used to strengthen the states' role in water resources management?

Answer. I have always supported creative federal/state partnerships to further national goals. To the extent the federal government works with state institutions to better understand the effect of government decisions on state water resources, I hope to support such programs.

*Question.* The Water Resources Research Act directs that the Interior Secretary "shall encourage other Federal departments, agencies (including agencies within the department), and instrumentalities to use and take advantage of the expertise and capabilities which are available through the institutes established by section 104 of this Act, on a cooperative or other basis;" and the Secretary "shall encourage cooperation and coordination with other Federal programs concerned with water resources problems and issues" in utilizing the capabilities of these institutes. As Secretary, how would you propose to improve utilization of the state water resources research institutes? Are the specific examples you can cite of the record of how the Interior Department and other federal water resources agencies might do that?

Answer. I have not yet had an opportunity to study the details of the state water resources research programs. From what I have heard, it is the sort of program that I would support and recommend to the President and Congress as a method to advance federal goals while respecting state and local interests.

*Question.* In 1979, the Tunica-Biloxi Tribe of Louisiana submitted a request to the Department of the Interior requesting the Department to fulfill its trust responsibility to the Tribe by providing assistance in the settlement of the Tribe's claim to approximately 20,000 acres of land in Central Louisiana. The Tunica-Biloxi Tribe made it clear that they did not wish to litigate the claim but wanted to settle the claim for cash, land or possibly some other form of compensation. Now, twenty two years later, the Department has still not completed its review of the case. Will the Department, under your direction, dedicate its resources to a full review of the Tunica-Biloxi land claim and bring a final answer to the case in a timely manner?

Answer. I am not familiar with the details of Tunica-Biloxi Tribe's claims. I understand that the Department has several hundred pending claims filed by Indian Tribes for federal recognition or petitions to take land into trust. The Department's pace in processing these claims has been unacceptable. I am committed to fulfilling President Bush's campaign pledge to work with Indian Tribes to reorganize the Bureau of Indian Affairs to better meet the needs of Indian Tribes. As part of that effort, I look forward to working with you and the Tunica-Biloxi Tribe to address their request in a timely manner.

*Question.* Will the Secretary support efforts being made to preserve and recognize the importance of Creole culture not only in Louisiana but also throughout the United States?

Answer. I am not aware of the efforts that have been made to recognize the importance of Creole culture. I look forward to working with you to learn more about these efforts and the role of the Department of the Interior.

RESPONSES TO QUESTIONS FROM SENATOR SHELBY

*Question.* The previous Secretary at the Department of the Interior often used the Endangered Species Act to list species based more on political science rather than "the best scientific data available" as required by the Act. A case in point was the nine-year long debate over the Alabama sturgeon. Despite the fact that even though genetic tests performed by the Interior Department's own scientists showed that the Alabama fish is genetically identical to the shovelnose sturgeon found in abundance in the Mississippi River, your predecessor insisted on listing it as a separate and distinct species. In addition, he ignored the formal Candidate Conservation Agreement developed jointly with the State, and support of the entire Congressional delegation, as an alternative to listing. Moreover, to date the Department has blatantly ignored the Act's requirement to designate the Alabama sturgeon's critical habitat.

My question is this: What will you do to ensure the Endangered Species Act is administered to focus on the conservation and recovery of imperiled species and their habitat, and to work with the States in doing so, rather than merely focusing on adding more species to the list, often in an effort to curtail legitimate businesses as well as recreation activities, such as hunting, fishing and logging?

Answer. I am committed to working with the States, local communities, the private sector, and environmental organizations to bring the focus of the Endangered Species Act back to the recovery of endangered species. The States must be our partners in the effort to save species. State Candidate Conservation Plans are one tool that can be used to help conserve a species before it reaches the brink of extinction. In implementing the ESA, whether at the listing stage or the development of a recovery plan, I am committed to using the best scientific data available.

*Question.* It is no secret that you are a supporter and defender of private property rights. However, many of us have differing opinions as to how the Fifth Amendment should be interpreted. What specifically is your construction of the takings clause and how would you, as Secretary of Interior, apply it to your duty to preserve and protect our country's lands and resources?

Answer. My construction of the takings clause is consistent with the U.S. Supreme Court guidelines set forth in its takings jurisprudence over the past 15 years. The laws which I will enforce if confirmed as Secretary of the Interior have been upheld by the courts, and, accordingly, will be fully and fairly enforced to protect federal interests. The federal government should make sure that any particular application of the law does not unnecessarily create potential liability for the United States under the takings clause. My Department will consult with the Department of Justice as to any potential liability concerns raised by government action.

*Question.* With domestic oil production at an all-time low, OPEC cutting production, and prices so high that many cannot pay their bills there has been a lot of discussion about increasing domestic production. One of the options available to the United States is to begin drilling in the Arctic National Wildlife Refuge. Over the years there has been opposition to any such drilling because of environmental concerns. Do you think that it is possible to drill in the Arctic National Wildlife Refuge without endangering the environment or species that inhabit that area? And, if the United States decided to pursue such a policy how would you use your position to ensure the protection of the surrounding environment and species?

Answer. As part of a national energy policy, President Bush committed to opening up ANWR to environmentally responsible exploration. He further proposed to dedicate the estimated \$1.2 billion to be earned in bonus bids to fund research into alternative energy sources such as wind, solar and biomass. As to the unquantified revenues to be earned from production, he proposed the creation of a Royalties Conservation Fund to fund conservation programs, including the reduction of the maintenance backlog on Federal lands.

As I stated during the hearing, if confirmed as Secretary of the Interior, and if a bill is enacted authorizing exploration in ANWR, I will work to ensure that any development is done in an environmentally safe manner using the latest technologies and the best science.

RESPONSES TO QUESTIONS FROM SENATOR WYDEN

*Question.* The Secretary of the Interior is responsible for administering the Land and Water Conservation Fund that the Republican Congress funded at \$450 million for this fiscal year. Will you spend this money on federal land acquisition as directed by Congress?

Answer. Yes.

*Question.* How much will you request for the LWCF budget in FY 02, 03 and 04?

Answer. President Bush campaigned on full funding of the Land and Water Conservation Fund (LWCF). The LWCF Act authorizes that up to \$900 million a year can be appropriated to fund LWCF programs.

*Question.* In your opening statement you stated that you are a passionate conservationist. The definition of conservationist from the Webster's Dictionary is one who will preserve, protect, and plan the management of natural resources to prevent exploitation, destruction or neglect. Is this what you plan to accomplish as Secretary of the Interior?

Answer. Yes. I believe that we can manage our public lands in a way that achieves both the preservation of our wildlife and natural resources, and the environmentally responsible development of resources. In some cases, that will mean that we must set aside lands for conservation purposes. In other cases, that will mean that we must manage public lands in a way to support multiple uses, including grazing and mineral development, in way that balances economic activity with environmental protection. I strongly believe we can do both.

*Question.* In a nutshell, how?

Answer. I believe that land management decisions for public lands must ordinarily be made on a case-by-case basis. I intend to work the States, local communities, Tribes, affected stakeholders, and environmental groups to ensure that land management plans and decisions regarding the use of our public lands are based on the best available science and achieve the best balance between responsible use and environmental protection. I will look for opportunities to use incentives, such as habitat conservation plans or candidate conservation plans, to improve habitat for wildlife. I will seek increased funding for resource restoration efforts and the maintenance backlog in our National Parks. I will work with Congress to identify opportunities for new initiatives and partnerships, such as Steens Mountain or CALFED that will result in improved land and resource management.

*Question.* I place a priority on the ability to bring people together and build consensus on divisive issues. The Secure Rural Schools and Community Self Determination Act was the result of that effort, as was the Steens Mountain Cooperative Management and Protection Area Act of 2000. In both cases there were groups on one side that were saying: Hold the federal lands hostage for our benefit; and on the other side there were groups saying: Leave the rural people to fend for themselves because we don't owe them anything. The National Cattlemen's Association says that you are "a strong advocate of pulling diverse groups together, and working to resolve issues through developing workable plans, and then looking to consensus groups to make things happen." How do you intend to bring people together and build consensus to address critical environmental issues?

Answer. As I testified during my confirmation hearing, I also strive to bring people together on divisive issues and reach consensus before taking any action. If confirmed as Secretary of the Interior, it is my intention to work the States, local communities, Tribes, affected stakeholders, and environmental groups to ensure that land management plans and decisions regarding the use of our public lands are based on the best available science and achieve the best balance between responsible use and environmental protection as was done in the County Payments and Steen Mountain Acts. As you know from your work on these bills, you must invite people to participate and encourage them to be part of the solution and not part of the problem. The Department of the Interior must be willing to listen to their diverse ideas and viewpoints.

*Question.* Please give me an example of how you have brought people together on a divisive natural resource issue.

Answer. I believe my work with the Congress and attorneys general from around the Country to enact the Federal Facilities Compliance Act is a good example of bring people together to advance environmental goals. The Act took national support in an area that had previously been ignored by the agencies responsible for cleanups at federal facilities. My work and the support of colleagues in state government and Congress resulted in legislation that will mean a cleaner environment. In the early 1990s, I worked with Senator Hank Brown to resolve conflicts surrounding proposed wilderness areas in Colorado. We were able to alleviate concerns and successfully establish wilderness protections. Both of these examples reflect strong bipartisan support.

*Question.* Completion of the Steens Mt. land exchanges necessary to fulfill the purposes of the Act require an addition \$175,000 of funding above the \$5 million that was appropriated for this purpose. Would you be willing to work with me and the BLM to reprogram the necessary funds to fulfill the promise of this exceptional cooperative effort?

Answer. I am not familiar enough with the level of resources that would be required to protect and maintain each of the National Monuments, or with the potentially competing needs of the Department, to respond to this question at this time. If confirmed as Secretary of the Interior, I would look forward to working with you, and Congressional appropriators, on this issue.

*Question.* As Secretary of the Interior you will be responsible for administering the Endangered Species Act. However, in an amicus brief you challenged the constitutionality of the Endangered Species Act because the "harm" regulation violated property rights. The Supreme Court of the United States did not agree with you. At the very least, every land owner subject to some regulation under the Endangered Species Act can be expected to begin each meeting with the Fish and Wildlife Agency by saying : "Secretary Norton believes what you are doing is unconstitutional." How will this bring people together?

Answer. I recognize that the regulated community continues to have significant concerns about the impact of the Fish and Wildlife Service's regulation defining the term "harm." The Supreme Court upheld the Service's regulation and I will enforce that regulation. At the same time, I will work with the regulated community to use other mechanisms and incentives, such as habitat conservation plans and safe harbor agreements, to include private landowners as partners in the effort to save species and their habitat. I believe that using a broad range of tools, in addition to enforcement actions, to protect endangered species and habitat can serve to bring people together to achieve our shared goal of recovering species.

*Question.* Can you give the Committee some assurance that your position on the ESA will not undermine the ability of the Department to implement the law of the land?

Answer. I am committed to fully enforcing the Endangered Species Act. I will also seek to use incentives and other innovative tools to encourage partnerships and collaborative species preservation efforts. These efforts are intended to supplement, but not supplant, traditional enforcement actions.

*Question.* The President-elect has said that he is interested in creating a government of uniters, not dividers. Yet, you have long associated yourself, either by employment or membership, with groups known for their aggressive anti-federal government stances. The Mountain States Legal Foundation is one. Can you help me reconcile how you can be a uniter when most of the organizations with which you have been associated throughout your career are dedicated to resolving issues in court?

Answer. My tenure as Colorado Attorney General is marked with efforts to build consensus and unite on environmental and other issues. I have consistently showed an ability to work with elected officials and administrators of both parties and look forward to forging bipartisan support for the initiatives of the Bush-Cheney Administration.

*Question.* You have consistently endorsed private property rights. You have never acknowledged the public's interest in public lands owned and managed by the Department of Interior for the benefit of the nation as a whole, yet as Secretary of the Interior you will be responsible for the acquisition, maintenance and care of more non-military federal lands than any other member of the Cabinet. I have to ask, given your positions on the role of the federal government: Why do you want this job?

Answer. As I testified in my confirmation hearing, I believe my job, if confirmed as Secretary of the Interior, will be to preserve and protect our national natural treasures for future generations. I recognize that the federal government owns federal land for the benefit of the American people; that is why consensus decision-making on federal land management issues is so important. That requires good stewardship and adequate resources by the Department. I believe I bring the experience, balance and knowledge of the issues facing the Department to bring together federal, state, and local interests affected by the land use decisions of the Department of the Interior. I am honored to have the opportunity to work with President Bush and Congress to further those goals. Nothing about the mission of the Department is inconsistent with a respect for state and local interests.

*Question.* Does your definition of property rights extend beyond the developer and include the homeowner who wishes to have quiet enjoyment of his land?

Answer. Since ancient times, the protection of property rights has necessarily involved the question of when the rights of a property owner should be restricted for the good of others. The common law recognized that property rights are not unlimited; for centuries, the law has recognized the maxim "so use your property as not to harm your neighbor." More recently this type of balancing has been done by local zoning laws, as well as federal and state environmental laws. The value people place on the quiet enjoyment of their land is one foundational element of property law.

*Question.* You have stated in a Harvard Law Review article that you might go so far as to “recognize a homesteading right to pollute or make noise in an area.” In your testimony before this Committee you disavowed that view. If there were polluters next door to Crater Lake National Park would you intervene early to stop their activities?

*Answer.* As I mentioned during my confirmation hearing, I did academic research on the concept of emissions trading in the early 1980s. At that time, an emissions credit was sometimes referred to as a “tradeable right to pollute.” On the assumption that emissions trading might begin with a recognition of the current emissions level at various facilities, the initial level of pollution was considered to be acquired by “homesteading,” just as the earliest settlers of land acquired rights by being the first ones to develop an area. Inherent in this concept is the idea of starting with the “homesteaded” (i.e., baseline) level of pollution and trading “rights to pollute” (i.e., emissions credits) to reduce present or future levels of pollution in the most economical way. Thus, to me, a “homesteading right to pollute” is one mechanism that lawmakers might select to begin establishing an emissions trading market, much like the one that Congress created through the Clean Air Act Amendments. Emissions trading is one example of the innovative approaches to environmental issues that I have championed throughout my career.

Unfortunately, this personal understanding of the terminology was not apparent in my speech that was reprinted in the Harvard Journal. The speech was never intended to imply an unfettered “right to pollute” as some have interpreted it. The speech was clear, I believe, in indicating that I was simply describing a range of competing views regarding property rights and the environment.

With respect to the hypothetical, I will use whatever legal means I would have at my disposal to protect national park lands that are being impacted by adjacent activities.

*Question.* The Secure Rural Schools and Community Self Determination Act will be implemented, in part, by the Bureau of Land Management in Oregon. The intent of the law is to allow local communities to arrive at locally supported forest management consensus. I understand that you support local solutions to environmental problems. I also support that. However, I think we differ on what role we each think the federal government should play in environmental protection and the management of federal lands—or even IF the federal government should own land. Given the simple fact that more than half of Oregon is owned by the federal government, I need to be sure that you are capable of administering the federal land management laws over which you will have jurisdiction for the benefit of the public. Can you explain to the Committee how you will instruct the Bureau of Land Management to manage their timber lands in Oregon?

*Answer.* As I stated during the hearing, if confirmed as Secretary of the Interior, I will faithfully seek to fulfill all statutory requirements. As I understand it, management of BLM timber lands in Oregon are managed jointly with the Forest Service lands under the terms of President Clinton’s Pacific Northwest Forest Plan. You and others have raised concerns that this Plan is fallen short of the goals set forth by President Clinton. I would welcome the opportunity to work with you and other members of the affected delegations from both sides of the aisle to see if we can work together on ways to improve this situation.

*Question.* Can you explain to the Committee how will you direct the Bureau of Land Management to work with local communities on land management issues?

*Answer.* As I understand the Act, I believe that the local advisory committees are a welcome step to involve local communities of interest in BLM’s programs. I look forward to working with you and the other members of the Oregon delegation in chartering these committees, if I am confirmed. The Department of the Interior should work in partnership with States and local communities, particularly on any decision that affects the use and management of public lands.

*Question.* Can you explain to the Committee how you will engage the environmental community in issues of federal land management under the Secure Rural Schools and Community Self Determination Act?

*Answer.* The provisions establishing local advisory committees in this Act ensure involvement from the environmental community. If confirmed I hope to work with you, the other members of the Oregon delegation, and Oregon environmental interests to assure that they are comfortable with their representation on these advisory committees.

*Question.* Under authority of the Antiquities Act, President Clinton designated a new National Monument in Oregon, the Cascade-Siskiyou National Monument, also known as the Soda Mountain National Monument, in southern Oregon. The monument designation was supported by folks who live in the area. It is a priceless natural landscape that somehow remained almost untouched by exploitation, develop-



ment and urban sprawl. What will you do to ensure that this important natural resource is protected?

Answer. I am not familiar with the details of this Monument. It would be my understanding, however, that the terms of the proclamation designating Cascade-Siskiyou National Monument would govern the general protections applicable to the Monument. Assuming that the monument designation is consistent with the Antiquities Act of 1906, I would look forward to working with you in determining the appropriate management of the monument.

*Question.* Will you ask for adequate funds to protect and maintain this and other national monuments for the American public?

Answer. I am not familiar enough with the level of resources that would be required to protect and maintain each of the National Monuments, or with the potentially competing needs of the Department, to respond to this question at this time.

*Question.* As Secretary of the Interior you will be responsible for the ecological condition of grazing allotments on public land. Only by managing these lands carefully can grazing be sustained on them. Do you think the federal government and the grazer share a responsibility to steward the land?

Answer. Yes. As I stated during my confirmation hearing, many ranchers are wonderful stewards of the public land. However, overpopulation can be problem that needs to be managed and I look forward, if confirmed, to working with the Committee on this issue.

*Question.* Do you believe that grazing on public lands is a "right" not a "privilege" and the federal government had just better get out of the way?

Answer. No. The Taylor Grazing Act and other laws and regulations define the limits of ranchers' ability to graze cattle on federal lands.

*Question.* Under President George H.W. Bush nearly 50 new national wildlife refuges were established. The majority of these were created with use of the Land and Water Conservation Fund. In Oregon we have a series of coastal refuges that need additional land acquisition to reach their full potential. Do you support of oppose use of the Land and Water Conservation Fund to establish new national wildlife refuges?

Answer. Section 7 of the LWCF Act authorizes the use of LWCF monies for the acquisition of national wildlife refuge system lands. I support the use of funds from the Land and Water Conservation Fund for the acquisition of land for conservation purposes, including acquisitions for the National Wildlife Refuge System.

*Question.* Would you place new limitations on the expansion of existing national wildlife refuges?

Answer. I am not familiar enough with the situation relating to proposed expansions of existing refuge lands to answer this question. However, I am aware that the Fish and Wildlife Service has identified a substantial maintenance backlog on refuge lands, as well as significant shortfalls in the operations budget. I believe that these issues must be taken into consideration as proposals to expand the National Wildlife Refuge System are reviewed.

*Question.* In December 1998 the U.S. Fish and Wildlife Service adopted a policy with respect to the Tule Lake and Lower Klamath National Wildlife Refuges in California and Oregon under which irrigation of commercial farmland on the refuges would not be allowed unless sufficient water was available to sustain marshes on the refuges. In other words, scarce water supplies would not be diverted from refuge marshes to provide irrigation water for farmland on the refuges. Do you agree or disagree with this policy?

Answer. I am not familiar with the details of the Department's 1998 policy.

*Question.* The Klamath Refuge is a good example of a place that cries out for a unifier. The U.S. Fish and Wildlife Service has been criticized by farming interests for prohibiting certain pesticides from farming on the Klamath Basin National Wildlife refuges. The agency has been criticized by conservation organizations for continuing to allow pesticides known to be carcinogens to be used on the refuge. How would you resolve the complicated water and use issues in the Klamath basin?

Answer. I am not familiar enough with the details of the conflicts regarding the use of pesticides around the Klamath Basin National Wildlife Refuges to suggest a specific plan of action to address those conflicts. If confirmed, however, I would commit to consult with representatives from all of the affected stakeholder groups, including the conservation community and agricultural groups, to try to develop an environmentally responsible management plan for pesticide use. I would also work closely with the congressional delegation in this matter.

*Question.* One issue I look forward to working with you on is how the federal land management agencies like the BLM and Forest Service hold rights-of-way holders financially responsible for fire suppression costs, regardless of whether they are responsible for the damage.

The current strict liability language has serious ramifications for utilities in states that share boundaries with federal land management agencies. An example of the problem occurred in central Oregon when a tree on federal forest land fell onto a power line owned by Midstate Electric Cooperative. Although the land management agencies had refused to allow the rural electric cooperative to remove the tree prior to the accident, Midstate was forced to pay the entire \$350,000 cost associated with fighting the fire. Can we work together to find a more equitable policy?

Answer. Yes.

*Question.* How does the federal trust responsibility apply to protection of and/or development of the tribal land base?

Answer. The trust responsibility requires that the Secretary consult with the tribal leadership as to a reasoned course of Secretarial action that comports with the need for protection of and/or development of the tribal land base. I would look forward to working with tribal leaders to resolve any issues of concern.

*Question.* What are your views on the protection or withdrawal or return of lands of traditional religious importance and use to tribes?

Answer. I believe in working with tribes to protect lands of traditional religious importance. However, the withdrawal or return of lands of religious importance which happen to be currently outside of a particular tribe's jurisdiction must only be made to that tribe after consultation with the surrounding stakeholders and the Congress.

*Question.* What are your views on the protection of tribal lands from mining activity and other development purposes?

Answer. In general, I believe that decisions regarding the use of public lands must be made on a case-by-case basis and comply with applicable State and federal laws. I believe that land management decisions should be made in a collaborative way, with consultation of all affected stakeholders, including States, Tribes, land users, local communities, and environmental groups.

Mining on Indian lands should only be conducted with the consent of the tribe at the time the mining leases are entered into by the parties and approved by the Secretary. It is my understanding that, under current law, mining on non-tribal lands adjacent to a reservation should be able to continue so long as adequate environmental safeguards are included in the mine plan of operation.

*Question.* How do you view the accommodation or protection of, access to and ceremonial use of Indian sacred sites by tribal religious practitioners and the need to avoid adversely affecting the physical integrity of such sites in federal land management decisions, as set forth in Executive Order 13007 (Indian Sacred Sites)?

Answer. I am not familiar enough with the specific terms of Executive Order 13007 to respond to this question at this time. In general, I believe that the Department must work with the Tribes to protect Indian Sacred Sites whenever possible, consistent with the law and environmentally responsible use of public lands. I subscribe to the belief that the accommodation of access to and ceremonial use of Indian sacred sites by tribes should occur whenever possible so long as the accommodation does not conflict with the Secretary's other federal responsibilities as a land manager.

*Question.* There are currently 36 undeveloped oil leases situated on the Outer Continental Shelf off the coast of California. Development of these leases has been strongly opposed by the state of California and the associated local coastal communities. This Administration has signaled its intent to prioritize the development of domestic oil and gas sources. Will you encourage development of offshore leases in states like California where there is strong and persistent opposition to the development of such leases? Past Administrations have used their executive authority to place a moratorium on offshore oil and gas drilling in currently undeveloped areas. Would you recommend that such a moratorium be continued under this Administration?

Answer. President Bush pledged to support the existing moratoria on OCS leases. He also committed to working with California and Florida leaders and local affected communities to determine on a case-by-case basis whether or not drilling should occur on existing, but undeveloped leases. If confirmed as Secretary of the Interior, I will honor these commitments and promise to work with all parties to reach a consensus on how undeveloped leases should be handled and the extension of existing moratoria.

*Question.* There are now well over 1,000 species that have been federally recognized as threatened or endangered species. The Endangered Species Act compels the Secretary of Interior to identify habitat that is critical to the recovery of these species and protect that habitat from further degradation. Many have alleged that our limited success in recovering species is due to our failure to protect the habitat upon which these species depend. In states like California, where there are a large num-

ber of listed species and a great deal of habitat that has been identified as “critical habitat,” protection of this habitat has been controversial. How would you interpret the Interior Department’s obligations to protect and conserve the critical habitat of these threatened and endangered species?

*Answer.* The Endangered Species Act requires the Secretary of the Interior, acting through the Fish and Wildlife Service, to designate critical habitat for listed species. Under the law, the Fish and Wildlife Service is further required to ensure that activities authorized, funded, or carried out by federal agencies do not jeopardize species through the destruction or adverse modification of critical habitat. I am committed to enforcing those requirements. I am also committed to work with private landowners to preserve habitat through habitat conservation plans, safe harbor agreements, and other innovative tools.

*Question.* Do you consider federal efforts to protect species’ habitat on private lands to be a violation of private property rights that would require compensation of the affected landowners?

*Answer.* As I stated during the hearing, I believe that the determination of whether a regulatory taking has occurred must be made on a case-by-case basis under the guidelines set forth by the Supreme Court. Under those guidelines, I believe it is clear that the federal government can ordinarily enforce the take prohibition of section 9 of the Endangered Species Act without triggering the compensation requirement of the Fifth Amendment of the Constitution.

*Question.* How do you plan to ensure that the Interior Department fulfills its duty to recover listed species?

*Answer.* I am not familiar enough with the efforts that are currently being made by the Department to recover species to respond to this question at this time. However, I am committed to returning the focus on the Endangered Species Program to recovering species. In addition to working to ensure that recovery plans are developed and implemented for all listed species, I look forward to using incentives and other innovative tools to encourage recovery efforts by States and private landowners. I look forward to working with Congress, the States, private landowners, the environmental community, and other interested stakeholders to achieve this goal.

*Question.* The Interior Department recently announced its denial of a permit for the Glamis Imperial gold mine that was proposed for development in Imperial County, California. This mine was rejected on the grounds that it would have caused undue degradation to the site’s environmental and cultural resources. Do you think it is appropriate under current mining law for the Secretary to reject mines like the proposed Glamis Imperial Mine on these grounds?

*Answer.* I am not familiar with the specifics of the Glamis mine proposal or the basis on which the mine was rejected. I look forward to learning more about the proposed Glamis project and working with Congress to ensure that all new mining projects maintain an appropriate balance between legitimate mineral development activities and preservation of important environmental and cultural resources.

*Question.* The Federal government receives royalties from private oil and gas companies that extract oil and gas resources from federal lands. Recently, the Interior Department finalized regulations to ensure that oil royalties paid to the federal government are based upon the fair market value of that oil. This new policy will ensure that taxpayers receive equitable compensation for these resources, and is expected to generate approximately \$67 million in additional revenue. Are you prepared to support this new rule which fairly compensates taxpayers for oil taken from federal lands?

*Answer.* I share with you a desire to ensure that the American taxpayer is fairly compensated for resource development on Federal lands. However, I am unfamiliar with the details of this rule but, if confirmed, I will review the rule and then decide how to proceed.

*Question.* The Secretary of the Interior has the discretion to accept these royalties as either payment-in-kind or payment-in-value. Historically, there have been few instances of royalties being paid in-kind. As Secretary, would you encourage the use of royalty payments in-kind?

*Answer.* If confirmed, I will review the legal options available to the Secretary of the Interior on royalty collections and then decide the appropriate way to proceed.

*Question.* Recently, the National Park Service developed a detailed plan for the future management of Yosemite National Park. This plan was developed after considerable input from all of the affected stakeholders. Central to this plan is the notion that visitors to the park should be discouraged from driving their vehicles into the park and encouraged to travel through the park on a park transit system. As Secretary of the Interior, will you actively support implementation of the new Yosemite Valley Management Plan? Will you be aggressive about developing similar

management plans for the many other national parks that are suffering environmental degradation because their management practices have not kept pace with the growing numbers of visitors?

Answer. I am not familiar with the details of the Yosemite Valley Management Plan. As a general matter, I support the concept of management plans for our public lands and believe that they represent an important decision-making tool for land managers. For these plans to be successful, I believe it is important that they be developed in consultation with the affected States, local communities, affected stakeholders, and environmental groups.

*Question.* In 1998, the U.S. Fish and Wildlife Service adopted a policy for Tule Lake and Lower Klamath National Wildlife Refuges in California and Oregon that prevents irrigation on commercial farmland on the refuges unless sufficient water was available to sustain the refuge's marshes. Do you support this policy which gives priority to the refuge's ecological resources over commercial farming?

Answer. I am not familiar with the details of the Department's 1998 policy.

*Question.* The National Wildlife Refuge System Improvement Act of 1997 set new requirements for the management of refuges. In response, the U.S. Fish and Wildlife Service issued regulations establishing procedures for determining what uses are compatible with the mission of the refuge system and the mission of each individual refuge. Do you believe farming is compatible with the mission of the Tule Lake and Lower Klamath National Wildlife Refuges?

Answer. I have not yet had an opportunity to review the Compatibility Policy, and am not in a position at this time to assess how it might affect the Tule Lake and Lower Klamath National Wildlife Refuges. I am also aware that the Fish and Wildlife Service recently issued a draft Appropriate Uses Policy that may impact activities on refuges such as Tule Lake or the Lower Klamath. I look forward to learning more about the Fish and Wildlife Service's policies implementing the National Wildlife Refuge Improvement Act and about the 530 Refuges in the National Wildlife Refuge System.

*Question.* What uses would you deem to be incompatible with the mission of the national wildlife refuge system?

Answer. The National Wildlife Refuge System Improvement Act recognizes that wildlife refuges can support multiple uses, with priority public uses including hunting, fishing, wildlife observation and photography, and environmental education and interpretation. Some refuges appropriately support oil and gas development, communications easements, and mining. The determination of what specific activities are appropriate on a particular refuge must be made on a case-by-case basis, consistent with the law.

*Question.* Under CERCLA (or Superfund), the Interior Department has the responsibility to act on behalf of the public, as trustee of natural resources under its jurisdiction, to recover for damages caused by the release of a hazardous substance. What is your position on this type of liability under CERCLA?

Answer. Under section 107(f) of the Comprehensive Environmental Response, Compensation and Liability Act. The Department of the Interior is responsible as a land manager and trustee of natural resources for recovering damages for the restoration of any resources under its trusteeship. The Department is also responsible for promulgating regulations implementing this section of CERCLA. As I stated during the hearing, I am committed to enforcing the law. That applies to the Department's obligations under section 107(f).

*Question.* Do you intend to vigorously pursue the assessment and recovery of such natural resources damages, for example, at the Hudson River PCB Superfund site and the Fox River?

Answer. I am not familiar with the details of the Hudson River Superfund site or Fox River. However, to the extent that the Department is a trustee of resources affected by the release of hazardous substances at either of these sites, I am committed to seeking appropriate restoration of the natural resources that have been adversely impacted.

*Question.* Will you pursue the recovery of damages that result from activities that predated CERCLA but that are causing continuing injury?

Answer. I will enforce the law, including any decisions of the federal courts that define the scope of liability for continuing injuries to natural resources resulting from pre-1980 activities.

*Question.* When you were Colorado Attorney General, you decided not to sign two letters, circulated to all state Attorneys General for signature, that were sent to Senator Robert C. Smith (then Chair of the Senate Superfund Subcommittee) in 1995, one supporting CERCLA's retroactive liability provisions, which was signed by 40 state Attorneys General, and the other supporting the natural resource damages provisions of CERCLA, signed by 35 state Attorneys General?

Answer. I do not have access to the specific requests from my colleagues regarding the letters mentioned in this question. Generally, however, these letters apparently dealt with Congressional proposals to amend CERCLA and not with implementation of CERCLA. As Attorney General, Colorado sought and obtained natural resource damages that were retroactive against the polluter on many occasions. I served as one of Colorado's Superfund natural resource trustees.

*Question.* Can you please explain why you decided not sign those two letters?

Answer. Please see my response to the prior question.

*Question.* Do you support the current retroactive liability requirements under Superfund?

Answer. The Secretary of the Department of the Interior is not responsible for implementing the Superfund cleanup program. That is within the jurisdiction of the Administrator of the Environmental Protection Agency. As a trustee for natural resources, however, the Secretary is responsible for the recovery of natural resource damages under section 107(f) of CERCLA. I am committed to fulfilling the Department's obligations in that regard, consistent with the law.

*Question.* Do you support a strong natural resource damage recovery provision that allows trustees to protect and restore damaged public resources?

Answer. Yes.

#### RESPONSES TO QUESTIONS FROM SENATOR DASCHLE

*Question.* What Indian affairs issues should be among the top five priorities for the DOI in the first year of the Bush-Cheney Administration?

Answer. President Bush pledged to commit over \$900 million over five years to address the maintenance backlog in Indian schools in accordance with the Bureau of Indian Affairs' priority list, as well as to construct six new schools. If confirmed as Secretary of the Interior, fulfilling this commitment will be my first priority. I need to learn more about the BIA and ongoing programs within the bureau before identifying other priorities.

*Question.* What are other major issues involving Indian affairs (including budget issues) that may or should require Secretarial involvement in the first year?

Answer. At this time, I need to learn more about the BIA, including funding issues, before deciding what issues will require Secretarial involvement. If I am confirmed as Secretary, I would seek to consult with interested stakeholders, like yourself and the tribes, to reach these decisions.

*Question.* What Interior-related Indian affairs issues may or should require Presidential attention?

Answer. Fulfillment of President Bush's campaign commitment to provide over \$900 million in funding over five years to address the maintenance backlog in Indian schools in accordance with the Bureau of Indian Affairs' priority list, as well as to construct six new schools.

*Question.* What opportunities are there to improve public relations for the DOI by achieving "win-win" solutions regarding Indian affairs issues in the first year?

Answer. As I stated in my confirmation hearing, I take seriously the trustee responsibilities of the Secretary of the Interior and recognize that the situation in Indian Country is not what it should be. I am convinced that we can do better in this sphere. If confirmed as Secretary of the Interior, I intend to work with all interested stakeholders, including members of Congress, to improve the reputation of the Department of the Interior in Indian Country.

*Question.* What internal issues involving Indian affairs (i.e. management, administrative) need to be addressed at the DOI?

Answer. I am not familiar enough with the present situation to answer this question, but, if confirmed as Secretary of the Interior, I look forward to working with Congress and other interested stakeholders on this matter.

*Question.* What are the most significant external challenges involving Indian affairs facing the Department in the first year (i.e. Congress, Tribes, private sector, interest groups, public relations, press)?

Answer. I am not familiar enough with the current situation to answer this question. However, as stated previously, if confirmed as Secretary of the Interior, I intend to consult with all interested stakeholders, including members of Congress, to determine the external challenges facing the Department of the Interior. There is much that I believe we can do, in partnership with our nation's Native American tribes, to improve conditions and create a more hopeful future.

*Question.* What administrative actions involving Indian affairs (i.e. Organization, Executive Orders, directives, rule-making, litigation) should be reviewed in the first six months of the Bush-Cheney Administration and what action would you like to see?

Answer. President Bush has campaigned on the need to provide additional funding to Indian education needs including the construction of new schools as well as the improvement of old ones. If confirmed as Secretary of the Interior, I look forward to working with you on the issue of developing a list of administrative actions that could improve the lives of Indians all across America.

*Question.* As Attorney General, you filed a brief for the Supreme Court that challenged the implementation of Section 9 of the Endangered Species Act. Your argument was not adopted by the court. Would you still be comfortable enforcing Section 9 as construed by the Supreme Court majority?

Answer. Yes.

*Question.* As you know, there is widespread concern about cabinet officials being willing to support civil rights laws, and you have noted your opposition to affirmative action policies in the past. As Secretary of the Interior, would you enforce federal civil rights laws the Department is required to follow?

Answer. Yes.

*Question.* South Dakota is part of the prairie pothole region, and has numerous small, temporary wetlands that provide habitat for waterfowl. What is your view on the conservation of these small wetlands?

Answer. The prairie pothole region provided an early example of cooperative public-private land management, since the Fish and Wildlife Service protected much of this important waterfowl habitat by negotiating protective easements with landowners. I hope we can learn from this experience to enhance FWS efforts in this region and across the country. The Department of the Interior should also cooperate with the agencies primarily responsible for wetlands regulation, the Environmental Protection Agency and the Army Corps of Engineers.

#### RESPONSES TO QUESTIONS FROM SENATOR DURBIN

*Question.* Are you familiar with the Interior Department's August 1997 proposed R.S. 2477 regulations, and do you support them?

Answer. I am not familiar enough with the specifics of the proposed R.S. 2477 regulations to respond to this question at this time. I would be happy to follow up with you at a later date after I have had an opportunity to review the proposed regulations and the related Congressional debate.

*Question.* If not, in what respects do you disagree with them?

Answer. I am not able at this time to take a specific position with respect to the substance of the regulations.

*Question.* And do you plan to change the agency's current policy on R.S. 2477?

Answer. I am not familiar enough with the Department's policy on R.S. 2477 to respond to this question at this time.

*Question.* Would you reinstate the Hodel policy on R.S. 2477?

Answer. I am not familiar enough with the Hodel policy on R.S. 2477 to be able to respond to this question.

*Question.* Millions of acres of public land managed by the Bureau of Land Management (BLM) have never been inventoried for their wilderness qualities. Other areas known to have wilderness qualities were passed over during incomplete inventories. What would you do to support the continuation of wilderness inventories on BLM lands?

Answer. I am not familiar with the status of BLM's wilderness inventory program. If confirmed as Secretary of the Interior, I will commit to reviewing the current program before deciding how to proceed.

*Question.* And what would you do to protect unprotected wildlands that the BLM has inventoried and found to qualify for wilderness designation?

Answer. I need to learn more about BLM's inventory program before deciding how to proceed.

*Question.* Off-road vehicles are a growing threat to sensitive public lands managed by the BLM, causing soil erosion, damaging vegetation and disrupting wildlife. Are you aware of the full extent of this problem, and what will you do to protect wild and or roadless areas from degradation by ORVs?

Answer. I share with you a desire to minimize soil erosion, damage to vegetation and disruption to wildlife on sensitive public lands managed by the BLM. I do not know the specifics of how ORVs impact public lands and need to learn more before deciding how to proceed.

*Question.* Will you seek increased funding for ORV monitoring and enforcement?

Answer. I need to learn about the current level of funding for ORV monitoring and enforcement activities. If confirmed as Secretary of the Interior, I will need to review this and other budget matters more thoroughly before making any recommendation.

*Question.* Many BLM Resource Management Plans are out of date. Some as much as 20 years old. What will you do to update BLM management plans?

*Answer.* I am aware that many BLM Resource Management Plans are out of date. I am not, however, familiar with the magnitude of this issue nor steps that have, or can be taken, to update these plans. If confirmed as Secretary of the Interior, I will need to learn more about this before deciding how to proceed.

*Question.* What are your top funding priorities for the Interior Department, and in particular BLM?

*Answer.* I need to learn more about the Department of the Interior budget before making any recommendations about funding levels for fiscal year 2002. I can commit to seeking to fulfill President Bush's campaign proposals including full-funding of the Land and Water Conservation Fund and progress towards elimination of the National Park System maintenance backlog.

#### RESPONSES TO QUESTIONS FROM SENATOR LEVIN

*Question.* What is your position on drilling for oil and natural gas in the Great Lakes?

*Answer.* I have no position.

*Question.* An agreement signed by the Governors of the Great Lakes states emphatic opposition to drilling beneath the Great Lakes, do you support such a prohibition? Would you support including onshore slant drilling to such a prohibition?

*Answer.* I am not familiar with the specifics of this issue. As a general matter, I believe that land management decisions must be made on a case-by-case basis. If confirmed as Secretary of the Interior, I intend to work the States, local communities, Tribes, affected stakeholders, and environmental groups to ensure that land management plans and decisions regarding the use of our public lands are based on the best available science and achieve the best balance between responsible use and environmental protection.

*Question.* Canada currently allows offshore drilling beneath the Great Lakes. As Secretary of the Interior, what steps would you take to prevent this practice from expanding or stopping it outright?

*Answer.* I am not familiar with the specifics of this issue and would need to learn more before deciding how to proceed. If confirmed as Secretary of the Interior, I will consult with the Secretary of State on this or any matter involving another country.

#### RESPONSES TO QUESTIONS FROM SENATOR HARRY REID

*Question.* As Secretary of the Interior, James Watt directed the U.S. Fish and Wildlife Service to expand oil and gas leasing, timber harvesting, and other extractive commercial activities within the National Wildlife Refuge System. In contrast, the Clinton administration has generally reduced these activities within the System. Do you think the level of commercial activities currently allowed within the National Wildlife Refuge System is too much, not enough, or about right?

*Answer.* I am not familiar enough with the current activities allowed on National Wildlife Refuges to make an independent assessment as to whether or not the level of activity is appropriate. As a general matter, I believe that wildlife refuges can be managed in a manner that supports multiple uses. The National Wildlife Refuge System Improvement Act recognizes that wildlife refuges can support multiple uses, with priority public uses including hunting, fishing, wildlife observation and photography, and environmental education and interpretation. Some refuges appropriately support oil and gas development, communications easements, and mining. The determination of what specific activities are appropriate on a particular refuge must be made on a case-by-case basis, consistent with the law.

*Question.* In October, 1992 several conservation organizations sued the Department of the Interior for allowing incompatible commercial, military, and recreational activities within the National Wildlife Refuge System. In 1993, the Clinton Administration settled the litigation by eliminating grazing and modifying other uses on some specific refuges. The settlement also required the Fish and Wildlife Service to review all activities within the National Wildlife Refuge System to ensure that each use was compatible with the purposes of the refuges on which it was occurring as required by the National Wildlife Refuge System Administration Act of 1966. The settlement required the Fish and Wildlife Service to eliminate activities not found to be compatible. Do you agree or disagree with this settlement of the lawsuit?

*Answer.* I am not familiar enough with the specifics of the litigation to evaluate the settlement. As a general matter, I support the concept that is embodied in the National Wildlife Refuge System Improvement Act to the effect that all uses of a refuge must be compatible with the underlying purposes of the refuge. As I stated above, the National Wildlife Refuge System Improvement Act also expressly recog-

nizes that wildlife refuges can support multiple uses. The determination about what uses are appropriate and compatible with the underlying purposes of a refuge must be made on a case-by-case basis.

*Question.* Do you believe that any of the activities discontinued on one or more National Wildlife Refuges should be reinstated, or should such changes in management be allowed to stand?

*Answer.* I believe that the determination of what activities are appropriate on any particular refuge must be made on a case-by-case basis. I am not familiar enough with the specific management changes that have been imposed to respond to this question.

*Question.* If you believe that discontinued activities should be reinstated, which specific commercial, military, or recreational activities should be reinstated within the Refuge System, why, and under what circumstances?

*Answer.* I am not familiar enough with the specific management changes that have been imposed to respond to this question. I would be happy to review this matter in more detail once I am confirmed and follow up with you at a later date.

*Question.* Are there any activities that you believe should never be allowed within the National Wildlife Refuge System?

*Answer.* I believe that the determination of what activities are appropriate should be governed by the National Wildlife Refuge System Improvement Act and its implementing regulations and policies.

*Question.* In May, 2000, the U.S. Fish and Wildlife Service issued final agency policy on preparing Comprehensive Conservation Plans required under the National Wildlife Refuge System Improvement Act of 1997. That policy requires each refuge to conduct wilderness reviews as part of the planning process. Refuges must review both lands that have never been studied and lands that were previously reviewed but not recommended for wilderness designation to determine if they currently qualify for this designation. Do you agree with this policy?

*Answer.* I am not familiar enough with the specific elements of this policy to respond to this question at this time. I would be pleased to follow up with you at a later date after I have had an opportunity to review the policy.

*Question.* If confirmed, will you propose changes to this policy?

*Answer.* I am not familiar enough with the specific elements of this policy to respond to this question at this time. I would be pleased to follow up with you at a later date after I have had an opportunity to review the policy.

*Question.* Under President George H.W. Bush, nearly 50 new national wildlife refuges were established. The majority of these were created with use of the Land and Water Conservation Fund. Under the Clinton Administration, a similar number have also been established under this funding source. Do you support or oppose use of the Land and Water Conservation Fund to establish new national wildlife refuges?

*Answer.* Section 7 of the LWCF Act authorizes the use of LWCF monies for the acquisition of national wildlife refuge system lands. I support the use of funds from the Land and Water Conservation Fund for the acquisition of land for conservation purposes, including acquisitions for the National Wildlife Refuge System.

*Question.* Would you place any new limitations on the establishment of new national wildlife refuges?

*Answer.* I am not familiar enough with the situation relating to proposed expansions of existing refuge lands to answer this question. However, I am aware that the Fish and Wildlife Service has identified a substantial maintenance backlog on refuge lands, as well as significant shortfalls in the operations budget. I believe that these issues must be taken into consideration as proposals to expand the National Wildlife Refuge System are reviewed.

*Question.* In October, 2000, the U.S. Fish and Wildlife Service issued final agency regulations and policy establishing procedures for determining whether ongoing or proposed activities on national wildlife refuges are compatible with the mission of the Refuge System and the purposes of the individual refuges on which they occur. Such regulations were required by the National Wildlife Refuge System Improvement Act of 1997. The Fish and Wildlife Service has determined that a use that undermines the biological integrity, diversity, and environmental health of a refuge will be considered to be incompatible. Do you agree or disagree with this regulation?

*Answer.* I am not familiar enough with the specifics of the regulations or policy to respond to this question. As a general matter, I support the principle reflected in the National Wildlife Refuge System Improvement Act that all activities allowed on a wildlife refuge must be compatible with the underlying purposes of the refuge. I would be happy to follow up with you at a later date after I have had an opportunity to review the compatibility policy in greater detail.

*Question.* If confirmed, will you propose changes to this policy?



Answer. I am not familiar enough with the specifics of the regulations or policy to respond to this question. As a general matter, I support the principle reflected in the National Wildlife Refuge System Improvement Act that all activities allowed on a wildlife refuge must be compatible with the underlying purposes of the refuge. I would be happy to follow up with you at a later date after I have had an opportunity to review the compatibility policy in greater detail.

*Question.* The U.S. Fish and Wildlife Service has been criticized for prohibiting certain pesticides from being used in National Wildlife Refuges. The agency has also been criticized by conservation organizations for continuing to allow pesticides known to be carcinogens, endocrine disrupters, and neurotoxins to be used. Should pesticides that are known to be carcinogens, endocrine disrupters, or neurotoxins be allowed on national wildlife refuges?

Answer. I am not familiar enough with this issue to respond to this question. I would be happy to follow up with you after I have had an opportunity to learn more about the pesticides in question, the reason for their application; and the potential risks that they may present.

*Question.* If so, for what purpose should they be allowed and under what circumstances?

Answer. I am not familiar enough with this issue to respond to this question. I would be happy to follow up with you after I have had an opportunity to learn more about the pesticides in question, the reason for their application; and the potential risks that they may present.

If confirmed, would you take action either to restore pesticides eliminated by the Fish and Wildlife Service or to eliminate harmful pesticides allowed on Refuges?

I am not familiar enough with the issue of pesticide use on or around refuges to respond to this question. I would be happy to work with you after I have been confirmed to review the question of pesticide application on and near refuge lands.

In 1998, the State of Wyoming sued the Department of the Interior over management of the National Elk Refuge. The state argued that the U.S. Constitution and the National Wildlife Refuge System Improvement Act of 1997 gave states the authority to manage resident wildlife even on national wildlife refuges. The Wyoming District Court found that the 1997 Act did the opposite, affirming the federal government's lead authority to manage all wildlife on national wildlife refuges. Do you agree or disagree with the Wyoming District Court Judge's finding?

I am not familiar with this case. However, as I stated during the hearing, as a general matter, I am committed to enforcing the law as it is interpreted by the courts. I also believe, however, that the States are important partners in the conservation of wildlife and habitat. While the federal government has lead responsibility in the management of national wildlife refuges, it is important that we work together with the States.

*Question.* Please describe your views on the extent of federal and state authority to manage wildlife on the National Wildlife Refuge System.

Answer. I believe that the Fish and Wildlife Service is the lead agency responsible for managing our national wildlife refuge lands. I also recognize that States also play an important role in the conservation of wildlife, both on and off refuge lands. For example, State hunting laws apply to hunting on national wildlife refuges. I believe it is important for the Fish and Wildlife Service to work in partnership with the States in order to achieve the fundamental purposes of our National Wildlife Refuge System.

*Question.* In the 1980s, the U.S. Fish and Wildlife Service concluded that jetties proposed for construction on the Pea Island National Wildlife Refuge in North Carolina would be incompatible with the purpose for which that refuge was established. The Clinton Administration has reaffirmed this determination. Do you agree or disagree with these findings?

Answer. I am not familiar enough with the details of the proposed jetties on the Pea Island National Wildlife Refuge to respond to your question at this time. I would be happy to follow up with you at a later time after I have had an opportunity to review the findings in more detail.

*Question.* If confirmed, would you take action to attempt to overturn these previous determinations?

Answer. I am not familiar enough with the details of the proposed jetties on the Pea Island National Wildlife Refuge to respond to your question at this time. I would be happy to follow up with you at a later time after I have had an opportunity to review the findings in more detail.

*Question.* In 2000, the Interior Department was criticized for allowing more water to flow in the Klamath River to benefit endangered salmon. Please explain your views on the management of water to meet the needs of endangered species in situ-

ations, such as with the Klamath River, where adequate water supplies may not exist to meet all the desires for water.

Answer. The management of water resources presents a particular challenge for the Department of the Interior. In carrying out its responsibilities under the Endangered Species Act, the Department must maintain an appropriate balance between the needs of species and the needs of agricultural interests, municipalities, and other water users. At the same time, the Department must respect State water law. I believe that my experience in Colorado negotiating water rights settlements would help me address this issue as Secretary of the Interior. I believe I have a proven track record of being able to bring opposing sides together, balancing the needs of water users with those of the environment and species.

*Question.* In *Babbitt v. Sweet Home Chapter of Communities for a Better Oregon*, the Supreme Court affirmed a Fish and Wildlife Service regulation prohibiting degradation of endangered species habitat on private land. Please describe your views on this case.

Answer. As I stated at the hearing, I am committed to enforcing the Endangered Species Act. Although I filed an amicus brief in my capacity as Attorney General for Colorado in support of those who were challenging the regulation, I recognize that the Supreme Court upheld the regulation and that is now the law of the land. I will enforce the regulation.

*Question.* Do you believe that the Endangered Species Act protect against the destruction of endangered species habitat on private land?

Answer. The Endangered Species Act prohibits the take of an endangered species on private land. In some cases, the destruction of habitat can constitute a take. This is a determination that must be made on a case-by-case basis.

*Question.* If confirmed, will you propose changing this aspect of the Act?

Answer. At this time, I do not have any plans to propose any legislative changes to the Endangered Species Act. I look forward to working with the Congress at some time in the future, however, to evaluate whether amendments to the Act may be desirable to achieve better results for species. Among other things, I may consider amendments to provide statutory authorization for the landowner incentives that have been implemented by the Clinton Administration.

*Question.* You may be aware that in November of last year, the U.S. Fish and Wildlife Service issued a Biological Opinion on "The Operation of the Missouri River Main Stem Reservoir System, Operation and Maintenance of the Missouri River Bank Stabilization and Navigation Project, and Operation of the Kansas River Reservoir System" pursuant to its responsibilities under the Endangered Species Act.

As Secretary of the Interior, would you support managing the Missouri River in a way that meets the needs of threatened and endangered species, promotes recreation and tourism on the river, and supports traditional uses of the river in a balanced way?

Answer. I am not familiar enough with the details of the Missouri River Biological Opinion to assess whether or not it represents a balanced approach to the management of the Missouri River Main Stem Reservoir System. As a general matter, I support the management of the River in a way that balances the needs of the species with recreation and industrial uses, as well as public safety. If confirmed, I pledge to work with the Army Corps of Engineers and the Congress to achieve that result.

*Question.* As Secretary of the Interior would you continue to support the Fish and Wildlife Service's leading role, in the context of revising the "Master Manual" on operations of the Missouri River main stem reservoir system, in helping the Corps of Engineers to prevent the extinction of listed species on the Missouri River?

Answer. As I stated above, I am not familiar with the details of the Missouri River Biological Opinion and do not know what role in particular the Fish and Wildlife Service has played. It is clear, however, that under the Endangered Species Act, the Fish and Wildlife Service is responsible for the preparation of the Biological Opinion, including the jeopardy assessment and reasonable and prudent measures accompanying any incidental take statement. I look forward to learning more about the specifics of this situation and pledge to work with the Corps of Engineers and the Congress to implement measures to prevent the extinction of the listed species on the Missouri.

*Question.* Will you commit to not rescinding or modifying the Fish and Wildlife Service's November 2000 Biological Opinion? If you cannot commit to this, do you have any plans to rescind or modify this Opinion? What facts or circumstances would can you to rescind or modify the Opinion?

Answer. I am not familiar enough with the specific facts underlying the Biological Opinion to respond to this question. I would be happy to follow up with you after I have had an opportunity to review the Biological Opinion in greater detail.

*Question.* President George H.W. Bush established a goal of “no net loss” of wetlands. The Supreme Court’s recent ruling in Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers may affect the attainment of this goal. Do you support the “no net loss” of wetlands goal?

*Answer.* I am not familiar enough with the Supreme Court’s decision in Cook County to evaluate what impact, if any, it will have on federal wetlands policy. The Secretary of the Interior does not have primary responsibility for managing wetlands. That is under the jurisdiction of the Corps of Engineers and the Environmental Protection Agency. I do not have an independent position with respect to former President Bush’s “no net loss” policy. If confirmed as Secretary of the Interior, I will follow the policy of President Bush.

*Question.* Do you agree with the Supreme Court’s decision in the SWANCC case? Why or why not?

*Answer.* I am not familiar enough with the decision of the Supreme Court to respond to this question.

*Question.* Given the Court’s SWANCC decision, how should the federal government proceed in implementing a “no net loss” policy?

*Answer.* I am not aware of what the Bush Administration’s policy is with respect to wetlands and am not in a position at this time to make any specific recommendations as to how that policy should be implemented.

*Question.* What do you believe is the appropriate role of the Interior Department in protecting the nation’s wetlands?

*Answer.* The Department of the Interior is not the primary federal agency responsible for the management or regulation of wetlands. The Department does preserve and protect wetlands as habitat for endangered species and migratory waterfowl.

#### RESPONSES TO QUESTIONS FROM SENATOR TORRICELLI

*Question.* The Pinelands National Reserve, now over 20 years old, is a unique way to provide for natural resource protection as a joint federal-state partnership. Are you in favor of expanding this model to protect other critical landscapes across the nation?

*Answer.* I support Federal, State and local partnerships, especially with respect to difficult land management decisions. If confirmed as Secretary of the Interior, I will seek to foster intergovernmental partnerships.

*Question.* You are, by virtue of federal act, represented as a member of the Pinelands Commission, a body overseeing the plan protecting the unique natural resources of the Pine Barrens of New Jersey. The Commission, established as a partnership between state and federal government more than two decades ago, has been criticized recently for not applying its regulations in a consistent manner, sometimes in contravention to its own rules. The current Secretary of Interior has supported one such vote on appeal. How would you respond should a similar circumstance arise?

*Answer.* I am unfamiliar with the Pinelands Commission and the specific obligations of the Secretary of the Interior as a Commission member. If confirmed, I will need to learn more about the Pinelands so that I can fulfill my statutory obligations for the benefit of not only New Jersey residents but also all Americans. I can say that I support uniform and consistent application of all rules and regulations.



## APPENDIXES

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### APPENDIX II

#### Additional Material Submitted for the Record

[Note: Due to the enormous amount of materials received, only a representative sample of statements follow. Additional documents and statements have been retained in committee files.]

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UTE MOUNTAIN TRIBE,  
SOUTHERN UTE INDIAN TRIBE,  
*January 8, 2001.*

Hon. FRANK MURKOWSKI,  
*Senate Energy and Natural Resources Committee, Dirksen Senate Office Building,  
Washington, DC.*

DEAR CHAIRMAN MURKOWSKI: We are writing in support of the nomination of Gale Norton to serve as Secretary of the Interior, and hope you will share our remarks with members of the Committee who will visit with her during her upcoming confirmation hearing.

Our Tribes have enjoyed a strong working relationship with the State of Colorado for many years. As Attorney General, Gale Norton furthered that relationship through her commitment to resolving issues in a fair and thoughtful way. She is an open-minded leader who listens and then works toward a resolution. We were able to agree to a gaming compact with the State of Colorado during her tenure as Attorney General. In addition, her strong and adamant support of the Colorado Ute Indian Water Rights Settlement Act was a major factor in what ultimately became successful legislation to modify the Animas-La Plata Project and still meet the obligation to the Ute people of Colorado.

Ms. Norton is a very capable individual whose public service is not based on a desire for accolade or credit, but on a commitment to resolve issues, no matter how controversial.

We proudly support her nomination and enthusiastically encourage the Senate to approve her nomination.

Sincerely,

ERNEST HOUSE,  
*Chairman, Ute Mountain Ute Tribe.*  
VIDA PEABODY,  
*Acting Chairman, Southern Ute Indian Tribe.*

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NATIONAL WATER RESOURCES ASSOCIATION,  
*Arlington, VA, January 11, 2001.*

Hon. FRANK MURKOWSKI,  
*Ranking Member, U.S. Senate Energy and Natural Resources Committee, Dirksen  
Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: On behalf of the membership of the National Water Resources Association, I am writing in strong support of the Honorable Gale A. Norton to be the next Secretary of the Department of the Interior.

Several of our members and I have worked with Ms. Norton during her tenure as Attorney General of the State of Colorado. Without exception, we have found her receptive to all points of view, fair-minded, and beyond reproach.

Ms. Norton's record in Colorado is exemplary. On many divisive issues she was the architect of reason and concensus. We would question anyone who has worked with her that challenges her objectivity, fairness and integrity.

President-elect Bush has made an outstanding selection for Interior Secretary and we give our unqualified and strongest support for her confirmation. We urge the Committee to give its unanimous and expeditious endorsement of Ms. Norton as the next Secretary of the Interior.

Respectfully yours,

THOMAS F. DONNELLY,  
*Executive Vice President.*

January 12, 2001.

Hon. FRANK MURKOWSKI,  
Hon. JEFF BINGAMAN,  
*Co-Chairs, Senate Energy and Natural Resources Committee, Dirksen Building,  
Washington, DC.*

DEAR SENATORS: The Department of the Interior (DOI)—encompassing agencies such as the National Park Service, the Bureau of Indian Affairs, and the Bureau of Land Management—has the unique responsibility of safeguarding America's few remaining and most precious natural treasures and links to our shared natural and cultural history. I strongly believe that those lands and waters, many of which are priceless and irreplaceable, require the highest environmental protection as mandated by federal statutes. The Department of the Interior must be led by someone who recognizes this fact.

Gale Norton's career history working on land management issues illustrates her apparent priorities in the area of natural resource management. From this history, it appears that Ms. Norton believes that "free market" schemes can address many of the threats facing our public lands. Unfortunately, our nation's history is littered with the costly and damaging failures of similar market based land management plans. Because I do not wish to see America's land management policies hijacked for the short-term profit motives of exploitative industries, I do not feel that Ms. Norton is the best-qualified candidate to act as head steward of our nation's most valuable resources. Nothing in Ms. Norton career history seems to suggest that she values natural resources any more than they are worth at market-value.

Our nation's natural heritage is simply too precious to entrust to anyone except a person with the utmost reverence for those resources. Sadly, I am not convinced that Ms. Norton will make the protection of our natural resources from needless destruction by extractive industries as high a priority as necessary. Therefore, I call upon you to oppose her nomination for Interior Secretary and lead/support a filibuster of her nomination if it reaches the full Senate. Finally, I call upon you to urge President Elect Bush to nominate a more suitable candidate.

Sincerely,

RENATE WALLNER,  
*H. Sc. Ed.*

Needham, MA, January 12, 2001.

Hon. FRANK MURKOWSKI,  
*Hart Senate Office Building, Washington DC.*

Dear Senator Murkowski: I am writing to urge you to reject Gale Norton's confirmation as Secretary of the Interior.

The Department of the Interior is a major office in the national government, which oversees our national preservation of land, water, forests, natural resources, wildlife and their wise use and management as well. The nominee to head Interior, Gale Norton, is well known for her interest in accommodating corporate demands for more access to energy and raw materials, at the expense of our nation's natural heritage.

In accepting her nomination to serve as Secretary of the Interior, Gale Norton promised to make better use of the two-thirds of the nation's lands in federal hands—including access for business.

Gale Norton's pro-growth, pro-oil, and anti-regulation positions are well documented:

- As President Reagan's Associate Solicitor at the Interior Department, she supported oil drilling in the Arctic Wildlife Refuge and she has endorsed President-Elect Bush's advocacy for developing these pristine lands for oil resources.

- Gale Norton supports Colorado's "self-audit" law (which the current EPA opposed). It allows corporations to monitor their own compliance with environmental regulations.
- Gale Norton worked at the Mountain States Legal Foundation, which advocates "takings" legislation and logging and mining on the nation's public lands. It also is vigorously opposed to the very notion of the Endangered Species Act.

The Constitution gives the Senate the responsibility of advising on and consenting to presidential appointments. As our elected officials, the Senate has a duty to fully review the writings, speeches, interviews, and public records of nominees for Executive appointments. In light of the historically close nature of the presidential election, the Senate should be particularly careful in its review of nominees. President-elect Bush received no mandate for conservative activism or environmental exploitation.

Please protect our treasured natural resources and oppose Gale Norton's confirmation as Secretary of the Interior.

Sincerely,

WILLIAM AND DIANA LEHMAN.

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*San Francisco, CA, January 12, 2001.*

*Senate Energy and Natural Resources Committee, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: Please include this letter in the hearing record of Jan. 18, 2001 for the confirmation hearing of Gale Norton as Secretary of the Interior.

I am opposed to the confirmation of Gale Norton for the following reasons:

- Ms. Norton is cut from the same cloth as James Watt, having spent four years as a staff at the Mountain States Legal Foundation where Watt served as its first President.
- Ms. Norton was national chairman of the Coalition for Republican Environmental Advocates, a corporate front group whose steering committee includes registered lobbyists for the oil, auto, mining, and alcoholic beverage industries.
- As Attorney General of Colorado, Ms. Norton filed an amicus brief in the 1995 *Sweet Home* case before the Supreme Court opposing the position of the Department of the Interior and the goals and policies of the Endangered Species Act.

I believe that the Secretary of the Interior should be an individual whose past record demonstrates a commitment and ability to advance the mission of the Department of the Interior. This mission is to manage and preserve our public lands in an environmentally and scientifically sound fashion for the equitable benefit of all American taxpayers.

Ms. Norton's past activities abundantly demonstrate that she would undermine, not uphold, this mission. She should be rejected for this critical post.

Sincerely,

STANLEY E. KAUFMAN, M.D.

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*Raleigh, NC, January 12, 2001.*

DEAR SENATOR MURKOWSKI: I am in opposition to Gale Norton as Interior Secretary. Her past record does not indicate that she is the person who should be entrusted with decisions about our environment and natural resources.

Please oppose Norton as Secretary of the Interior.

Sincerely,

PETER J. MACMANUS.

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*Raleigh, NC, January 12, 2001.*

DEAR SENATOR MURKOWSKI: I am writing to you because I oppose Gale Norton as Secretary of the Interior. I have seen the record of some of her actions, and I definitely do not believe that she is the right person to entrust with decisions about this country's natural resources.

Please, Senator Murkowski, do what you can to defeat Gale Norton.

Sincerely,

SARAH A. MACMANUS.

*Durham, NC, January 12, 2001.*

DEAR SENATOR MURKOWSKI: I am writing to voice my opposition to the nomination of Gale Norton as the Secretary of the Interior. As a follower of James Watt and through her actions it is painfully obvious that her belief is that public lands are to be exploited by large companies and not to be enjoyed by the public for the beauty and environmental integrity that they hold.

Gale Norton has shown through the years that she supports legislation where companies have the right to hide environmental violations if they say they will do better. In other words she does not believe that there should be any consequence for negatively affecting the air, water, and land that we need to survive. This also means that she does not believe that companies should be punished for defacing our public lands.

The National Park Service and BLM are already weak due to budget cuts, the last thing that the nation needs is Gale Norton as Secretary of the Interior. Our national treasures that are already stressed will be under attack from large corporations wanting to extract all the resources they can. The question comes down to, are our public lands set aside for us the people or for big corporations. Gale Norton supports the corporations and I urge you to oppose her nomination Senator Murkowski.

Thank you for your time.

CHRIS SHEPARD.

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ALASKA STATE LEGISLATURE,  
*Juneau, AK, January 12, 2001.*

Hon. JEFF BINGAMAN,  
*Chairman, Senate Energy and Natural Resources Committee, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR SENATOR BINGAMAN: The leadership of the Alaska State Senate and the Alaska State House of Representatives would like to express our support for the nomination and appointment of Ms. Gale Norton to Secretary of the Interior.

The Department of the Interior appointment is extremely important to our state. Most of our lands and much of our natural resources are intricately tied to this agency. The mission of many of the Bureaus within the Department, such as the Bureau of Indian Affairs, Bureau of Land Management, the National Park Service and U.S. Fish and Wildlife Service are also interwoven in the daily lives of most of our citizens. Thus, we do not treat the nomination of this important cabinet position lightly.

Ms. Norton's resume is exemplary. She certainly understands the many issues and challenges facing the western states and the country as a whole, having served for two terms as Attorney General in Colorado. In that capacity, she also demonstrated an ability to fairly interpret, implement and enforce the federal and state laws which she was sworn to uphold. Her previous experience with the Department of the Interior gives her the background and technical expertise to tackle the tough issues facing this Department.

We appreciate your considering our recommendation that Ms. Norton be confirmed as Secretary of the Interior by the U.S. Senate.

Sincerely,

RICK HALFORD,  
*Senate President.*  
BRIAN PORTER,  
*Speaker of the House.*

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*Canyon Lake, TX, January 13, 2001.*

Hon. FRANK MURKOWSKI,  
Hon. JEFF BINGAMAN,  
*Co-Chairs, Senate Energy and Natural Resources Committee, Dirksen Building, Washington, DC.*

DEAR SENATORS: The purpose of this letter is to register my protest to the appointment of Gale Norton as Interior Secretary. The reason I am taking time to do this, and asking you to take time to consider it, is that I believe our natural resources are invaluable and irreplaceable. That these qualities do not translate well to arguments based on simple economics should not exempt them from concern, since they transcend that arena; they provide an end for that which economics only provides a means. For example, I don't work 40-50 hours per week because I like



to work, I do it because I have to accumulate a financial cushion in order to spend a few weeks each year in the wilderness. This philosophy was also expressed by former President Theodore Roosevelt in saying that “the nation behaves well when it leaves its resources enhanced, and not depleted, for future generations”.

Based on Ms. Norton’s record, I do not believe the natural resources of our nation would be enhanced under her stewardship. In fact, there appears to be a greater likelihood that they would be depleted for relatively short-term economic gain. Since many of these resources are irreplaceable, the conservative approach would be to protect them from exploitation.

Sincerely,

JERRY O’CONNOR.

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AMERICA OUTDOORS,  
Knoxville, TN, January 15, 2001.

Hon. JEFF BINGAMAN,  
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Re: Interior Secretary Nominee Gale Norton

DEAR CHAIRMAN BINGAMAN: On behalf of America Outdoors, I respectfully request that you, as Chairman of the Confirming Committee, support Ms. Gale Norton’s nomination for Secretary of the Interior and act quickly to assure her confirmation.

As the Interior Department’s Associate Solicitor from 1985 to 1987, Ms. Norton was exposed to the intricacies of the Department as well as the nuances of national policymaking. She is familiar with the Department, its issues, and its management and is adept at natural resource administration. America Outdoors strongly supports confirmation of Ms. Norton for Secretary of the Interior.

Sincerely,

DAVID BROWN,  
Executive Director.

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Asheville, NC, January 16, 2001.

SENATOR MURKOWSKI: I am writing to oppose Gale Norton as Interior Secretary. As a new mother who dreams of her son growing up in a world that protects and preserves its natural resources, I appeal to you to do all you can to keep Norton from being appointed for the following reasons:

- Norton’s audacious stance to open protected wildlands to oil, gas, mining, and logging industries is terrifying; we chose to protect these lands for a reason. The United States wisely recognized that environmental diversity is essential to the longevity of the human race. Norton’s unconcern for this diversity is dangerous and disconcerting.
- As an attorney, Norton sued the EPA to overturn clean-air standards. With the pollution problems this nation is already facing, we need government representatives to protect its citizens’ best interests—air is a very basic best interest of all of us.
- Norton generally protects interests of industry over the environment. There must be a balance! What good is a healthy industry if it has no world in which to do business?

When I was pregnant, I spent many sleepless nights worrying about the state of the world to which I was preparing to introduce my son. Please protect his future. Please hear the plea of a woman who, despite the worries, has enough hope in our future to bring a son into it.

Sincerely,

GWYN RIDENHOUR.

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ASSOCIATION OF CALIFORNIA WATER AGENCIES,  
Sacramento, CA, January 16, 2001.

Hon. FRANK MURKOWSKI,  
Ranking Member, U.S. Senate Energy and Natural Resources Committee, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR MURKOWSKI: On behalf of the Association of California Water Agencies (ACWA) and its members, I am writing to strongly support the nomination

of the Honorable Gale A. Norton to be the next Secretary of the United States Department of the Interior.

We believe Ms. Norton's extensive experience in a broad array of western water and resource issues uniquely qualifies her to be the Secretary of the Interior. She has shown herself to be not only knowledgeable about the law and good public policy, but has proven to be receptive to all points of view and fair minded in her approach.

We believe she is the kind of individual who can work with a wide variety of interests to fashion policies that will address the water and other resource issues in California and throughout the West. We pledge to work with her, the rest of the Bush administration and Congress should she be confirmed.

We urge the committee to give its unanimous endorsement of Ms. Norton as the next Secretary of the Interior.

Sincerely,

STEPHEN K. HALL,  
*Executive Director.*

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*Parker, CO, January 16, 2001.*

Hon. FRANK MURKOWSKI,  
*U.S. Senate, Washington, DC.*

DEAR MR. MURKOWSKI: I am writing you to support the nomination of Gale Norton for Secretary of the Interior, Ms. Norton served eight years as Colorado's Attorney General and three years as an Associate solicitor within the Department of the Interior.

Ms. Norton has shown her expertise as a legal advocate regarding environmental matters in this state.

As the exploration manager for a mining company, I understand the need for even-handed environmental activism in this country. I believe Ms. Norton can establish the working bipartisan consensus needed to effectively enforce the laws that rule public land use.

Yours truly,

WARREN R. BATES.

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THE COLORADO MINING ASSOCIATION,  
*Denver, CO, January 16, 2001.*

Hon. FRANK MURKOWSKI,  
*U.S. Senate, Washington, DC.*

DEAR SENATOR MURKOWSKI: On behalf of the Colorado Mining Association (CMA) and its more than 600 members, I am writing to support the nomination of Gale Norton for Secretary of the Interior. Ms. Norton served eight years as Colorado's Attorney General and three years as an Associate Solicitor within the Department of the Interior. Given her extensive experience with land use and environmental issues, it is clear that Ms. Norton is one of the most highly qualified candidates for the Interior Secretary position in the entire history of the Department.

The CMA is an industry organization, founded in 1876 and incorporated in 1897, whose more than 600 members include individuals and organizations engaged in the exploration, development and production coal, metals, agricultural and industrial minerals throughout Colorado and the west. Our members also include individuals and organizations who provide services and supplies to the industry, as well as state, local, and federal governmental officials interested in mining.

During her tenure as Colorado's Attorney General, Ms. Norton was an effective legal advocate for environmental interests and was dedicated to the enforcement of the state's environmental laws. She was particularly effective in implementing and enforcing laws related to the cleanup of hazardous waste sites. She possesses a broad understanding of the workings of government and is able to build the bipartisan consensus needed to administer and enforce the laws that govern the nation's public lands.

I urge you to vote for her confirmation as Secretary of the Interior.

Sincerely,

STUART A. SANDERSON,  
*President.*

VIEJAS TRIBAL GOVERNMENT,  
Alpine, CA, January 16, 2001.

Hon. FRANK MURKOWSKI,  
Chairman, Senate Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR MURKOWSKI: As Chairman of the Viejas Band of Kumeyaay Indians, I would like to take this opportunity to commend President-elect Bush on his selection of Gale A. Norton to be Secretary of the Interior. As you and your fellow Senators commence your constitutionally mandated "advise and consent" function, I am writing to advise you of the Viejas Tribe's support for her nomination.

We recognize that tribal issues will be front-and-center in the 107th Congress and for the foreseeable future. Issues such as water rights, education, health care, and of course, gaming will certainly be discussed. We have confidence that, given her background and experience, Secretary-designate Norton is well suited to address these issues, and balance the competing interests they present.

As attorney general of Colorado, Ms. Norton earned a reputation as being a fair arbiter of disputes involving tribal governments, and a zealous advocate for tribes on issues ranging from water rights to the National Tobacco Settlement ("NTS").

The latter issue is of utmost interest to us, as her actions provided a window on her views of tribal self-governance. As a leader for the National Association of Attorneys General, Norton faced the question of how settlement moneys should be paid out to tribal governments. Some advocated for turning these funds over to federal bureaucrats, so that they could be parceled out on an as-needed basis. To her credit, then General Norton opposed that idea based on the concept of tribal sovereignty. She recognized that NTS funds would be paid to states in lump sum for them to use in their discretion, and she advocated that tribal governments be treated the same way. In essence, she viewed tribes and states as co-equal sovereigns.

In addition, Ms. Norton had the sensitivity to recognize that religious uses of tobacco by tribal members should receive special consideration outside the scope of new tobacco regulation or legislation.

It is rare that friends will agree with each other one hundred percent of the time, and we have no expectations that she would be any different. We recognize that Ms. Norton has not always sided with tribal governments in the past, and that she may not always side with tribal governments in the future. Thus, we reserve the "right to petition the government to redress our grievances," even if she chooses to oppose some of our positions.

However, on the broader issue of tribal sovereignty and self-governance, Ms. Norton appears to share our views. Thus, based on her past positions and comments, the Viejas Band of Kumeyaay Indians can offer its full endorsement of her candidacy to become the next Secretary of the Interior.

Very truly yours,

STEVEN F. TESAM,  
Chairman, Viejas Band of Kumeyaay Indians.

STATE OF NEVADA,  
January 16, 2001.

Hon. FRANK MURKOWSKI,  
Chair, Energy & Natural Resources Committee, Hart Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I would like to apprise the Committee of my professional experience with Secretary-Designate Gale Norton. I served as Deputy Director and Interim Director of the U.S. Fish and Wildlife Service from 1986 to 1989.

During these years, Ms. Norton was assigned as Associate Solicitor for my agency and we dealt with some of the most contentious issues of the time. As a careerist, I can attest that Gale gave professional counsel of the highest caliber. She never interjected partisanship or evidence of a political agenda. Indeed, while others in the Department may have suggested otherwise, she repeatedly interpreted the law, gave solid advice and defended those of us making the final decisions.

One specific action seems most exemplary of Gale's integrity. The potential listing under the Endangered Species Act for the Desert Tortoise was one of the most controversial facing the newly installed Bush Administration in 1989. Secretary Lujan was new to the agency and the provisions of the Act. As Interim Director for the Fish and Wildlife Service, I had to decide a listing that would have great impact on my home State of Nevada, as well as other states. Gale Norton was there to provide even-handed legal advice, tempered with common sense personal advice. Essen-

tially, Gale said, “do what’s right under the law”. We did; the tortoise was listed; the species has improved; growth has been accommodated and Nevada is the fastest growing state in the nation.

For me, it is ludicrous to hear of this judicious, moderate woman described as extreme or radical. The Interior Department I served for 17 years will gain a leader with thorough knowledge of the agency, personal integrity and the ability to administer a large, diverse bureaucracy. I urge to favorably consider Gale Norton for confirmation.

Sincerely,

STEVE ROBINSON,  
*State Forester-Firewarden.*

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NATIONAL CATTLEMEN’S BEEF ASSOCIATION,  
*Washington, DC, January 16, 2001.*

Hon. FRANK MURKOWSKI,  
*Chairman, Senate Energy and Natural Resources Committee, Dirksen Office Building, Washington, DC.*

Re: Support for Confirmation of Gale Norton as Secretary of the Interior

DEAR CHAIRMAN MURKOWSKI: The National Cattlemen’s Beef Association strongly supports the nomination of Gale Norton to be the next Secretary of the Interior. Ms. Norton is an excellent candidate with a solid track record of working with diverse interests to find workable solutions to complex natural resource management issues. She believes that conservation and multiple use can be cooperatively employed to bring sustainability back to federal land management without sacrificing environmental protection or the loss of viable economic resource development.

Gale Norton is an advocate of state supremacy and private property rights. She has strong beliefs on how capitalism and other economic considerations can be used to enhance compliance with existing environmental regulations. As the Attorney General for the State of Colorado, she has proven herself to be a strong supporter of environmental protection by addressing numerous issues related to industrial polluters. She has worked effectively in partnerships with other states and many other organizations to develop solutions to complex legal and environmental issues. Ms. Norton has consistently worked to ensure that all interests have a voice in the development of management plans or other decisions.

Gale Norton is extremely well qualified to be the next Secretary of the Interior. She will bring creativity and diverse legal experience to the Department. Her leadership will enhance the work of the professional staff at the agency, and be a great influence in developing new ways to apply the principles of multiple use, conservation, and sustainability. Gale Norton is a natural leader. She has a strong desire to achieve consensus results. She will ensure the department holds an open invitation to many different interests to sit at the table. Ms. Norton will be a positive influence on the development of new public policies at the Department of the Interior, and many people will benefit from her tenure as Secretary.

Please join us in supporting Gale Norton’s confirmation as the next Secretary of the Interior.

Sincerely,

GEORGE HALL,  
*President.*

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NORTHERN CALIFORNIA WATER ASSOCIATION,  
*January 16, 2001.*

Hon. FRANK MURKOWSKI,  
*Ranking Member, Energy and Natural Resources Committee, U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR MURKOWSKI: I am writing today to convey the Northern California Water Agencies’ (NCWA) support for the nomination of Gale Norton to the position of Secretary of the United States Department of the Interior.

NCWA represents 70 water suppliers and individual farmers who collectively irrigate over 850,000 acres of fertile Northern California farmland. Several of our members also deliver water to state and federal wildlife refuges and a large portion of this land serves as important seasonal wetlands for migrating waterfowl, shorebirds and other wildlife.

Ms. Norton has an extensive background in resource management, including a prior appointment in the Interior Department. During this service, Ms. Norton has shown a strong desire to foster partnerships between the federal and state governments and local interests. We believe that these local partnerships are the key to successful water management in California.

Once again, I would like to express NCWA's support for Ms. Norton's nomination. Sincerely,

DAVID J. GUY,  
*Executive Director.*

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SAN MANUEL BAND OF MISSION INDIANS,  
*Highland, CA, January 16, 2001.*

Hon. FRANK MURKOWSKI,  
*Chairman, Senate Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.*

DEAR SENATOR MURKOWSKI: I am writing, on behalf of the San Manuel Band of Mission Indians, to express our support for the nomination of Gale A. Norton to become Secretary of the Interior. We commend President-elect Bush on his selection of a candidate who has shown an appreciation for the constitutional government-to-government relationship between Indian nations and the United States.

As you are very aware, the issues affecting our Indian nations have no easy solutions. Issues such as water rights, education, health care, and of course, gaming will certainly continue to be hot topics of discussion during the 107th Congress. Based on her background and experience we believe that Secretary-designate Norton will seek creative, practical solutions to these issues, while balancing those legitimate interests potentially affected.

As Attorney General of Colorado, Ms. Norton dealt with several such issues involving tribal governments, including water rights and gaming compacts, and earned a reputation as a fair negotiator. However, it is Ms. Norton's actions during the National Tobacco Settlement, which indicate that she respects the sovereign status of Indian tribes. As a leader of the National Association of Attorneys General on this issue, Ms. Norton faced the question of how to distribute the settlement funds to tribal governments. While some advocated distributing these funds to federal agencies to be dispensed to tribes as needed, Ms. Norton opposed that idea based on tribal sovereignty. She advocated that tribal governments be treated in the same manner as states, which would be receiving settlement funds in a lump sum to be used in their discretion.

Additionally, we appreciate Ms. Norton's recognition of the traditional uses of tobacco in ceremonies by tribal members, and her advocacy of special consideration for such uses outside the scope of new tobacco regulation or legislation.

While we applaud Ms. Norton's efforts, we recognize that she has not always agreed with the views of tribal governments and that she may not agree with our views in the future. However, we have confidence that those disagreements will be handled through open, constructive dialogue in a manner befitting our government-to-government relationship. Based on her past comments and actions, Ms. Norton appears to share our position on tribal sovereignty and self-governance, while also having respect for the culture and traditions of our people. Therefore, the San Manuel Band of Mission Indians offers its full endorsement of her nomination to become the next Secretary of the Interior.

Very truly yours,

DERON MARQUEZ,  
*Tribal Chairman.*

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KERN COUNTY WATER AGENCY,  
*Bakersfield, CA, January 17, 2001.*

Hon. FRANK MURKOWSKI,  
*Ranking Member, U.S. Senate Energy and Natural Resources Committee, Dirksen Senate Office Building, Washington, DC.*

Re: Support for Secretary of the Interior Nominee Gale Norton

DEAR SENATOR MURKOWSKI: We are writing to express our strong support for the confirmation of Ms. Gale Norton as Secretary of the Interior. Our agency is a local governmental entity in the State of California which has experience with successful cooperative efforts of the federal government with state and local governments.

Through our nationwide contacts with other state and local governments involved in water supply, we know of the open and fair-minded approach to policy that Ms. Norton brings. Creative solutions are needed to provide for the water and power needs of Americans in an environmentally sound way. We believe Ms. Norton has the experience and intellect to forge such solutions to our most pressing problems.

President-elect Bush has made an outstanding selection for Interior Secretary by presenting Ms. Norton. We urge the Committee to give its unanimous and expeditious endorsement of Ms. Norton as the next Secretary of the Interior.

Very truly yours,

THOMAS N. CLARK,  
*General Manager.*

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COMMONWEALTH OF PENNSYLVANIA,  
OFFICE OF ATTORNEY GENERAL,  
*Harrisburg, PA, January 17, 2001.*

Hon. RICK SANTORUM,  
*U.S. Senate, Russell Building, Washington, DC.*

Re: Gale Norton

DEAR SENATOR SANTORUM: I am writing to you at this time to enthusiastically endorse Gale Norton who has been nominated to serve as Secretary of the Interior.

Gale served as the Attorney General of Colorado from 1990 until 1998. Gale and I worked on a number of projects together; most significantly, we were part of the Multi-State Tobacco Negotiating Team. During those negotiations, I had the chance to work with Gale for a period of close to five months, and I learned to admire her energy, her commitment and most of all her ability as a very able attorney. In addition, I also learned what a fine person Gale Norton is.

Gale worked for more than 20 years in a balanced way on environmental and federal land issues, including during her eight years as Colorado Attorney General. She played a key role in at least a dozen environmental clean-up projects, including leading efforts to ensure that the federal government cleaned its hazardous waste at the Rocky Mountain Arsenal. She served as Associate Solicitor of the U.S. Department of the Interior and as chair of the Environmental Committee of NAAG.

I believe Gale Norton is an outstanding person whose experience, qualifications and intellect will enable her to do an outstanding job as the Secretary of the Interior. Thank you for your consideration and support of Gale Norton's nomination.

Very truly yours,

D. MICHAEL FISHER,  
*Attorney General.*

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CONGRESS OF THE UNITED STATES,  
*Washington, DC, January 17, 2001.*

Hon. FRANK MURKOWSKI,  
*Chairman, Committee on Energy and Natural Resources, Dirksen Building, Washington, DC.*

DEAR CHAIRMAN MURKOWSKI: In the coming days the Committee on Energy and Natural Resources will be holding a confirmation hearing on the nomination of Gale Norton for the position of Secretary of the Interior in the Bush Administration.

We are asking that when Ms. Norton testifies before your committee you include questions about her responsibilities with respect to the Bureau of Indian Affairs (BIA).

Specifically, we hope you ensure the Secretary-designate understands the BIA is an increasingly important area of her jurisdiction, as well as the effects federal recognition has on both tribes and their surrounding communities.

Recently, concerns have been raised by state and local officials across the country about the manner in which the BIA is granting recognition. In addition, the rapid growth in casino-style gaming on Indian reservations has led to a surge in campaign contributions and the potential that non-native groups will be erroneously recognized.

We believe federal recognition should adhere to the existing, well-established criteria and the process should be fair, open and free from political pressure. This transparency is especially important in the era of Indian gaming.

Our nation has a responsibility to uphold certain unbreakable obligations to the continent's native peoples, and groups meeting the established and objective criteria

should receive federal recognition and its attendant benefits. However, because granting federal recognition means creating sovereign nations and because federally-recognized tribes are eligible to automatically receive benefits and, in many instances, are permitted to establish gaming operations, acknowledgment should follow a well-defined, non-political process.

We hope you share our concerns and appreciate your attention to this matter.

Sincerely,

Christopher Shays, Member of Congress; Frank Wolf, Member of Congress; Rob Simmons, Member of Congress; Rosa DeLauro, Member of Congress; James Maloney, Member of Congress.

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AMERICAN RECREATION COALITION,  
*Washington, DC, January 17, 2001.*

Hon. JEFF BINGAMAN,  
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The American Recreation Coalition is pleased to submit its views on the confirmation of Gale Norton to serve as Secretary of the Interior. We ask that our views be included in the record of the hearings on this nomination and shared with members of the Committee on Energy and Natural Resources.

Like many on your own committee, we reserve final judgment on Ms. Norton's confirmation until we are able to observe the results of the hearing scheduled for tomorrow. However, we are strongly inclined to support this nomination for several reasons.

First, Ms. Norton has an excellent grasp of the issues facing the Department of the Interior from her previous work at the department and from her work as Colorado's Attorney General. The post of Secretary of the Interior is one of the most important federal posts for the recreation community and we believe that having an individual with issue awareness in that position is vital to moving promptly on key issues, ranging from addressing large capital investment needs for visitor services and resource protection to water management.

Second, Ms. Norton has shown a clear passion for outdoor recreation, a passion which links her with tens of millions of Americans who understand the physical, mental and spiritual benefits of outdoor recreation. Federally-managed lands provide nearly two billion recreation experiences annually and are vital to meeting national needs for recreation opportunities. We believe that her personal views on the importance of recreation to improving the health of individuals, families and communities will be reflected in her policy decisions.

Third, we note that Ms. Norton was part of the elected leadership of Colorado, a state with high recreation/public lands and waters connections, during an era of important recreation and conservation gains. During her tenure as Attorney General, the state approved and implemented Great Outdoors Colorado, an effort which dramatically boosted efforts to preserve open spaces in and near urban portions of the state. Moreover, the state embarked on efforts to strengthen cooperation with the U.S. Army Corps of Engineers and the Bureau of Reclamation to supply residents with water-linked recreation, ranging from swimming, fishing and boating at reservoirs near Denver to whitewater sports on rivers throughout the state. Recreation community leaders in the state regard Ms. Norton as a contributor to this progress, as one open to new ideas and diverse views and as a strong advocate for problem-solving through consensus. We further note that she worked closely with leaders of both parties within the state, a pattern we strongly support at the national level.

We are interested in a better understanding of Ms. Norton's commitment to campaign commitments by President-elect Bush on meeting the funding needs of our parks and other federal recreation sites and on pursuing full funding for the Land and Water Conservation Fund. That fund has long been a valuable tool in protecting the Great Outdoors. However, the lack of funding for the Fund's state side has jeopardized open space protection and recreation facility development near America's population centers. We are delighted by Mr. Bush's support and look forward to Ms. Norton's elaboration on Administration plans and encourage you to pursue these topics at tomorrow's hearing. We also urge you to secure Ms. Norton's support for addressing funding needs for other federal land management agencies, including the Bureau of Land Management, the Fish and Wildlife Service and the Bureau of Reclamation.

We thank you for considering our views and for timely action on this nomination.  
Sincerely,

DERRICK A. CRANDALL,  
*President.*

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TEXAS SHEEP & GOAT RAISERS' ASSOCIATION,  
*San Angelo, TX, January 17, 2001.*

Hon. JEFF BINGAMAN,  
*Chairman, Energy and Natural Resources Committee, U.S. Senate, Washington, DC.*

DEAR SENATOR BINGAMAN: On behalf of the 2,000+ members of the Texas Sheep & Goat Raisers' Association, I want to express our support for Gale Norton for the position of Interior Secretary. Mrs. Norton is extremely well-qualified for this job and is highly regarded by livestock producers and small landowners for standing tall on private property rights issues.

Those who make their living from the land understand what it takes to be a good steward. Gale Norton understands that, too. She is a strong supporter of state's rights, property rights and local control. In addition to serving as Associate Solicitor for the Department of the Interior from 1985-87, she was the first woman ever elected as Attorney General for the state of Colorado. Her work with the Mountain State Legal Foundation was admirable.

We feel Gale Norton would be an great asset to the Bush Administration and are pleased that President-Elect Bush saw fit to nominate her for this important job. We urge that you give her every possible consideration, as we feel she knows how to get things done and would do an excellent job if approved.

Sincerely,

SANDRA WHITTLEY,  
*Executive Secretary.*

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REPUBLICAN ATTORNEYS GENERAL ASSOCIATION,  
*Washington, DC, January 18, 2001.*

*Senate Energy and Natural Resources Committee, Senate Dirksen Office Building, Washington, DC.*

DEAR SENATE ENERGY AND NATURAL RESOURCES COMMITTEE MEMBERS: On behalf of the Republican Attorneys General Association, we recommend the approval of Attorney General Gale Norton's nomination to be the Secretary of the Interior.

General Norton has worked for more than 20 years in a balanced way on environmental and federal land issues. She has played key roles in at least a dozen environmental clean-up projects, including leading efforts to ensure that the federal government cleaned up its hazardous wastes at the Rocky Mountain Arsenal. She has served as the Associate Solicitor of the U.S. Department of the Interior and as Chair of the Environmental Committee for the National Association of Attorneys General.

General Norton has earned high praise from all quarters for her work. She has the experience, qualifications and intellect to be an outstanding Secretary of the Interior. These reasons are the determining factors in the RAGA supporting her nomination.

Sincerely,

JANE BRADY,  
*Chair, Attorney General of Delaware.*

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COLORADO CAMPGROUND AND LODGING OWNERS' ASSOCIATION,  
*Denver, CO, January 18, 2001.*

Hon. JEFF BINGAMAN,  
*Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR SENATOR BINGAMAN: The Colorado Campground and Lodging Owners' Association represents campground and lodging owners in the state of Colorado. Our members are primarily small, family-owned businesses located throughout the state.

Tourism plays a major role in the Colorado economy. It totals 8% of all jobs. In 1997, tourism accounted for between 12-15% of basic jobs, bringing outside dollars into the state. Tourism is second only to manufacturing in the number of basic jobs in Colorado.



Because tourism in Colorado relies on use of public land and private enterprises, it is vital that the person serving as Secretary of the Interior understand that the public lands in Colorado must be managed in a way that is compatible with the private tourism industry. Both public and private sectors must be able to work together.

Our organization urges support for Gale Norton for Secretary of the Interior. We believe she will be a leader in establishing guidelines for mixed-use of public lands that will protect this important environmental resource while ensuring the health of the tourism industry in our state. Additionally, her knowledge of the state enhances her understanding of the issues and makes her appointment even more important for the Colorado tourism industry.

Thank you,

SALLY HARMS,  
*Executive Director.*

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METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA,  
*Los Angeles, CA, January 18, 2001.*

Hon. FRANK MURKOWSKI,  
*Ranking Member, U.S. Senate Energy and Natural Resources Committee, Dirksen Senate Office Building, Washington, DC.*

Re: Support for Ms. Gale Norton as Secretary of the Interior

DEAR SENATOR MURKOWSKI: I am writing this letter to express the support of the Metropolitan Water District of Southern California (Metropolitan) for Ms. Gale Norton as Secretary of the Interior. Metropolitan provides supplemental water supplies to 17 million citizens in Southern California. Metropolitan has enjoyed a long-standing positive relationship with the Department of the Interior in the development of balanced policies that benefit both the economy and the environment of California and the western states. We believe that Ms. Norton will continue in that tradition, promoting the recovery of the nation's environment and protecting and enhancing the economies of the western states.

Metropolitan urges the Senate to approve the appointment of Ms. Gale Norton as the next Secretary of the Interior.

Very truly yours,

RONALD R. GASTELUM,  
*General Manager.*

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SOCIETY FOR RANGE MANAGEMENT,  
*Lakewood, CO, January 18, 2001.*

Hon. FRANK MURKOWSKI,  
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR MURKOWSKI: I am writing to express my support for the nomination of Gale Norton for Secretary of the Department of the Interior.

While I am not personally acquainted with Ms. Norton, I have spent considerable time learning of her background and performance both in government service and in the private sector. Her record represents one of balance and care in collecting and examining background information critical to decision making. She has demonstrated sensitivity to both environmental and human needs, realizing that with application of sound science, much can be achieved to deliver resources without sacrificing environmental values.

Over the past 34 years, I have personally consulted on behalf of units of government, environmental organizations, industry, and private sector clients regarding public lands resources throughout the west. The demands for multiple values increase exponentially as populations grow and discover the public lands. Delivery of multiple values can only occur under the charge of a competent and skilled administrator.

Gale Norton is eminently qualified for Secretary of the U.S. Department of the Interior. She brings a broad base of experience in most of the natural resources managed by the Department, and in many of the more controversial issues confronting the Department.

She has accumulated her breadth and depth of experience by virtue of her work experience as a Senior Attorney for the Mountain States Legal Foundation, as Assistant Solicitor of the Department, as Assistant to the Deputy Secretary of Agri-

culture, two terms as Colorado Attorney General, and most recently as Senior Counsel at the Colorado Law Firm, Brownstein, Hyatt & Farber, P.C.

One of the more pressing issues facing our nation and the Department is energy as highlighted by the current California electrical energy crisis. The Department is urgently in need of bold and innovative policies to encourage creative development of alternative energy sources which utilize public resources in an environmentally safe and sustainable manner. Two examples that come to mind are biomass from public lands vegetation such as pinion-juniper, and wind. Gale is well equipped to lead the Department into this new era to encourage creative developmental activities in an environmentally sensitive manner.

This is but one example of how the experience and values Gale would bring to the Department make her ideally suited for the post. I urge your thoughtful examination of her credentials. After you have the benefit of the dialogue generated in her nomination hearing, I hope you will support her nomination.

Thank you for your attention to this matter so vital to the nation's natural resources.

Sincerely,

JOHN L. MCLAIN,  
*President.*

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OFFICE OF THE GOVERNOR, GUAM,  
*January 18, 2001.*

Hon. JEFF BINGAMAN,  
*Chairman, Senate Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: I am writing in support of the nomination of the Honorable Gale Norton as Secretary of the Interior. The people of Guam look forward to Ms. Norton's leadership of the executive department that has direct responsibility for insular affairs. I am confident that as Secretary of the Interior, Ms. Norton will continue progress on the issues of great importance to Guam and that she will be instrumental in resolving the land issues that have been at the forefront of the Guam-United States relationship in the past few years.

Ms. Norton has substantial experience in the Department of the Interior, having previously served in the Solicitor's Office. We believe that she has the necessary familiarity with territorial issues to be an effective Secretary and that she brings a broad understanding of the unique federal land issues on Guam to her office.

Guam has had a contentious relationship with the Department of the Interior in large measure due to the Fish and Wildlife Service's acquisition of 370 acres of excess military lands in 1993 for a wildlife refuge. The 370 acres at Ritidian have become the focal point for Guam's dissatisfaction with federal land policy on our island. Due to the historical context of the military's acquisition of over one-third of Guam's lands after World War II for national security purposes, the Interior action has been harmful to the good relationship between the people of Guam and the United States. We hold the federal government to its commitment that military lands no longer needed for defense purposes should be returned to the people of Guam.

In an effort to resolve these issues, I have been engaged in discussions for the past year with the previous Secretary and his staff on possible solutions that would enhance the level of environmental protection on Guam while addressing the issue of Interior's acquisition of Ritidian. I was willing to make the necessary compromises that would restore the good relationship between the U.S. and Guam and that would meet the needs of the Interior Department and the Government of Guam. Regretfully, the Fish and Wildlife Service was not.

We believe that Ms. Norton will restore a balance to federal land policy on Guam that has been missing since 1993. There is now an imbalance where the bureaucrats at the Fish and Wildlife Service make policy without adequate regard for local concerns. Environmental policy should not be a zero sum game where the Fish and Wildlife Service wins and the people of Guam lose. Environmental policy should be a collaborative process with respect for, and accommodation of, local needs. On Guam, the respect we seek would recognize the patriotism of the people of Guam and our support for the national security interest, even when the national interest requires the use of one-third of our island for military bases. And the accommodation we seek would balance environmental policy with the federal commitment to return excess military lands to our people. We believe that Ms. Norton appreciates our history and our culture, and that she will be fair in dealing with us on these land issues.

We are also encouraged by Ms. Norton's commitment to the devolution of federal power where local governments are more appropriate to formulating public policy in response to local needs. This is a bedrock principle of self-government that Guam supports and encourages. We are confident that Ms. Norton will appoint policy makers and senior staff at the Department of the Interior that will reflect this view. Any increase in local self-governance in the territories is welcome and long overdue. We find Ms. Norton's views on limiting the role of the federal government in our lives both refreshing and promising for the resolution of the Guam's political status issues.

Thank you for considering my support of Ms. Gale Norton as Secretary of the Interior. I hope that the Senate Committee on Energy and Natural Resources votes to recommend Ms. Norton to the full Senate and that she is confirmed quickly. We look forward to her new leadership and her initiatives for the territories.

Sincerely,

CARL T.C. GUTIERREZ,  
*Governor.*

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CALIFORNIA TEACHERS ASSOCIATION,  
*Burlingame, CA, January 19, 2001.*

Hon. FRANK MURKOWSKI,  
*Hart Senate Office Building, Washington, DC.*

DEAR SENATOR MURKOWSKI: I am writing to urge you to vote not to confirm Gale Norton as interior secretary in the George W. Bush Administration. The Board of Directors of the 300,000-member California Teachers Association voted to oppose the confirmation of Ms. Norton at its January 17 meeting.

We believe that every student and teacher deserve a school that is safe and healthy. Ms. Norton's record of working for and pandering to "big polluters" puts the health of our children at risk. Ms. Norton is currently a registered lobbyist for a Texas company that is responsible for dozens of cases concerning children's exposure to lead paint. As Colorado's Attorney General, Ms. Norton advocated that businesses may in fact have a "right to pollute." This is in direct conflict to the agency she is being asked to lead.

In addition, as Attorney General Ms. Norton went out of her way to stop programs that provided college scholarships to ethnic students to promote diversity on state university campuses. She also refused to defend Colorado's law to increase diversity in state construction projects. We believe that all children deserve the right to learn and that our schools and communities are made stronger by embracing our diversity. In both these instances Ms. Norton put her personal beliefs before the laws of Colorado. How can we assume she will act differently as U.S. Interior Secretary?

As educators we teach children the importance of protecting and preserving our national resources and national parks. This is a lesson Ms. Norton apparently needs to repeat. Her extreme views are out of touch with American voters. We do not believe the best interests of our children and future generations will be served by the confirmation of Ms. Norton as interior secretary.

Sincerely,

WAYNE JOHNSON,  
*President.*

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UNITED SOUTH AND EASTERN TRIBES, INC.,  
*Nashville, TN, January 19, 2001.*

Hon. FRANK MURKOWSKI,  
*Chairman, Senate Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.*

DEAR CHAIRMAN MURKOWSKI: As President of the United South and Eastern Tribes, I am writing to express support for Gate Norton to be the next Secretary of the Interior. USET is an organization made up of 24 Federally recognized tribes that extend from the State of Maine to the tip of Florida and over to Texas.

In my role as President of USET, I have not had first hand experience with Secretary-designate Norton, however, I am encouraged that she has worked with Indian nations on a government-to-government basis during her tenure as the Attorney General of the State of Colorado. As attorney general, Ms. Norton repeatedly demonstrated respect for tribal sovereignty. For example, in the wake of Colorado's settlement with the tobacco industry, Ms. Norton worked to ensure that the tribal

share of the proceeds went directly to tribal governments rather than be administered through state agencies.

As Secretary of the Interior, Ms. Norton would preside over the Bureau of Indian Affairs and help set the agenda for issues that are of vital importance to Native Americans. These issues, which include health care, education, sovereignty, economic development, gaming, and taxation, have been increasingly the subjects of debate in Congress. Consequently, we believe that it is imperative that the next Secretary of the Interior respect the role of tribal sovereignty, affirm a government-to-government relationship between the federal government and Indian nations, and provide the tools tribes need to further the goal of tribal self-advancement and economic self-sufficiency.

Because of Ms. Norton's background and record on issues relating to Native Americans, I offer my endorsement of her nomination to become the next Secretary of the Interior.

Sincerely,

KELLER GEORGE,  
*President.*

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*Brookline, MA, January 20, 2001.*

Hon. FRANK MURKOWSKI,  
*Senate Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

DEAR SENATOR MURKOWSKI: I am writing to ask you to oppose the appointment of Gale A. Norton as Secretary of the United States Department of the Interior.

While I realize that you are a supporter of opening up the Arctic National Wildlife Refuge to oil drilling and are therefore unlikely to oppose this appointment, I would appreciate your consideration of some of the other factors that concern me and millions of other ordinary men and women across the country about this appointee.

I strongly believe that the role of the Department of the Interior is to be the steward of our natural resources. In a world where we are actually bumping up against the physical limitations of our natural environment, there can be no greater task than managing our resources so that they are there for the generations that will follow us.

Competent stewardship of natural resources has always been a challenge facing human civilizations. Nonetheless, the most successful societies, the ones that manage to last longer than a few hundred years, are those that have learned to adapt their lifestyles to these limits. In the United States, our history of ample open space, and the priority we place on individual rights, presents a unique challenge to our ability to plan for the long term and act in the interests of the whole nation rather than just a few individuals.

I am deeply concerned that Gale Norton's record and belief system will not enable her to be a true steward of our shared resources. I am not just talking about our national parks, but about the air and water that flow across the land and are used and needed by everybody. Please look beyond this generation's interests and realize that while another oil boom may be good for the wallets of the residents of Alaska and the owners of the oil companies, continuing to rely on fossil fuels will negatively impact our children and grandchildren in ways that we can barely imagine.

Allowing companies to monitor themselves when it comes to pollution simply does not work. Slackening air pollution standards on trucks and diesel vehicles is the wrong direction to be moving in at this point in our history. The ozone hole is real and is already causing great destruction. Global warming is real and is caused by human activity, and the asthma attacks that I suffer when a truck driver thoughtlessly leaves his truck idling as I walk down the street is very real. The economic costs of ignoring these issues or addressing them with less than 100% of our American ingenuity will far outstrip the costs to business of becoming true partners in the stewardship of our natural resources.

Finally, please remember that environmental issues are ones that a key voting bloc, mothers, care about very deeply. Political leaders have underestimated the strength and passion of the "soccer mom" vote before. The next true leader in our country will be the one who realizes that Americans want to be asked by their leadership to join in and sacrifice for the good of our country, even if it means not driving an S.U.V.

Once again, please consider opposing the appointment of Gale Norton as Secretary of the Department of the Interior.

Sincerely,

VICTORIA GRAFFLIN.

RURAL PUBLIC LANDS COUNTY COUNCIL,  
Washington, DC, January 22, 2001.

Hon. FRANK H. MURKOWSKI,  
U.S. Senate, Hart Building, Washington, DC.

DEAR SENATOR MURKOWSKI: As Chairman of the Rural Public Lands County Council, a group of rural counties in Utah and Washington, I am writing to urge your support of Gale Norton as Secretary of the Interior.

The RPLCC is most concerned with solving problems on our public lands. We believe that we have carried the rhetoric, and the war it has created, too far. It is time for some real solutions. This will require collaboration and concensus building.

Gale Norton would be ideal in this setting. She has a proven record of dealing sensibly with tough issues. She is a dedicated collaborator. She is what the Interior needs at this time.

We are confident that Gale will bring stability and healing to a long embattled department, and we strongly urge you to vote for her confirmation.

Respectfully,

RANDY G. JOHNSON,  
Chairman.

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AMERICAN FARM BUREAU FEDERATION,  
Park Ridge, IL, January 22, 2001.

Hon. FRANK MURKOWSKI,  
Chairman, Senate Energy and Natural Resources Committee, Senate Dirksen Building, Washington, DC.

DEAR MR. CHAIRMAN: The American Farm Bureau Federation, the nation's largest general agricultural organization, endorses the nomination of Gale Norton to be Secretary of the Interior.

Ms. Norton's experience as a leader looking for a more collaborative approach to resource management is a most welcome development for our members. Rural communities are often seriously affected when conflicts arise over such issues as the Endangered Species Act, wildlife protection and management of federal lands. Ms. Norton has a proven track record, showing a willingness to listen to the concerns of all sides of these issues. We believe this approach will do much for rural communities, farmers and ranchers and the environment.

The agriculture community is anxious to be part of the solution to environmental problems. Gale Norton could bring that hope closer to reality.

Sincerely,

BOB STALLMAN,  
President.

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WASATCH COUNTY,  
BOARD OF COUNTY COMMISSIONERS,  
Heber City, UT, January 22, 2001.

Senator FRANK MURKOWSKI,  
Hart Office Building, Washington, DC.

DEAR SENATOR MURKOWSKI: We, as the County Commissioners of Wasatch County, would like to give our endorsement and support in the appointment of Gale Norton as Secretary of the Interior.

We feel she will do an excellent job and will be a great asset to our government.

Sincerely,

T. LAREN PROVOST,  
Chair.  
RALPH L. DUKE.  
MICHAEL L. KOHLER.

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WASHINGTON COUNTY COMMISSION,  
St. George, UT, January 22, 2001.

Senator FRANK MURKOWSKI,  
Hart Senate Office Building, Washington, DC.

DEAR SENATOR MURKOWSKI: This is to inform you that Washington County, Utah, is strongly supportive of Gale Norton to be confirmed as Secretary of the Interior. Her past history shows that she is a strong consensus builder and a person who

is committed to enforcing the law. We are also pleased with her commitment to work with local governments before formulating policy. We believe that she will be an excellent person to direct the protection and proper development of our natural resources within this country, as her previous record indicates. She has a proven track record on everything from wilderness to water negotiation as well as many other complex and tough issues, and has been nationally recognized as a leader on environmental and natural resource issues.

For these reasons, we encourage you to support the endorsement of Gale Norton for Secretary of the Interior.

Sincerely,

GAYLE M. ALDRED.  
ALAN D. GARDNER.  
JAMES J. EARDLEY.

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*Silver Spring, MD.*

Senator FRANK MURKOWSKI,  
*Energy and Natural Resources Committee.*

DEAR SENATOR MURKOWSKI: I strongly oppose the confirmation of Gale Norton as Interior Secretary.

Norton's extremely poor environmental record makes it clear that she would be the absolute wrong person for the job. She has shown that she is unwilling to defend the public's interests against industry interests, by advocating a "right to pollute." Beyond the fact that she has been pushing for opening the Arctic National Wildlife Refuge for drilling, which I also oppose, she was a protégé of former Interior Secretary James Watt and adheres to his philosophies—this is unacceptable.

In addition, I am personally appalled at the views she expressed in her 1996 speech which demonstrated racial insensitivity and a lack of compassion for the disenfranchised.

I urge you to vote against Gale Norton's confirmation.

Sincerely,

BETSY TAO,  
*JD Candidate, 2002,*  
*Georgetown Law Center.*

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*Georgetown University Law Center, January 14, 2001.*

DEAR SENATOR MURKOWSKI: I strongly oppose President-elect Bush's nomination of Gale Norton for Secretary of the Interior. I urge you to lead the Committee on Energy and Natural Resources in not confirming Ms. Norton. Although my personal views lean away from the general conservative thoughts that the Republicans have regarding the environment, being an extremist of any type would not satisfy the moderate, centrist views which the American populous expressed in the election. To confirm Ms. Norton, an extreme anti-environmentalist, would be to further disenfranchise millions of Americans who fear that their voices will not be heard.

Allowing polluters to "regulate themselves" and supporting businesses' right to pollute is not what the Interior Secretary should base her leadership on. I find her support of drilling in the Arctic National Wildlife Refuge to be in direct conflict with her role as Interior Secretary, which should be to ensure that the environment is protected in light of ever-pressing big business and consumer energy demand. Confirming Ms. Norton as Interior Secretary would be a big step to ensuring that the future of our country and the environment is sacrificed for short-term solutions and gains. Please vote against Gale Norton for Secretary of the Interior.

Sincerely,

STEPHANIE BOWERS,  
*Class of 2002.*

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*Chapel Hill, NC.*

*Dear Senator:* Gale Norton is an anti-environmental extremist whose record as a lobbyist for polluters, an attorney for loggers and miners, and a protégé of James Watt makes her unfit to be Secretary of the Interior. Gale Norton holds views associated with the far right-wing of the "wise use" movement, including recognizing, as she put it, "a right to pollute . . ." Gale Norton also favors allowing polluters to regulate themselves, a practice the EPA has criticized.

In the last two years, Norton has been registered as a lobbyist for NL Industries of Houston working on “lead paint” issues. And, she has worked for a law firm that counts Delta Petroleum Corporation, Timet-Titanium Metals Corporation, and other mining and petroleum companies as clients. As an attorney, Norton sued the EPA to overturn Clean air standards.

Due to her views and her record I strongly opposes the confirmation of Gale Norton as Secretary of the Interior.

Norton has long advocated opening America’s wildlands to the oil, gas, mining and logging industries. During the Reagan administration, Norton served as associate solicitor at the Interior Department, where she helped support efforts to drill the pristine Arctic National Wildlife Refuge.

Before working for the Reagan administration, Norton was hired by James Watt at the arch-conservative Mountain States Legal Foundation, which often represents loggers, miners, ranchers and water developers in fights against environmental safeguards. Watt was later ousted as President Reagan’s Interior Secretary for his extremist agenda.

Ms. Norton has consistently opposed congressional designation of new wilderness areas in Colorado if designation protect the water flowing through the wilderness. She would have Congress acknowledge the unique rock formations, rich and diverse vegetation, and healthy wildlife, then allow developers to drain the water, the very substance that makes all those features possible. She opposed Colorado Wilderness Act of 1993, and its earlier versions, because it included provisions that recognized the need for water in wilderness, even though that legal recognition did nothing to diminish any existing or future water right.

These reasons and others too numerous to mention compel me to request that oppose the nomination of Gale Norton to the position of Secretary of the Interior.

FREDRIC R. WORRELL.

*San Francisco, CA.*

Hon. FRANK MURKOWSKI,  
Hon. JEFF BINGAMAN,  
*Co-Chairs, Senate Energy and Natural Resources Committee, Dirksen Building,  
Washington, DC.*

DEAR SENATORS: The Department of the Interior (DOI)—encompassing agencies such as the National Park Service, the Bureau of Indian Affairs, and the Bureau of Land Management—has the unique responsibility of safeguarding America’s few remaining and most precious natural treasures and links to our shared natural and cultural history. I strongly believe that those lands and waters, many of which are priceless and irreplaceable, require the highest environmental protection as mandated by federal statutes. The Department of the Interior must be led by someone who recognizes this fact.

Gale Norton’s career history working on land management issues illustrates her apparent priorities in the area of natural resource management. From this history, it appears that Ms. Norton believes that “free market” schemes can address many of the threats facing our public lands. Unfortunately, our nation’s history is littered with the costly and damaging failures of similar market based land management plans. Because I do not wish to see America’s land management policies hijacked for the short-term profit motives of exploitative industries, I do not feel that Ms. Norton is the best-qualified candidate to act as head steward of our nation’s most valuable resources. Nothing in Ms. Norton career history seems to suggest that she values natural resources any more than they are worth at market-value.

Our nation’s natural heritage is simply too precious to entrust to anyone except a person with the utmost reverence for those resources. Sadly, I am not convinced that Ms. Norton will make the protection of our natural resources from needless destruction by extractive industries as high a priority as necessary. Therefore, I call upon you to oppose her nomination for Interior Secretary and lead/support a filibuster of her nomination if it reaches the full Senate. Finally, I call upon you to urge President Elect Bush to nominate a more suitable candidate.

Sincerely,

JOSEPH ROBINSON.