

HEARING ON NOMINATION OF ATTORNEY GENERAL SCOTT PRUITT TO BE  
ADMINISTRATOR OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Wednesday, January 18, 2017

United States Senate

Committee on Environment and Public Works

Washington, D.C.

The committee met, pursuant to notice, at 10:00 a.m. in room 406, Dirksen Senate Office Building, the Honorable John Barrasso [chairman of the committee] presiding.

Present: Senators Barrasso, Carper, Inhofe, Capito, Boozman, Wicker, Fischer, Moran, Rounds, Ernst, Sullivan, Cardin, Sanders, Whitehouse, Merkley, Gillibrand, Booker, Markey, Duckworth, and Harris.

Also Present: Senator Lankford.

STATEMENT OF THE HONORABLE JOHN BARRASSO, A UNITED STATES SENATOR FROM  
THE STATE OF WYOMING

Senator Barrasso. Good morning. I call this hearing to order.

We have quite a full house today. I welcome the audience. This is a formal Senate hearing, and in order to allow the Committee to conduct its business, we will maintain decorum. That means if there are disorders, demonstrations by a member of the audience, the person causing the disruption will be escorted from the room by the Capitol Police.

Since this is our first hearing of this session, I would like to welcome our new members, Senators Jerry Moran, Joni Ernst, Tammy Duckworth and Kamala Harris. Thank you very much and congratulations in joining the Committee.

I would also like to welcome Senator Tom Carper in his new role as the Ranking Member of the Committee. You are here, even if you have a scratchy throat, 40 years from when you were Treasurer of Delaware, member of Congress, governor, member of the U.S. Senate. Have not missed a day. You are Cal Ripken, Jr. and the iron man. So thanks for being here. Thank you. I look forward to working with you.

He deserves applause.

With regard to procedure, we will follow the early bird rule in terms of the order of member questions. Members who were here at the start, as you all are, will be placed in the line based on your seniority on the Committee. Members who arrive after the hearing has started will be added to the line in the order they arrive.

With respect to today's hearing, we will abide by the Committee's five-minute rule. The five minutes includes not just the questions, but also the nominee's answers, so I ask our members to please leave enough time for the nominee to answer your question. Today we will have many rounds of questions as are necessary so that members' questions are answered.

Today's hearing is to consider the nomination of Attorney General of Oklahoma, Scott Pruitt, to be the Administrator of the Environmental Protection Agency. Attorney General Pruitt has been a distinguished public servant as well, and we will hear the same from his fellow Oklahomans today. He served eight years in the Oklahoma State Senate before being elected Attorney General of Oklahoma in November of 2010, where he still serves.

There are numerous statements from his peers and the people that he has helped over the years that stand as a testament to his strong qualifications to run the Environmental Protection Agency.

Twenty-four State attorneys general wrote to both Ranking Member Carper and to me stating that "As attorneys general, we understand the need to work collaboratively to address threats to our environment that cross State lines, as well as the importance of a Federal counterpart in the EPA Administrator who possesses the knowledge, experience, and principles to work with our States to address issues affecting our environment. We believe that no one exemplifies these qualities more than Scott Pruitt."

Now, Attorney General Pruitt has taken on polluters, including the oil industry, when there was cause. Randy Ellis, an award-winning

investigative reporter with the Oklahoman newspaper, praised Pruitt for his ability to take on industry. The paper highlighted the work of Attorney General Pruitt to hold a large oil company accountable. This is what Ellis stated. He said, "Mr. Pruitt demonstrated that he will take on industry when they overstep when he sued oil companies such as BP who knowingly double-dipped by collecting reimbursements for corrective action environmental costs for sites that they polluted."

This is why I believe President-elect Trump nominated Attorney General Pruitt to serve as the Administrator of the Environmental Protection Agency. The EPA, under the leadership of a qualified and responsible administrator, is a vital tool that must be used to protect the air we breathe, the water we drink, and the communities where our families live. It is truly a sacred trust.

Colleagues on both sides of the aisle say that Attorney General Pruitt has the right experience for the position. Attorney General Pruitt understands the need to both protect the environment, while allowing our Nation's economy to grow. The agency needs a leader who will follow the laws created by this Committee.

During the last eight years, EPA administrators created broad and legally questionable new regulations which have undermined the American people's faith in the Agency. These regulations have done great damage to the livelihoods of our Nation's hardest working citizens. The regulatory zeal of the last eight years has violated a fundamental principle of environmental stewardship, which is do no harm. This failed environmental leadership has contributed to two of

the worst Government-created environmental disasters in decades: the Gold King Mine spill and Flint, Michigan's water crisis. Those disasters hurt people, many from low-income and minority communities who can least afford it.

As I have discussed with Attorney General Pruitt, my home State of Wyoming is a leading energy producing State. We have abundant supplies of coal, natural gas, crude oil, and uranium. These industries provide thousands of good paying jobs for Wyoming communities. We are also, in my opinion, one of the most beautiful States in the Nation. We are home to Yellowstone and Grand Teton National Parks and numerous national forests and pristine lakes and waterways. Our wildlife population is diverse and abundant. We have thriving populations of grizzly bears, wolves, elk, and bison. People travel from around the world to come to Wyoming because our State's natural resources are spectacular.

Wyoming has managed to strike that balance between our environment and our economy, and it shows. For eight years, Wyoming has suffered under an EPA that didn't believe in striking a balance. As EPA regulations crushed energy jobs in my State, State revenue fell that pays for State programs. This includes paying for our vital environmental programs. Clearly, a wholesale change is needed. Any new Administrator of the Environmental Protection Agency needs to protect the environment in a responsible way that doesn't ignore the good work that States do to protect their air, land, and water, as well as their economies.

At this time I would like to ask Ranking Member Senator Carper for an opening statement.

[The prepared statement of Senator Barrasso follows:]

STATEMENT OF THE HONORABLE THOMAS R. CARPER, A UNITED STATES SENATOR  
FROM THE STATE OF DELAWARE

Senator Carper. Mr. Chairman, thank you for bringing us here today. Thank you for your kind words, as well.

Let me begin by welcoming our nominee, his wife Marlyn, and his children, Cade and McKenna, to what is a very important hearing.

Mr. Pruitt, this past Sunday morning I rose at dawn. I went for a long run, took me through a beautiful State park in the northern part of Delaware. I reached the park at sunrise, just as the sun was coming up and the sky was turning a brilliant blue. The winter air was crisp and clear. Wildlife was all around. In a word, it was perfect.

As I ran, I said a prayer of thanksgiving for the gift of this moment. Later that morning, my wife and I went to church. There we joined our congregation in singing a hymn that began with these words: "For the beauty of the earth, for the glory of the skies, for the love which from our birth over and around us lies, Lord of all, to these we raise this our hymn of grateful praise."

Those words filled my heart with emotion then and they do so again this morning.

In little more than 48 hours, Donald Trump will place his hand on a Bible. He will take an oath to defend our Country and Constitution. That Bible reminds us repeatedly to love our neighbors as ourselves and it answers the question who is my neighbor. Also found in those pages are scores of admonitions about another obligation that those of us who live on this Earth are expected to meet. Simply put, we are to

serve as stewards of this planet. I believe that we have a moral obligation to do so.

A great many of my colleagues in the Senate agree, and so do most Americans. We need to be convinced that you embrace it as well; not just with your words, but with your deeds. Much of your record suggests otherwise. And today, and in the days that follow, we need to find out where the truth lies.

Leading the Environmental Protection Agency is hard work. That Agency, created by President Richard Nixon and a bipartisan Congress 46 years ago, is tasked with implementing our Nation's most important clean air, clean water, and safe chemical laws. The EPA is required to use sound science to protect both our environment and our public health. By and large, the EPA has done this successfully for decades while our economy has continued to grow.

Many in this room today may not remember a time before the EPA, a time when States had to work individually to protect citizens and the community in which they live, a time before the Clean Water Act and Clean Air Act were signed into law, a time when businesses operating throughout the U.S. were faced with a myriad of conflicting State and local laws affecting our health and our environment. The choking smog and soot of a half century ago seem unfathomable now. Rivers on fire and deadly toxic plumes sound like something from another world, impossible in our United States of America.

Today we have the luxury of largely forgetting these frightening circumstances thanks to the efforts of the Environmental Protection Agency, its employees, partnership with State and local agencies and

with companies across America. In fact, the EPA and its many partners throughout this Country have been so successful that it is easy for some of us to forget just why this Agency is so critical. For some it is also easy to presume that there is not much more for the Agency to do, and that just could not be further from the truth.

The environmental threats that we face today are real, and they don't respect State boundaries. As we consider a nominee to run our Nation's foremost environmental agency, it is worth reminding everyone here why the mission of the EPA is so critical and just what is at stake.

Over time, my State of Delaware has made great strides in cleaning up our own air pollution, but our work only goes so far. Delaware, like many States on the East Coast, sits at the end of what is known as America's tailpipe. Ninety percent of the air pollution in Delaware comes from outside of the First State, from power plants hundreds of miles away in places like Kentucky, Ohio, Indiana, and across the Midwest.

As governor of Delaware, if I had eliminated every source of air pollution with my State, stopped every combustion source and ordered every motor vehicle off the roads, Delaware would still have faced deadly doses of air pollution. Should children and others in Delaware really be forced to live with the consequences of decisions made by polluters hundreds or even thousands of miles away who gain economically from our disadvantage? I don't think so.

Fortunately, the EPA has recently implemented something called the Good Neighbor Rule to make sure that all States do their fair

share to clean up the air. Every citizen in this Country has the right to breathe clean air, regardless of whether they are in a downwind or upwind State. That is why we have the EPA.

I remember fishing as a boy with my dad along the Dan River, near my hometown of Danville, Virginia. We brought home the fish that we caught to eat, and my mom and sister ate them as well. Today that quintessential American pastime comes with a warning label. That river, along with countless other polluted streams, rivers, and lakes in all 50 States are subject to public health advisories cautioning citizens against eating the mercury-laden fish found in them.

We have known for decades that most of the mercury in our fish come from air pollution that is emitted from the dirtiest coal plants and then settles in our waterways. We also know that mercury is a powerful neurotoxin that accumulates in the human body over time, threatening the health of this environment and this generation, and for generations to come.

The EPA recently issued public health protections to clean up the toxic air pollution from our dirtiest coal plants, allowing families in Delaware and thousands of other communities to once again eat the fish from our rivers, our lakes, our streams without concern of mercury poisoning. That is why we have the EPA.

Too often, when State and local communities are pinched for cash, they try to save money by short-changing clean air and clean water protections, and improvements to water infrastructure are oftentimes ignored. Corners are cut; solutions are adopted that may save dollars now, but inflict costly and unnecessary damage later. As we have seen

most recently in the city of Flint, Michigan, these cuts can have a terrible, even a tragic, impact on the health of the most vulnerable in our society, especially the youngest among us.

Today, the citizens of Flint still lack clean drinking water, and the new generation there which has been exposed to high levels of lead faces an uncertain future. That is why we have the EPA.

You may not know it, Mr. Pruitt, but Delaware is the lowest lying State in our Nation. The highest point in Delaware is a bridge. Back home, the reality that our climate is changing is not up for grabs or up for debate. Families and business owners face the stark reality of climate change every single day, and tackling that challenge is not just the right thing to do, what is best for Delaware's economy; it is a matter of survival.

Take a ride with me sometime some 30 miles south of Dover Air Force Base, heading east toward the Delaware Bay, on Prime Hook Road, and you will see what I mean. There was a time not long ago where, just before you reached the Delaware Bay, you came to a parking lot. Today that parking lot is under water. Stand there with me, looking to the east, and you will see part of a concrete bunker slipping out of the water about 1:00. Recently, someone showed me a photo taken of that bunker in 1947, the year I was born. It was on dry land, 500 feet west of the water's edge. Five hundred feet west.

But our little State alone cannot stem the flow of greenhouse gases into our atmosphere that is largely causing our climate to change, our seas to rise, and our coastline to retreat. Every State

must do its fair share to safeguard our climate and their neighbors. That is why we have the EPA.

Examples of air and water pollution produced by one State and fouling the air and water of others can still be found in too many parts of America, like the runoff from Pennsylvania that degrades the waters of the Chesapeake Bay or the haze exported from other States that oftentimes shrouds the Smokey Mountains and degrades visibility at the Grand Canyon. That is why we have the EPA.

Some of my colleagues describe me as recovering governor. For the most part, I believe that governors and presidents deserve deference in picking the members of their leadership teams and, as a result, I have given presidents of both parties that deference in most instances. Since coming to the Senate in 2001, I have opposed only one of the nominees for EPA administrator; supporting two Republicans, two Democrats nominees. Subsequently, every EPA administrator that I have supported demonstrated clearly that they were committed to furthering the overall mission of the EPA, protecting human health and our environment.

I am also committed to a full and fair confirmation process with respect to our nominations that this President-elect has offered, too.

Having said that, though, I have shared with Mr. Pruitt, and I will share with my colleagues today, that too much of what I have seen of his record of the environment and his views about the role of EPA are troubling, and in some cases deeply troubling. Even former Republican EPA Administrator Christine Whitman, with whom I served for seven years as governor of neighboring States, recently said that she

"can't recall ever having seen an appointment of someone who is so disdainful of the agency and the science behind what the agency does."

Let me conclude with this. It is hard to imagine a more damning statement, and from one who served not long ago in that position of trust, Mr. Pruitt, to which you have been nominated. Today is your opportunity to show us that she has gotten it wrong. To be honest with you, coming to this hearing today, I fear that she has gotten it right.

Thank you.

[The prepared statement of Senator Carper follows:]

Senator Barrasso. Thank you very much, Senator Carper.

In a few moments I would like to turn to Senator Inhofe and Lankford from their home State of Oklahoma regarding the nominee's distinguished career. Before I do that, though, I want to say a few words about Senator Inhofe and his distinguished career as chairman of the Senate Environment and Public Works Committee.

First, I want to thank my friend, Jim Inhofe, for his leadership of this Committee. His dedication to protecting the environment, rebuilding our Nation's infrastructure, strengthening the Country's economy, were clearly evident throughout his time as chairman. He worked across party lines to get things done. During the 114th Congress, under Jim Inhofe's leadership, this Committee held 67 hearings. Of those, 8 were field hearings. Thirty-two bills passed out of the Committee that were signed into law.

Chairman Inhofe oversaw the first long-term highway bill in a decade. This law will improve the Nation's roads, bridges, transit systems, and rail transportation networks. He also worked on a bipartisan basis with former Ranking Member Barbara Boxer to pass badly needed Water Resources Development Act legislation. This new law prioritizes dam, waterway, and port construction projects, and it supports flood control projects that protect millions of people.

For the first time in 40 years, the Toxic Substances Control Act was modernized under Chairman Inhofe's tenure. This law enacts a new uniform regulatory program that will improve public confidence in the safety of chemicals, promote innovation, and provide manufacturers with certainty regarding regulation.

Chairman Inhofe also worked to keep the Administration accountable. Chairman Inhofe worked to ensure that there was oversight of overreaching administration regulations concerning the Clean Power Plan, Waters of the U.S., the Stream Buffer Rule, coal ash regulations, and many more.

So I am very glad that Senator Inhofe will remain on the Committee. I look forward to working closely with him to protect our environment and bolster our Nation's economy.

Senator Inhofe, thank you for your hard work, your dedication, and your leadership. Senator Inhofe, you are now recognized to introduce and talk about Attorney General Pruitt. Thank you.

STATEMENT OF THE HONORABLE JAMES M. INHOFE, A UNITED STATES SENATOR  
FROM THE STATE OF OKLAHOMA

Senator Inhofe. Senator Barrasso, thank you very much, and I am looking forward to working in a very senior position on your Committee. This is the Committee that gets things done, as Scott Pruitt is fully aware.

I thank you, Chairman Barrasso, and also you, Senator Carper, for letting me join you for this, and I am honored to join my fellow Senator, Senator Lankford, in introducing not just the Attorney General Scott Pruitt, but my good friend, and to offer my support for his nomination to be the next Administrator of the Environmental Protection Agency.

Though neither of us were born in Oklahoma, we got here as quick as we could, and both ended up in Tulsa, so he is also a neighbor. Attorney General Pruitt, you will be glad to know this, he was born in Kentucky. He showed what he was made out of and ended up a great baseball player that was able to get a scholarship and go through the university there. Then he came to Oklahoma, went through law school at the University of Tulsa, and did all kinds of things, specialized at that time in constitutional law.

In 1998, General Pruitt ran and was elected to the Oklahoma State Senate, where he served six years and he quickly became a leader. Indeed, success has followed him throughout his law practice to the State Senate, to become the co-owner and manager, managing general partner of Oklahoma City's AAA minor league baseball team -- see, we

have something in addition to the Thunder that we are all fully aware of -- and is currently Oklahoma's Attorney General.

Through the course of his career, Attorney General Pruitt has stood out as a champion of State and individual rights, and has fought against Federal overreach. He has earned a reputation as a defender of the rule of law and has worked to keep the role of the Federal Government in check. As head of the Environmental Protection Agency, Attorney General Pruitt will ensure that the Agency fulfills the role delegated to it by the laws passed by Congress, nothing more and nothing less.

Oklahoma is an energy and agricultural State, but we are also a State that knows what it means to protect the environment while balancing competing interests. As attorney general, Scott was instrumental -- oh, this is a big deal. We actually have had an ongoing litigation for 100 years; it was the State of Oklahoma, the City of Oklahoma City, the Choctaw Nation, the Chickasaw Nation. It was over water rights. We weren't able to resolve that problem. This guy comes trotting along and resolves it overnight, after 100 years of failures of trying to get this done.

He has also worked with Oklahoma Department of Environmental Quality and the Oklahoma Water Resources Board to protect the scenic rivers. He is kind of a hero of the scenic rivers place. People don't know, Scott, that we in Oklahoma actually have more miles of freshwater shoreline --

[Interruption from audience.]

Senator Barrasso. I would ask the Senator to please suspend his remarks for a few seconds.

[Interruption from audience.]

Senator Barrasso. Thank you, Senator Inhofe.

Senator Inhofe. They obviously don't like scenic rivers, but we do in Oklahoma.

Anyway, additionally, in 2012, Oklahoma partnered with four other States, New Mexico, Colorado, Kansas, and Texas, to bring together State official conservation groups, energy and ag industries, and other private landowners to address the challenges facing one of the problems that we have there having to do with what might become an endangered species. It was an effort that saw success in its first year. Now, this is working with four different States. Despite endorsing the plan, the Fish and Wildlife Service moved forward with listing the species as threatened, endangering the cooperation reached between these varying interests.

So Attorney General Pruitt sued the Fish and Wildlife Department for ignoring the unique cooperative agreement and he won. He wins. He wins these things.

Yes, as Attorney General, Scott Pruitt has fought the EPA, the Fish and Wildlife Service, the oil companies, and the outgoing administration on many fronts. But all of these suits were brought to protect State and local interests from overzealous and activist executive agencies.

Over the last eight years, the Obama Administration has advanced a radical environmental agenda, has exhibited a deep distrust of State

governments and private landowners, and has worked to obstruct the fossil fuel industry and agriculture producers, the most ardent protectors of the environment. These are industries and interests that Oklahoma relies on, and, far from being an enemy of the environment, Scott has proven himself to be an expert at balancing economic growth with environmental stewardship.

So it is my belief that Attorney General Pruitt will return the Environmental Protection Agency to its proper role as a steward for the environment, acting within the bounds prescribed by Congress and the Constitution.

Thank you, Mr. Chairman.

[The prepared statement of Senator Inhofe follows:]

Senator Barrasso. Thank you, Senator Inhofe.

Senator Lankford.

STATEMENT OF THE HONORABLE JAMES LANKFORD, A UNITED STATES SENATOR  
FROM THE STATE OF OKLAHOMA

Senator Inhofe. Chairman Barrasso, thank you. Ranking Member Carper, members of the Committee, thank you for allowing me to be able to be here today, introduce my fellow Oklahoman, and for Senator Inhofe and I to both be able to stand with him and to be able to introduce who we believe will be a tremendous nominee as Administrator for the Environmental Protection Agency.

It is an honor to speak in support of Attorney General Pruitt today. Over the past six years, Scott has been a leader in the State of Oklahoma, strongly committed to enforcing the law and adhering to the Constitution. He is a statesman. He is a dedicated public servant. As Administrator of the EPA, I would fully expect Scott to lead the Agency to follow every environmental law and to partner with States, local authorities, and Tribes to do what is best for our present and for our future.

As Attorney General of Oklahoma, he stood shoulder to shoulder with more than half of the States to ensure the Federal Government operates within the bounds of the statute and the Constitution. He has argued consistently that many regulations that the EPA promulgates are in fact the responsibilities of State governments first.

In an environment where Chevron deference is precedent, it is critical that the leader of an agency that has such wide latitude to extract costs from the economy also respects the importance of our federalist foundation and the pocketbooks of hardworking families.

In previous congressional testimony, Scott has emphasized the importance of laws like the Clean Air Act, stressing that the intention was for States and the EPA to work together under a model of cooperative federalism that protects the environment, while considering economic costs.

As Attorney General, Scott has been an ardent defender of the rule of law for Oklahomans. In 2012, he sued British Petroleum, arguing that they knowingly double-dipped through the collection of funds through a cleanup fund despite having insurance coverage for environmental cleanup. He did not hesitate to stand up for his constituents and for his State.

Mike Turpen is the former Attorney General of the State of Oklahoma and the former Chairman of the Oklahoma Democratic Party. He spoke out in mid-December, when Scott was first announced. Let me just read a short portion of his very long statement in support of Scott Pruitt.

Former Attorney General Mike Turpen and our former Democratic Party Chairman said, "Oklahoma Attorney Scott Pruitt is a good choice to head up the Environmental Protection Agency. I am convinced Scott Pruitt will work to protect our natural habitats, reserves, and resources. His vision for a proper relationship between protection and prosperity makes him superbly qualified to serve as our next EPA Administrator."

Scott is an active member and a deacon at his church, First Baptist Church Broken Arrow, a congregation of almost 2,000 people. He is incredibly strong in his faith and he strives to walk in

integrity. Scott is a serious baseball fan, as well. If you run out of environmental or legal questions today, which I doubt you will, but if you run out, why don't you ask him a couple questions about baseball strategy and spring training, which starts in just a few weeks.

I have to tell you Scott is a friend. I have prayed with Scott. I have seen Scott struggle with hard decisions that affect our State's future. I have seen Scott listen to people to try to learn all sides of an issue. And I have seen Scott take difficult stands on matters of law. I think he will be an excellent administrator for the EPA and I think he will do very well today in getting a chance to bring you the confidence that he will work hard for our Nation's present and for the future.

Thank you, Mr. Chairman.

[The prepared statement of Senator Lankford follows:]

Senator Barrasso. Well, thank you so very much, Senator Lankford and Senator Inhofe. Senator Lankford, you are welcome to stay, but you can't stay in that seat.

[Laughter.]

Senator Lankford. You got it.

Senator Barrasso. Now I would like to welcome Attorney General Pruitt to the Senate Environment and Public Works Committee. Welcome. I invite you to first introduce your family and then proceed with your statement. Congratulations and welcome.

STATEMENT OF HONORABLE E. SCOTT PRUITT, ATTORNEY GENERAL, STATE OF  
OKLAHOMA (OKLAHOMA CITY, OK)

Mr. Pruitt. Good morning, Chairman Barrasso, Ranking Member Carper, members of the Committee. It is an honor and a privilege to be before you today to be considered for the position of EPA Administrator.

I first want to say thank you to Senators Inhofe and Lankford for their opening comments. Senator Inhofe has been a mentor and a friend to me many, many years, and he spent a lot of time with me through this process, introducing me to many of you, and I really appreciate his guidance and his help.

Senator Lankford was a friend well before he entered Congress, and he is already serving Oklahoma and this Country with great distinction.

Mr. Chairman, you indicated to introduce my family. I am blessed today to have my family in attendance with me. My wife, Marlyn, of 27 years, is in attendance, along with my children, McKenna and Cade. There is a little change going on in their life as well. McKenna is actually graduating from Oklahoma University this spring and Senator Whitehouse's alma mater of the University of Virginia Law School. And my son is going to be graduating high school and heading to Oklahoma University, following in his sister's footsteps, to be a Boomer Sooner.

So there is lots of change going on in their lives, lots of change going on in my family's life, and lots of change going on in

the Country. And I think the people of this Country are really hungry for some change.

And with change comes an opportunity for growth, an opportunity to assess how we can reprioritize as a Nation. And when I ponder leading the EPA, I get excited about the great work to be done on behalf of our Nation and being a good steward of the natural resources we have as a Nation. What could be more important than protecting our Nation's waters, improving our air, and managing the land that we have been blessed with as a Nation, all the while protecting the health and welfare of our people?

So, if confirmed, I would lead the EPA with the following principles in mind.

First, we must reject as a Nation the false paradigm that if you are pro-energy, you are anti-environment; and if you are pro-environment, you are anti-energy. I utterly reject that narrative. In this Nation, we can grow our economy, harvest the resources God has blessed us with, while also being good stewards of the air, land, and water by which we have been favored. It is not an either-or proposition.

Next, we should celebrate the great progress that we have made as a Nation since the inception of the EPA and the laws that have been passed by this body, but recognize that we have much work to do.

Third, rule of law matters. Process matters. It inspires confidence in those that are regulated. The law is static, not transient. Regulators are supposed to make things regular, to fairly and equitably enforce the rules and not pick winners and losers. A

regulator should not be for or against any sector of our economy. Instead, a regulator ought to follow law in setting up the rules so that those who are regulated can plan, allocate resources to meet the standards, versus operating in a state of uncertainty and duress.

Fourth, federalism matters. It matters because Congress says so. And because we need to achieve good outcomes as a Nation for air and water quality, we need the partnership of the States to achieve that. It is our State regulators who oftentimes best understand the local needs and the uniqueness of our environmental challenges. Plus, our State regulators possess the resources and expertise to enforce our environmental laws.

Fifth, public participation is key. We need to hear all voices as we make decisions on behalf of our Country with respect to environmental laws.

Two final things personally. I seek to be a good listener, to listen and to lead. You can't do one without the other. Listen to those career staff --

[Interruption from audience.]

Mr. Pruitt. Listen to those career staff at the EPA, as I have done as Attorney General of Oklahoma, and listen to you here in Congress with respect to the needs of your respective States, and listen to the voice of all Americans as we seek to carry out our duties under the law.

Lastly, and this is very important, I seek to serve with civility. Oftentimes, as policymakers, you deal with very contentious issues; I have as Attorney General of Oklahoma, as well. We deal with

weighty issues and there is passion on both sides of issues. But we should not succumb to personalizing matters. We should encourage open and civil discourse. One such issue where civil discourse is absent involves climate change. Let me say to you science tells us that the climate is changing, and that human activity in some manner impacts that change. The ability to measure with precision the degree and extent of that impact, and what to do about it, are subject to continuing debate and dialogue, and well it should be.

So with these principles in mind, I seek to answer your questions today, and I am honored to be here today to be considered for the position of EPA Administrator.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Pruitt follows:]

Senator Barrasso. Well, thank you very much. Welcome to your family, and thank you and congratulations again.

Attorney General Pruitt, you have answered the Committee questionnaire. The United States Office of Government Ethics has stated that you are "in compliance with applicable laws and regulations governing conflicts of interest."

Throughout this hearing, and with the questions for the record, our Committee members will have an opportunity to learn more about your commitment to public service and our Nation. I would ask that throughout this hearing you please respond to the questions for the record.

With that said, I have to ask the following questions that we ask of all nominees on behalf of the Committee. Do you agree, if confirmed, to appear before this Committee or designated members of this Committee, and other appropriate committees of the Congress, and provide information subject to appropriate and necessary security protection with respect to your responsibilities?

Mr. Pruitt. Yes, Mr. Chairman.

Senator Barrasso. Do you agree to ensure that testimony, briefings, documents, and electronic and other forms of information are provided to this Committee and its staff, and other appropriate committees, in a timely manner?

Mr. Pruitt. Yes, Mr. Chairman.

Senator Barrasso. Do you know of any matters which you may or may not have disclosed that might place you in any conflict of interest if you are confirmed?

Mr. Pruitt. No, Chairman.

Senator Barrasso. Thank you.

Just a couple quick questions before we go back and forth. I would just ask if you could just please describe your environmental philosophy, what you would do to protect our environment.

Mr. Pruitt. Well, Mr. Chairman, as I indicated in my opening statement, I believe that the role of a regulator, and this may not sound too exciting, but is to make things regular. And I think one of the difficult challenges we see with individuals across the Country is the inability to predict or know what is expected of them as far as their obligations under our environmental laws. And I really believe, Mr. Chairman, that if confirmed as EPA Administrator, this public participation, cooperative federalism, rule of law being the focus of how we do business at the EPA, is center to restoring confidence and certainty in those that are regulated.

Clearly, the mission of the EPA, as I indicated in my opening statement, to protect our natural resources, protecting our water quality, improving our air, helping protect the health and welfare of our citizens, is key to the leadership of the EPA, and, where enforcement is necessary, vigorous enforcement. I have done that as attorney general in Oklahoma. I have taken very constructive steps against those that have violated the law, but we have done so, I think, in a very decisive and meaningful way.

So, Mr. Chairman, with that in mind.

Senator Barrasso. I am going to ask one other question, then I am going to reserve the balance of my time for some interjection and questioning throughout.

There are still a number of environmental problems that I see in the Country and in my State. Cold War legacy pollution is a serious problem, where chemical compounds are left deep in the soil from our military activity decades ago. Often, there are not the tools yet available to adequately address this pollution. If confirmed, would you advocate increasing the EPA's focus on innovative technological solutions to address these and other environmental problems?

Mr. Pruitt. Yes, Mr. Chairman, and this Congress, this past Congress, as you indicated in your statement and as Senator Inhofe recognized, with the changes to the TSCA law, there are priorities this year, new authority actually that has been given to the EPA Administrator to order testing on certain chemicals. As I have spent time with some of the members on this Committee, Senator Gillibrand, as an example, mentioned PFOA as a concern with respect to the Safe Drinking Water Act, along with TSCA. So, yes, Mr. Chairman, I believe that there are priorities that are key to improving our environment, from CERCLA to TSCA, across air quality, with non-attainment to attainment, and would seek to focus and prioritize those efforts.

Senator Barrasso. Thank you.

Senator Carper.

Senator Carper. Mr. Pruitt, we don't often have the kind of disruptions in this room and in this building that we are witnessing here today. This is extraordinary. Not unprecedented, but

extraordinary. And people might ask, well, why are folks so concerned. Well, I will tell you why they are so concerned. And you don't have to go back to March 3rd up in Detroit, Michigan, where President-elect, then Candidate Trump, Donald Trump said these words, "We're going to get rid of EPA in almost every form. We are going to have little tidbits left, but we are going to take a tremendous amount out." That is what he said during the Republican primary.

And what did he say after the election? Well, November 10th, Fox News with Chris Wallace, he said, "Environmental Protection, what they do is a disgrace. Every week they come out with new regulations." Chris Wallace asked him, "Well, who is going to protect the environment?" He responded by saying, "We'll be fine with the environment." We'll be fine with the environment.

Well, we are concerned that we won't be fine with the environment. Sometimes words do matter. And one of the concerns that I have is he is the president, you would be his nominee, you would be his EPA Administrator. All the things that he said in the campaign, do they just go away? In you he has put somebody in place who has actually defunded or led to the defunding of the Environmental Protection Unit within your own agency. And yet you have joined in a dozen or more lawsuits over the last six years, ever since you have been attorney general, going after the EPA. That is why I have the kind of concern that you are witnessing here today; not just on that side of the dais, but on this side as well.

You just took an oath, you raised your hand and took an oath to answer the questions that our Chairman asked of you, and one of them

was a question dealing with your willingness to respond to reasonable questions that are asked of you. One of the things I asked of you, I submitted a letter that I think you received shortly after Christmas, maybe December 28th, close of business, and in it I asked a lot of questions. I asked you to try to respond by January 9th. You didn't respond to one of them by January 9th, not even one. Today's hearing, I just asked my staff have you responded to any of those questions in writing that I asked almost three weeks ago and, to my knowledge, no response has yet been received. That is why we have a concern. That is why we have a concern.

Mercury.

Mr. Pruitt. I am sorry?

Senator Carper. I am going to start off by talking about mercury. In 2011, the EPA required dirty coal power plants to clean up mercury and air toxic emissions by issuing the Mercury and Air Toxic Standards Rule. This rule will reduce the mercury, a neurotoxin that contaminates our streams and our oceans, pollutes our fish, and harms our children's health.

As attorney general, I believe you have been part of at least 14 legal cases against the EPA, and at least three of these cases against the EPA's rules, to reduce mercury emissions from power plants. Is that correct? Just yes or no.

Mr. Pruitt. Senator, we have been involved in litigation around the MATS Rule.

Senator Carper. Is that correct, yes or no?

Mr. Pruitt. As I indicated, yes, we have been a part of litigation involving the MATS Rule.

Senator Carper. Thank you. It is my understanding that at least one of these cases against the mercury rule is still pending. Is that correct? Just yes or no.

Mr. Pruitt. I believe so, Senator, yes.

Senator Carper. Thank you. In the cases against the mercury rule, you questioned the EPA's determination that mercury emissions from power plants are harmful to health and should be regulated. To be clear, have you ever supported a case against the EPA that claims, and this is a quote, "human exposure to methylmercury resulting from coal-fired power plants is exceedingly small," yes or no?

Mr. Pruitt. Senator, that is not a yes or no question, if I may.

Senator Carper. Fair enough. This position seems to question an EPA decision in 2000 in which the Agency determined, after almost a decade of study, and this is a quote from them, "mercury emissions from power plants pose significant hazards to public health and must be reduced." Would you say the legal cases you have supported in the past directly challenge this Agency finding, yes or no?

Mr. Pruitt. Senator, the challenges we have had as a State --

Senator Carper. Yes or no?

Mr. Pruitt. -- along with the other States --

Senator Carper. Yes or no?

Mr. Pruitt. If I may, Senator. If I may.

Senator Carper. Just hold your fire. Just hold your fire.

Mr. Pruitt. Okay.

Senator Carper. The legal position you have taken on mercury also seems to call in question the 2003 testimony from then EPA Assistant Administrator of Air and Radiation, Jeff Holmstead, under George W. Bush, who sat right where you are sitting today, and this is what he said, "EPA is required to regulate mercury because EPA determined that mercury emissions from power plants pose an otherwise unaddressed significant risk to health and the environment, and because controls options to reduce this risk are available."

This Bush EPA statement on mercury risk seems contrary to the legal arguments you have supported in the past. Is that correct, yes or no?

Mr. Pruitt. I agree with Mr. Holmstead's position that mercury is something that is very dangerous to the environment and should be regulated under section 112.

Senator Carper. Thank you very much. Are you aware that the last three administrators have publicly stated that the EPA is required to regulate mercury from power plants because of the health risk, yes or no?

Mr. Pruitt. I believe that mercury should be regulated under Section 112.

Senator Carper. Thank you very much. My time is about to expire. I will just hold it there. Thank you very much, Mr. Chairman.

Senator Barrasso. Thank you, Senator Carper.

Senator Inhofe.

Senator Inhofe. Thank you, Mr. Chairman.

Well, I don't think you had adequate time to answer some of the questions that were asked. Is there anything you would like to add, to elaborate on?

Mr. Pruitt. Yes, Senator, thank you. I do want to say to Senator Carper's concern with respect to the President-elect's statements throughout the campaign, I believe there is a very important role for the Environmental Protection Agency. In fact, you and I talked about that in your office. I believe that there are air quality issues and water quality issues that cross State line; that the jurisdiction of the EPA, its involvement in protecting our air quality and improving our Nation's waters is extremely important.

And the EPA has served a very valuable role, historically. After all, it was Republicans who created the EPA under executive order in 1970, and this body has passed many pieces of legislation since the 1970s to focus upon improving our air and improving our water quality, and we have much to celebrate. Actually, there are six criteria pollutants under the NAAQS program since 1980 that are down 63 percent. We have made progress as a Country, but we have work to do, and the EPA has a very valuable role, in partner with the States, to carry out those steps to ensure improving our air quality and protecting our Nation's waters.

So, Senator Carper, I am hopeful that, in response to your concern about the role of the EPA, I believe it is a very valuable role, and it is something that we should focus on in partnering with our States.

With respect to mercury, the litigation that you referred to, there was no argument that we made from a State perspective that mercury is not a hazardous air pollutant under Section 112. Our argument focused upon the cost-benefit analysis that the EPA failed to do, and in the Michigan v. EPA case, the Supreme Court actually agreed. So it was more about the process, again, that the EPA was supposed to go through in regulating mercury to provide certainty to those in the marketplace, not a statement with respect to whether mercury should be regulated or not under Section 112.

Thank you, Senator Inhofe.

Senator Inhofe. Thank you, General. I am glad you brought up this thing about the Clean Air Act. The amendments from 1990, I was one of the co-sponsors, it has been incredibly successful. You mentioned that we have reduced those pollutants by 63 percent, but what you didn't add was that is in spite of the fact that we had 153 percent increase in our economic activity. That is a major thing.

In my introduction I mentioned this thing that you did that no one can figure out how you did it, involved a 100-year dispute between not just the State of Oklahoma and the City of Oklahoma City and the Choctaws and the Chickasaws. Do you want to share with us how you did that? You know, they tried for 100 years, and you came in and did it in less than 100 days.

Mr. Pruitt. Less than eight months into my administration as attorney general, we were sued as a State by the Choctaw and Chickasaw Nation with respect to water in 17 counties in Southeast Oklahoma. Many of you, if you know anything about water litigation, it generally

takes decades to resolve water litigation. We were able to go from August of 2011 until 2016 and negotiate an historic water rights agreement with those two Nations to provide certainty to those that are regulated, to provide a voice to the Tribes with respect to water allocation and water quality; and the State has maintained its position as arbiter of how those permits are allocated, as well.

So it was a partnership. It was the way things ought to work when litigation occurs. Sitting across the table from individuals and working together to try to solve the problem. And, Senator, we were able to achieve that in record time, and I am very proud of what we did as a State and as the Chickasaw and Choctaw Nation together.

Senator Inhofe. Yes, that is good. I think, also, you got them all in one room, didn't you?

Mr. Pruitt. Yes, sir.

Senator Inhofe. That works.

You have been criticized by some of the people talking about some of your environmental record. I would like to be sure that people are aware of a number of people, I have some here that I will submit for the record, but a guy named Ed Fite is the vice president of scenic rivers and water quality of the GRDA. This is a person who has really been at the forefront of our scenic rivers program; he praises you, saying, "I found that General Pruitt has always done right by our scenic rivers. He has done everything constructive that he told me that he would do."

The same thing comes from the North Carolina Department of Environmental Quality, Donald van der Vaart. He wrote, "Pruitt is

committed to clean air and clean water, and to restoring the EPA to its original mission of enforcing the environmental laws written by Congress."

J.D. Strong, head of the Water Resources Board, said, "Attorney General Pruitt" and he goes on and praises you.

I would like to know why it is you have become such a hero of the scenic river people.

Mr. Pruitt. Well, Senator, as you know, Oklahoma has endured many decades of dispute with respect to phosphorous levels in the scenic Illinois River. In fact, there has been litigation that has been a part of that dispute for some time. There was actually a memorandum of understanding that Arkansas and Oklahoma entered into around 2002, 2003, and that memorandum expired during my time as attorney general. There were many in government at the time that said we should just wait on the EPA to come in and address the issue, and I chose a different path. I actually reached out to my Democratic colleague, Dustin McDaniel, the attorney general of the State of Arkansas, and we were able to negotiate an agreement that had phosphorous levels set at .037 scientifically driven and enforced on both sides of the border for the first time in history.

So I think Mr. Fite is actually the head of the Scenic Illinois Rivers Commission. He has been center on this issue for a number of years, and I think his good word relates to the work that we did in my office, working with Dustin McDaniel, to achieve that good outcome.

Senator Inhofe. I know my time has expired, but, Mr. Chairman, I would like to enter into the record at this point in the record the statement by the DEQ that I referred to.

Senator Barrasso. Without objection, hearing none.

[The referenced information follows:]

Senator Barrasso. Senator Whitehouse.

Senator Whitehouse. Thank you, Chairman.

Welcome to the Committee, Mr. Pruitt. As we discussed when you and I met, the oceans off of our ocean State are warming due to fossil fuel-driven climate change. It is crashing our fisheries like lobster and winter flounder, and making earning a living harder for our fishermen. I see nothing in your career to give those fishermen any confidence that you will care one bit for their well-being, and not just the well-being of the fossil fuel industry.

In a process that you could replicate in an Oklahoma high school science lab, excess carbon dioxide from fossil fuel emissions is turning our seas more acid. Rhode Island shell fishermen and shell fish growers are concerned. In my colleague, Senator Merkley's State, they have already had oysters spat wiped out for businesses by acidified waters. I see nothing in your career that you would care at all about our Rhode Island shell fishermen.

In Rhode Island, we have bad air days, and because of EPA's work there are fewer and fewer. A bad air day is a day when people driving into work hear on the radio that ozone from out-of-State smoke stacks has made the air in Rhode Island dangerous and that infants and the elderly and people with breathing difficulties should stay home on an otherwise beautiful day. Because those smoke stacks are out-of-State, we need EPA to protect us, and I see nothing in your record that would give a mom taking her child to the hospital for an asthma attack any comfort that you would take the slightest interest in her.

And your passion for devolving power down to States doesn't help us, because our State regulators can't do anything about any of those problems; they all come from out-of-State sources. In this respect we are very like Delaware.

One of the things I would like to ask you about here is the connection between you and some of these fossil fuel companies. These are some of the companies that have supported you. These are some of the political organizations that you have raised money for. You have raised money for them for Pruitt for Attorney General, correct?

Mr. Pruitt. Yes, sir. I had a campaign committee for that, yes. Senator Whitehouse. And Devon Energy, Koch Industries, Exxon-Mobil have all maxed out to that account.

Mr. Pruitt. I am not aware if they maxed out or not, Senator, but I am sure they have given to that committee.

Senator Whitehouse. Oklahoma Strong PAC is your leadership pack?

Mr. Pruitt. It was, yes.

Senator Whitehouse. It was? And, similarly, they gave money, they maxed out to that organization as well, which you controlled?

Mr. Pruitt. I am unsure about that, Senator.

Senator Whitehouse. Okay. But they contributed to it.

Mr. Pruitt. I am even unsure about that as well. I haven't looked at that.

Senator Whitehouse. You closed your super PAC, Liberty 2.0, but that took fossil fuel contributions as well, correct?

Mr. Pruitt. That particular entity has been closed, yes.

Senator Whitehouse. Now, you helped to raise money for the Republican Attorney Generals Association. While you were a member of its executive committee, they received \$530,000 from Koch Industries, \$350,000 from Murray Energy, \$160,000 from Exxon-Mobil, and \$125,000 from Devon Energy, the company whose letter you transposed onto your letterhead and sent as an Oklahoma attorney general document.

Did you solicit, in your role at the Republican Attorney Generals Association, any of that funding?

Mr. Pruitt. I am unable to confirm if they gave those numbers, Senator, those amounts. There were several --

Senator Whitehouse. Did you solicit funding from them in your role at the Republican Attorney Generals Association?

Mr. Pruitt. I attended fundraising events as an attorney general, along with other attorneys general with respect to the RAGA.

Senator Whitehouse. And did you solicit? Did you ask them for money for RAGA?

Mr. Pruitt. As I indicated, I attended fundraising events with respect to this.

Senator Whitehouse. But that is different. Attending fundraising is one thing. Asking them is my question. Did you ask them for money?

Mr. Pruitt. Specifically, you would have to ask about certain entities. I don't know. You have an entire list.

Senator Whitehouse. Those are the entities: Koch Industries, Murray Energy, Exxon-Mobil, Devon Energy.

Mr. Pruitt. I did not ask of Koch or -- what were the other ones?

Senator Whitehouse. Murray Energy, Exxon-Mobil, Devon Energy.

Mr. Pruitt. I have not asked them for money on behalf of RAGA.

Senator Whitehouse. You said to the Chairman that there is nothing that might place you in a conflict of interest that you have not disclosed. Yet, you founded the Rule of Law Defense Fund, which is a dark money operation that supports the Republican Attorney Generals Association, and you have not disclosed any of your solicitations for that entity, nor have you disclosed what money was raised pursuant to those solicitations. This is an organization that appears to have a million dollar a year budget, so very substantial funds have been solicited. I believe you were its chairman. Will you disclose your role in soliciting money and in receiving money for the Rule of Law Defense Fund pursuant to your solicitations?

Mr. Pruitt. Senator, a point of clarification. I actually did not start nor initiate the Rule of Law Defense Fund. That is something I did not do.

Senator Whitehouse. You led it?

Mr. Pruitt. I have been an officer of that organization for 2016.

Senator Whitehouse. Okay, an officer of it.

Mr. Pruitt. There is an executive staff, fundraisers that actually carry out the functions of that organization. There are many attorneys general that serve on that board. It is not a decision of

one; it is a decision of those that are empowered to make those decisions.

Senator Whitehouse. But you haven't told us anything about that. You haven't told us --

Mr. Pruitt. I have no access --

Senator Whitehouse. -- who you asked money from, --

Mr. Pruitt. That is a file that --

Senator Whitehouse. -- you haven't told us what they gave, if you asked them. It is a complete black hole into which at least a million dollars goes, and, based on your record of fundraising, it appears that a great deal of your fundraising comes from these organizations who are in the energy sector and devoted to fighting climate change.

Mr. Pruitt. Some of whom I have actually sued, as well, Senator. But with respect to the Rule of Law --

Senator Whitehouse. Name one you have sued up there.

Mr. Pruitt. Exxon-Mobil.

Senator Whitehouse. Really?

Mr. Pruitt. Yes.

Senator Whitehouse. My time has expired. We will pursue this in further questions.

Mr. Pruitt. We are involved in, as I indicated, I think, in your office, we are involved in, and Senator Inhofe mentioned it in his comments, a situation in Oklahoma where multiple oil and gas companies, ConocoPhillips and others, have defrauded the State in cleanup with respect to spills that have occurred, and Exxon-Mobil --

Senator Whitehouse. That is a qui tam fraud case; it has nothing to do with the environment.

Mr. Pruitt. Senator, --

Senator Barrasso. I thought you were going to resolve that for the second round.

Senator Whitehouse. I am sorry, he was coming back to me, so I was responding.

Senator Barrasso. Thank you.

Before heading to Senator Capito, there are two articles I will be introducing into the record. One from The Wall Street Journal in September, headlined "Hillary Clinton Raises More Than Donald Trump from Oil Industry." The second article that I will be introducing for the record is from Politico from December 27th, by Elana Schor, who quotes America Rising Executive Director Brian Rogers: "This is a partisan fishing expedition by six liberal Democrats who, combined, have taken more than \$1.2 million from far left environmentalist groups dead set against any reforms to an out-of-control EPA."

[The referenced information follows:]

Senator Barrasso. Senator Capito.

Senator Capito. Thank you, Mr. Chairman.

And thank you, Attorney General Pruitt, for being here, for your willingness to throw your hat in the ring to serve. I would like to quote the Ranking Member when he says it is hard work, because it is. The EPA is hard work.

But one of the things you said really struck me, and I believe that the rule of law does matter, and I am heartened by your passion for that.

The regulatory overreach of the EPA has contributed to economic devastation in my State of West Virginia and my region. Data from the Mine Safety and Health Administration shows that 60,000 coal jobs have been lost between 2011 and 2016. Thousands of these were in West Virginia. We are in a desperate situation in our State right now because of this.

We had a field hearing in Beckley, West Virginia, where our WVU economist, John Deskins, said that the coal industry downturn had resulted in six of our southern West Virginia counties being in a great depression.

For the past eight years, the EPA has given no indication at all that it cares about the economic impact of its policies, even though Congress has said very clearly in the Clean Air Act and other environmental statutes that we expect jobs and economic factors to be taken into account. That is part of the law. In October, a federal court held that the EPA had failed to evaluate the job impacts of the

EPA Clean Air Act as required by 321(a) of that Act, and ordered the EPA to submit a schedule for conducting the required jobs analysis.

Incredibly, the EPA told the court it would take two years -- this was just in the last several weeks -- it would take two years just to come up with a plan on how to do the analysis, which, in my view, if that is part of the law that EPA is supposed to be following, they should already have the protocols set up to do an effective and accurate job analysis.

So the court responded like this: "This response is wholly inefficient, unacceptable, and unnecessary. It evidences the continued hostility on the part of the EPA to the acceptance of the mission established by Congress."

So I would like to ask you to commit to me to ensure that the EPA will follow the law it is charged with implementing and do those ongoing evaluation of job losses and economic shifts due to the requirements of the Act as required by the law.

Mr. Pruitt. Senator, as you indicated, I really believe that it is important that rule of law is adhered to because it inspires confidence in those that are regulated. I think oftentimes those that are regulated don't know what is expected of them. They look at a statute, they see the requirements of the statute, and then those that are regulating act in a way that is not consistent with that framework, so they don't know what is expected of them; and that causes uncertainty and, I think, paralysis to a certain degree. So rule of law is something that we should take seriously. It has been at the heart of the litigation that we have initiated as a State.

A lot of times these cases, as we were talking earlier with Senator Carper, there is a policy or a political kind of attention that is drawn to it, but really is about process and rule of law, and making sure that the framework that this body, Congress, has established is respected and enforced. So I appreciate your comments.

Senator Capito. Well, in looking for the balance, we need to have at least a correct analysis of what the economic implications are of regulations.

It is so important, critically important that we enforce our environmental laws, and to keep our air clean and get it cleaner and protect our waters.

In January of 2014, a storage tank in Charleston, West Virginia was corrupted and went into the river. It was right by the water flow of the major water source in my community. Three hundred thousand people had to do without water for several weeks. It caused a lot of angst economically to small businesses. Imagine a restaurant not being able to use water or you can't wash your clothes. You couldn't do anything with the water.

But also, and I share this concern, concern about the health and the long-range implications of what has happened. Several people, multiple individuals and Freedom Industries have pled guilty to environmental crimes in federal court, which I am very pleased about.

So let's talk about TSCA, because in TSCA I was able to support a provision that would say that if you are storing in close proximity to drinking water, you have to take that into consideration when you are reviewing potentially hazardous chemicals.

Can we count on you to work with this Committee to make sure that this bipartisan TSCA reform bill is fully implemented, and efficiently and fully?

Mr. Pruitt. Absolutely, Senator. In fact, I would commend the work of this Committee, with Senator Inhofe's leadership, in passing that update to the TSCA legislation. For the first time in history, as you know, the EPA has the ability to order testing to address chemicals that are going to be entered into the stream of commerce, and that is a very big substantive change that exists. There are many deadlines --

Senator Capito. And I would also add that in TSCA -- excuse me just a minute because I am running out of time. In TSCA we actually expanded the EPA's reach. So when you are asked if you are wanting to get rid of the EPA or it doesn't have a value, I voted to expand that reach of EPA to make sure that I have clean water and that if a spill happens in a community around this Country, what has happened in Flint, Michigan, doesn't have the far-reaching implications that it does.

Thank you very much.

Mr. Pruitt. Thank you, Senator.

Senator Barrasso. Senator Cardin.

Senator Cardin. Thank you, Mr. Chairman.

Mr. Pruitt, welcome to the Committee. Thank you for your willingness to serve our Country.

I want to talk about the Chesapeake Bay Program. We talked about that in my office. I explained to you, and I will do it very quickly,

that this is a program that was developed at the State level with the States that are in the watershed, including Delaware, with my colleague, Senator Carper. It is a State that the locals have determined how it is best to reach their pollution targets in order to help preserve the Chesapeake Bay. It is the largest estuary in the northern hemisphere. It is critically important; it is complicated. It doesn't flush itself, as many bodies of water do; it has a reduction of oyster crops. There are so many problems. All the stakeholders have gotten together; they worked out a plan. The Federal Government is part of that plan. It is enforced through the TMDL program and it has been agreed to by the local governments.

It was challenged, the TMDLs, including you joined that lawsuit. The Supreme Court refused to overturn the Court of Appeals supporting the use of the TMDLs.

If you are confirmed, will you support the Federal role in the Chesapeake Bay Program as envisioned by the partners and stakeholders, enforcing the TMDLs, if necessary?

Mr. Pruitt. Yes, Senator. And as I indicated in your office, the time that we had together, I really commend the six States that joined together to address the Chesapeake Bay and to try to set levels for both point source and non-point source type of discharge into the Chesapeake Bay. There were some concerns about the precedent, the role that EPA was playing initially, but through that litigation the EPA has acknowledged that their role is more informational. And there was concern in Oklahoma about the Mississippi River Basin and the

precedent that was set in that matter, and that is what spawned our litigation.

But I really want to emphasize to you that process represents what should occur, for States to join together and enter into an agreement to address water quality issues and then involve the EPA to serve the role it is supposed to serve is something that should be commended and celebrated. And as it relates to enforcing that TMDL, I can commit to you that in fact I will do so.

Senator Cardin. Part of the Federal Government's partnership is to provide resources. There are several programs that fund initiatives within the Chesapeake Bay Watershed; probably the largest is the State Revolving Funds dealing with wastewater. Will you support the Federal Government's partnership through funding these programs that are critically important to make the advancements in the Chesapeake Bay Watershed?

Mr. Pruitt. Yes, Senator. I believe that the grant-making role of the EPA, as we talked about in your office, is very important to States across this Country, whether it is the revolving funds or the WIFIA portions of our statutes. But grant-making, in general, is very important, and I will commit to you in that regard that I would do so with respect to the Chesapeake Bay.

Senator Cardin. I want to continue on clean water for one moment. We have had significant problems with safe drinking water and clean water. Let me ask you a preliminary question. Do you believe there is any safe level of lead that can be taken into the human body, particularly a young person?

Mr. Pruitt. Senator, that is something I have not reviewed, nor know about. I would be very concerned about any level of lead going into the drinking water or, obviously, human consumption, but I have not looked at the scientific research on that.

Senator Cardin. The Clean Water Act provides for Federal guidance as to acceptable clean water. It is enforced by the States. So my question to you in regards to clean water is what steps will you take to make sure that our children are safe. We saw in Flint, Michigan a tragedy occur. Where do you think the Federal Government needs to strengthen its regulatory roles to make sure that our children are safe from lead?

Mr. Pruitt. Well, I think with Flint, Michigan it is an example of delay in response by the EPA. There should have been more done on corrosion control programs with the Flint, Michigan system. As you know, under the Clean Water Act and the Safe Drinking Water Act, if there is an emergency situation, the EPA can enter an emergency order to address those kinds of concerns. I think there should have been a more fast response, a more rapid response to Flint, Michigan.

I think with respect to water quality it is infrastructure. Water infrastructure is important. And, as you indicated, the States play a very vital role in that process, and there needs to be more cooperation between the EPA and the States to ensure water quality is protected.

Senator Cardin. Just so I understand, you have participated in several lawsuits against the EPA's involvement, saying that the locals should have the responsibility. If you are confirmed, will you

support Federal enforcement, particularly in multi-State issues, where the only way we can get enforcement is at the Federal level?

Mr. Pruitt. I believe that is a vital role of the EPA. As I indicated in your office, with air quality, water quality, issues that cross State line, there is an enforcement mechanism that is important, and would seek to do so if confirmed as EPA Administrator.

Senator Cardin. Thank you.

Senator Barrasso. Thank you, Senator Cardin.

Senator Fischer.

Senator Fischer. Thank you, Mr. Chairman.

And thank you, Mr. Pruitt, for being here today, but also for accepting the nomination. It is a service and a sacrifice not just for you, but for your family, as well, to step forward to serve this Country. So thank you, sir, for being willing to do that.

Mr. Pruitt. Thank you, Senator.

Senator Fischer. For your testimony, I do thank you, and I would like to, first of all, let you know that Nebraskans have been really affected by the EPA in many instances, and I will give you some examples of that.

Nebraska's public power utilities are grappling with how they could ever comply with the EPA's carbon emission reduction mandates. The City of Omaha is struggling with the Agency's expensive CSO mandate and drinking water affordability. Nebraska farmers are waiting on new crop technology products that are stuck in a broken regulatory process. Our biofuel investors and producers are desperate for certainty under the RFS. Homebuilders, transportation

stakeholders, and local county officials are concerned about the jurisdictional expansion to control our State's water resources. Communities and small business owners fear that the EPA's ozone mandate will stunt potential economic development and growth in our State. As a result of the activist role the EPA has played for the past eight years, families are concerned about the futures of their livelihood.

We all want clean air and we all want clean water. That is one point that I know each and every person here agrees on. But with the EPA's tremendous impact on Americans' lives each and every day, it is important that the Agency be open, transparent, and answerable for its actions. Given these concerns, along with the many others that have been and will continue to be discussed today, what steps will you take as the EPA Administrator to provide relief for American families that are faced truly with an onslaught of EPA rules?

Mr. Pruitt. Senator, you mentioned open, transparent rulemaking. There are concerns that have been expressed recently with respect to regulation through litigation, where groups initiate litigation against the EPA and the United States Government, and set environmental policy through something called a sue and settle process. I think this body, as well as the U.S. House, has looked at those kinds of issues. And when we talk about open transparency, there is a reason why the Administrative Procedures Act exists. It is intended to provide notice to those that are going to be impacted with rules to give them the opportunity to offer comment and to inform the regulators on the impact of those rules. And then it is the

obligation of the regulator to take those things into consideration in finalizing rules; otherwise, they act in an arbitrary and capricious way.

So it is very important that that process be adhered to, to give voice to all Americans in balancing the environmental objectives we have, but also the economic harm that results. And the Supreme Court has spoken about that rather consistently of late, and I would seek to lead the EPA in such a way to ensure that openness and transparency.

Senator Fischer. You know, a couple weeks ago I held a very good conversation about our shared vision for the EPA, to bring common sense and accountability back to that Agency, and I think that is going to go a long way in restoring confidence in the Agency by the American people.

One issue we did discuss was the Renewable Fuel Standard and its importance to my home State of Nebraska. We are the largest ethanol producer west of the Missouri River. Our neighbors to the east, Senator Ernst's home State, they do lead the Nation in ethanol production. So honoring the congressionally-mandated timelines and the volume requirements that are critical from an investment point of view and also from a planning perspective, I think that this is especially relevant, and especially during the current farm crisis that we are seeing and the negative impact on people in agriculture all across this Nation.

In our meeting you did express your commitment to me to honor the law and you echoed President-elect Trump's support for the statute

itself and a strong RVO. For the record, can you please once again express your commitment to uphold the congressional intent of the RFS?

Mr. Pruitt. Yes, Senator, and you said it well, to honor the intent, and the expression of the Renewable Fuel Standard statute is very, very important. It is not the job of the Administrator of the EPA to do anything other than administer the program according to the intent of Congress, and I commit to you to do so.

Senator Fischer. And you also --

Mr. Pruitt. And I would say this. The waivers that routinely are offered by the Administrator, recently another waiver was offered, it should be used judiciously. There is a reason why Congress put in that statute those statutory objectives. The market has changed since 2005, and the waiver authority that has been provided by this body is important, but that waiver authority should be used judiciously, and the act should be complied with and enforced consistent with the will of Congress.

Senator Fischer. Thank you, sir. And I would ask that you also tell us publicly what you told us, that you will honor the timelines on the volume levels that are mandated by Congress.

Mr. Pruitt. Yes, Senator.

Senator Fischer. Thank you very much.

Senator Barrasso. Thank you, Senator Fischer.

Senator Merkley.

Senator Merkley. Thank you, Mr. Chairman.

Over a number of years, information started pouring into EPA that the estimate of the amount of fugitive methane escaping in gas and oil

drilling had been deeply underestimated. In 2011, the EPA put out its best estimates based on the information that was being presented. And this is relevant because methane is a global warming gas, more potent than CO2.

Gas companies didn't like this because, well, it presented a vision of natural gas being more damaging environmentally than folks had previously understood. Devon Energy is one of the groups that sought to cast doubt on this scientific information, and they came to you to be their spokesperson; and they asked will you be our mouthpiece in casting doubt and send a letter we have drafted to the EPA, and you sent that letter.

And I just want to ask, first, are you aware that methane is approximately 30 times more potent than carbon dioxide as a global warming gas?

Mr. Pruitt. I am, Senator.

Senator Merkley. Thank you.

Mr. Pruitt. I think the impact on human --

Senator Merkley. That is the answer. Yes. Thank you. It is a yes or no question.

And on a 1 to 10 scale, how concerned are you about the impacts of fugitive methane in driving global warming?

Mr. Pruitt. Methane, as you indicated --

Senator Merkley. One to 10 scale. Highly, 10, very concerned, or 1, not so concerned?

Mr. Pruitt. The quantities of methane in the atmosphere compared to CO2 is less, but it is far more potent, and it is --

Senator Merkley. Are you concerned? I am asking about your level of concern.

Mr. Pruitt. Yes. Yes.

Senator Merkley. Highly concerned?

Mr. Pruitt. I am concerned.

Senator Merkley. Thank you. Do you acknowledge sending this letter to the EPA in October 2011?

Mr. Pruitt. Senator, if that is a letter that is on my letterhead that was sent to the EPA, yes, with respect to the issue.

Senator Merkley. Do you acknowledge that 97 percent of the words in that letter came directly from Devon Energy?

Mr. Pruitt. I have not looked at the percentage, Senator.

Senator Merkley. The statement that has been analyzed many times is that all of the 1,016 words, except for 37 words, were written directly by Devon Energy.

Mr. Pruitt. Senator, that was a step that was taken as attorney general representing the interest of our State. Over 25 percent of --

Senator Merkley. I didn't ask that question. I was just asking if you copied the letter virtually word for word. You have acknowledged that, yes, it is in the record. People can count it. It is correct.

All right, so a public office is about serving the public. There is a public concern over the impact of methane on global warming. There is scientific research showing that it is far more devastating than anticipated and far more is leaking. But you used your office as a direct extension of an oil company, rather than a direct extension

of the interests of the public health of the people of Oklahoma. Do you acknowledge that you presented a private oil company's position rather than a position developed by the people of Oklahoma?

Mr. Pruitt. Senator, with respect, I disagree. The efforts that I took as attorney general were representing the interests of the State of Oklahoma.

Senator Merkley. Earlier you said you --

Mr. Pruitt. And there was a concern about --

Senator Merkley. No, no, excuse me. I am asking the questions. You said earlier you listen to everyone. In drafting this letter, you took an oil company's position and then, without consulting people who had diverse views about the impact, you sent it off. How can you present that as representing the people of Oklahoma when you simply only consulted an oil company to push its own point of view for its private profit?

Mr. Pruitt. Senator, there is an obligation the EPA has to follow processes as established by this body. The cost-benefit analysis under Section 112 is something that they have to engage in. There was a concern about the overestimated percentages that the EPA put in the record; it was a record-based challenge. That was the expression of the letter to the EPA, and it was representing the interests of an industry in the State of Oklahoma; not a company, an industry.

Senator Merkley. Thank you. But my question was what other groups, environmental groups or other groups, did you consult so that

you had that full perspective before representing simply a for-profit oil company using your official office and your official letterhead?

Mr. Pruitt. I consulted with other environmental officials in Oklahoma that regulate that industry and learned from them with respect to the concerns about the estimates that were provided by the EPA.

Senator Merkley. Can you provide this Committee with information showing who you consulted in representing this letter specifically for Devon Energy? Because the information that is in the public realm only shows that they simply sent you a letter, asked you to send it, and you sent it without questions.

Mr. Pruitt. We have seven or so individuals in our office that are involved in these kinds of issues, and we will collect the information they have and provide it to this body pursuant to the Chairman's direction.

Senator Merkley. Your staff expanded substantially while you were in charge, to 251 staff members. Why do you need an outside oil company to draft a letter when you have 250 people working for you?

Mr. Pruitt. Senator, as I have indicated, that was an effort that was protecting the State's interest in making sure that we made the voices of all Oklahomans heard on a very important industry to our State.

Senator Merkley. You said all heard, but you only sent it on behalf of a single voice, the oil company. Thank you.

Senator Barrasso. I still have some time remaining from my questioning. Is there anything you would like to add that you haven't

felt you have had a chance in terms of answering fully some of the areas of the questioning?

Mr. Pruitt. I think, Senator, the clarification that the letter that was sent to the EPA was not sent on behalf of any one company. This was not particular to Devon Energy, not particular to Chesapeake, not particular to other companies in our State; it was particular to an industry. The State of Oklahoma has an oil and gas industry that is vibrant to our State, as you might imagine, just like many of you have industry in your State. There was concern expressed by that industry, many folks in that industry, about the overestimating that occurred with that methane rule. That was the communication to the EPA. It was a position of the State, not the position of any one company.

Senator Barrasso. Thank you.

Senator Moran.

Senator Moran. Chairman, thank you very much.

General Pruitt, welcome to the Committee. Thank you for your public service. I am going to see if I can get through three areas in the five minutes that I have.

First of all, WOTUS, Waters of the United States. Despite there being an injunction against the enforcement of the WOTUS rule, I am told that EPA Region 7, the region in which Kansas is part, those regional inspectors have increased their inspection of smaller animal feeding operations. Unlike many States, Kansas has a well-established State permit system for small facilities, as well as the delegated authority under the Clean Water Act. The EPA, rather than cooperating

with the State agency, the EPA is engaged in its own inspections and its own enforcement on these small facilities, often conflicting with State permitting and the enforcement process.

In these actions, the EPA has claimed jurisdiction over features like grass waterways, culverts under county roads unconnected to the feeding operation and not situated in or near any body of water.

General Pruitt, what would your direction be to the EPA staff, to Region 7 and others, in regard to their actions enforcing WOTUS while an injunction is in place?

Mr. Pruitt. Well, Senator, as you indicated, and I do want to acknowledge the same concerns have been expressed by those individuals in Oklahoma in different groups with respect to the WOTUS definition that has been offered by the EPA that is subject to a 31-State challenge that was consolidated there before the 6th Circuit, and, as you indicated, there has been a stay of enforcement against that particular rule. The Supreme Court actually, last Friday, took up a matter of jurisdiction on that case, so that adds some complexity to this.

But I think the role of the EPA, prospectively, is to seek to provide clarity on what the true definition, what the best definition is with respect to Waters of the United States. As you know, there is much flexibility and discretion there given to the EPA in a series of cases that lead up to the Rapanos decision that haven't provided a tremendous amount of clarity. The best thing the EPA can do going forward is to reestablish that clarity so that States and individuals know what is expected of them in compliance.

Senator Moran. General, thank you. I don't think I need to remind you, in particular, about the role that States play in clean water. But I would take a moment to highlight something that is often, I think, forgotten in the regulatory world of water, water quality, is the Department of Agriculture, the Natural Resource Conservation Service, in which landowners are assisted through the Department of Agriculture in improving water quality and water quantity in a very partnership-oriented local effort that is significantly different than the tremendous reach from the EPA in Washington, D.C. as compared to the local efforts by landowners themselves to work with USDA to solve problems.

Let me move to my second question. It revolves the Flint Hills. That is a Native grassland in our State. The owners of those grasslands, these are thousands of acres of grass, they burn the prairie in the early spring for purposes of regeneration of that grass. It is learned from the Indians that lightning used to be the method by which that grassland burned. Less so now with the settlement that have occurred of our Country. And as a result of that annual burning, that is ecologically desirable, there is times in which a city, even one of our own, Wichita, for example, is in non-attainment under the Clean Air Act. And I raise this issue to you in asking that you work, if you are confirmed, with the State of Kansas in our local efforts to manage the burning of the national grasslands in a way that is advantageous to wildlife habitat, at the same time done in a timely fashion, at appropriate times, in appropriate

amounts, that preserves the air quality; but, again, not a heavy-handed approach that one-size solution or a ban fits the circumstance.

Mr. Pruitt. If confirmed, Senator, I look forward to working with you on that issue.

Senator Moran. I thank you for that.

Finally, I want to highlight a small town in Kansas named Pretty Prairie, a typical name or a perfect name for a town in our State. Pretty Prairie, Kansas, has a population of about 700 people. For several decades, because of the high nitrates in the city's water levels -- I didn't say that very well. Because of high levels of nitrate in the city water system, the city has provided free bottled water to its citizens. And my question to you is now the EPA is disallowing that practice and requiring the city to spend approximately \$2.4 million and raise the rates of our residents of that community by \$80 a month while the community seemingly is satisfied with the solution of the city providing an alternative to the expense of a new water treatment plant.

I ask this question, again, as an example of where a rigid decision, as compared to a community-based decision, seems to prevail at the EPA, and would give you an opportunity to confirm to me what I hope you would say is that you will work with communities. You, as an Oklahoman, and, me as a Kansan, and many of the members of this Committee represent lots of communities in which the population is insufficient to be able to pay for the costs of water or sewer treatment. We need financial resources to accomplish that, but we also need common sense solutions to the problem.

Mr. Pruitt. Senator, I look forward to working with you on that issue as well as the other. There was a saying in the environmental space: national standards, neighborhood solutions. And I think it is important for the EPA Administrator, those in Washington, as I said in my opening statement, to listen and learn from those, from you with respect to the needs of your community and your State, and collaborate with you and the local officials to achieve good outcomes.

Senator Moran. I look forward to educating you on behalf of Kansans.

Senator Barrasso. Thank you, Senator Moran.

Senator Booker.

Senator Booker. Good morning, Mr. Pruitt.

Mr. Pruitt. Good morning, Senator Booker.

Senator Booker. I have a letter that I read that you sent to the Committee last year, and you said that the Oklahoma Attorney General, you said, "I am responsible for protecting the welfare of Oklahoma citizens." I assume that is still correct and you believe that.

Mr. Pruitt. Yes, Senator.

Senator Booker. And during the past six years in pursuit of that, if you look at the record of the lawsuits you filed against the EPA, you have joined or filed 14 lawsuits against the EPA challenging clean air and clean water rules, yes?

Mr. Pruitt. We have been involved in multiple pieces of litigation, Senator.

Senator Booker. Yes, but I am looking at specifically 14, and, Mr. Chairman, I would like to put those 14 lawsuits into the record,

of where you specifically challenged the EPA on air quality. And let me just go through some of those.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Booker. Thank you, sir.

To reflect your recollection, you filed two lawsuits challenging the EPA Mercury and Air Toxics Standard; you filed a lawsuit challenging the EPA's 2015 National Ambient Air Quality Standards for ozone; you filed four lawsuits challenging the EPA's Clean Power Plan; you have sued to challenge the EPA's 111(b) standards for carbon dioxide emissions from new power plants; and you also sued to challenge the EPA's Federal implementation plan for Oklahoma under the Regional Haze Rule.

You are familiar with those, I imagine?

Mr. Pruitt. Yes, Senator.

Senator Booker. And you filed a lawsuit challenging the EPA Cross-State Air Pollution Rule, something in New Jersey we are very concerned with. Are you aware that that rule, which you lost in that suit, scientists estimate that that alone prevents 400,000 asthma attacks nationally each year? Are you aware of those estimations?

Mr. Pruitt. Yes, Your Honor. Yes, Senator. May I offer --

Senator Booker. I appreciate your promotion to judge.

[Laughter.]

Senator Booker. Let me continue, Mr. Pruitt. I don't have much time.

Mr. Pruitt. Okay.

Senator Booker. So each of these lawsuits that I just went through and that we analyzed, all of them challenge attempts by the EPA to reduce air pollution. In all of them except one you filed those lawsuits joining with polluting companies that were also suing

the EPA. And, so, in addition to filing those lawsuits with some of the polluting companies, or at least one that has now been specifically mentioned by two of my colleagues, you used substantial portions of the letters from those companies, put them on your official attorney general letterhead; and what was sort of surprising to me is that when you have been asked about this in the public, you basically represented that that is actually called representative government in my view of the world. Your testimony here says that you were representing industry; you were representing the polluters.

So with all of these lawsuits you filed, and with all of these letters like this one, written to the EPA on behalf of the industries that are causing the pollution, it seems clear to me that obviously the fact pattern on representing polluters is clear, that you worked very hard on behalf of these industries that have their profits externalized, negative externalities are their pollution.

So I just have a question for you specifically about the children of Oklahoma. Do you know how many kids in Oklahoma, roughly, have asthma?

Mr. Pruitt. I do not, Senator.

Senator Booker. Well, according to data published by the very non-partisan group, the American Lung Association, more than 111,000 children in Oklahoma, which is more than 10 percent, more than 1 in 10 of all the kids in Oklahoma, have asthma. That is one of the highest asthma rates in the entire United States of America.

Now, this is a crisis, similar data, for where I was mayor, and I can tell you firsthand the devastating impacts that asthma has on

children and families; affecting their economic well-being, parents who have to watch their children struggle to breathe, people that have to miss work, rushing their kids to the hospital. One in 10 kids having a disease, missing school, is a significant problem.

So if you have been writing letters on behalf of polluting industries, I want to ask you how many letters did you write to the EPA about this health crisis? If this is representative government, did you represent those children? I want to know what actions you have taken in the past six years in your capacity as protector of the welfare of Oklahoma citizens to protect the welfare of those 111,000 children. Did you ever let any of them write letters on your letterhead to the EPA, and did you even file one lawsuit, one lawsuit on behalf of those kids to reduce the air pollution in your State and help them to have a healthy life?

Mr. Pruitt. Senator, I have actually provided a list of cases to the Chairman with respect to enforcement steps we have taken in multiple pieces of environmental litigation. But let me say to you, with respect to cross-State pollution and some of the cases you referred to, the State has to have an interest before it can bring those cases, as you know. You can't just bring a lawsuit if you don't have standing, if there has not been some injury to the State of Oklahoma. In each of those cases --

Senator Booker. My time has expired, but if I could just say injury, clearly asthma is triggered and caused by air pollutants. Clearly there is an air pollution problem. And the fact that you have not brought suits in any of the levels which you have represented the

industries that are causing the pollution is really problematic when you are going to sit in a position that is nationally supposed to be affecting this reality. And asthma, in our Country, is the number one reason why children in America, health reason why children in America miss school.

Mr. Chairman, thank you.

Senator Barrasso. Thank you very much.

I submit for the record first an article from the Tulsa World from Scott Thompson. The headline is "EPA will be in good hands with Scott Pruitt." Scott Thompson is the Executive Director of the Oklahoma Department of Environmental Quality. Talks about the excellent work done and ends with a quote: "EPA will be in good hands with Scott Pruitt."

I would point out that between 2004 and 2008, and we will submit this for the record, the most recent employers of Obama Administration senior EPA officials sue the EPA with 12 lawsuits, at least, in the time when George W. Bush was in his second term, including Lisa Jackson, Assistant Administrator Cynthia Giles, Gina McCarthy, and Stephen Owens. They were petitioners and plaintiffs filing suits against the EPA.

And, finally, I will submit an editorial from the Tulsa World. "Over the past six years, Pruitt's legal team has consistently shown deference to the legal expertise and professionals at DEQ," the Department of Environmental Quality. This was written by the executive director. More importantly, he said, "I cannot recall an

instance where they did not allow us to pursue legal action when deemed necessary."

And then, finally, from Mike Turpen, who is the former Chairman of the Oklahoma Democratic Party, says, "The job of the EPA is the essential mission of guarantying clean air and clean water. Pruitt has never compromised those critical components of a healthy population with any actions he has taken."

[The referenced information follows:]

Senator Barrasso. Senator Rounds.

Senator Rounds. Thank you, Mr. Chairman.

Welcome, Attorney General Pruitt.

Mr. Pruitt. Thank you, Senator Rounds.

Senator Rounds. I notice that you didn't have the opportunity in the time allotted for Senator Booker's question. Would you care to finish your response with regard to the role that the States have in their ability to either participate in a suit and whether or not they have standing? Would you like to finish your thoughts on that?

Mr. Pruitt. Thank you, Senator.

Senator, as I indicated in your office, when we spent time together, the enforcement role in the State of Oklahoma is different than other States. With respect to the Department of Environmental Quality, the Oklahoma Water Resources Board, we had multiple agencies, Department of Agriculture, that have frontline enforcement authority with respect to our environmental laws.

The role that we play in my office largely is a general counsel role. We provide guidance and direction to those agencies. There were many cases we have initiated in conjunction with them, but mainly those agencies enforce actions at their level. Many of those agencies have dozens of attorneys on their staff and a general counsel in their own right bringing those enforcement actions.

You mentioned several of the cases. From MATS to Cross-State Air Pollution and the rest. I believe the Cross-State Air Pollution Rule is a very important statute that EPA should enforce. I believe that if there are downwind States that are contributing to non-attainment -

- I am sorry, upwind States that are contributing to non-attainment in downwind States, that there should be responsibility for those States. We had that issue with Texas at times.

So the lawsuit was not questioning the authority of the EPA to regulate under the Cross-State Air Pollution Rule; it was more that they were trying to assess damages against certain States that were in excess of their allocated share.

So each of those cases I would ask you to remember I am an advocate in behalf of the State of Oklahoma. There is a State's interest that Senator Rounds indicated that has to be in play. To say that any of those cases is about any one company is just simply not right. There is no parens patriae standing that I have as attorney general to bring a case on behalf of a private citizen or a company; there has to be a standing, an injury to the State's interest to bring those cases.

So I would ask you to consider that as we go through those cases you mentioned earlier.

Thank you, Senator Rounds.

Senator Rounds. Thank you.

And thank you, sir, for your response, your complete response. Also, as the chairman of the Subcommittee on Oversight of the Environmental Protection Agency, I have had the opportunity to look at their basis or the way that they make their decisions known, and the logic they use in getting to those decisions. We had a chance to talk about it in my office the other day, and one of the items that I brought up was the fact that we actually had received comments from

the Small Business Administration Office of Advocacy, a copy of which I got.

Mr. Chairman, I would like to have put into the record.

Senator Barrasso. Without objection.

Senator Rounds. Thank you.

[The referenced information follows:]

Senator Rounds. And with this, this was a letter that was sent to the EPA in October of 2014 requesting that the EPA withdraw the proposed Waters of the U.S. Rule, the WOTUS Rule, and reevaluate the impacts the rule would have on American small business. Now, this is a Federal agency requesting the EPA take a second look at a proposed rule.

The EPA refused this request and issued the final rule that we have today.

What are your thoughts on this? And would you, if you are approved and become the next Administrator of the EPA, would you take a second look at whether or not they had a valid reason for having the Waters of the U.S. Rule considered again?

Mr. Pruitt. I think, Senator, the response of the 6th Circuit and where we are presently with litigation, there is definitely a need to address that on a prospective basis. Historically, as you know, under the Clean Water Act, and even before the Clean Water was passed, waters of the United States equaled navigable waters, navigable in fact waters. We know from a couple of cases that led up to the most recent case, Rapanos, that the Clean Water Act is something more than navigable in fact. But what that more is has to be determined and assessed.

So, as I indicated earlier to another Senator's question, the most important thing is to provide certainty, to make sure that the Clean Water Act helps those at the State level know where the boundaries are, where they have jurisdiction and where they don't, so

that we can have regulations that are fair and equitable, and uncertainty is not created.

Senator Rounds. In the lawsuits that you brought against the Environmental Protection Agency on behalf of the State of Oklahoma, would it be fair to say that a number of those are based upon the Environmental Protection Agency failing to follow its own rules and the promulgation of those rules?

Mr. Pruitt. Yes, Senator. I think whether it is the MATS case or the Clean Power Plan case or the WOTUS case, or a multitude of cases, the courts have agreed that the EPA has exceeded its authority; that the EPA has not acted within the framework that Congress has established in performing the role that it is supposed to perform. That is the reason I mentioned in my opening statement that process matters; rule of law matters; federalism matters. Those issues matter because Congress has said so. It is Congress who gives authority to the EPA. The EPA is an administrative agency, it is not a legislative body. So it is important for that agency to act within the framework, within the substantive authority that Congress has provided it in doing its job.

In leading the EPA, if confirmed, I think if I do that effectively, it will provide confidence, certainty to those that are regulated to know what is expected to them, and improve our air and improve our water because of that.

Senator Rounds. Thank you, Mr. Chairman.

Senator Barrasso. Thank you, Senator Rounds.

Senator Markey.

Senator Markey. Thank you, Mr. Chairman.

This morning, NOAA, NASA has declared 2016 the hottest year in the 137-year-old record that has been kept. Donald Trump has called global warming a hoax caused by the Chinese. Do you agree that global warming is a hoax?

Mr. Pruitt. I do not, Senator.

Senator Markey. So Donald Trump is wrong?

Mr. Pruitt. I do not believe that climate change is a hoax.

Senator Markey. Okay. That is important for the president to hear.

Mr. Pruitt, you have made a career working on behalf of the fossil fuel industry to eviscerate regulations designed to protect public health and the environment. You have sued the EPA 19 times to stop clean air and water protections. Eight of those cases are still ongoing, including your litigation that challenges critical rules that reduce levels of hazardous smog, mercury, and carbon pollution.

As EPA Administrator, you would be in a position to serve as plaintiff, defendant, judge, and jury on these ongoing eight lawsuits, and that would be wrong. In your ethics agreement you have said that you would not participate in any matter that is ongoing litigation within one year. But, Mr. Pruitt, isn't it correct that these lawsuits may very well continue for much longer than one year?

Mr. Pruitt. Well, Senator, I have the letter from the ethics counsel at the EPA, and the one-year time period is intended to address covered entities, entities that I served in a chairmanship or an officer capacity. The Southern Theological Seminary, the Windows

Ministry, those entities are covered entities. So if there is a matter that arises before the EPA within a one-year period, a particular matter, a specific case that involves those entities, then the recusal would be in order. But that is really the focus of the one-year timeline.

Senator Markey. So will you agree to recuse yourself from those lawsuits which you brought as the attorney general of Oklahoma against the EPA, not just for one year, but for the entirety of the time that you are the Administrator of the EPA? Will you commit to doing that?

Mr. Pruitt. Senator, for clarity, I think that it is important to note that the one-year time period, again, is for those covered entities that were highlighted in the EPA letter.

With respect to pending litigation, the EPA ethics counsel has indicated, with respect to particular matters and specific parties, there will be an opportunity to get counsel from the EPA at that point to determine what steps could be taken to avoid appearances of impropriety.

Senator Markey. Are you saying that you will not recuse yourself from the actual matters which you are suing the EPA on right now as Attorney General of Oklahoma for the time that you are the head of the EPA?

Mr. Pruitt. I am not saying that at all, Senator.

Senator Markey. You are saying that. Will you recuse yourself?

Mr. Pruitt. I am saying that the EPA ethics counsel has indicated those cases will require a review by the EPA ethics counsel, and if it involves a particular matter with a specific party, then

recusal would potentially be in order and I would follow the guidance and counsel of EPA ethics.

Senator Markey. This is a clear line for the American public, given your record from Oklahoma in suing the EPA on all of these matters, that if you don't agree to recuse yourself, then, again, you become plaintiff, defendant, judge, and jury on the cases that you are bringing right now as Attorney General of Oklahoma against the EPA; and the EPA is for all of the people of the United States, not just the fossil fuel industry of Oklahoma. So you are not committing, and I think that is a big mistake, Mr. Pruitt, to recuse yourself from those cases. It is critical.

Moreover, you also are in a position to initiate regulations that could overturn smog protections, carbon pollution protections that are right now on the books that you are suing as Attorney General of Oklahoma to overturn. Would you commit to not regulating, promulgating new regulations in any of the areas where you right now are suing the EPA? Would you make a commitment that you would recuse yourself from doing that?

Mr. Pruitt. Let me be clear, Senator, because we talked about this in your office, and I very much enjoyed the conversation that we had there in this area that we talked about. I have every willingness and desire to recuse, as directed by EPA ethics counsel; and if directed to do so I will in fact do so, to recuse from those cases. There is a difference, as you know, between pending litigation in a particular matter with specific parties and prospective rulemaking. Rulemaking goes through a process.

Senator Markey. What the American people are expecting here is the EPA doesn't turn into every polluter's ally. The only way to ensure that is for you to recuse yourself from the cases that you have brought, because most of them are to overturn the clean air, clean water, smog regulations. So to create an appearance of independence, it is critical that you recuse yourself; otherwise --

Mr. Pruitt. And I will --

Senator Markey. -- otherwise, honestly, people are going to think that it is not just the fox guarding the hen house, it is the fox destroying the hen house, because you haven't distanced yourself from the actual litigation that you have initiated on most of the key issues that you are now going to have responsibility for protecting in terms of the public health of the entire Country.

Mr. Pruitt. And, Senator, I can say to you unequivocally I will recuse, as directed by EPA ethics counsel.

Senator Markey. And I am saying to you that you should just start out saying I am going to recuse myself from anything that relates to any litigation that I have initiated as the Attorney General of Oklahoma that questions the clean air, clean water, climate change, smog, or mercury protections which are right now on the books that the EPA is honored to protect. And if you don't do that, then we are going to have a fundamental conflict of interest that is presented by your presence as the Administrator of the EPA. It just gets down to being a matter as simple as that.

Senator Barrasso. The Senator's time has expired. Thank you, Senator Markey.

For clarification, will you fully follow the advice of the EPA ethics counsel?

Mr. Pruitt. Yes, Mr. Chairman.

Senator Barrasso. Thank you.

Just for additional clarification, regarding conflicts of interest, I note the letter to this Committee on January 4th that I am submitting to the record. "We," this is the Office of Government Ethics, "believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest."

And then there was a letter yesterday from Walter Shaub, Director, Office of Government Ethics, responding to a letter from Senator Carper and other EPW Democrats regarding Attorney General Pruitt and potential conflicts of interest, and they say, "If the Office of Government Ethics has transmitted a certified financial disclosure report and an ethics agreement to the Senate," which they have, "it means the Office of Government Ethics is satisfied that all financial conflicts of interest have been identified and resolved."

Senator Ernst.

Senator Ernst. Thank you, Mr. Chair.

Thank you, Attorney General Pruitt, for appearing in front of us today. I enjoyed our conversation, both one-on-one and then in a group setting as well, and I would like to go back and revisit our discussion on the RFS. As you know, Iowa is home to 43 ethanol refineries. We are the largest producer of ethanol west or east of the Missouri River.

President-elect Trump reiterated his support for biofuels while he was campaigning cross Iowa and all across the Midwest, and those areas of the Country overwhelmingly supported his candidacy and led to his victory. And thank you for stating once again that you would honor his commitment to biofuels by carrying out the RFS as intended by Congress.

Policy certainty is key for economic growth, and this is something that we discussed in my office. Unfortunately, as a result of uncertainty surrounding the EPA's renewable fuel volume targets in 2014, 2015, and 2016, second generation biofuel investment decreased and proposed projects moved overseas. Fortunately, the EPA has recently changed its course and released updated volume targets for the RFS that meet the levels prescribed by Congress.

If confirmed as Administrator, what will you do to continue to provide certainty so that investment can continue to happen right here at home in the United States?

Mr. Pruitt. You know, Senator, as you indicated in our meeting, the importance of the infrastructure, the investment that has occurred in reliance upon the law was passed in 2005 and updated in 2007, and as I indicated earlier to Senator Fischer's question, the latitude discretion that has been given to the EPA Administrator with respect to waiving those statutory targets should be judiciously used. It shouldn't be automatic; it should be something that the EPA Administrator seeks to comply with and adhere to because of the will of this body.

So I think those waivers obviously are in order, but with respect to market conditions, we have less consumption today, more fuel-efficient vehicles. Market conditions have changed since 2005, but, despite that, the EPA Administrator should not use that to undermine or to somehow put into question the commitments made by this body in the Renewable Fuel Standards statute.

Senator Ernst. Thank you for your commitment to the RFS and the intention of Congress.

I also want to touch on an issue you mentioned in your testimony, which is the level of fear and distrust many folks have of the EPA. When I am home in Iowa, I host town halls all across the State, and just want to hear what is going on in their communities, and what I hear, without fail, at these town halls is that folks are frustrated with the EPA and the gotcha mentality that has stemmed from the Agency. My constituents tell me the EPA is out to get them rather than work with them, and there is a huge lack of trust between many of my constituents and the EPA. And if we take a look specifically at the WOTUS rule, Iowans truly feel that the EPA ignored their comments and concerns, threw them under the rug and then just moved forward.

We know now that the EPA relied on gimmicky mass emails and social media events to prop up their message, and then they used those tactics to insinuate that anyone who had reasonable concerns about the WOTUS rule are somehow in favor of dirty water, which is absolutely ridiculous. And this type of culture that was created under the Obama Administration has no place, has no place here.

So, Mr. Pruitt, what do you plan to do in your first days as the Administrator to improve the relationships EPA has with the hardworking folks across the Country?

Mr. Pruitt. Well, Senator, as I indicated in my opening statement, this paradigm that we live within today, that if you are pro-energy, you are anti-environment, if you are pro-environment, you are anti-energy, is something that I think is just a false narrative. We can do better than that. In fact, this Country has shown for decades that we can grow our economy and be a good steward of our air, land, and water, and we need to get back to that.

Cooperative federalism is at the heart of many of the environmental statutes that have been passed by this body, and the reason for that is it is the States, many times, that have the resources, the expertise, and understanding what the unique challenges are for the environment and improving our water and our air. It is not that they don't care about it. Senator Whitehouse indicated a devolution of authority to the States would create a problem. That is not what I am advocating. And I think we hear in the marketplace we need a partnership, a true partnership between the EPA in performing its role along with the States in performing theirs. And if we had that partnership, as opposed to punishment, as opposed to uncertainty and duress that we currently see in the marketplace, I think we will have better air, better water quality as a result.

Senator Ernst. Thank you. I look forward to that partnership and transparency.

Thank you, Mr. Chair.

Senator Barrasso. Thank you, Senator.

Senator Duckworth.

Senator Duckworth. Thank you.

Mr. Pruitt, I want to clarify your response to Senator Ernst on this whole congressional intent when it comes to the RFS. What I want to know, and what the people of Illinois, we are also a great producer of ethanol, what we need to know is where exactly you stand on the RFS. Are you the attorney general who only three years ago sided with big oil to slam the RFS? You said that RFS was "unworkable" and also that it was a "flawed program."

So I am a little confused by what you are saying today. Are you that Mr. Pruitt, or are you the Scott Pruitt today who is saying all the right things in this confirmation hearing and in these meetings to try to reassure pro-RFS States by repeating nice sounding, but ultimately vague and hollow mantra that, if confirmed, you would enforce the RFS law as written by Congress?

As you and I are quite well aware of, such a statement essentially dodges the critical issue for biofuels producers and workers, because under the law the EPA has considerable discretion to adjust the renewable volume obligation in a manner that you would argue is contrary to congressional intent, yet may be compliant with the explicit letter of the statute. So, as EPA Administrator, you could still technically be in compliance with Congress, with the law, but actually be working against it; and your answers today have not clarified that.

So my question to you, Mr. Pruitt, is this: Which specific actions has EPA taken since 2007 while administering the RFS that you, in your view, are not consistent with congressional intent? Can you name any?

Mr. Pruitt. Thank you, Senator. The Administrator and the EPA routinely misses the statutory targets in publishing those each year, creating great uncertainty in the marketplace. In fact, in some years they have missed the timeline, as far as submitting those targets, by over a year; in some cases over two years.

Senator Duckworth. Okay, so let me ask you this, then. Yes or no, do you believe that Congress intended for the RFS to increase the amount of renewable fuel blended in our Nation's liquid transportation fuel supply, yes or no?

Mr. Pruitt. Without question.

Senator Duckworth. Without question.

Mr. Pruitt. Yes.

Senator Duckworth. All right. My second question, then, is, yes or no, do you believe Congress intended for the RFS to be a stable policy that drives private investment in the renewable energy industry?

Mr. Pruitt. Yes.

Senator Duckworth. And, finally, if confirmed, will you commit to opposing any and all proposals to move the point of obligation under the RFS program from refiners to blenders?

Mr. Pruitt. Senator, as you know, the EPA is actually involved in a comment period on that very issue, and to prejudge the outcome of

that I think would be -- I would not be able to do that. There are many aspects of the program, from the trading program, the monitoring of fraud in the system, that need to be better administrated by the EPA. These have been administration issues. The EPA has created uncertainty. We talked about, a minute ago, with the Senator, about the amount of investment that has gone into the infrastructure because of the 2005 law. Those individuals need to have certainty and confidence that the RFS is going to be enforced and administered pursuant to the desires of Congress.

Senator Duckworth. Right. But if you were to do that, then you would actually have to answer yes, because to move the RFS program from refiners to blenders is actually one of those ways that you can actually undermine the RFS standards as intended by Congress, which you yourself just now said was intended to increase the amount of biofuels blended into the fuel supply of the United States.

This is my problem. On the one hand, your entire track record shows you to be someone who opposes the RFS and yet here, in front of Congress and in meetings with Senators, you are giving these vague answers that sound right when it comes to the RFS, but really opens all sorts of back doors for you to oppose the Renewable Fuel Standard; and that is very troublesome because all across the Midwest -- you know, for those of us who have fought to strengthen national security by lessening our Country's dangerous dependence on foreign oil, I am really incredibly concerned about the future of the RFS on American-produced biofuels under a Scott Pruitt-led EPA. And I am also

incredibly concerned about what you are going to do in terms of protecting the environment.

In your answer to one of my colleagues about what the role of the EPA is, what is the job of the EPA, one of the first questions you got, you spent five minutes talking before you actually said protect the environment. You talked all about reducing EPA's influence over States for a good five minutes before you actually got to the environment. And then for my farmers, my corn and soybean producers for my biofuel industry, the RFS is critical in order to continue that. And I would rather burn American-made American-grown corn and soybean in my gas tank than I would oil from the Middle East. I have already been to a war fought over oil in the Middle East, and I don't intend to allow us to continue to do that; which is why the RFS is so critical not just for the jobs in Illinois, not just to support Illinois agriculture, but for our national security when it comes to where we are going to get our energy supply.

I am out of time. Thank you, Mr. Chairman.

Senator Barrasso. Thank you, Senator Duckworth.

Mr. Pruitt. If I may, Senator, let me say to you the role of the Administrator of the EPA is to enforce and administer the RFS program to carry out the objectives of that statute. Those targets that have been put in that statute by this body need to be respected. The discretion authority, the waiver authority of the Administrator needs to be judiciously used to address those concerns that we talked about.

So I don't want you to have any concern about the intent, objective, or will, if confirmed, of carrying out the RFS mandate or the statute in its whole.

Senator Duckworth. That very answer concerns me because you have not actually said that you are going to stick with it.

Senator Barrasso. I would like to submit for the record two. One, a letter from the American Farm Bureau Federation which strongly supports the nomination of Scott Pruitt as Administrator of the U.S. Environmental Protection Agency and urges a vote in favor of his confirmation. The second is a letter from the Democrat Attorney General of the State of Arkansas, former Democrat Attorney General, Dustin McDaniel, who has this to say about Attorney General Scott Pruitt's work on the stem phosphorous levels in the Illinois River watershed. He said, "Recent press accounts regarding these efforts unfairly mischaracterize the work that was done by General Pruitt and his team. He was a staunch defender of sound science and good policy as appropriate tools to protect the environment of his State. I saw firsthand how General Pruitt was able to bridge political divides and manage multiple agency agendas to reach an outcome that was heralded by most credible observers as both positive and historic."

[The referenced information follows:]

Senator Barrasso. Senator Boozman.

Senator Boozman. Thank you, Mr. Chairman.

And thank you, Attorney General Pruitt, for your willingness to serve, and your family. I think everybody at the dais here realizes these really are family affairs that truly affect everyone.

In recent years, EPA has made it increasingly difficult for Arkansas to manage its delegated national pollutant discharge elimination system. Too often, the permits, rulemakings, or other actions sent to EPA for review are returned with demands far more restrictive, additional expensive data collection is required, and other costly onerous requirements. New leadership at EPA has an opportunity to correct this coercive federalism and, instead, restore cooperative federalism as intended. The States have the expertise and local knowledge necessary to administer environmental programs.

Mr. Pruitt, EPA has the opportunity to play a significant role in supporting a move back to cooperative federalism. Can you please explain how you plan to change the EPA's State dynamic?

My experience with EPA, and being on transportation in the House, being ranking member on water there, ranking member of the Senate is the EPA, their attitude is we are with you unless you come out with a finding that is contrary, and then we are going to do it our way. So can you address that?

Mr. Pruitt. I think two things, Senator. One, as we indicated earlier, rule of law and making sure that the authority granted to the States under State implementation plans, delegation under certain clean water provisions, that that is respected. But also I think the

EPA needs to provide more assistance to the States and work in partnership and be proactive. Those regional administrators that we have across the Country need to be seen as partners, and not adversaries.

So I think restoring that confidence, restoring that relationship and seeking to do so is very, very important in carrying out this partnership that we know exists under the various environmental statutes.

Senator Boozman. Very good.

For the past eight years, EPA has acted as a political arm of the Obama Administration time and time again. We have seen rules developed not based on sound science, but on political ideology. When rules have been released, States and private sector, and even Congress, have had trouble getting EPA to show the science that helped develop these rules.

Under your leadership, can we expect EPA to be more transparent, in other words, how the rules are being developed, the science behind them? And you have continued to allude to this and I think it is so important, as Administrator of the EPA, can we count on you to base all of your decisions on the rule of law, not on the Administrator's or even your own political ideology?

Mr. Pruitt. Absolutely, Senator, in response to the latter point of your question. Public participation is important. There is a reason why, in rulemaking, that you take comment. There is a reason, as I indicated earlier to Senator Ernst, that you involve those that are impacted by rulemaking, because you want to understand the impact,

both economically and otherwise, in the benefit of the environment, as well as making sure that you craft rules and regulations that take all those things into consideration. So hearing the voices of all Americans in that rulemaking process, responding to those comments in the record before rules are finalized, transparency, objectivity, a commitment to process is very important, in my view, of restoring the confidence of the American people in the rulemaking processes that occur here in Washington, D.C.

Senator Boozman. So, again, releasing the scientific data behind that would be something that you would very much support?

Mr. Pruitt. Yes, Senator.

Senator Boozman. A problem with the EPA the EPW Committee has faced with the current Administration is a lack of communication. Time and time again EPA either did not respond to questions from Committee members or, at the very least, took months to respond. Under your leadership, can we expect EPA to get Committee members answers in a timely fashion?

Mr. Pruitt. Yes, Senator. As I indicated in my opening statement, listening is an important role of leadership, and listening to the voices of folks here in Congress. As I went through and met with many of you through this process, there were issues particular to your State that you made me aware of, and I, if confirmed as EPA Administrator, seek to be very active in listening to the needs with respect to your various States and respond to this body with respect to questions.

Senator Boozman. Let me just comment on the Arkansas-Oklahoma issue. I was the Congressman in that district, so I inherited that in 2001. I have been working on this for 15 years. And I appreciate you and Attorney General McDaniel doing a very good job of getting things done. On the other hand, the idea that somehow you were soft, in fact, I would argue that the agreement that was reached was way too restrictive and is probably one of the most restrictive watersheds as far as phosphorous requirements of anyplace in the United States.

Mr. Pruitt. Well, as you know, Senator, in that process we actually selected a biologist from Baylor University to engage in a scientific study on what the phosphorous levels should be, the numeric quality of the water, and it was determined at the end of that process that .037 was the right standard and is now enforceable on both sides of the border for the first time in history. So it is a very important outcome.

Senator Boozman. No, I understand, and I commend you on the process. You know, the implication here is somehow, you know, you came up with a deal that was too soft, and, if anything, I would argue that it was perhaps a little bit too harsh. But I do appreciate the process. I know that you and our former attorney general were able to do something that had been going on for decades.

Mr. Pruitt. Thank you, Senator.

Senator Barrasso. You have been at it now for about two hours. If you can stay with us 'til we finish the first round of questioning; we have about five or six additional questions coming.

Senator Harris is next and then we will break at about 12:30, if that is all right.

Senator Carper. Can I make a unanimous consent request, Mr. Chairman?

Senator Barrasso. Yes, sir.

Senator Carper. I would like to ask unanimous to submit for the record the legal brief against the Mercury and Air Toxics rule which Mr. Pruitt supported. Stated in that brief, I will just quote it, it says "Human exposure to methylmercury resulting from coal-fired electric-generating utilities is exceedingly small." That is the quote.

Also ask unanimous consent to submit for the record a recent article that quotes, I think from the New York Times, it quotes a 40-year career employee of the Oklahoma Department of Environmental Quality that has him saying these words: "Mr. Pruitt has advocated and stood up for the profits of businesses, be it poultry companies or the energy industry and other polluters, at the expense of people who have to drink the water or breathe the air."

Other statements have been introduced for the record saying quite a different thing about Mr. Pruitt. I think it is only fair to go to someone who has worked there for 40 years that has quite a different view than the one than the witness has expressed. Thank you.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Barrasso. Senator Harris.

Senator Harris. Thank you, Chairman.

Mr. Pruitt, as an attorney general, I know as former attorney general of California, that we, as attorneys general, have several duties, which include representing our clients, State agencies, and also the discretion and power to initiate lawsuits in our independent capacity as attorneys general. Would you agree with that?

Mr. Pruitt. Some States provide more latitude than others.

Senator Harris. Does your State?

Mr. Pruitt. Our State has not provided constitutionally as much authority as other States --

Senator Harris. Have you never exercised your independent capacity as attorney general to bring a legal action?

Mr. Pruitt. Senator, I would have to know more specifics about what you are referring to. But in response to your question, it does --

Senator Harris. Have you ever exercised your independent capacity as the attorney general of your State to initiate a legal action, yes or no?

Mr. Pruitt. The litigations that we have engaged in largely have been in consultation with agencies that --

Senator Harris. Largely. So you have also exercised your independent capacity as the attorney general of your State, is that correct or not?

Mr. Pruitt. I may have, Senator. I don't know.

Senator Harris. You don't know if you have or not? You have been attorney general for your State for almost seven years, is that correct?

Mr. Pruitt. Approaching that, yes. Six years, actually.

Senator Harris. And I have read that you have initiated, and it has been mentioned before, 14 lawsuits in your independent capacity as the attorney general of Oklahoma, and apparently seven of those cases have been resolved, six of which you have lost. My question is I hear that you are a lover of baseball. What would your batting average then be?

Mr. Pruitt. It was generally about 300, which is pretty good for a second baseman.

Senator Harris. My calculation is it is 142.

Moving on, would you agree that as attorneys who have the responsibility for doing the work of justice, and particularly as an attorney general, that we make decisions based on propriety and impropriety; we make decisions based on what is not only an actual conflict, but what is an appearance of conflict? Would you agree that is important?

Mr. Pruitt. I believe that is important, Senator.

Senator Harris. Okay. And so on this issue of whether or not you would be recused if you are nominated and actually voted in as the Administrator of the EPA, you have said that you will recuse yourself from the cases your office has been involved with if directed to do that. Do you agree that you also have the discretion to recuse yourself from those cases?

Mr. Pruitt. I believe, Senator, the rules of professional conduct, in addition to the review that OGE --

Senator Harris. Do you believe that you have the discretion to recuse yourself from the cases that you were involved with as attorney general?

Mr. Pruitt. I think it is actually stronger than that, Senator. I actually have an obligation in those instances, as directed by ethics counsel, and that is the reason I indicated earlier that I will recuse.

Senator Harris. Independent of any direction from ethics counsel, do you agree you have the discretion to recuse yourself from those cases?

Mr. Pruitt. I believe that it is important to maintain --

Senator Harris. I am asking about whether or not you actually have the discretion, the power, to recuse yourself. Do you disagree or agree with that?

Mr. Pruitt. Clearly, there is a discretion to recuse.

Senator Harris. Clearly.

You are familiar with the Clean Air Act, yes?

Mr. Pruitt. I am sorry, Senator?

Senator Harris. You are familiar with the Clean Air Act?

Mr. Pruitt. I am.

Senator Harris. And as you may know, Section 209, subdivision (b) of the Clean Air Act, recognizes California's authority to issue air pollution standards for new motor vehicles that go above and beyond Federal standards. The EPA has historically recognized

California's authority to issue new motor vehicle pollution standards that go above and beyond Federal standards.

In your opening statement you write, "It is not EPA's mission to be against sectors of industry in general or against particular States." Will you commit, then, to upholding that same standard and recognizing California's authority to issue its own new motor vehicle air pollution standards?

Mr. Pruitt. You know, Senator, as you indicated, California was actually regulating those standards before the EPA was actually created, which is why the California waiver exists under statute.

Senator Harris. Do you agree to uphold that same standard that has been held by your previous administrators?

Mr. Pruitt. I agree to review that as each administrator before me has. It has been granted at times and denied at times.

Senator Harris. Do you agree to uphold it? Reviewing and upholding are two different points.

Mr. Pruitt. Senator, as you know, administrators in the past have not granted the waiver and in fact have granted the waiver. That is a review process that will be conducted if confirmed.

Senator Harris. What is your intention, sir?

Mr. Pruitt. I don't know without going through the process to determine that, Senator, and one would not want to presume the outcome.

Senator Harris. In the 14 cases that have been previously mentioned, in each of those cases regulated companies were also a party to your suits, is that correct?

Mr. Pruitt. In some instances, yes.

Senator Harris. In most of them. Can you name a few instances in which you have filed a lawsuit in your independent capacity as attorney general against a corporate entity for violating State or Federal pollution laws?

Mr. Pruitt. Senator, I have a list here that has been provided.

Senator Harris. Can you name them, please?

Mr. Pruitt. Sure. There is a list that has been --

Senator Harris. Can you name one?

Mr. Pruitt. Yes. The first is the Mahard Egg Farm involving a CAFO situation and cleanup of a large hen operation that affected water quality. Coco Manufacturing --

Senator Harris. Did you file a lawsuit in that case, sir?

Mr. Pruitt. I did, Senator.

Senator Harris. Okay. And what was the outcome of that case?

Mr. Pruitt. We received a good outcome against them.

Senator Harris. And the name of that entity was what?

Mr. Pruitt. Mahard Egg Farm.

Senator Harris. And can you name any other cases where you have actually filed a lawsuit against a corporate entity for violating Federal pollution laws?

Mr. Pruitt. In fact, that case was brought in conjunction with the EPA. And I want to address something, Senator. Earlier, when you say independent capacity, those cases that you referred to, the list of cases, were as an extension of the DEQ in the State of Oklahoma, an

extension of agencies at the State level that had authority granted to them by this body that we were --

Senator Harris. And I understand that role, as a former attorney general, but that is you representing your client. I am asking about your independent capacity as the attorney general of your State.

Let's move on.

On the issue of mercury --

Senator Barrasso. I would suggest that the Senator's time has expired.

Senator Harris. Thank you.

Senator Barrasso. Thank you.

I would like to introduce for the record a letter by J.D. Strong, who is the Director of the Oklahoma Department of Wildlife Conservation, who, in reference to the submission recently by the Ranking Member, makes reference to that former employee who is retired from the State of Oklahoma and is currently serving as Vice Chairman of the Oklahoma chapter of the Sierra Club. So the references are from now someone who is no longer a State employee, but the Vice Chairman of the Oklahoma chapter of the Sierra Club.

But this letter from Mr. Strong goes to talk about the efforts by Attorney General Pruitt, who says, "For the past six years General Pruitt has been instrumental in many of our successes and has never asked me to compromise regulatory efforts to benefit industry." He says, "On the contrary. All of our projects and cases that involved his office were given staff support at the highest level and, more often than not, resulted in more stringent environmental protection.

He has been a strong ally in defending our ability to continue the great progress that we made in protecting Oklahoma's environment."

Senator Carper. Mr. Chairman, in response, let me just ask for unanimous consent to put in the record, and this is on behalf of Senator Whitehouse, rebuttal articles for Mr. Pruitt's claim on litigation against fossil companies. Some of the topline points from these articles are, one, that they are fraud cases first and foremost; second, some were brought by his predecessor, Drew Edmondson; third point, the case against BP was filed and left dormant at least for any publication; and also that Mr. Pruitt fought against the participation of State whistleblowers in the litigation, and that was a reference to qui tam action.

Thank you.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Barrasso. Senator Sullivan.

Senator Sullivan. Thank you, Mr. Chairman.

General Pruitt, it is good to see you again. Thank you for your willingness to serve. And to your family, as you know, it is a team effort, so I want to thank them as well.

I appreciated your opening statement, particularly your written statement, and I want to emphasize we all want clean air. We all want clean water. My State of Alaska has some of the cleanest air, cleanest water, pristine environment literally in the world. But your emphasis on the ability to do both, to grow an economy, to develop our resources responsibly, and protect the environment I think is very, very important, and I appreciate that focus.

I believe the EPA needs a serious course correction. As Senator Ernst talked about, there is a lot of anger, even fear of this Agency throughout many parts of the Country, and I believe you are the right person to provide that course correction and do something that is very important, which is regain the trust of the American people that I think has been lost in a lot of places in America because of the overreach, because of the lack of focusing on the law.

So there has been a lot of discussion this morning about cooperative federalism. Can you explain it in a little more detail? Is that your term or is that a term that -- did you come up with that or is that something that was actually directed by Congress?

Mr. Pruitt. Directed by Congress, Senator.

Senator Sullivan. And so in the Clean Air Act and the Clean Water Act who was given, what entity in our Republican form of

Government was given the primary responsibility over clean air and clean water in the United States?

Mr. Pruitt. Well, as you know, Senator, under the Clean Air Act there is something called State implementation plans that the EPA and the States review together, but the States have that responsibility of adopting the plan --

Senator Sullivan. So isn't it correct actually in the law it says --

Mr. Pruitt. It is.

Senator Sullivan. -- the primary responsibility under the Clean Air Act and Clean Water -- and who directed that?

Mr. Pruitt. Congress.

Senator Sullivan. Okay. So when you are talking about cooperative federalism, that is not some Scott Pruitt invented; you are focusing on the intent of the Congress.

Mr. Pruitt. Probably more so than any statutes that have been adopted by Congress historically, the environmental statutes that we know, from clean water to clean air to Safe Drinking Water Act, many pieces of legislation, Congress has been very explicit and very specific in saying that cooperative federalism, the role of the States is important, should be respected, and should be emphasized.

Senator Sullivan. So let me show you a chart here. This is the Waters of the U.S. in the States and entities that sued to stop that rule. Thirty-two. Democrats and Republicans and Independents. Do you think this is an example of cooperative federalism? And if not, if you are confirmed, what are you going to do to get back to what is

not a Scott Pruitt idea, it is the direct direction of the Congress of the United States?

Mr. Pruitt. Senator, when you think about the relationship between the EPA and the States, the States are not mere vessels of federal will; they don't exist simply to carry out federal dictates from Washington, D.C. There are substantive requirements, obligations, authority, jurisdiction granted to the States under our environmental statutes. That needs to be respected. When it is not respected, that is what spawned most of this litigation that has been referenced here today. And why does it spawn it? Because it matters. It matters that the States participate in the way that Congress has directed, and they have been unable to do so for a number of years.

Senator Sullivan. So, again, cooperative federalism, you are carrying out the will of Congress when you are focused on that issue.

Mr. Pruitt. That is exactly right. The expertise, the resources, the knowledge, the awareness of how to fix environmental issues at the local level is something that is important for the entire Country to know.

Senator Sullivan. So I am a former attorney general myself who has sued the EPA, and some of my colleagues on the other side of the aisle, Judge Booker's comments, I think he tried to equate a little bit suing the EPA, not caring for Oklahoma's children. Do you care about Oklahoma's children?

Mr. Pruitt. Without question. I have a couple sitting behind me.

Senator Sullivan. Fourteen lawsuits. And again, Senator Boozman mentioned this, what has been the primary focus of those lawsuits? It is not that you don't care about the environment, is it?

Mr. Pruitt. Absolutely not. I care very much about the environment. It is to restore the relationship and ensure the relationship that Congress has directed, the role of the States in improving our environment. There is an idea in Washington that the States, those in Oklahoma or in Alaska or other parts of the Country, don't care about the water we drink or the air we breathe. The farmers and ranchers, those in industry in the State of Oklahoma, most of them are very committed to that. When they have not been, we have taken enforcement action against them.

Senator Sullivan. And just one final question. A lot of my colleagues on the other side of the aisle spent a lot of time, and I think Senator Sanders is up next, vilifying the oil and gas industry, somehow bad actors, polluters. According to the American Petroleum Institute, 364,000 Oklahomans work in the oil and gas industry or related service sectors. Are these people bad actors? Are they polluters? Can you describe? You talk about the good people in your written statement. Who are these people, and are you representing them when you are bringing these kind of actions? Are they evil people?

Mr. Pruitt. No, Senator. They want to comply with the law. They want to know what is expected of them. They care about the air they breathe and the water they drink, and they want to make sure that

the EPA is partnering with State agencies and industry to ensure that that outcome occurs.

Senator Sullivan. And aren't these hundreds of thousands of people part of that industry?

Mr. Pruitt. Absolutely. In fact, 25 percent of our entire State budget in Oklahoma is from that industry. This is a State concern. And more than that, we have significant regulation over this industry. Our Corporation Commission has oversight over many of these issues. So we have regulatory bodies, from DEQ to the Corporation Commission to others, that are involved in making sure that the air we breathe and the water we drink is clear in the State of Oklahoma.

Senator Barrasso. Thank you.

Senator Sullivan. Thank you, Mr. Chairman.

Senator Barrasso. Senator Gillibrand.

Senator Gillibrand. Thank you, Mr. Chairman.

Thank you, Mr. Pruitt, for being willing to serve this Administration, for your interest in public service, and your past public service.

Mr. Pruitt. Thank you, Senator.

Senator Gillibrand. I want to talk to you about some of the constituents in my State and the challenges, the very real challenges we face. First, we had millions of people's lives upended with Superstorm Sandy. I mean, millions of people. We had parents who lost their children who drowned because of surges of water coming through their homes, through the streets. The devastation was literally unparalleled in my State; it was just something we had never

seen before. And we are going to be looking to you to protect these families and protect these communities, because we know, with global climate change, the incidents of super storms and violent weather impacts is changed, it is very, very different. And you have already told folks that you do believe that global climate change is real, it has been caused by human activity.

Do you believe also that sea levels are rising?

Mr. Pruitt. Senator, I believe that the EPA, addressing this issue because of the MATS v. EPA case and the endangerment finding has obligations to address the CO2 issue. In doing so, they need to follow the processes as set up by Congress. So I think it is very important to do both.

Senator Gillibrand. But you have studied this issue of sea levels. You do realize they are rising. And it is one of the reasons why these storm surges were so high and devastating communities all across New York City. So I need you to be vigilant because lives are at stake, and I think you have the purview to do that. Will you be vigilant?

Mr. Pruitt. Senator, we will obviously address those issues that we talked about in your office, and I appreciate your passion on this issue.

Senator Gillibrand. One of the other issues that we talked about that I think is equally as concerning is issues of mercury that have been raised, about asthma rates that have been raised, about groundwater polluted. I have looked at your record. Most of the lawsuits you filed as attorney general were related to businesses,

specifically what was important for your State in terms of employers and businesses. And the few lawsuits you did file about human safety were few and far between.

But this role as head of the EPA, you are going to have a much more important role to play, and I want to talk specifically about mercury. If you believe that mercury is a threat to public health, but oppose the remedy of reducing mercury air pollution from power plants because it is too costly, what, then, do you think you should do or what should be done to address the mercury pollution?

Mr. Pruitt. Let me say, Senator, mercury is something, it is a hazardous air pollutant under Section 112. It is something that the EPA has authority to regulate and should regulate. It should do so, though, within the framework established by this body, and the Supreme Court said that the EPA did not follow the cost-benefit obligations. It is not that the benefits outweigh the costs, it is just that they simply didn't engage in a proper record-based support for their rule. So that goes back to earlier questions with other Senators about the process mattering, being committed to the rule of law and the rulemaking authority that Congress has given the EPA in making sure that as rules are passed, that they can be upheld in court.

Senator Gillibrand. But I need you also to be worried about human health. I understand there is a cost, but when you are talking about lives, when you are talking about children who can't breathe, I have been to the emergency room at 2 in the morning with a child who can't breathe; it is a horrible thing. We have had children die in New York City because none of their teachers, no administrators in the

schools knew what to do when a child has an asthma attack. It is a huge problem. So I need you to care about human health and really believe that the cost, when human health is at risk, when people are dying, is far higher than it is the cost to that polluter to clean up the air and change their processes. I need you to feel it as if your children sitting behind you are the ones in the emergency room. I need you to know it.

Mr. Pruitt. And, Senator, I would say to you there are certain instances where costs can't even be considered, as you know. Those criteria pollutants under our NAAQS program, cost is not even a factor because human health is the focus.

Senator Gillibrand. So let's talk about that. So you and I previewed this in my office. We have a horrible problem in New York State with Superfund sites and with groundwater that is polluted. We have PFOA in our water. We have the largest PCB Superfund site in the United States in the Hudson River. When families who don't have money fish in the Hudson River, they eat those fish, they get ill. It is horrible. The contaminants are real, they are pervasive, and they are destroying lives. They are also destroying the economy, because when you have contaminants all over the place you can't sell your house, you can't put in industries that are relying on tourism. It is a huge problem.

So PFOA is an example of a chemical that needs to be tested. I need you to put it number one on your list, to test it, and if it is the carcinogen that many scientists have said it is, it needs to be banned.

Mr. Pruitt. The TSCA authority that has been granted by this body, you and I talked about that in your office, PFOA needs to be addressed quickly, even under the Safe Drinking Water Act as well.

Senator Gillibrand. Will you commit to doing that work?

Mr. Pruitt. Yes, Senator.

Senator Gillibrand. Thank you.

Thank you, Mr. Chairman.

Senator Barrasso. Thank you, Senator.

Senator Carper. Mr. Chairman, I have a unanimous consent request. I would like to submit for the record, and this is sort of in response to a question raised by Senator Harris. Mr. Pruitt, in his response to her question on whether he had ever filed a lawsuit against a corporate entity for violating State or Federal pollution, apparently was not correct. I want to just submit for the record a list of cases that have been active under Mr. Pruitt's leadership. It notes which ones were started by his predecessor and it shows that the case in which he mentioned in his exchange with Senator Harris I think it was the egg case. That case actually was initiated not by Mr. Pruitt, but by this predecessor.

Thank you.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Barrasso. And I would like to submit to the record, as well, having heard that some of my Democratic colleagues have expressed their concerns that Attorney General Pruitt is not open to the finding of science, especially as it relates to climate change, this is not so. I would like to call the Committee's attention to a letter by the Cornwall Alliance for the Stewardship of Creation. The letter is signed by 130 scientists, economists, legal scholars, policy experts, religious leaders, and over 230 other citizens urging Attorney General Pruitt's confirmation. The group includes David Legates, who is a Ph.D. in climatology, Professor of Climatology and Geography at the University of Delaware. The author praises Pruitt, stating, "Mr. Pruitt has also demonstrated understanding of and open-mindedness toward scientific insights crucial to the formulation and implementation of environmental regulation."

The organization's founder and national spokesman, Calvin Beisner, is quoted in the press release announcing the letter as saying the following, "Some environmental activists are determined to prevent Mr. Pruitt's confirmation, painting him as a science denier or a climate change denier." Mr. Beisner continues, "He is neither. He is a solid, common-sense attorney general who will bring much needed reform to the EPA."

Without objection, the letter will be submitted for the record.

[The referenced information follows:]

Senator Barrasso. Senator Wicker.

Senator Wicker. Thank you, Mr. Chairman and Mr. Ranking Member. I think it has been a good hearing so far. I think we have a lot of information that will be reassuring to the American people.

One thing I do object to, though, is something that has happened for years since I have been a member of this Committee, and that is somehow to list political contributions and suggest that somehow they make an individual suspect or not qualified. My dear friend from Rhode Island showed a poster and showed some contributions and suggested that based on those contributions from companies like Southern Company, for example, who has contributed to my campaign, that his appropriateness for the job should be challenged.

So I am glad that the Chairman had added to the record this article from September 6 from the Washington Street Journal, September 6 of last year, pointing out the Democratic presidential candidate, Hillary Clinton, raised significantly more money than Donald Trump from the oil and gas industry. Individuals who worked for oil and gas companies donated \$149,000 to Mr. Trump's GOP campaign as of the date of July 30, compared with \$525,000 to Mrs. Clinton.

Mr. Chairman, I am glad you put this in the record, and presumably, based on that argument, Hillary Clinton would be suspect, were she to have been nominated for the position of heading the EPA.

Now, Mr. Attorney General, let's talk about States as partners. And I enjoyed your exchange with Senator Cardin about the Chesapeake Bay program. As I understand, you actually applaud the Chesapeake Bay

program, and particularly the way the EPA worked with States as partners, is that correct? And could you enlarge on that?

Mr. Pruitt. Senator, I absolutely applaud the effort by the States to join together in a six-State coalition to address the quality of the Chesapeake Bay's water quality. That is what we did in Arkansas, Oklahoma and Arkansas did with the scenic Illinois River that has already been talked about with Senator Boozman and others. So I think the effort that they engaged in was something that other States ought to model, and the EPA came alongside and took that TMDL and is providing assistance to those six States with respect to that agreement.

Senator Wicker. Now, with regard to the Clean Power Plan and the Waters of the United States rules, where did those regulations go wrong in this respect?

Mr. Pruitt. Well, with respect to the Clean Power Plan, in the cases, the Supreme Court has actually said -- it was an unprecedented step that the Supreme Court took. Never in history had the Supreme Court issued a stay against a rule like the Clean Power Plan, and they did so because of the likelihood of success on the merits, in the sense that the Clean Power Plan did not reflect the authority of Congress given to the EPA to regulate CO<sub>2</sub>. As an example, with respect to power generation, there has to be a significant finding that poses risk to public health and welfare. They did not do that. They did not go through the proper processes of inside the fence and regulations of facilities, power generation facilities.

So those matters, Senator, are about rule of law. And the same is true with the Waters of the United States rule.

Senator Wicker. And I have not delved into this as an attorney, as you have, but I can tell you that the Department of Environmental Quality in my State told me very emphatically that the Clean Power Plan would put us out of business because we would not have had an alternative to the coal that we use. So I hope we can continue to make progress on this issue.

Let me ask you about wood products. The Federal Government buys a lot of lumber, uses a lot of wood in construction and procures a lot of wood. There are standards certifying that the forests are appropriate. One is the American Tree Farm System; another is the Sustainable Forestry Initiative.

EPA seems to like a certification program called the FSC, the Forest Stewardship Council. Problem is, with this certification program, it excludes 90 percent of the lumber grown in the United States of America.

We have had a lot of activity on both sides of the aisle in challenging this, and I object also to a so-called interim recommendation made by EPA in this regard. As far as I am concerned, it is discrimination against domestic wood, and now they have come back and told us that this interim recommendation is under review.

Could you comment about both of these, the idea of an interim recommendation being imposed on an entire industry and also give us any thoughts you have about using the Forest Stewardship Council

certification model as opposed to these other perfectly good Sustainable Forestry Initiative and American Tree Farm System?

Senator Barrasso. And if I could ask you to do it briefly, as the Senator's time has expired?

Mr. Pruitt. Senator, as you and I discussed in our meeting, I am very concerned about the latter issue, and making sure that all voices, all options are considered is something the EPA Administrator should do and I would seek to do, if confirmed.

With respect to the interim step, I think that there is a concern that many have offered throughout the last several years, that regulators in Washington, not just the EPA, are seeking to use guidance or other steps to avoid what would be called formal rulemaking; that Congress has obligated those agencies to reform to ensure exactly what you just described, that all voices are heard. And that is unfortunate when agencies do that, because that is an abuse of the process.

Senator Wicker. Thank you, sir.

Thank you, Mr. Chairman.

Senator Barrasso. Thank you, Senator Wicker.

Senator Sanders.

Senator Sanders. Thank you, Mr. Chairman. And I apologize for being late, but we were at a hearing with Congressman Price, who is the nominee for HHS. Perhaps not a great idea to have important nominating hearings at exactly the same time. So I apologize for not being here earlier.

My office has received a great deal of comments from people in the State of Vermont, which takes environmental protection very seriously, as well as from all over the Country, and the fear is that the nomination of Mr. Pruitt is a nomination designed to protect the fossil fuel industry, and not the environment.

I would like to ask Mr. Pruitt a question. As I understand it, earlier in this hearing you said that Mr. Trump was wrong in suggesting, in stating over and over again that climate change was a "hoax." Is that in fact the case?

Mr. Pruitt. That is correct, Senator.

Senator Sanders. Okay. Let me ask you this. As you may know, some 97 percent of scientists who have written articles for peer-reviewed journals have concluded that climate change is real, it is caused by human activity, and it is already causing devastating problems in our Country and around the world. Do you believe that climate change is caused by the emission, by carbon emissions by human activity?

Mr. Pruitt. Senator, as I indicated, you weren't here during my opening statement, but as I indicated in my opening statement, the climate is changing and human activity contributes to that in some manner.

Senator Sanders. In some manner.

Mr. Pruitt. Yes, sir.

Senator Sanders. Ninety-seven percent of the scientists who wrote articles in peer-reviewed journals believe that human activity

is the fundamental reason we are seeing climate change. You disagree with that?

Mr. Pruitt. I believe the ability to measure with precision the degree of human activity's impact on the climate is subject to more debate on whether the climate is changing or the human activity contributes to it.

Senator Sanders. While you are not certain, the vast majority of scientists are telling us that if we do not get our act together and transform our energy system away from fossil fuel, there is a real question as to the quality of the planet that we are going to be leaving our children and our grandchildren. So you are applying for a job as Administrator for the EPA to protect our environment. Overwhelming majority of scientists say we have got to act boldly, and you are telling me that there needs to be more debate on this issue and that we should not be acting boldly.

Mr. Pruitt. No, Senator. As I have indicated, the climate is changing and human activity impacts that.

Senator Sanders. But you haven't told me why you think the climate is changing.

Mr. Pruitt. Well, Senator, the job of the Administrator is to carry out the statutes as passed by this body and to --

Senator Sanders. Why is the climate changing?

Mr. Pruitt. Senator, in response to the CO2 issue, the EPA Administrator is constrained by statutes --

Senator Sanders. I am asking you a personal opinion.

Mr. Pruitt. My personal opinion is immaterial --

Senator Sanders. Really?

Mr. Pruitt. -- to the job of carrying out --

Senator Sanders. You are going to be the head of the agency to protect the environment, and your personal feelings about whether climate change is caused by human activity and carbon emissions is immaterial?

Mr. Pruitt. Senator, I have acknowledged to you that the human activity impacts the climate.

Senator Sanders. Impacts.

Mr. Pruitt. Yes.

Senator Sanders. Scientific community doesn't tell us it impacts; they say it is the cause of climate change and we have to transform our energy system. Do you believe we have to transform our energy system in order to protect the planet for future generations?

Mr. Pruitt. I believe the EPA has a very important role at regulating the emissions of CO2.

Senator Sanders. You didn't answer my question. Do you believe we have to transform our energy system away from fossil fuel, to do what the scientific community is telling us, in order to make sure that this planet is healthy for our children and grandchildren?

Mr. Pruitt. Senator, I believe that the Administrator has a very important role to perform in regulating CO2.

Senator Sanders. Can you tell me, as I think all of us know, Oklahoma has been subjected to a record-breaking number of earthquakes. Scientists say that Oklahoma is almost certain to have more earthquakes with heightened risk of a large quake probable to

endure for a decade and that the cause of this is fracking. Picking up on Senator Harris's discussion with you, can you point me to any opinion that you wrote, any enforcement actions you took against the companies that were injecting waste fracking water?

Mr. Pruitt. Senator, let me say I am very concerned about the connection between activity in Oklahoma and --

Senator Sanders. And, therefore, you must have taken action, I guess. Can you tell me who you fined for doing this, if you are very concerned?

Mr. Pruitt. The Corporation Commission in Oklahoma is vested with the jurisdiction and they have actually acted on that.

Senator Sanders. And you have made public statements expressing your deep concern about this.

Mr. Pruitt. We have worked with, through our --

Senator Sanders. You have made public statements. You are in a State which is seeing a record-breaking number of earthquakes. You are the attorney general. Obviously, you have stood up and said you will do everything you can to stop future earthquakes as a result of fracking.

Mr. Pruitt. Senator, I have acknowledged that I am concerned about --

Senator Sanders. Acknowledged that you are concerned. Your State is having a record number of -- well, if that is the kind of Administrator for the EPA, your State is having a record-breaking number of earthquakes, you acknowledge that you are concerned. If

that is the kind of EPA Administrator you will be, you are not going to get my vote.

Senator Barrasso. Senator Inhofe.

Senator Inhofe. Mr. Chairman, a UC request. I ask at this point in the record that we reprint the Wall Street Journal op-ed piece that was written by two outstanding scientists called "The Myth of the Climate Change Ninety-Seven Percent."

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Barrasso. I have a little bit of time left in my questioning from the first round. I just wanted to talk about some of the concerns I have with overregulation. Do you have the same concerns with the overregulation of U.S. manufacturing over the last eight years? I believe we have exported manufacturing jobs overseas, the jobs that go with them in terms of the manufacturing of those goods to places like China and India that are going to produce those products in a less environmentally friendly way. Do you agree with this notion that this approach harms not just the environment, but also our own U.S. economy?

Mr. Pruitt. I believe, Senator, that it puts us in an economic disadvantage when we don't hear all voices in the rulemaking process with respect to these issues, absolutely.

Senator Barrasso. I would also like to submit for the record an op-ed on CNN by Jeb Bush, saying, "Scott Pruitt is ready to turn around the EPA. I cannot think of a person more suited to lead the Environmental Protection Agency than Oklahoma Attorney General Scott Pruitt. He has acknowledged human impact on the climate and supports a robust discussion about its affects and what the Government should and shouldn't do to address it."

And then also submitting for the record a report that I did as ranking member of the Subcommittee on Clean Air and Nuclear Safety of this Committee, this was a couple of years ago, called "Red Tape Making Americans Sick." I put this together as a physician where we talk about unemployment, long-term unemployment increases the likelihood of hospital visits, illnesses, premature deaths in

communities due to joblessness; it hurts children's health, hurts family well-being, and quote scientists who point that the unemployment rate is well established as a risk factor for elevated illness and mortality rates in epidemiological studies performed since the 1980s. Additionally, there is influencing on mental disorders, on suicide, alcohol abuse, alcoholism. We also see it with spouse abuse, drug abuse.

So that the regulations that come out of the EPA that do cut into employment of hardworking Americans actually contributes to a deterioration of their health.

I don't know if you have any comments on that or what you may have seen in Oklahoma at times of unemployment.

Mr. Pruitt. Senator, we have seen similar issues in Oklahoma. We have prescription drug abuse that occurs at rates that are unprecedented, as other parts of the Country, so there is a similar concern that we have in Oklahoma.

Senator Barrasso. I appreciate your patience, your honesty, your forthright presentation this morning. We are going to go to a second round. I now have about 12:45. If it is all right with you, Ranking Member Carper, we will come back in an hour. We will take an hour break and come back and resume with a second round of questioning at 1:45.

The Committee is in recess.

Mr. Pruitt. Thank you, Senator.

[Recess.]

Senator Barrasso. Let us resume the confirmation hearing for Scott Pruitt to be EPA Administrator.

Attorney General Pruitt, let me start by saying sometimes you get a chance to sit down over lunch and you say, I have been answering questions for over two-and-a-half hours. I wish I had said something differently about something or other. Is there anything you would like to clarify?

Mr. Pruitt. I have just one point of clarification in response to Senator Whitehouse's questions this morning about different environmental enforcement steps we have taken with respect to the leaky underground storage and double dipping in our State. I have officially initiated three cases there with respect to Valero, BP and Conoco. Exxon and a number of other cases are still in settlement discussions. Those cases have not materialized in actual litigation just yet.

Senator Barrasso. Thank you for that clarification.

I have a couple quick questions. In the City of Cheyenne, Wyoming, it was discovered that trichloroethylene, a chemical that has been used by the military to degrease the engines of rocket motors, was seeping into the city's drinking water supply. The Army Corps of Engineers, which was in charge of a nearby former Atlas nuclear missile site, refused to even admit that the site was the cause of the pollution. I fought the Corps on this to do testing needing to prove what was obvious to everyone who looked at it. The test results showed a large plume coming from the Atlas site directly into the city's wells. The Corps is now addressing the pollution of the city's

water supply. It is now protected through a state-of-the-art water treatment facility that was installed by the Corps.

Can you perhaps give me an example from when you served as Oklahoma's State Attorney General where you went after polluters and held them accountable in that same way?

Mr. Pruitt. Yes, Senator. As I indicated earlier, I think this was indicated earlier in this morning's testimony, I mentioned the case with the hen producing, the CAFO. That was something we actually initiated. I know there was some question that Senator Carper raised in that regard. That was both with respect to Federal and State violations. We actually joined the State of Texas and the EPA in that enforcement action.

I have submitted for the record, as you know, a list of cases where we have worked with the Wildlife Commission in Oklahoma, the DEQ around CERCLA matters and enforcement of our State laws.

Senator Barrasso. What was troubling to many of us in the previous Administration was when officials within the Obama Administration went to extraordinary lengths to avoid disclosing their official written communications under the Freedom of Information Act. This is the law that allows public access to government records. For example, EPA Administrator Lisa Jackson, at the time, used an EPA email account under the name of Richard Windsor, Richard Windsor, as opposed to her own email account.

If confirmed, will you refrain from taking any such action that makes it difficult or impossible for the public to access your official written communications under the Freedom of Information Act?

Mr. Pruitt. Yes, Mr. Chairman. As I indicated in my opening statement, I really believe that public participation and transparency in rulemaking is very important. I think that extends to this matter as well.

Senator Barrasso. Thank you. I will reserve the remainder of my time.

Senator Carper?

Senator Carper. Thanks, Mr. Chairman.

As we discussed before, you are a part, I think, of at least three lawsuits, Mr. Pruitt, I think one is pending on the EPA's efforts to reduce mercury emissions from power plants. We know that 50 percent of our Nation's mercury emissions come from power plants, not nuclear plants, but generally fossil fuel plants, largely coal-fired plants. We know there are more fish consumption advisories in the U.S. for mercury than I think all other contaminants combined, including in your own State of Oklahoma.

If you believe that the EPA should not move forward on the Mercury and Air Toxics rule, how do States clean up mercury? What do you think are the health impacts of mercury emissions?

Mr. Pruitt. Senator, I actually have not stated that I believe the EPA should not move forward on regulating mercury or adopting rulemaking in that regard. Our challenge was with regard to the process that was used in that case and how it was not complicit with the statutes as defined by Congress.

There is not a statement, nor a belief that I have, that mercury is something that should not be regulated under Section 112 as a

hazardous air pollutant, a HAP. As you know, that section directly deals with health concerns of our citizens. That is the reason why there is control technology that is very heightened in that statute, maximum achievable control technology that is required. So I believe that mercury should be dealt with and dealt with in a meaningful way by the EPA but subject to the processes this body has outlined.

Senator Carper. Senators Lamar Alexander and I worked together for a number of years on clear skies legislation. The George Bush Administration had proposed Clear Skies dealing with sulfur dioxide, nitrogen oxide and mercury. Several colleagues of my own, including Senator Alexander, worked on legislation similar. One of the differences between what we proposed and the Bush Administration's proposal was with respect to reducing the emissions of mercury. I do not recall exactly what the Bush proposal called for in terms of emissions reductions from power plants and others from mercury but it was not very aggressive.

I proposed a reduction of 80 percent over a certain number of years. Senator Alexander said he thought folks could do better than 80 percent and he proposed a 90 percent reduction schedule.

We literally had here at this table witnesses from utilities and one witness from a trade association representing technology companies that focused on reducing emissions of harmful substances into our air and into our water. Every utility representative said, we cannot meet an 80 percent reduction in mercury. The witness from the trade association representing the industry which was in business just to try to reduce emissions like mercury said, not only can the industry

meet those reductions over the stipulated period of time, they could exceed them.

As it turns out, they exceeded them. They actually did better than 80 percent, actually did better than 90 percent and did it more quickly than I think was anticipated.

Is that instructive to you in any way on this question? Is there any lesson there for you or for us from that experience?

Mr. Pruitt. As I have indicated, Senator, I really believe that it is important and it is a partnership between the EPA and the States. I made reference to the phrase earlier of national standards and neighborhood solutions. I think that shows the EPA can be involved and should be involved in setting standards and setting objective, science-based standards to improve air quality and protecting the health of our citizens but also to be a meaningful partner with the States in implementing those laws.

Senator Carper. Let me just stop you there, please. I like to say that in adversity lies opportunity. That is not me. That is Albert Einstein. There is economic advantage to be gained from cleaning up pollution. We have seen there are companies that worked on mercury emissions. They make money doing that and starting that technology around the world. Similarly, there has been money made from the Diesel Emission Reduction Act, the American technology reducing emissions from old diesel engines.

Do you ever give any thought to the economic gain, the economic advantage that can flow from developing that technology to reduce

emissions? I actually think sometimes of setting regulations, clear regulations.

I will never forget a conversation I had when we were working on our Clear Skies legislation addressing four pollutants, meeting with a bunch of utility CEOs, and talking about how to go forward on that issue. At the end of the conversation, one of the utility CEOs, I think a curmudgeon-like older fellow. I do not remember where he was from. He said at the end of the day, here is what you need to do, Congress and the EPA. You need to tell us what the rules are going to be; you need to give us some time and flexibility; and you need to get out of the way. That was what he said. Tell us what the rules are going to be; give us some flexibility; and get out of the way.

Do you believe that actually setting standards, whether it happens to be mercury reductions, CAFE standards, fuel efficiency requirements, that we are actually setting those standards, making it clear that we actually provide certainty and actually open a door for economic production?

Mr. Pruitt. I do, Senator, actually.

Senator Carper. Can you give us an example where you actually saw that happen, were helpful in making that happen?

Mr. Pruitt. In Oklahoma, this is not widely known because we are known as an oil and gas State, but in the generation of electricity in our State, 17 percent of our electricity is generated through wind. We have had a heavy emphasis on renewables. That puts us in the top three in the Country.

Our Corporation Commission, I actually have obligations to appear before the Corporation Commission in the setting of rates. As utility companies are looking at modifying their facilities to comply with environmental statutes, there is great discussion about how to do that more economically and to achieve the air quality objectives we have under EPA and State mandates. I have been very involved in that process through that part of my office.

Senator Carper. Thanks, Mr. Chairman.

Senator Barrasso. Thank you, Senator Carper.

Senator Capito.

Senator Capito. Thank you, Mr. Chairman.

Thank you again for being before us. Congratulations on your nomination.

Mr. Pruitt. Thank you, Senator.

Senator Capito. I think, as you can tell from this committee and the Country is divided on a lot of the issues in and around involving what you are endeavoring to headline here at the EPA. I think understanding one another is extremely important. No matter how many times I might say the same thing and somebody else on the other side might say the same thing, it gives me a greater understanding of where they live and how they think best way to pursue environmental issues are.

In the crowd that just joined us here after lunch are several coal miners who traveled all morning, have been waiting in the hall and made some new friends in the audience. I want to thank them for coming because those are the faces of the issues that I try to address

when we are talking about the different facets of the regulatory environment that we see that has been put forth over the last several years. This question is for you all.

In my very first hearing as a United States Senator on this committee, we had the Assistant Administrator, Janet McCabe. She came to testify about the EPA CO2 rules. When I pressed her about why in the public meetings on the existing plant rules, EPA had not bothered to come to West Virginia or, for that matter, any of the other States that most heavily rely on coal for electricity generation, this is what she said: "We tried to. When we were scheduling national level meetings, we wanted to have those in locations where people were comfortable coming."

Mr. Attorney General, I want you to be comfortable coming anywhere in this Country to talk about whether it is Rhode Island, West Virginia, or Alaska. People need to know you are listening, that you care and that you are understanding the ramifications for the decisions that you make.

So this did not sit very well for me. We had a meeting after that in Beckley, West Virginia, which is the birthplace of the Ranking Member. We had Bo Copley there, who was a laid-off coalminer. He talked about all the hardships of his friends and neighbors. We had the county commissioner who talked about the loss of revenue to the county and how it was impacting the school systems, the real estate values and the bankruptcies of all the different coal companies and people who had been out of work.

I would implore you to commit today to visit West Virginia, both sides of West Virginia, and talk to our coal miners and their families to talk about the job and economic impacts and how we can work together with both sides to try to get to the intended goal of cleaner air and cleaner water.

Mr. Pruitt. Senator, I really appreciate you sharing that. That is the reason I mentioned in my opening statement the importance of listening and leading. This process I have been a part of obviously is very new, but I spent time with each of you, many of you, in individual meetings. Senator Gillibrand talked about issues important to her around CERCLA. You cited concerns and issues that are important to you in West Virginia. I think it is very important, if confirmed as Administrator, that I spend time responding, learning and listening to you and your respective States and trying to be helpful with regard to the environmental issues you face.

Senator Capito. Thank you. That means a lot.

I would like to get some clarification on a topic has been coming up about how many times you, as Attorney General, sued the EPA. You began your statement by saying the rule of law is very important to you. Then you talked about several of the cases and probably most of the cases you brought forward as not challenging the regulations so much as the process or whether the rule of law has been overstepped and the boundaries of the EPA has been the intent of Congress by legislating to the EPA, has been overstepped. The courts have agreed, in some cases, that this is the case.

Could you kind of restate that position on the different actions?

Mr. Pruitt. Senator, as I indicated I think in response to Senator Sullivan, probably more so than most statutes that are passed by Congress, this body has recognized the very important and vibrant role the States play in partnership with the EPA in implementing and enforcing our environmental statutes. Many of you talked about that in your offices and how your DEQ works with the Regional Administrator.

So when we talk about rule of law, as you deal with mercury, as you deal with CO2, as you deal with water issues around WOTUS and the definition in those cases, it is important that you do so consistent with the framework that has been established by this body and that it is respected. That gives confidence to the people that are regulating it.

When you have an administrative agency of any type that acts inconsistent or tries to enlarge its authority, it does not inspire confidence in those that are regulated. You are seeing a matter of picking winners and losers and being against certain things as opposed to protecting people. That rule of law is not something that is academic in my view. It is not something that is just legal; I think it is important to ensuring good outcomes as far as improving our air and protecting our waters.

Senator Capito. Thank you.

Senator Barrasso. Senator Whitehouse.

Senator Whitehouse. Thank you, Mr. Chairman.

Mr. Pruitt, when we left off, we were talking about things that, to quote the Chairman, "might place you in a conflict of interest but

have not been disclosed." We were talking about the dark money operation that supports the Republican Attorney Generals Association.

Before we get back into that, let me ask you this as a hypothetical. If you had raised significant amounts of money for the rule of law defense fund from corporations who will be subject to EPA's regulation, before EPA, with matters before EPA, might that place you in a conflict of interest?

Mr. Pruitt. The EPA Ethics Counsel has said, by the way these are career individuals as you know, Senator. Justina Fugh is a career person at EPA Ethics. So as they have reviewed these potential conflicts, I have disclosed all entities I have been affiliated with.

Senator Whitehouse. I understand that but I am asking you if you think it might place you in a conflict of interest because we both understand that the ethics rules that the EPA is enforcing predate Citizens United, predate dark money. They have said in the letter that they are not even looking at that because they do not have the authority to. That does not mean it is not a conflict of interest. It means that the regulatory authority on government ethics has not caught up with this post-Citizens United, dark money world.

My question is, you are a lawyer, you know conflicts of interest. You have been an attorney general. Might it be a conflict of interest within your definition of the term if you had raised significant amounts of money for this Rule of Law Defense Fund and they will have business before EPA with you? Is that a potential conflict of interest?

Mr. Pruitt. I think if you actually did address those entities to the degree that I was never an officer of the super PAC you are referred to earlier, the Liberty 2.0.

Senator Whitehouse. The question was fund raising. That is the question we do not have any answers on, is what you raised.

Mr. Pruitt. They looked at those entities to determine the nature of my relationship and indicated those would have to be evaluated in the future as certain cases arose.

Senator Whitehouse. Right now, the Chairman asked you a question which is, are there matters that might place you in a conflict of interest that you have not disclosed. You answered no.

Might not having raised significant money, let's say \$1 million. Let's say you made a call to Devon Energy and said, I did your letter for you. RAGA needs a lot of money. We have this dark money thing where we can launder your identity clean off it and the money will go into RAGA. I need \$1 million out of you. Might that not create a conflict of interest for you if that were the facts?

Mr. Pruitt. Ms. Fugh has indicated in her letter to me, again, these are career individuals at EPA Ethics, that if particular matters involving specific parties arise in the future, it will be evaluated at that point.

Senator Whitehouse. How will they know if you are not willing to disclose that you raised a hypothetical \$1 million from Devon Energy?

Mr. Pruitt. Those aren't even covered entities under her letter at this point.

Senator Whitehouse. That is my point. That may very well create a conflict of interest, mightn't it?

Mr. Pruitt. Senator, I did not serve in an office or capacity at that entity in any way.

Senator Whitehouse. That also is not the question. The question is a very simple one. Did you raise money for the Rule of Law Defense Fund, front entities that will appear before EPA as potential defendants in subjects of regulation? If so, how much and what did you tell them and what did you ask? It seems to me that is not an unusual or --

Mr. Pruitt. The Rule of Law Defense Fund, according to Ms. Fugh, would need to be a party in the future for that to be an issue. That is what she has indicated in her letter to me. At the time, if it should arise in the future, I will seek the counsel of EPA Ethics and follow the advice of those career folks to make a decision and recuse if necessary. That is something I commit to doing.

Senator Whitehouse. At this point, what I deduce from your statement is that if that set of hypothetical facts were true, if you had raised \$1 million from a big energy corporation to go through the Rule of Law Defense Fund to support your efforts at RAGA, that is not something anybody should care about, even if that corporation is before you at EPA and subject to your regulation?

Mr. Pruitt. I think it is something that if presented in the future, Justina Fugh, myself and EPA Ethics would evaluate that and I would take the appropriate steps to recuse if they told me to do so.

Senator Whitehouse. But how would it be presented in the future if you are not willing to present it now? Why does it matter in the future and not now?

Mr. Pruitt. If there is a matter or case that comes before the EPA's authority, that would be something. There is ongoing, as you know, Senator, Ms. Fugh indicated this in her letter, there is ongoing obligations that I will have, if confirmed as Administrator, to bring those kinds of matters to the attention of EPA Ethics.

Senator Whitehouse. For what it is worth, I think the Senate has a role in policing this as well, that the whole purpose of advice and consent and the reason there are these government ethics filings is so we can look at this exact question. The fact they haven't been updated to take into account dark money and all these big political organizations that have been created with dark money doesn't take away our Senate obligation to find out what conflicts of interest you will bring to the position of Administrator. It gives me very little comfort that you are not willing to answer those questions here.

My time has expired. I will continue in another round.

Senator Barrasso. Thank you very much, Senator Whitehouse.

I would like to introduce for the record an article in the Associated Press in the Seattle Times headlined, "Ethics Officials Clear Trump EPA Nominee." It says, "The Office of Government Ethics on Monday released the personal financial disclosure report for Scott Pruitt, currently Oklahoma's Attorney General. The Ethics Office affirmed that Pruitt's disclosures comply with applicable federal laws

and rules. "His finances," it says, "are among the least complicated of Trump's Cabinet nominees."

[The referenced information follows:]

Senator Barrasso. Senator Boozman.

Senator Boozman. Thank you, Mr. Chairman.

I really do find it ironic and hypocritical that we are in a situation that my friends on the other side of the aisle in this committee, using their definition of dark money as elected official, have literally raised millions of dollars of so-called dark money.

I'd like to talk a little bit about some of the over-regulatory burden that the States are facing. Air quality in Arkansas is among some of the cleanest in the Nation. Despite the progress that the State has made in looking forward, trying to do the right thing, the Regional Haze Federal Plan is going to produce a tremendous economic burden on them.

I think it is a prime example of the haphazard regulatory atmosphere that we have had in the past with little input from the States and stakeholders. For years, the regulatory certainty has prevented businesses from hiring new employees and stunting economic growth. In fact, the National Small Business Association that was just released found that more than half of small businesses have held off on hiring because they don't know what the rules are going to be.

You have mentioned it several times. Can you talk a little bit more about the impact that you have seen in regard to regulatory uncertainty in the State of Oklahoma and the experiences you have had?

Mr. Pruitt. Senator, the Visibility Program, we have had similar challenges in Oklahoma. The Regional Haze Program under the Clean Air Act, that section of the Clean Air Act is really quite a bit different

than other provisions of the Clean Air Act. It gives primacy to the States in adopting plans to increase or improve visibility.

That particular section of the law says by the year 2064, we should have natural visibility in some key areas across the Country. Oklahoma several years ago, actually in 2010 under a different Administration, both Governor and Attorney General submitted a State implementation plan that beat that deadline by decades. Despite that, the EPA came in and rejected that State implementation plan and forced a federal implementation plan on the State, costing the consumers quite a bit of money.

One thing I would add that I didn't talk about earlier is we talked about cooperative federalism and the importance of partnership. I have talked about that; you've talked about that. Under this past Administration, the use of federal implementation plans, if you combine President Bush, President Clinton and President George W. Bush, those three Administrations combined issued five federal implementation plans under the Clean Air Act in three Administrations. This Administration has issued 56. So it shows an attitude of indifference, an attitude of trying to be dictatorial in some respects toward the State's role or manipulative of the State's role in a way that is, I think, counterproductive for air quality.

Senator Boozman. When you and fellow Attorney Generals and other stakeholders sue the Federal Government, whether it is regional haze or waters of the U.S. or whatever, your goal is not to do away with the regulation, your goal is to make it such that the EPA follows their regulatory authority, is that correct?

Mr. Pruitt. Yes, Senator. In that example I provided to you where the State implementation plan of Oklahoma that was rejected, we actually satisfied the statutory mandate that was under the regionalized program. We reached natural visibility a couple of decades ahead of schedule. The methodology that was used, the EPA simply disagreed with it. So they used their authority to displace the State plan costing consumers in the State hundreds of millions of dollars in increased utility costs.

Senator Boozman. One of the things I think we have also seen in the last eight years is tremendous mission creep on the part of the EPA where they have gotten into areas where they don't have the expertise. I think expertise would be the best word in regard to coming out with some of the things they have done where they lack jurisdiction and haven't really been in the past.

Can we count on you to work with the other agencies and take their expertise into careful consideration as we come out with the rules and regulations?

Mr. Pruitt. I think interagency cooperation is very, very important. Obviously with rulemaking, that is something that occurs and should occur, I think, in a very collaborative way. So yes, Senator, I believe it is very important as the EPA conducts its business that it works with the Corps and works with other agencies at the federal level to ensure that it is doing all it can to advance and protect water quality and air quality and do so within the framework established by Congress.

Senator Boozman. Does it feel like it is the ultimate decider again when they sometimes do not have the expertise of the other agency?

Mr. Pruitt. Yes, Senator. I agree.

Senator Boozman. Thank you.

Mr. Pruitt. Thank you.

Senator Boozman. Thank you, Mr. Chairman.

Senator Barrasso. Thank you, Senator Boozman.

Senator Merkley.

Senator Merkley. Thank you, Mr. Chairman.

Mr. Pruitt, are you familiar with this piece of medical equipment?

Mr. Pruitt. Yes, an inhaler, it looks like.

Senator Merkley. Yes, an asthma inhaler. Are you familiar with how many Americans have asthma?

Mr. Pruitt. No, Senator, I am not.

Senator Merkley. It's about 1 out of 10 Americans, including over 7 million children. It is a pretty significant health problem across the Country. I know I have been fortunate not to have asthma but some folks I know who have it and have asthma attacks feel like they are suffocating. Sometimes they go into crisis. People go into crisis with asthma. Sometimes they die from it. It is a terrifying condition.

The EPA, in October 2015, strengthened the National Ambient Air Quality Standards for ground level ozone. They strengthened it to 70 ppb, adjusting it from 75 ppb, because they argued that it was an

attainable standard that would save \$3 billion to \$6 billion and in addition, of course, greatly improve the quality of life by diminishing the amount of asthma attacks and deaths.

You challenged this. You launched a lawsuit against this standard. Was the basis of your lawsuit cost benefit analysis, that they didn't follow their process?

Mr. Pruitt. It was not, Senator. As you know, under the NAAQS Program, the Whitman decision, cause cannot be considered in a criteria pollutant.

Senator Merkley. What was the standard you were challenging?

Mr. Pruitt. It was a records-based challenge that the need to ratchet down from 75 parts per billion to 70 parts per billion. As you know, the 75 parts per billion had only been in operation for two years. I think, Senator, it is important from a priority perspective or the resource perspective of the EPA when 40 percent of the Country is in nonattainment for one of those criteria pollutants, perhaps there should be focus on how to meet the level already in statute or already in rule.

Senator Merkley. So you challenged this based on the attainability standard? I already know that --

Mr. Pruitt. The records-based challenge, yes.

Senator Merkley. Yes, the attainability standard. There were numerous groups that weighed in and said no, this is totally attainable. I will submit a list for the record of that, Mr. Chairman.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Merkley. The key to this is that by implementing that, by the time it is implemented, it would save annually 230,000, an estimate of course, asthma attacks among children, 160,000 missed school days, a tremendous number of missed work days, 630 emergency room visits and 340 cases of acute bronchitis. But it also would save, best estimate, 320 to 660 premature deaths.

Here is something that profoundly affects the health of folks in Oklahoma, folks across the Country, folks in my home State of Oregon, something that expert after expert said is fully attainable, and you challenged it not on a process issue, that is not on whether or not there was a cost benefit analysis because as you rightly pointed out, cost is not allowed to be a factor, but whether it was attainable. Why fight so hard on the side of the oil industry rather than fighting on the side of the health of the people of Oklahoma?

Mr. Pruitt. Senator, let me say to you with respect to the NAAQS Program, when you look at the nonattainment we have in this Country, it is presently around 40 percent, I think increasing the nonattainment percentage as opposed to focusing resources to get nonattainment into attainment is a very important role of the EPA. We should be taking those marginal and moderate areas on our map that are in nonattainment and work with local officials, those counties, through monitoring and assistance to help move from nonattainment to attainment. That is a very important goal of the EPA in each of these criteria.

Senator Merkley. Thank you. You have made your point clear. I just simply disagree with you. None of these standards, when they are

set, are attained. That is the point. It is an objective to be worked at over time. There was a strategy that this might take until 2025 to be fully implemented.

But in the course of laying out that vision and having folks across the Country work towards that vision, you end up saving a tremendous amount of money and a tremendous amount of lives. I, as a Senator from Oregon, fighting for the quality of life of Oregonians, deeply resent folks fighting for oil industry that are trying to damage the health of my constituents and Americans across this Country. It is a question of values and valuing profits of companies over the health of our citizens, it is a character issue and that is what these hearings are all about. We are charged with Hamilton to determine whether or not an individual is of fit character. To me this is a character issue, valuing profits over people's health.

Thank you, Mr. Chair.

Senator Barrasso. Thank you, Senator Merkley.

I am submitting for the record a report by the National Black Chamber of Commerce entitled, Potential Impact of Proposed EPA Regulations on Low Income Groups and Minorities. The report goes from 2015 and goes on to say that EPA regulations, including its regulation on carbon dioxide emissions, would result in the year 2020 in nearly 200,000 black jobs would be lost and more than 300,000 Hispanic jobs would be lost. Additionally, commensurate with this, there would be median household income significant decreases throughout the communities listed in the report.

[The referenced information follows:]

Senator Barrasso. Senator Fischer.

Senator Fischer. Thank you, Mr. Chairman. Here we go again on round two. I am happy that we have an opportunity to continue questioning with you, General Pruitt.

Nebraska, much like Oklahoma, is a rural State. In many cases, the closest town or the neighbor can be located miles and sometimes hours away. In Nebraska one in four jobs is directly tied to production agriculture. Under this Administration, farmers and ranchers felt especially targeted by the EPA. For example, in 2011 and 2012, EPA Region 7 conducted aerial surveillance or flyovers of feed yards in my State. While flying over my State, EPA documented these facilities with photographs.

This was very disconcerting to me given that many livestock producers in Nebraska also live and raise their families on these properties. Not only were these producers not informed beforehand but the EPA has already delegated the authority to carry out the Clean Water Act in Nebraska to the State Department of Environmental Quality.

What will you do to ensure that the EPA sticks to its core mission? Furthermore, how will you work with the regulated community, including agriculture, to build trust among constituencies that have been, I would say, the subject of bullying tactics by this EPA that we have now?

Mr. Pruitt. Senator, I indicated in my opening statement some core themes, if confirmed as Administrator, that I would seek to comply with. One is public participation, full participation to

ensure that all voices are heard as the EPA conducts its activities with respect to rulemaking particularly. I think perhaps what you are referring to is the lack of that voice or opportunity in the last several years. So I would work to build a collaborative relationship with those States. As I have indicated, I think the Departments of Environmental Quality at the State level are valuable partners, that we need to restore their confidence in the partnership with the EPA and then seek to listen to the community concerns in addressing and responding to environmental issues.

Senator Fischer. Thank you.

In one of her exit interviews, EPA Administrator Gina McCarthy has admitted that she has had a bad relationship with agriculture and with the agriculture community. She listed it as one of her regrets. I think a bad relationship is an understatement in this case.

This Administration's EPA philosophy is diametrically opposed to the idea that farmers can be good stewards of our land, our water, our environment. Instead, it seemed that this Administration's EPA wanted to regulate. In some cases, it looked like they wanted to prevent farming. The agriculture community is looking forward to a new leadership at the EPA and working with you.

Mr. Chairman, I have here some statements from agriculture officials and groups I would like inserted into the record.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Fischer. If I may, I would close by quoting a few of those. Jim Reese, the Oklahoma Secretary of Agriculture, says that "Scott Pruitt will continue EPA's efforts to protect our environment but with respect towards landowners, taxpayers, municipalities, businesses and Congress." That is nice to hear, sir.

Troy Stowater, Nebraska Cattlemen president, stated "Simply put, Mr. Pruitt sees clearly that agriculture and environment are not opposing terms but rather, they are complementary. He will work to cultivate the relationships which will lead to the United States leading in food and fiber production while improving the environment in which it is accomplished." Again, I am happy to look forward to that relationship being established again so that all parts of our society here in this Country can participate and receive the recognition that we are good stewards of the land.

If confirmed, what will be your relationship with the agriculture community? Are you going to enforce current laws and will you also respect the limits that we have on those laws?

Mr. Pruitt. Yes, on both counts, Senator, and also the theme I mentioned in my opening statement that I would highlight again, is that we need to reject this paradigm that if you are pro-energy, you are anti-environment or if you are pro-environment; you are anti-energy. I believe that we, as a Country, have demonstrated that and we have made great progress since the 1970s in improving our air quality and protecting our waters. We can grow an economy and also protect and be a good steward of our environment. We need to restore that proper balance and commitment to both as we seek to do our job.

Senator Fischer. Thank you. As I said earlier, every member of this committee believes in clean air and clean water. We want an environment that is respected where we can manage our natural resources in a responsible manner. Thank you, sir.

Senator Barrasso. Thank you, Senator Fischer.

Senator Cardin.

Senator Cardin. Thank you, Mr. Chairman.

Mr. Pruitt, I want to try to get your understanding. I heard you say that you wanted to see the regulations and the laws predictable so that stakeholders know exactly what is required so there is no confusion.

I want to concentrate on the waters of the U.S. because, ever since the Supreme Court decisions, there has been an uncertainty as to what waters are, in fact, subject to regulation by the Federal Government and what waters are not. Do you believe that priority should be set by statute or should it be set by regulations from the EPA?

Mr. Pruitt. Senator, I think that is a great question. If you look at the series of cases going back to Bayview all the way to Rapanos, I think you are exactly right. The definition in the Clean Water Act says that navigable waters are waters of the United States. That doesn't provide a great deal of clarity to those that administer the law. I think the EPA taking steps to provide clarity is important absent Congress responding. I think that perhaps there is a time and place for Article 1 response, congressional response, to what this

body means when it says navigable waters are waters of the United States.

Senator Cardin. Of course, the Congress, for whatever reasons, for a long period of time, has not been able to respond as to what we think the definition of the waters of the U.S. should be. The Administration did come forward with proposed regulations which were resisted by many of the stakeholders that you are aware of.

How would you define the waters of the U.S.? What was wrong in the regulation? I don't want to go through all the details. Tell me, where do you think we should regulate? You already said more than just navigable. How do we define it? How do you do it? What did the Administration do wrong?

Mr. Pruitt. The challenge up until now with respect to the current rule, this involves actually an air case, the UARG case, where Justice Scalia talked about the counterbalance to *Massachusetts v. EPA* where the steps taken by the EPA to take the endangerment finding in 2009 that dealt with Title II mobile sources and then link that over the PSD Program was something Justice Scalia said transformed the statute and was not lawful or constitutional.

I think the same thing perhaps is going on with the current rule. When you are classifying dry creek beds in southeast Oklahoma that are dry 90 percent of the year as a water of the United States, that clearly is something that is --

Senator Cardin. The Administration, in its regulation, had certain exceptions that tried to deal with that. You obviously didn't think those exceptions were clear enough.

Mr. Pruitt. Actually, the Sixth Circuit said that those clarifications were not sufficient. I would agree with you, Senator Cardin, that I believe the clarity around this definition, the jurisdiction of the EPA, is essential to get right and to address. As I indicated earlier to some questions, the Supreme Court has actually taken up a matter from last Friday, it is more jurisdictional and not merit-based. But the response by Congress, the response to provide clarity, perhaps is a very important step to take.

Senator Cardin. I want to pursue this. I think we have asked questions for the record as to specific provisions you believe should be in that rule that would be different than the proposed rule. I would appreciate a response to that so we can try to see where we are heading in your thought process as to how you define the regulated waters of the U.S. That would be helpful to us.

Mr. Pruitt. I think, Senator, the reason that is difficult, as you know, is because in that process, whatever process that would take place, that would be rulemaking which means there would be comment.

Senator Cardin. I understand that. I am not trying to get every I dotted and every T. I just want to get your philosophy as to where the waters of the U.S. lines would be drawn and where you took exception to the regulatory efforts of the Obama Administration.

Let me get to the second point, if I might, on fracking. Fracking is an interesting area because it is State-regulated principally. There are very few federal regulations. My State has gas deposits that could be subject to fracking. Pennsylvania, our neighboring State, has done that. There have been some problems with

pollution of water. We know about the gas releases that have already been talked about. There is some concern particularly with deep well drilling that when you inject the fluids back into the cavities, that it may cause instability. In your State, I know there were a lot of earthquakes and there has been talk about whether these earthquakes were motivated by the fracking activities or not.

How well have the States regulated fracking? Where do you see the federal role should be in protecting our environment from fracking?

Mr. Pruitt. I am glad you mentioned the State role because we actually have been regulating hydraulic fracturing in Oklahoma since the late 1940s, early 1950s. It is not a new process. Horizontal drilling is, but the hydraulic fracturing process is not. Many States have been very aggressive in regulating it for a number of decades.

With response to the seismicity issue you are talking about, the earthquakes in Oklahoma, the Corporation Commission has actually declared off limits certain drilling activity in hot spots already. They have taken a very aggressive approach. I too share their concern. I have been in conversation with the commissioners at the Corporation Commission, that is who has jurisdiction in this matter. They have taken very meaningful steps to declare off limits certain drilling activity to try to see if it will help reduce the number of earthquakes happening in Oklahoma. It has helped.

Senator Cardin. Thank you. Thank you, Mr. Chairman.

Senator Barrasso. Thank you, Senator Cardin.

Senator Inhofe.

Senator Inhofe. Thank you, Mr. Chairman.

I have two unanimous consent requests, so don't start my clock yet.

One is I really believe, and perhaps am overly sensitive to this, that Mr. Pruitt's integrity has been put into question with the accusations of contributions to his campaign. I would like to keep in mind that the oil industry is a huge industry in my State of Oklahoma. They have things called PACs where the middle income people will say yes, they support me also.

I think we need to have in the record that there are some things that are going on that should not be going on. This affects the Democrats and not the Republicans. There is a guy named Tom Steyer, I want to put this in the record, who actually said he was going to put \$100 million into campaigns of individuals talking about global warming and what he expected. In 2014, he didn't do that. He only put in \$75 million of his own money. In 2016, he was the largest contributor putting in \$86 million of his own money. I am not going to read this because it does reflect the names of people who are at this dais.

I ask unanimous consent that this be entered into the record.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Inhofe. The other thing --

Senator Carper. I'd like to object. I'd like to ask for clarification from my friend from Oklahoma. The monies that you are referring to, were those donations that were disclosed, fully disclosed?

Senator Inhofe. Oh, yes, I believe they were.

Senator Carper. Then that does not sound like dark money to me.

Senator Inhofe. All right.

On the last question that Mr. Pruitt concerning the earthquakes, I'd like to make this a part of the record because it will surprise you guys that the Oklahoma Corporation Commission has really focused in on this thing and talked about it. This is wastewater in disposal wells that we are concerned with. They clamped down on it and you are exactly right in your response to the question except you didn't go far enough. In 2016, they actually reduced the earthquakes by 31 percent.

So we are doing, in the State of Oklahoma, something that we have been complimented about, the fact we are taking these actions. I'd like to make this a part of the record.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Inhofe. The other thing I want to bring out, and I have done this before but I wasn't going to do it until people kept talking about the science is settled, the science is settled, the science is settled. I know people want to believe that.

I remember so well, every year the UN has a big party and they invite everyone to come in. I was going to go to Copenhagen to be the one-man truth squad which I did and went over there. But during that time, right before I left, I asked the Administrator of the EPA, the job I believe you are going to have, Lisa Jackson, I said I have a feeling once I leave town you are going to come up with an endangerment finding and you are going to give your justification for getting involved in this issue. She smiled so I could tell it was true. I said, when you do this, it has to be based on science. Tell me the science that you are going to use for this. She said, well, the IPCC, the Intergovernmental Panel on Climate Change.

Now, as luck would have it, my luck and not theirs, right after that is when ClimateGate came. That's when it was disclosed that the individuals, the scientists in IPCC rigged the numbers and came up with such an outrageous lie in terms of what causes global warming, all of that. I will just read a couple of them. One of the physicists in the IPCC said "ClimateGate was a fraud on a scale I have never seen before." Clive Cooke with the Financial Times said "The closed-mindedness of these supposed men of science is surprising even to me. The stink of intellectual corruption is overpowering." The UK Telegraph, that is one of the largest publications in the UK, said "It's the worse scientific scandal of our generation." Nobody talks

about that but that is the science they are talking about. I really believe it is necessary to have that as a part of this record of this meeting.

General Pruitt, in 2012, the EPA and the National Highway Traffic Safety Administration issued updated fuel economy standards that were result of a compromise. That compromise was between the Obama Administration, the automakers and the State of California. Part of this deal required a review of these regulations in 2018 before -- these are their words and not mine -- any new standards were put in place. After losing the election, however, the Obama Administration broke the deal by prematurely issuing new regulations. This decision was made unexpectedly and well over a year before the EPA said they would make the determination. This shortened the timeframe and process, and this is concerning.

Mr. Chairman, I do ask unanimous consent that the previous EPA timeline for the expected action on the midterm review be included in the record.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Inhofe. Attorney General Pruitt, as Administrator, will you look into this matter to see whether this extreme action was appropriate or a hasty political decision?

Mr. Pruitt. Senator, as you indicated, the obligation was to meet the November 2018 midterm review. I think the study that was completed was finished December 30 and they issued their findings within 14 days. That time period is something I am not sure normally happens as far as the time, the velocity of 14 days, but it merits review. I would review that, yes.

Senator Inhofe. The follow-up question would be, would you commit to sitting down with the Transportation Secretary, Elaine Chao? I have already talked to her about this, incidentally. Both will be confirmed, I am convinced, and you are working to address the impacts of the EPA's decision on automobile manufacturers and consumers. Will you work with her on that issue?

Mr. Pruitt. Absolutely.

Senator Inhofe. Very good. Thank you, Mr. Chairman.

Senator Barrasso. Thank you, Senator Inhofe.

Senator Booker.

Senator Booker. Thank you very much.

Thank you, Mr. Pruitt. I want to jump into one of the areas that you said is a principal part of one of your achievements. In your opening statement, you said that as Attorney General you were confronted with an important water quality issue on the scenic Illinois River, the high phosphorous levels that were causing a range of problems that come from the manure principally from farm animals.

You go on to state that this was a historic agreement to clean up the river. It was in your opening statement and a number of the other documents that you provided.

You also described the agreement with Arkansas as an important agreement to reduce the pollution again that was the result from poultry growers, that was "occurring as a result of pollution from poultry growers." Are you familiar with this?

Mr. Pruitt. Yes, also discharge from municipalities in northwest Arkansas as well.

Senator Booker. I think that is an important point, yes. I would like to ask you some questions about this but I think it is important. I really dug into this and did some research. I want to go through with my colleagues what the fact pattern is that led to this moment where you intervened.

It really starts with a Supreme Court decision way back in 1992, Arkansas v. Oklahoma. I imagine you are familiar with this Supreme Court decision that resolved the lawsuit between these two States that held that basically upriver States, such as Arkansas, must comply with water quality standards adopted by downriver States and then approved by the EPA. You are familiar with that?

Mr. Pruitt. I am familiar with the litigation, yes.

Senator Booker. After that Supreme Court decision effective July 1, 2002, Oklahoma actually did adopt a .037 water quality standard for phosphorous. Importantly, they gave a decade, ten-year phase-in period before full compliance was required. Then in 2003, your predecessor, Drew Edmondson, negotiated an agreement with Arkansas,

which I have read, called the Statement of Joint Principles and Actions. Mr. Chairman, I'd like to enter that into the record.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Booker. In 2003, to give more teeth to this, this goes to what you were saying about municipalities, it created phosphorous limits for municipal discharges. That 2003 agreement that I have also read through also states that Oklahoma will reevaluate the .037 criteria for total phosphorus in Oklahoma's rivers by 2012.

Then, this is the big part, in accordance with the instructions, the mandates of the Supreme Court, the EPA gave its approval to Oklahoma's .037 phosphorous standard. This was critical because under the Supreme Court decision, now Oklahoma had a water quality standard approved by the EPA that was now enforceable against up-States like Arkansas.

Let's fast forward to April 2012. Oklahoma's Water Resources Board reviewed the best scientific information available in 2012. It reevaluated and reaffirmed the .037 phosphorous standard.

Mr. Chairman, I want to put in an executive summary of that review.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Booker. Then on June 30th, 2012, the ten-year phase-in going back to the Supreme Court decision, the actions by Oklahoma, the ten-year phase-in period was completed in full compliance and the .037 became required. It became now what was required by the States.

Just to recap all of this, because it is a lot, 20 years, Oklahoma's EPA approved a .037 phosphorous standard more than two decades in the making. It had just been reaffirmed by the Oklahoma Water Resources Board and then the ten-year compliance period phase-in had expired.

So when you said that you had entered into a second agreement with Arkansas that, in your words was a historic agreement to clean up the river, that would reduce pollution from poultry growers, this is the question that I have, sincerely, I pulled that 2013 agreement and read it and it was stunning to see that it actually didn't take any steps to reduce pollution but actually only proposes another unnecessary study and attempts to suspend compliance that was two decades in the making with the .037 standard. It suspended compliance for yet another three years of pollution.

Isn't it true that is what the agreement did?

Mr. Pruitt. It isn't, Senator. There was actually no enforcement of the .037 standard taking place on Arkansas' side of the border. You referred to the Memorandum of Understanding, and I actually have the second Statement of Principles here before me as well, that expired in the 2012-2013 timeframe. That is what presented my office with the opportunity to go to Arkansas to ensure that the

.037 standard would actually be enforced from a State law perspective on that side of the border. That had never taken place in history.

You mentioned the EPA. There was no enforcement authority that had taken place on that phosphorous level by the EPA. Oklahoma had it, as you have indicated, as a standard but it was not being enforced upstream in Arkansas. That is what the agreement addresses.

Senator Booker. Mr. Pruitt, I don't have the seniority or the stature or the grandchildren of Senator Inhofe so I can't go over my time but I will say this. In my next round, I will go back into this, because the documents don't seem consistent at all with what you are saying. In my next round of questioning, I'd like to go a little bit deeper into this historic settlement.

Thank you, Mr. Chairman.

Senator Barrasso. Thank you, Senator Booker.

I would introduce for the record an article that appeared in the Tulsa World this past January 12th, 2017 going way beyond the 20 years of that panel, but 33 years. It is by Ed Fite who served as the agency Administrator of the Oklahoma Scenic Rivers Commission from September of 1983 until June of 2016, 33 years. His statement in this op ed that he wrote is "I have found that Pruitt has always done right by our scenic rivers. For the first time ever, he has gotten the State of Arkansas, which happens to have parts of the streams we have designated as scenic rivers originating in and flowing through their State, to agree to Oklahoma's scenic rivers phosphorous standard, an incredible environmental accomplishment, the effect of which cannot be understated."

[The referenced information follows:]

Senator Barrasso. Senator Rounds.

Senator Rounds. Thank you, Mr. Chairman.

Attorney General Pruitt, in August 2016, the EPA Inspector General found the EPA had failed to follow through with its commitment to update its 2010 life cycle analysis for corn ethanol and has also failed to perform its legally required comprehensive study on the environmental effects of the RFS, the Renewable Fuel Standard. EPA's information on ethanol's life cycle emissions is inaccurate and it is outdated. Today's best available science shows that blending ethanol into gasoline can significantly reduce greenhouse gases. However, the EPA has failed to update its own science with most recent, best science that is available and continues to rely on outdated, inaccurate science when setting national policy, regulatory biofuels policy.

What are your thoughts on the EPA relying on outdated, inaccurate science to set federal regulatory policy?

Mr. Pruitt. Senator, I think it is the obligation of the EPA in taking steps, rulemaking and otherwise, to ensure that it has the most up to date, objective scientific data possible.

Senator Rounds. Let me follow up a little bit. The current EPA process for considering the scientific information underpinning major regulations, I believe, is flawed and it is unbalanced. For example, the Scientific Advisory Board, or the SAB, is to provide scientific advice to the EPA Administrator and Congress. But there is a significant lack of geographic diversity in State, local and tribal representation on the SAB.

Can you explain to us what your views are on the agency science and what you envision as the role of agency science at the EPA?

Mr. Pruitt. Senator, as you and I talked about in our meeting, I think it is important to have that geographical representation better represented and there are some conflicts of interest application with the Science Advisory Board that need to be addressed as well, and also with the Clean Air Science Advisory Committee, which is a standing committee of the Science Advisory Board.

Senator Rounds. I have got a chart that shows the geographic makeup of the 2015 chartered SAB. Of the 54 members, the majority of them come from East or West Coast States. I also have a chart that shows the number of States that have government representatives on the SAB.

How would you broaden the geographic scope of SAB members to make certain that States and various governmental entities are represented? The one on the left shows the lack of diversity with regard to the actual members on the board. The one on the right actually shows that we have a grand total of two States with representation for State and local units of government on those boards.

Mr. Pruitt. Senator, if confirmed, it is an issue as I have indicated and we talked about in your office, that is important to address to ensure there is confidence that science is driving rulemaking that it is objective and tethered to the rules adopted by the EPA. So this is a very important issue that needs to be evaluated and discussed to ensure the efficacy of the science that occurs at the EPA.

Senator Rounds. Would you commit to us that you would make an effort to see that the Science Advisory Board actually reflects some fairness with regard to geographic diversity as well as recognizing the important role that local and regional governments and State and local governments have in determining or at least participating in these boards and commissions?

Mr. Pruitt. If confirmed, I look forward to working with you on that issue.

Senator Rounds. Thank you.

Let me finish quickly with just one other item. We have listened a lot to whether you are working on behalf of industries, whether you are working on behalf of the folks from Oklahoma, and your role as an administrator with regard to clean air, water and so forth. As the Attorney General, you have represented the interests of your State and both your State's economy and your State's environment. Just because you are pro-economic development and pro-economic development growth does not mean that you have to be anti-environment. Preserving the environment and preserving the economy I don't believe are mutually exclusive. I don't think you have to choose between the two.

How would you balance economic growth with making certain that we have clean air and clean water?

Mr. Pruitt. I think part of it is inherent in the statutes and the process that the EPA is supposed to conduct. I know sometimes rulemaking is seen as something that is not terribly important or something laborious, but the reason rulemaking, the reason Congress has said you offer notice on a proposed rule and you take comment is

it is needed to make sure all voices are heard and that there is an informed decision that regulators are making before they finalize rules, because of the impact it has on the economy and on the environment in this instance.

Rulemaking is something we should take seriously and that we should do so consistent with the framework outlined by Congress so that all those voices are heard that you are referring to, Senator, in the rulemaking process.

Senator Rounds. Thank you.

Thank you, Mr. Chairman.

Senator Barrasso. Thank you very much, Senator Rounds. Senator Markey?

Senator Markey. Thank you, Mr. Chairman.

Mr. Pruitt, earlier today you said the EPA has an important role in regulating carbon dioxide because of the 2007 landmark Supreme Court ruling in Massachusetts v. EPA. The EPA Administrators for both President Bush and President Obama made a decision that carbon pollution poses a danger to America, otherwise known as the Endangerment Finding.

Will you promise to keep on the books the scientific finding that carbon pollution poses a danger to the American public health and welfare?

Mr. Pruitt. Two things, Senator. First, with respect to Massachusetts v. EPA, the Supreme Court said to the EPA that they had to make a decision.

Senator Markey. That's right.

Mr. Pruitt. To determine whether CO2 posed a risk and, as you indicated, in 2009 they did so. That is the law of the land, those two cases. There is an obligation of the EPA Administrator to do his or her job in fulfilling Massachusetts v. EPA and that endangerment finding from 2009.

Senator Markey. So you will keep that scientific finding on the books?

Mr. Pruitt. That the endangerment finding is there and needs to be enforced and respected.

Senator Markey. You will not review that scientific finding?

Mr. Pruitt. There is nothing that I know that would cause a review at this point.

Senator Markey. That's very good.

Massachusetts v. EPA made it possible for States like California and Massachusetts to set higher standards for the fuel economy of vehicles using their authority under the Clean Air Act. This is a powerful tool for States to reduce emissions and address global warming.

As a direct result of the Clean Air Act authority combined with my 2007 fuel economy law, the Obama Administration reached a historic agreement, with the auto industry's support, to increase fuel economy standards to 54.5 miles per gallon by 2025. Those standards are projected to reduce our dependence on foreign oil by more than 2 million barrels a day, prevent 6 billion tons of carbon pollution and save consumers more than \$1.7 trillion at the gas pump because their cars will be so much more efficient.

Those standards are also unleashing a TESLA revolution, clean energy vehicles all across the Country. Ten thousand people are going to be employed, for example, in Nevada in this technology area.

You have said you want States to play a larger role in environmental regulation. In your 2015 testimony before the House Science Committee you wrote, "The EPA was never intended to be our Nation's front line environmental regulator. The States were to have regulatory primacy." But earlier today, you wouldn't commit to maintaining California, Massachusetts and other States' ability to have regulatory primacy as the leaders of the effort to protect their own States to do what is best for global warming in their own States.

So I am going to ask you again, will you support the statutory right of States to do more to reduce dependence on foreign oil, reduce global warming, pollution, save money at the gas pumps and create tens of thousands, hundreds of thousands of jobs in the clean car job business?

Mr. Pruitt. I think, Senator, generally, the answer to that would be yes. But in application with the California waiver that was discussed earlier, that is an adjudicatory process that I can't prejudge what would occur there. As you know, previous Administrators have either granted or denied that based upon a record that was made. I do respect and do believe that States have a very important role. We've acknowledged that or I have acknowledged that today with respect to the Chesapeake Bay situation, as an example.

I will look at that issue, like others, to make sure that it is respected but also is consistent with the statutory framework that you have outlined.

Senator Markey. Do you support the law that says California has a right to ask for a waiver?

Mr. Pruitt. It is statutory and it is something the Administrator has an obligation to do. So yes, I do respect it.

Senator Markey. Do you support the current California waiver for greenhouse gas standards?

Mr. Pruitt. Senator, that is what would be evaluated. I think it is very difficult and we shouldn't prejudge the outcome in that regard if confirmed as Administrator.

Senator Markey. So you are questioning the current waiver? You don't think they're entitled to the current waiver?

Mr. Pruitt. The waiver is something that is granted on an annual basis. The Administrator would be responsible for making that decision.

Senator Markey. You say you are going to review it?

Mr. Pruitt. Yes, Senator.

Senator Markey. When you say review, I hear undo the rights of the States. I think to a certain extent that is troublesome. Because obviously, what we have heard all day is how much you support States' rights when it comes to these issues, but now when it comes to the right of California, Massachusetts and other States to be able to reduce carbon pollution, you are saying you are going to review that.

My problem really goes to this double standard that is created that when you sue, from the Oklahoma perspective, from the oil and gas industry perspective and you represent Oklahoma, you say they have a right to do what they want to do in the State of Oklahoma. When it comes to Massachusetts or California, and it comes to the question of those States wanting to increase their protection of the environment, protect their victimization from carbon pollution, you say there you are going to review.

I think the history of the agency in granting reviews that have been necessary for Massachusetts, for California and other States to improve the environment are still valid. The science hasn't changed, the new clean energy technologies have not changed, the danger to the public from environmental exposure to carbon pollution has not changed. So from our perspective, we are fearful of what a review would actually result in. From my perspective, I think it is going to lead to you undoing that right of the States to be able to provide that protection.

Senator Barrasso. The Senator's time has expired. Thank you, Senator Markey.

I am going to introduce for the record a report from the National Energy Assistance Directors Association. These are the State officials who oversee the financial assistance programs for people to heat their homes.

The report says that when energy prices go up, higher energy prices result in 24 percent of the recipients who go without food for at least a day, 37 percent go without medical or dental care, 34

percent didn't fill a prescription and 19 percent had someone in their home become sick because the house was cold due to increased energy costs.

[The referenced information follows:]

Senator Ernst?

Senator Ernst. Thank you, Mr. Chairman.

Again, Attorney General Pruitt, thank you for being here today.

I would like to go back to something a colleague, Senator Duckworth, mentioned earlier today, and that is the point of obligation. The proposal to change the point of obligation under the RFS is an example of regulatory change that would destabilize the policy environment if adopted. What is interesting with the point of obligation, we have two sides that normally oppose each other that have actually come together. Both biofuel producers and the American Petroleum Institute oppose this change, both groups.

I would like to submit a letter for the record showing the united opposition to moving the point of obligation. Mr. Chair, if we could have that entered into the record?

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Ernst. I'd like to revisit this. If you can, yes or no, as Administrator, will you oppose changes to the point of obligation?

Mr. Pruitt. Senator, as I indicated in my meeting with you, and I think in response to Senator Duckworth earlier, there is a comment period in process now at the EPA about the point of obligation. I think prejudging the outcome of that process at this point is unwise.

I can say to you as I said to you in the office, any steps that I would take as EPA Administrator with respect to any issues as far as the RNS program, the Monitor Net Program, point of obligation, all these various issues that we discussed, the job of the EPA Administrator is to make sure that the statute is upheld and enforced and not undermined. The vitality of the RFS Program has been defined by Congress dating back to 2005. Any steps the EPA Administrator takes need to be done in such a way to further the objectives of Congress in that statute, not undermine the objectives of Congress in that statute.

Senator Ernst. I do appreciate your being objective. I am sure that Senator Duckworth and I will look forward to continuing to educate you on those issues. Thank you very much.

I would like to show a chart of the State of Iowa. I would like to go back to some of Senator Cardin's comments about who should define what the expanded definition of Waters of the U.S. is. This is a chart of the State of Iowa. As you can see, with the expanded definition, as provided by the EPA, 97 percent of the State of Iowa is now considered Waters of the U.S. If you are in area like mine in southwest Iowa here, I live in a Water of the U.S. Most of the State

is covered by the waters of the U.S. I bring that up, because in a moment, I am going to show you another picture of the consequences of the EPA defining what a Water of the U.S. is.

Last Congress, this committee examined the scope of the federal Clean Water Act jurisdiction EPA and the Corps of Engineers claim today, even without the new WOTUS Rule. The committee found that EPA and the Corps are already expanding their jurisdiction using the concepts that they codified in WOTUS. They are just doing it on a case by case basis.

The jurisdictional claims already being made are very troubling. For example, the Obama EPA told the public that they will not regulate puddles. They will not regulate puddles. However, we learned that the Corps is already regulating puddles by claiming that a puddle in a gravel parking lot is "a degraded wetland." A degraded wetland.

The Obama EPA also told farmers not to worry about being regulated because ordinary farming activities have a statutory exemption. We learned that the Corps of Engineers and the Department of Justice have decided that plowing is not an ordinary farming activity. Explain that to my dear deceased grandfather and my father whose activities in farming include plowing.

According to the Obama Administration, any plowing that pushes soil into furrows is not an exempt farming activity because the tops of plowed furrows can dry out. According to a brief filed by the United States "the furrow tops now serve as small mountain ranges." Right there, folks, small mountain ranges. "These furrow tops now provide conditions that are not conducive to growth and development of

wetland plant species. They are mini-uplands." This is a picture of these small mountain ranges from the government's expert report.

Mr. Pruitt, will you commit to me that if confirmed, EPA will work with the Corps and DOJ to make sure that federal agencies stop trying to regulate ordinary farming practices?

Mr. Pruitt. Yes, Senator.

Senator Ernst. Thank you for that very concise answer.

Thank you, Mr. Chairman.

Senator Barrasso. Thank you, Senator Ernst.

Senator Duckworth.

Senator Duckworth. Thank you, Mr. Chairman.

Mr. Pruitt, I want to come back to this question again. Let me just tell you, I played second base as well. This is a hanging curve ball. You can knock this out of the park with a yes.

Will you commit, yes or no, to reversing the EPA's current interpretation that available infrastructure should limit the requirements to blend biofuels into our fuel supply, given that it runs counter to congressional intent?

Mr. Pruitt. I don't want to take any steps to undermine the objectives in the statute of the RFS as Administrator of EPA.

Senator Duckworth. Will you commit to opposing any attempts to move the point of obligation from the farmer, the soybean producers, the corn producers and biofuel manufacturers away from them and towards the blenders? Because that would be counter to congressional intent.

Mr. Pruitt. Senator, that is something, as I have indicated, that there is an open comment period on that very issue. If confirmed, I would be dealing with that issue and need to respond to the comments that have been made as part of the record. It would be unwise to prejudge that outcome. I can say to you that any steps that I would take as Administrator would be in furtherance of the RFS and not to undermine the RFS.

Senator Duckworth. But the comment period has nothing to do with congressional intent. Earlier today, you said you would abide by congressional intent. The congressional intent is to keep that point of obligation with the soybean and corn producers and the biofuel manufacturers and not to move away from it, regardless of what the open comment period says. So you are saying that you are willing, that your answer is no, because you would be open to moving it away from the soybean and corn growers, the farmers, towards the blenders if that is what comes out of the comment period? Is that what you are saying? That would be against congressional intent though.

Mr. Pruitt. Senator, I think with respect to congressional intent and the statute, the intent, as far as the point of obligation, is not addressed in the statute itself. That is a decision and the Administrator has been involved in that process historically. It's been subject to much discussion. In fact, the EPA has dealt with this issue before.

What I am saying to you is, it is the job of the Administrator to enforce the program, to administer the program, to ensure that the intent of Congress as far as the RFS is upheld. I will do that.

To prejudge the outcome of that particular comment period is something that I can't do and shouldn't do at this point. I would need to respond to that only after being confirmed and going through the rest of the process.

Senator Duckworth. You're saying that you would be open to moving the point of obligation away from the corn and soybean producers and the ethanol manufacturers, if that is what the open comment period says? If that is the result, then you would be open to moving it away from the farmers?

Mr. Pruitt. No. I am saying, Senator, that any actions taken as Administrator that would jeopardize and endanger the RFS as intended by Congress, I would not take. That is different from prejudging an outcome in that particular matter.

Senator Duckworth. But the intent of Congress is to keep the point of obligation with the producers.

Mr. Pruitt. That's something I am not aware of, Senator

Senator Duckworth. Okay. Let's move on. I am very concerned and we will follow up with this in the future. Let's go to safe drinking water.

I sat on the Government and Oversight Committee in the House where in a bipartisan manner we explored what happened in Flint, Michigan. I was actually flabbergasted earlier today when in response to my colleague, Senator Cardin, on whether you believe there is any safe level of lead that children can consume, you responded by saying "Senator, that is not something I have reviewed or know about. I

believe there is some concern but I have not looked into the scientific research on that."

You are about to become the EPA Administrator. You are seeking to be the EPA Administrator, and you've not looked into the issue of lead in our drinking water supply? I think that is something, especially in the aftermath of Flint, that is a serious oversight on your part. Have you even studied the Flint water crisis in preparing for this hearing? Do the names Mary Gade and Susan Hedman ring a bell to you?

Mr. Pruitt. In the situation in Flint, as I indicated earlier, the EPA should have acted more expeditiously in responding to Flint and did not. There was indication at the regional level that there were concerns and there was not a response.

I think that the EPA bears responsibility for what happened in Flint and would seek to, in the future, avoid those kinds of situations by being more proactive through the regional administrators, and the States and municipalities in ensuring the quality of our drinking water.

Senator Duckworth. As EPA Administrator, will you commit to appointing a permanent regional administrator to the Midwest region based out of Chicago, but they cover Michigan? We have issues with lead in Galesburg, Illinois, for example. And will you give them the responsibility and the ability to act proactively so that they can step in when they see that the State is not doing its job in protecting the safe water drinking supply for its citizens?

Mr. Pruitt. As you know, Senator, the answer is yes. The EPA has emergency order authority to respond to situations like you describe. I think the EPA should step in, in those situations, in a very meaningful way.

Senator Duckworth. That's good news, because they did not do it in the case of Flint.

Thank you. I am out of time, Mr. Chairman.

Senator Barrasso. Thank you very much.

I would like to introduce for the record an article from The Oklahoman by Rick Green that says J.D. Strong, Director of the State Wildlife Conservation Department, says of Attorney General Pruitt, "Attorney General Pruitt has been a really good partner and ally in making sure we have adequate protections in place for the quality and quantity of water," said Strong, who previously led the Oklahoma Water Resources Board and was State Secretary of the Environment. "I have never seen him put us in a position where we had to compromise anything to protect the waters of Oklahoma."

[The referenced information follows:]

Senator Barrasso. Senator Boozman.

Senator Boozman. Thank you, Mr. Chairman.

Again, I was the Congressman in the district with the Arkansas-Oklahoma Illinois River situation. I was elected in a special election in 2001 and inherited this. This had been going on for about ten years. In 2001, from that time on until recently, we probably worked on this, it seems like every week.

What happened was in 2003, the EPA came out and said the standard was such that by 2013, the river needed to have an attainment of .037 standard of phosphorous. Arkansas worked very, very hard, changed out all of its treatment plants in that area. That is one of the fastest growing areas in the Country. The ratepayers paid for all of that, hauled out chicken litter and all those kinds of things and made a dramatic improvement in the attainment.

The problem was, though, Arkansas, and you mentioned, my good friend, Senator Booker and he is a good friend, mentioned a lot about Oklahoma this and that. Arkansas never agreed to any of that. So they were going forward but they felt they could not attain the .037 standard because the first national river is in Arkansas, the Buffalo River, and it was not at .037, it is pristine.

In good faith in 2005, I believe, the Attorney General in Oklahoma sued Arkansas. You can correct me if I am wrong on some of these things. In 2010, in that case, all of the stuff was put in place but the federal judges never ruled on it so it was open.

Fast forward, 2013 is arriving. Arkansas does still not agree that the .037 standard is the appropriate one, so they were squaring

off getting ready to sue each other again. Attorney General Pruitt and Attorney General McDaniel, a Democrat in my State, got together and said, let's not waste a ton of money with lawyers, let's use science and things like this to figure this out.

They chose a neutral site, Baylor University, which has an excellent water department. They came in and did a study and came back and said .037 is the standard. Right now, the States are living with that. It was a tremendous effort, took a long time and it was a very, very difficult situation. So I applaud you.

I want to put in the record a letter from our former Attorney General McDaniel that again outlines this. It was very, very complimentary of the Attorney General.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Boozman. Thank you.

Let me quote one of the final paragraphs: "Recent press accounts regarding these efforts unfairly mischaracterize the work that was done by General Pruitt and his team. He was a staunch defender of sound science and good policy as appropriate tools to protect the environment of the State. I saw firsthand how General Pruitt was able to bridge political divides and manage multiple agency agendas to reach an outcome that was heralded by most credible observers as both positive and historic."

Again, as someone who was intimately involved in that, more involved than I wanted to be in things, there really was a heroic effort by yourself and the people in Arkansas trying to resolve a difficult situation.

Mr. Pruitt. Thank you, Senator.

Senator Boozman. Thank you. That's really all I have Mr. Chair.

Senator Barrasso. Thank you very much, Senator Boozman.

Senator Sullivan.

Senator Sullivan. Thank you, Mr. Chairman and General Pruitt.

I wanted to focus on, a number of us talked earlier about the frustrations that the American people have with the EPA. We talked about anger, Senator Ernst talked about fear. I believe it extends to a couple reasons underlying that.

One is the agency currently feels that it is empowered to regulate literally every nook and cranny of American life. Related to that, they seem to have very little respect for the rule of law. Let me touch on those.

Senator Ernst talked about the WOTUS rule. Literally, the EPA has claimed the ability to regulate puddles. As a State with, pre-WOTUS by the way, 65 percent of America's wetlands in Alaska, we have very significant concerns about this.

I want to actually address an earlier comment by Senator Whitehouse where he said there is nothing in your record that shows that you have the background to help America's fishing industry. Well, I couldn't disagree more with Senator Whitehouse, who is a friend and colleague. My State has a fishing industry like Rhode Island's. It is a little bigger. Sixty percent of all the seafood that is --

Senator Whitehouse. It's considerably bigger.

Senator Sullivan. Thank you.

[Laughter.]

Mr. Chairman, would you please acknowledge that for the record?

Senator Barrasso. With no objection.

Senator Sullivan. Almost 60 percent of all seafood harvested in the United States comes from the waters of Alaska and it is considered the best, most sustainable, best managed from an environmental standpoint, fishery in the world.

Do you know what the number one issue is, the top issue of the fishermen of Alaska is? It is EPA overreach. Let me give you a specific example.

This is a regulation, 200 pages, on America's fishermen, the ultimate small businessmen and women. This actually requires that

every fisherman in Alaska, commercial fisherman, requires a discharge permit to literally hose off the deck of a ship. Think about that.

If you are gutting fish and fish guts or pieces of a fish fall on the deck of your ship and you hose it down, fish back into the water of the oceans, you need a permit, 200 pages. This is the kind of thing where the trust between Americans and the EPA has eroded so much because of these kinds of issues.

If confirmed, will you work with me and others on this committee to make sure that these kinds of regulations are balancing environmental needs with jobs that are so important? You mentioned it as a cost. Will you work with us on that and would you care to comment on a regulation like this, fish back into the ocean requiring a permit? Congress, by the way, has extended this twice, the implementation of this, so there is bipartisan agreement that we need to do something about this overreach. Would you care to comment on this?

Mr. Pruitt. Senator, I think it is exemplary of a lack of priority. We have many, like I indicated earlier, 40 percent of our country is in nonattainment under the NAAQS Program. We have over 1,300 CERCLA sites in this Country that need attention to move those areas into remediation and restore those areas for environmental related issues. I think in some respects what you cite there is just missed priorities, trying to focus on something like that as opposed to focusing on these other areas that will really improve tangibly the environmental protections for people across the Country.

Senator Sullivan. Let me talk next about the rule of law. I am glad you emphasized it as a priority. I believe it is one of the principal reasons again why, again, there is such a lack of trust between the American people and the EPA. But it is not just a Republican issue. As a matter of fact, there are a number of examples where this is viewed as a bipartisan issue that we need to address. You may have seen with regard to the Clean Power Plan, Laurence Tribe, not known as a strong staunch Republican, Harvard law professor, stated, "The EPA is attempting to exercise lawmaking that belongs to the Congress and judicial power that belongs to the federal courts. EPA is attempting an unconstitutional trifecta usurping the prerogatives of the States, Congress and the federal courts all at once with its Clean Power Plan." Then he stated, "Burning the Constitution should not become part of our national energy policy."

You've been involved in some of these cases, the Clean Power Plan, the Waters of the U.S. In both of these cases, courts have stayed the EPA's rule. Why do you think the courts have done that? Do you think the rule of law that has been ignored by the EPA is something that if confirmed, you will work on to regain the trust between the EPA and the American people?

Mr. Pruitt. As I indicated earlier, Senator, I think at times perhaps there those in law and the courts that look at rule of law as something that is academic and technical. But it is real. It affects people in very real ways. When you have agencies of any type that act inconsistent with the statutory authority given to them by Congress,

it creates the kind of uncertainty that you are talking about. People don't know what is expected of them, and paralysis happens.

And so rule of law is important to economic development, it is important to send messages of certainty, it is important so that people can plan and allocate resources. There are many laws that people look at and say, I don't really like that. So long as they know what is expected of them, they can plan and allocate resources to comply. I think that is what is important about rule of law.

Senator Sullivan. And as one of the lead litigators on the WOTUS rule and the Clean Power Plan and the fact that the Supreme Court and the Sixth Circuit have put stays on those rules, what do you think that indicates the courts' view is of those two rules issued by the EPA at this moment?

Mr. Pruitt. Well, it is unprecedented for the Supreme Court to have done what they did in the Clean Power Plan.

Senator Sullivan. Never happened in the history --

Mr. Pruitt. Never happened in the history of jurisprudence before the U.S. Supreme Court. That says a lot.

Senator Sullivan. Thank you, Mr. Chairman.

Senator Barrasso. Thank you very much. Senator Moran?

Senator Moran. Mr. Chairman, I yield to somebody ahead of me if they would yield back to me for the next question.

Senator Barrasso. That would be fine. I have some time that I haven't gotten to yet in this second round. We will go shortly to a third round.

I wanted to talk a little about the Mercury Rule that the Supreme Court overturned. They overturned the EPA's Mercury Rule, finding that the EPA did not appropriately consider the costs of the rule. Noting that between the time that the rule is issued and the Supreme Court decision, three years passed, the EPA Administrator Gina McCarthy was on a television show a couple days before the Supreme Court made its ruling, and they said, well, what if the Supreme Court says you are wrong? And essentially, she said, well, the majority of the power plants have already decided and invested in a path, because it is been three years, to achieve compliance with the Mercury Air Toxic Standards. In other words, she had already gotten her result, even though what she had done was found by the courts to be illegal.

So I would ask you your thoughts on her statement, and do you believe that her statement shows respect for the rule of law?

Mr. Pruitt. Well, Senator, this is speculation to a certain degree, and one of my favorite philosophers is Yogi Berra, and he said, "Predictions are pretty tough, particularly about the future." So I don't want to be too speculative here. But when you look at the response of the Supreme Court and the Clean Power Plan, I think largely the reason they acted in an unprecedented way is because of what you just addressed, Mr. Chairman, that in response to the Michigan and the EPA case, there were some comments made that they had achieved the outcome, despite the fact that it acted inconsistent with the framework under the law.

So I think rule of law is something, as I indicated to Senator Sullivan, it is not something that is academic. I think it is

meaningful. It inspires confidence in those that are regulated. It gives them assurance that regulators are acting consistent with their authority, and it allows them to plan and allocate resources to meet the standard and meet the objectives that Congress and regulators established.

Senator Barrasso. Senator Moran?

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

General, you can see by where I sit on the dais that I haven't been in the Senate a terribly long time. But one of my causes, upon my arrival and the discovery of how the Senate works is to try to work with my colleagues to reassert Congressional authority. In my view, there is a number of ways we could do that. One, Congress could quit passing huge pieces of legislation and delegating authorities to agencies and departments. Another one that we could pursue, and I hope we will this year, is an appropriations process, by which we have the opportunity to influence decisions made at the Environmental Protection Agency and every other agency and department.

One of the things, when we do that by developing a relationship with an agency head, knowing that, and I guess part of that is that members of Congress need to have greater levels of expertise on the subject matter of their jurisdiction. One of the subcommittee I chair is in the Commerce Committee. It has jurisdiction over the National Highway Traffic Safety Administration. The Environmental Protection Agency just last week finalized its greenhouse gas standards for light duty cars and trucks for 2022 to 2025.

Now, the law says that it is to coordinate that effort with the National Highway Traffic Safety Administration. And that agency is still developing its own process to determine appropriate fuel standards. I raise this as an example of where, once again, two agencies instructed by Congress to work together to find a solution or the right answer to an issue ignore the law. I assume you would assure me or members of this committee that the Environmental Protection Agency, to the best of your ability, will obey the law.

But I also assume that you are willing to assure me that when directed by the law to cooperate with other agencies, to have the input of an agency that our subcommittee has jurisdiction over, as the person in the Senate responsible for these issues, I go to the agency that I have the most influence over, and they say, well, EPA's already done its thing. I assume we can bring those kinds of practices to an end.

Mr. Pruitt. Absolutely, Senator. I think that interagency discussion, that collaboration to ensure that there is meaningful discussion, review of action, takes place. I want to speak generally to your delegation reference, because I do think that that is a very important issue that you raise. I think a lot of times, what has happened is that Congress has spoken in very general ways, I will not say vague, but approaching vagueness, and giving carte blanche or substantial authority to agencies without providing the kind of framework that is necessary for them to make their decision.

From a separation of powers issue, I think that is very important. I think it is important for Congress, Article 1, to

exercise its authority and to give the direction to these agencies on how they should conduct their business. Senator Cardin, in his comments and questions earlier about the Waters of the United States Rule, I think that is a problem, presently, largely because the definition of Waters of the United States in the statute is so vague and so general, it creates uncertainty.

So I think making sure that Congress performs its role and the Executive Branch performs its role in enforcing laws, and we try to do less delegation and respect separation of powers, is very, very important.

Senator Moran. I appreciate your reassurance of how you would conduct, if confirmed, the agency. It also is a reflection upon the need for Congress to do its job better. Perhaps, I guess you'd have nothing to do with that. But for me and my colleagues, we need to be much more precise and clear in legislation and much more likely to deal in smaller bite-size pieces. Too often I think Congress is interested, and I don't want to be derogatory to any of my colleagues, but too often we look for the headline, we solved a problem, and yet we complain about what an agency's decisions are and we have given them so much authority they have the ability to make what I would consider, some of us may consider a bad decision.

Mr. Pruitt. And there are important steps that have been taken. We've mentioned TSCA this morning, where you've done just that, in his past year. So I think that is a very important item that you raise, Senator

Senator Moran. Thank you. Thank you, Mr. Chairman.

Senator Barrasso. Thank you very much, Senator Moran.

We'll now move to a third round of questions. Attorney General Pruitt, you just mentioned TSCA. You sent a letter to this committee in April of 2015, supporting the Frank Lautenberg Chemical Safety Act. In fact, the timing of your letter was less than a month after the bill was introduced, and you were the first Attorney General of the United States to support the bill.

The bill ultimately received overwhelming bipartisan support in Congress. It would be your job to implement the bipartisan reforms and ensure we have consistent regulation throughout the Country. Would you discuss the plans that you might have to implement this legislation, and will you commit to implementing the legislation in a timely manner?

Mr. Pruitt. Senator, and Mr. Chairman, yes. I think in response to obligations of the EPA, this body has put timelines before the EPA to carry out certain rulemaking, the Prioritization Rule, the Risk Evaluation Rule, fees that need to be established, all those are mid-term in 2017. And I think it is a matter of the EPA Administrator making that a priority at the agency.

I also think that in response to Senator Gillibrand earlier, and others have raised this too, there are certain, like PFOA, that need to be addressed in evaluating that listing under TSCA or perhaps the Safe Drinking Water Act as well. So I think there are specific actions that need to be taken, but also the rulemaking process and the deadlines be adhered to.

Senator Barrasso. You made reference to, and I did in my opening statements as well, to Flint. There was give and take on Flint a little earlier. The other thing I brought up was the Gold Key mine spill in Colorado, an environmental disaster caused by the EPA. Last Friday, the EPA announced that it has denied all claims for the \$1.2 billion in lost income, loss of use of property and damage to the businesses and the property suffered by 73 tribes, by land owners, local businesses, local governments as a result of the spill. The EPA's excuse was its legal interpretation of the Federal Tort Claims Act. According to the EPA, if a federal agency hurts someone through a discretionary action, then the Federal Tort Claims Act does not apply. This doesn't sound right to me.

So if confirmed, will you commit that you will review that decision and use whatever authority is available to you under the law to help the people who have been harmed by the EPA's negligence?

Mr. Pruitt. Yes, Mr. Chairman.

Senator Barrasso. Thank you. Senator Carper?

Senator Carper. Thanks very much. A question. Mr. Chairman, I know you did not use, when we started this round of questioning, you did not use like two minutes and 30 seconds of your time. When you comment like you have just commented, are you drawing down on that two minutes and 30 seconds?

Senator Barrasso. I am now in the third round of questioning, yes, sir. And I would reflect that looking back at EPA nomination hearing processes, when Gina McCarthy was nominated, came to this committee, Chairman Barbara Boxer, two rounds, first round five

minutes, second round, two minutes. We are now in a third round of five minutes, so I think that the Chairman has tried to listen to our discussions with other members to make sure that all the Democrats and every member had a chance to have as many questions as possible.

Senator Carper. Thank you. I want to go back to something you said about one of our colleagues with respect to EPA actually visiting States and participating in meetings in those States with respect to the Clean Power Plan. I think it was said that West Virginia, my native State, native State of my friend of my friend from West Virginia, that was not visited. We have heard since then from Joe Goffman, who was counsel to John McCain, EPA Assistant Administrator for Air, as you may know, he said he personally participated in meetings on the Clean Power Plan in West Virginia, also in Kentucky, Texas, Pennsylvania, Nevada, Washington, California, Wyoming, North Dakota, Colorado, Illinois and I think Nebraska.

I wrote a letter to Gina McCarthy on January 11th. You may recall, Mr. Pruitt, I wrote a letter to you on December 28th, and posed a series of questions to you and asked for your responses by January 9th. I have yet to receive those responses. I wrote a letter to her on January 11th, again, to Gina McCarthy and to Assistant Secretary Darcy of the Department of the Army. I wrote because we were getting and hearing on our office a whole list of assertions about the Waters of the U.S. I think this is maybe instructive for all of us. The things that we were hearing, people were calling in, in Delaware. It led us to ask these questions.

One of the questions was, are the EPA and the Corps currently implementing a new Clean Water Rule. The assertion was that indeed, that has been happening. So we asked, is that really the case. And two days later, two days later, we received a response, no, the agencies are not now implementing the new Clean Water Rule. Implementation of the new rule is temporarily stayed by the Sixth Circuit Court of Appeals. September 2015, the agencies immediately directed their field offices to stop using the new rule, and instead resume implementing regulations interpreting the guidance prior to the new rule. That was one of the questions we asked.

We also asked, because we were hearing assertions otherwise, are the EPA and the Corps currently pursuing enforcement actions pursuant to the new Clean Water Rule. And we got on the same date, January 13th, this response, that said no, the agencies are not pursuing any enforcement actions pursuant to the new Clean Water Rule, and will not enforce this rule unless and until the Sixth Circuit Court of Appeals stay is lifted.

The next question we asked, because we were hearing assertions otherwise, does anything in the Clean Water Rule revoke or otherwise modify the Clean Water Act's statutory or regulatory exemptions for farming and ranching? Response, two days later, January 13th, was no, the Clean Water Rule makes absolutely absolutely no changes to normal farming, ranching and forestry exemptions established under the Clean Water Act in implementing regulations.

So question number four, some have claimed that landowners will no longer be able to rely on the Clean Water Act's statutory and

regulatory exemptions for farming and ranching, should the Clean Water Rule go into effect, because while the statute and regulations remain unchanged, the agency has narrowed those exemptions in practice through the actions in the field. Is that true? And the answer is, not surprisingly, the assertion that the agencies have no application in statutory and regulatory exemptions for farming, ranching and forestry is untrue. The agencies have taken no steps intended to reduce the scope of the exemptions. We have not observed changes by field offices in the way they interpret or implement these exemptions. In fact, the Corps has re-emphasized publicly that these exemptions are self-implementing. Farmers, ranchers and foresters are not required to get approval from the agencies prior to using the exemptions.

I raise this because sometimes what people assert to be true, sometimes it is over the internet, sometimes it is on television, sometimes it is on the radio, newspapers. Assertions are made. And in this case, there is a whole long list of assertions that were made, and none of them were true. They are distortions, untruths about what the EPA is doing with respect to a regulation that was stayed.

I would ask to, for the record, Mr. Chairman, to be able to submit for the record the questions that we posed to EPA on January 11th and also the responses that we have received.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Carper. Thank you. I'd like to look at a chart, if you don't mind. This is a report card that lists 17 counties. How many counties do you have in Oklahoma?

Mr. Pruitt. Seven - seventy-seven.

[Laughter.]

Mr. Pruitt. Mr. Chairman, can I refer to Senator Inhofe for these questions?

[Laughter.]

Senator Carper. I was watching, his lips are barely moving as you speak.

Thank you. At the same time you've been suing EPA on its ozone standards, all the counties in Oklahoma for which data is collected earned an F from the American Lung Association for not meeting ozone health standards. You have 60 counties that the American Lung Association does not have data on the progress made or not made with respect to ozone. These are the ones we have information on, 17. Seventeen counties from Adair to Tulsa. You live in Tulsa, I expect? Tulsa County. They all got Fs. This is last year, 2016. My question to you is, what did you do about it? What did you do about it before or since? Sometimes people may not believe what we say, but they will believe what we do. What have you done about this?

Mr. Pruitt. Senator, two things. I really believe there needs to be a tremendous effort made by counties across this Country to move nonattainment into attainment. Over 40 percent of the Country, presently 40 percent of the Country approximately is in nonattainment.

There needs to be great prioritization with EPA and local officials in achieving attainment.

Senator Carper. But that wasn't my question, Mr. Pruitt. What did you do about it? You have 17 counties for which we have data from last year. What did you do about it? Before or since? That's what I am asking you.

Mr. Pruitt. As indicated in our meeting individually, the primary enforcement responsibility in Oklahoma with respect to air quality permits and the rest is the Department of Environmental Quality. And there have been actions taken by DEQ and they continually work with those counties to reach attainment. And we provide general counsel advice to that agency in the performance of their role.

Senator Carper. I am not the attorney general of Delaware, never had any intention to be, but if 17 of our counties in Delaware -- we only have three - if 17 of them or all three of them got Fs, I promise you, I would do something about it. Thank you.

Senator Barrasso. Senator Inhofe.

Senator Inhofe. Thank you, Mr. Chairman.

Congress recently passed a bipartisan bill, many of us up here supported it, I know I did, as part of the Water Infrastructure Bill to allow States to lead implementation and enforcement of EPA's coal ash rule through the State-based permit program. That rule is already in effect, and it is important that the EPA move quickly on this. If you are confirmed, are you going to get right on this thing?

Mr. Pruitt. Yes, Senator Inhofe.

Senator Inhofe. All right. Sue and settle, we all know what that is, we know that groups, maybe some of the environmentalist extremist groups will file lawsuits against the EPA. The EPA, instead of defending against the lawsuits, will enter into a resolution behind closed doors without any public input or participation. These settlements result in new sets of legally binding priorities and duties for the EPA that achieve demands of special interests. Can you share your thoughts on sue and settle?

Mr. Pruitt. Senator, this issue came up earlier. And it is a concern. Because it is regulation through litigation. There is a place for consent decrees in our litigation system, but to use a consent decree to bypass Congress, bypass the regulatory requirements that you've placed upon those agencies, to engage in rulemaking through litigation is something I think should not occur.

Senator Inhofe. And that is the part that did not come up earlier. I appreciate that very much.

Lastly, the cost of regulations. As you know, the Supreme Court overturned EPA's Mercury and Air Toxics Rule in 2015, because the EPA failed to, ignored the fact that the cost was \$9.6 billion annually of the rule. Now, in fact, the EPA's regularly-issued rules over the past eight years are very costly for our industries and our job creators. According to the CRS, now, the CRS, when they make an evaluation, are much more conservative. The figure is always a very conservative figure. But they said the Clean Power Plan would be at least \$5 billion to \$8 billion a year. The figures I have heard on

that are far greater, because it wouldn't be that much different than the old systems they tried to do through legislation.

The methane standards on oil and gas facilities, \$315 million a year. The new ozone standards, \$1.4 billion. The 2015 coal ash standards, \$587 million a year. And the 2011 sulfur dioxide standards, \$1.5 billion a year. Now, when you hear this, all this money is being spent on compliance costs by our job creators, people out there that are working for a living and they are hiring people. What are your thoughts and what do you believe should be the role of the costs of EPA's decision-making?

Mr. Pruitt. I think it is very important in the rulemaking process, Senator. And the Supreme Court and courts have recognized that very important factor.

I mentioned earlier the case that we were involved in in Oklahoma involving the regional haze program. That was an example where Oklahoma actually complied and met and satisfied the requirements under the statute and the rule. But the steps that were taken were displaced by the EPA, adding hundreds of millions of dollars of cost to consumers in the generation of electricity. So costs are very important. We need to make sure that they are considered. In certain areas of the statute, as I indicated earlier, they can't be, under the Title I NAAQS program. But in that case that you are referring to, it is an obligation of the EPA to actually engage in a cost benefit analysis, make a record before it made its decision.

Senator Inhofe. Do you think that the laws that are in the books right now adequately handle this situation?

Mr. Pruitt. I do, largely, Senator. I think it is mostly an application issue that the agency and the regulator is doing its job under the statute as provided by Congress.

Senator Inhofe. Thank you very much.

Senator Barrasso. Senator Whitehouse.

Senator Whitehouse. And presumably, Mr. Pruitt, it goes without saying that if the EPA is going to consider cost to the industry of confirming to pollution guidelines, it should also consider benefits to the public from cleaner air, cleaner water and the results of that compliance, right?]

Mr. Pruitt. It should, Senator.

Senator Whitehouse. So we have been talking about fundraising done by you for the rule of law defense fund during the time when you were both a board member and for a full year the chairman of the Rule of Law Defense Fund and the fact that we have exactly zero information in this committee about that fundraising. We also have zero, and let me ask unanimous consent for the page from the filing that discloses that he was in fact a member of the board of directors and chairman of the Rule of Law Defense Fund.

Senator Barrasso. Without objection.

[The reference information follows:]

Senator Whitehouse. We also have a meeting agenda from the Republican Attorney Generals Association during the time that you were executive committee member of the Republican Attorney Generals Association meeting at the Greenbrier, which I will stipulate to my friend from West Virginia is a lovely place to go. The agenda, which I would like to take this page of and put into the record, mentions a private meeting with Murray Energy. It mentions a private meeting with Southern Company. It mentions a private meeting with the American Fuel Petrochemical Manufacturers. If you will show the graphic, these are all the same groups that I have been asking about in terms of your fundraising for the Rule of Law Defense Fund. And there is Murray Energy, and there is Southern Company, and I am sure the American Fuel Petrochemical Manufacturers represent a lot of the others.

As I understand it, we know nothing, no minutes, no statements, no reports about what took place in those meetings that are described as private meetings on a sheet that is stamped confidential. Correct? We know nothing about the content of those meetings?

Mr. Pruitt. Senator, I did not generate the document. I know nothing about how that document got generated or what --

Senator Whitehouse. Are you denying that those private meetings took place?

Mr. Pruitt. No, Senator. I just didn't generate the document and don't know about the content, other than what you have represented.

Senator Whitehouse. Okay, and we don't know. And because you were on the executive committee of RAGA, that is information that we could get, right? I mean, it is available, if there were minutes or reports out of those meetings, notes taken. But we don't have them, correct?

Mr. Pruitt. Senator, that would be a request made to the Republican Attorney Generals Association. I might add, the Republican Attorney Generals Association, there is a Democrat Attorney Generals Association as well.

[Simultaneous conversations.]

Senator Whitehouse. I am not faulting that. I am talking about private meetings at the time that you were on the executive committee with some of the really, really big polluters with whom you have been very closely politically associated.

Mr. Pruitt. There is a Conference, if I may, Senator, of Western Attorneys General. There is a national association. And they talk about water.

Senator Whitehouse. I know.

Mr. Pruitt. And there are meetings that take place at each of those as well.

Senator Whitehouse. The rest of the attorney generals avoid that because we don't want to talk about water.

Let's talk about FOIA. You have had a conversation with the Chairman about FOIA. As I understand it, there is a FOIA request to the Oklahoma Attorney General's office, to your office, for emails between your office and Devon Energy and Koch Industries and Americans

for Prosperity, the Koch front group, and Murray Energy and the American Petroleum Institute. And the information that I have is that that Open Records Act request was filed more than 740 days ago. More than two years ago. That in response to it, your office has conceded that there are 3,000 responsive documents. Three thousand emails and other documents between your office and these companies. And that in 740 days, exactly zero of those documents have been produced.

Is that acceptable turnaround on a FOIA request, and should we not be concerned that your office is not complying with a FOIA request that relates so specifically to so many of these companies that are going to be before you as EPA Administrator if you are confirmed?

Mr. Pruitt. Senator, I actually have a general counsel and an administrator in my office that are dedicated to performing or providing responses to Open Records requests.

Senator Whitehouse. Not very dedicated, if it takes 740 days. That is still zero.

Mr. Pruitt. But I not involved in that process. That is handled independently by the administrator and that general counsel in responding. So I can't speak to the timeline and why it is taking that length of time. But I will tell you that our office works, we actually go across the State of Oklahoma in training with officials locally in compliance with FOIA and Open Records laws.

[Simultaneous conversations.]

Senator Whitehouse. -- your own training, because it doesn't seem to be sticking very well.

Mr. Pruitt. The representation you made about the timeline, I don't know.

Senator Whitehouse. Given how many of these groups have important financial interests before the EPA, do you not think that 3,000 emails back and forth between you and your office and them are relevant to potential conflict of interest as an administrator and should be before us as we consider this?

Mr. Pruitt. Again, I think the EPA ethics counsel has put out a very clear process with respect to covered entities, as we described it earlier, and on particular matters and specific cases, I will follow the advice of that EPA career person, ethics, to make sure that there -

[Simultaneous conversations.]

Senator Whitehouse. You keep saying that.

Senator Barrasso. The Senator's time has expired.

Senator Whitehouse. Will you let me finish my sentence?

Senator Barrasso. Please do.

Senator Whitehouse. The problem with that is that if you haven't disclosed any of this information, then the EPA ethics counsel would have no idea to even look. They would have no idea what the risks are. You can't say, nobody can look at whether I did this, but by the way, they're going to look at it. It just doesn't add up. Sorry about going over my time.

Senator Barrasso. Thank you, Senator. I would like to point out, we had a report cared that was just brought up. And I would like to introduce for the record a letter from each of the five members of

Congress from the State of Oklahoma with their steadfast support for Scott Pruitt, saying, we are proud of his service to our State and are very confident that he will do a superb job serving our Nation and our citizens in this new role. Also as a follow-up for the first round of questions, there was a dispute about a lawsuit against Mahard Egg Firm and who it was filed by. I have here the complaint in the case, and it was filed May 18th, 2011, and if you read it, it says, in the State of Oklahoma, by and through Attorney General Scott Pruitt. So you are the one that filed the suit, along with the attorney general of Texas against Mahard Egg Firm. This will be submitted for the record as well.

[The referenced information follows:]

Senator Barrasso. Senator Capito.

Senator Capito. Thank you, Mr. Chairman.

Since the Ranking Member mentioned that Mr. Joe Goffman had visited, I call to the attention in beseeching you that when you are successfully the Administrator at the EPA that you will listen to everybody and come to States that are most directly affected. He mentioned that the Associate Assistant Administrator had made the long list that he had said.

I would like to point out a clarification. The EPA announced on September 30th, a day I will remember, because that is the birthday of my youngest child, they announced where they were going to be going for their listening sessions. They went to Boston, they went to New York City, they went to Philadelphia, they went to Atlanta, they went to Denver, they went to Lenaxa, Kansas, and I wish our Kansas Senator was here, which I have looked up is a part of the Kansas City metropolitan area. They went to San Francisco. They went to Washington, D.C. They went to Dallas, they went to Seattle, they went to Chicago.

My State, in the last five years, has lost 10,000 jobs, not wholly because of this, but some of this plays a large part. So I will go back to my original request, that the people that are affected by this environmentally and health-wise are just as important as the people who stand to lose their jobs over this, who then are plunged into poverty, who then have hopelessness around and in their communities, who then become addicted to drugs and other opioids. It

is just a cascading issue. Their lives are just as important. So that is my plea on that.

Now, last question from me.

Senator Carper. Mr. Chairman, could I ask a unanimous consent request?

Senator Barrasso. Yes.

Senator Carper. I am sorry for interrupting. But the document with respect to the outreach that the EPA did, in conjunction with the Clean Power Plan, it shows from October, I think October 16th, 2014, something like this, the document records nearly 1,000 meetings, calls, presentations, conferences, consultations, 1,000, and other outreach with stakeholders. The document shows these post-proposal interactions included more than 300 meetings with State and local stakeholders, had 30 discussions with tribes, 450 meetings with industry stakeholders, 150 discussions in environmental justice and scientific stakeholders, dozens more discussions with conveners. And this goes on and on and on.

In total, the agency received almost 4.3 million comments about all aspects of the proposed rule, more than any rule in EPA history, and thousands of people participated in the agency's public hearings, webinars, listening sessions and so forth, all across the Country. The agency made many revisions in the final rule in response to those comments. Thank you.

Senator Barrasso. Thank you. I would ask that once a questioner starts, they be allowed to continue. We could get into a lengthy discussion. The EPA was found guilty of covert propaganda for

soliciting information through a number of environmental groups. It continues to be a blot on the record of the EPA, and the question of this entire Administration and their approach toward abilities toward the rule of law versus an EPA out of control. So we are going to allow the questioner to continue. Back to you, Senator Capito.

Senator Capito. Thank you.

Not to beat a dead horse, but to try -

[Laughter.]

Senator Capito. I will say that the Assistant Administrator McCabe, when she was telling me that they only wanted to go where places were comfortable, she looked at me and Senator, we are going to Pittsburgh. Gee. Thanks a lot. Which is not in West Virginia, I will make that point.

In any event, my question is, you have said a lot about States, and I agree, the States should have the primacy, it is in the law. And that is something that, part of why you have brought suit and part of the reason you have been successful with other attorneys general.

Let me ask you a question. Let's say you have a State where you are the administrator of the EPA, and you deem that that State's Office of Environmental Quality, or DEP, which is what it is in West Virginia, just doesn't measure up. They are not protecting their people's health, they are not enforcing the law. They are in your judgment and folks that you are working with, are not up to the task and are letting their people down.

What avenues of correction would you have at the EPA, and do you have, and what would you exercise in that kind of category, and what kind of judgments would have to be made for those things to occur?

Mr. Pruitt. Senator, I really appreciate the question. I think there are times where States are recalcitrant, that they don't perform the obligations that they have, let's say, under the Clean Air Act, in adopting a State implementation plan, or as they adopt the State implementation plan they don't take into consideration all the factors that Congress had put in the statute and the EPA requires. In those instances, it is very appropriate for the EPA to use its authority like a federal implementation plan to take over that jurisdiction and to ensure that the safety and health of our citizens is protected, and the air quality is maintained and water quality is maintained.

So there is a time and place for that. I think in many instances, however, over the last several years, it has been the first response as opposed to cooperation. And a federal implementation plan is absolutely in order at times.

Senator Capito. Thank you.

Senator Barrasso. Senator Merkley.

Senator Merkley. Mr. Chairman, before you start my clock, I would like to follow up on Senator Inhofe's strategy here of submitting certain facts back for the record. I would ask unanimous consent to submit for the record an article from the Union of Concerned Scientists related to the so-called ClimateGate that the Senator referred to earlier. That notes that the manufactured controversy over emails stolen from the University has generated a lot

of heat but not light. The email content being quoted does not indicate climate data research has been compromised. Most importantly, nothing in the content of the stolen emails has any impact on our overall understanding of human activities, driving dangerous levels of global warming. Media reports and contrarian claims that they do are inaccurate.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Merkley. Thank you.

Senator Inhofe. Mr. Chairman, since my name was invoked, let me respond. Were you listening when I talked about the various publications that have come and talked about how fraudulent it was? These are publications, science publications, they have gone in and made their own evaluations. And for the U.K Telegraph to say it is the worst scientific scandal for our generation, that is very extreme.

Senator Merkley. We could have an entire day dedicated to the review of the scientific literature on this, and it would weigh very heavily on the scales in the direction I have indicated in support of the information presented by the Union of Concerned Scientists. We may just have to agree to disagree. That is why I submitted it for the record, we will let the public decide.

Senator Inhofe. And that is why the statement is repeated over and over again about the science is settled, that is not an accurate statement.

Senator Barrasso. I would invite the Senator to question the witness.

Senator Merkley. The beauty of the Senate is we get to have our own opinions.

Meanwhile, I also wanted to submit for the record in response, when I was speaking about asthma, Mr. Chairman, you submitted a study from the National Black Chamber of Commerce. And it is important to note that that organization has been funded by the American Petroleum Institute, by a Koch Brothers front group and by Exxon, and that there is a series of responses that invoke the opposite side of that, and

the NAACP, which certainly speak for a broad swath of African Americans, takes a very, very different stance. And it had endorsed the Clean Power Plan.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Merkley. Thank you. I would also like to submit for the record two articles or two statements from the National Congress of American Indians and from Latino organizations, a whole group of Latino organizations, that are very concerned about this nomination.

Senator Barrasso. Without objection.

[The referenced information follows:]

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

Then I would like to turn to a question that has puzzled me over time. And it is in the context of how one evaluates, how one views the world. I heard one of my colleagues once present it this way. If you go to a doctor and they say you have cancer, you decide you had better get a second opinion. You go to a hundred doctors and 97 of them say you have cancer and you had better act, most people feel like, 97 doctors said I should act, three said I should go take some health care supplement. Maybe I had better have the operation.

And that is really the place where we are in climate science now, where the overwhelming weight of the scientific community weighs in and says, yes, it is very logical, you can do it in the laboratory, as Senator Whitehouse noted, that carbon dioxide traps heat. You can do it in a laboratory that methane traps heat. You can track the change in the environment of the concentration of those gases. You can see the impacts on the ground now.

In my home State, you have an impact on the oysters, because the Pacific Ocean is 30 percent more acidic than it was before we started burning coal. That is a scary thing, when shellfish have trouble forming shells. It has an economic impact. Our pine beetles are thriving because the winter is not cold enough to kill them and so it is having a huge impact on our forests. That is an economic impact on rural America.

The southern part of my State has had three worst ever droughts in the last 15 years. It is a huge impact on agricultural communities. The streams in Oregon coming from the snow packs have

been declining in size and raising in temperature, very bad for trout, very bad for salmon. That is an impact on our fishing community.

So the global warming that is taking place and being driven by the burning of fossil fuels is having a huge economic impact on the citizens of my State, my rural citizens, my citizens who depend on timber, who depend on fishing, who depend on farming. Should the citizens seek to address this problem? Because we are just on the front end of this happening.

Ten years ago, we were talking about models that led to the conversation Senator Inhofe had about ClimateGate, about assumptions and models. We don't need models now. We have facts on the ground. The moose are dying because the ticks are not being killed by the winter being cold enough. The fish are migrating on the Atlantic coast and Maine is losing its lobsters to Canada.

These facts on the ground are extraordinarily real. They have a huge economic impact. And shouldn't we take a very serious approach to the urgency of this problem, as we see it descending upon us?

Mr. Pruitt. Senator, I think the EPA, and if confirmed as Administrator, there is currently an obligation to deal with the issue. The Massachusetts v. EPA case says that CO2 is a pollutant under the Clean Air Act. And as such, that is what generated the 2009 endangerment finding. So I think there is a legal obligation presently for the EPA Administrator to respond to the CO2 issue through proper regulations.

Senator Merkley. I believe you are acknowledging in that, which I am glad to hear, that it is a serious problem and that the EPA, that

carbon dioxide is a pollutant and we have a legal obligation to take it on.

Mr. Pruitt. I think Massachusetts v. EPA says that. Counterbalance, by the UARG decision, that came out a few years later, that you can't transform a statute, as the EPA sought to do with the PSD program. So I think the court has spoken very emphatically about this issue. And the EPA has a legal obligation to respond.

Senator Merkley. And as you kind of rank the urgency with which you bring to this, do you see it as something that you wake up every day being, like, the next generation will weigh whether or not we acted promptly? Or is it more, I have a legal obligation because of this court decision, so I will have to have some folks pay some attention to it?

Mr. Pruitt. I think the importance, Senator, it is very difficult to prioritize. Senator Gillibrand is not here, but when she talks to me about PFOA and the threat that she is facing in New York, is that any less important than the CO2 issue? It is not. So the EPA deals with very weighty issues, as you know, water and air quality. It is a matter of prioritizing the resources to achieve better outcomes in each. And I think it is very important to do so as Administrator.

Senator Merkley. I do feel like perhaps you don't understand the gravity of the situation, from your response. Because there are feedback mechanisms that are starting to occur with the open bluewater in the Arctic, feedback from methane bubbling up from the permafrost, bubbling up from the peat bogs, bubbling up from what was previously

frozen methane on the bottom of the ocean that has incredibly accelerating impact on global warming.

Our rate of carbon dioxide pollution is not decreasing globally. It has doubled in rate from one part per million per year to two parts per million per year. So we are on an accelerating curve as a human civilization. And if human civilization doesn't get it together very quickly, we are in very deep trouble. I would hope at some point perhaps the urgency of the situation would be something you will grab hold of. Thank you.

Senator Barrasso. Thank you. Senator Rounds?

Senator Rounds. Thank you, Mr. Chairman.

Attorney General Pruitt, last year at an oversight hearing, we heard reports of the EPA regional offices who are sending companies information collection requests, or ICRs, pursuant to Section 114 of the Clean Air Act, regarding their operations, with no explanation as to the reason for the ICRs. These ICRs, which companies are legally obligated to respond to, can cost the companies millions of dollars to collect the information to respond to the request. They often hear no follow-up from the EPA regarding whether their response was adequate or what the information would be used for.

Last year, I requested from the EPA a record of the ICRs that had been sent to U.S. companies throughout the various regions. I was told by the EPA staff that there was no way to get this information, because they didn't have it.

Second, in 2015, I wrote a letter to the EPA Administrator Gina McCarthy requesting the economic information that forms the basis of

the Clean Power Plan and the ozone NOX standards. These are the major regulations that were being quickly imposed on American taxpayers. The response which I received, it took two and a half months to get the response, but I understand that I am one of the few recipients of an actual letter back from the EPA, and I would ask that it be included as part of the record of the meeting today, Mr. Chairman. The letter was basically nothing short of referring me to an internet link that directed me to a web page, the same web page which generated the questions in the first place. Essentially, they just simply suggested that I Google it. Not hardly a response that you would expect back from a federal agency, at least one that was trying to be responsive with regard to major proposed rules.

Working as a United States Senator, I have found it nearly impossible to easily access the information that I am looking for. I can't imagine the difficulty of a small business, a farmer or a rancher, when they are seeking to get information from the Environmental Protection Agency. As the EPA Administrator, the role which you are seeking, do you believe that this is an adequate way to communicate what the public and elected officials, and where are your views on making agency communication and record-keeping more transparent and accessible?

Mr. Pruitt. Senator, this is actually a common theme. As I met with many of you on this committee, both Democrats and Republicans, it was expressed to me that concern about the lack of response by the EPA at all, in response to inquiries, let alone the time of response. So I believe it is very important, as I indicated in my opening

statement, to listen, not only to the voices of the American people, but listen to members of Congress, listen to members of this body with respect to the issues that are of concern to them in their respective States. That is something I take very seriously and would seek to respond very expeditiously to you and to others in this body with responses.

Senator Rounds. The Ranking Member had asked, and was following up with questions in terms of your role as the attorney general with regard to fracking issues in Oklahoma, but also with regard to clean air attainment levels and so forth. It seemed to me that what you were trying to portray at the time, and I would like you to expand on this, because I think this is important, is that you have a different role as an attorney general than you would be if you were responsible as the agency within the State who had the direct statutory authority to respond to those issues. It seems to me that that is one of the roles that the EPA Administrator has which would be different than that of attorney general, which is the execution of the laws that we have passed.

Could you expand a little bit? Because I think this is really important in terms of the way you perceive your duties with regard to executing the laws that this Congress has passed.

Mr. Pruitt. Yes, Senator, and I appreciate the question. The role of Administrator is to perform an executive role, an executive policy-making role and carrying out the functions and the statutes that Congress has passed. That is much different than my current role as attorney general. As I tried to indicate to Senator Carper, in

respect to enforcement actions in the State of Oklahoma, that is vested specifically in the Department of Environmental Quality. They are the ones that bring enforcement actions against companies who do not comply with air permits, et cetera. We provide general counsel to them in that process, but it is not our responsibility. But more, it is not our jurisdiction. And that is important to me, because it goes back to rule of law, it goes back to process.

I think oftentimes what we see in this Country is that folks kind of disregard the authority or jurisdiction that has been given to them by the statute of the Constitution and they act anyway. That is what creates, I think, a lack of confidence in the American people. So I try to respect those boundaries. I try to respect my role as attorney general, stay in my lane, if you will, and provide the counsel and perform the job that we are supposed to perform to that agency, but then allow that agency to enforce as required by law.

Senator Rounds. And then very quickly, that also means that with regard to determining the science behind the laws that we create, as the Administrator, you are not going to make the determination yourself. You expect that sound science and the scientists with that background would be making the recommendations that you would then face a decision on?

Mr. Pruitt. Yes, Senator, objective and transparent in that process.

Senator Rounds. Thank you. Thank you, Mr. Chairman.

Senator Barrasso. Thank you, Senator Rounds. Senator Booker?

Senator Booker. Mr. Chairman, if you would gracefully hold the clock for a second, because I want to respond very succinctly to something that you and Senator Boozman said. First of all, to you, sir, this is my first time going through nomination hearings. You have been very generous with the way you have been conducting these hearings. I think it is important that we note that, and I appreciate the number of rounds that you are doing.

And then to Senator Boozman, I really do appreciate him adding to the line of inquiry I am having, he referred to me as a friend, which means a lot to me. People around here, your colleagues, know that you have a deep respect for the kind of kindness and just decency that you represent, a level to which I aspire but have not attained. Thank you for that. Thank you for indulging me.

Senator Barrasso. Thank you.

Senator Booker. And again, with respect to my colleague, who is a really good man, if this was between Delaware and New Jersey, I am the up-State, I would be very happy with the agreement that it seems that you, you are the down-State. So that is what I don't understand. You said earlier in your testimony in regard to this matter that you have a copy of the 2003 agreement. Do you have that?

Mr. Pruitt. I have the second agreement, Senator.

Senator Booker. Okay, let's just look at the 2000 agreement. I know you claimed in your testimony earlier that the 2003 agreement had expiration on it.

Mr. Pruitt. There was a ten-year period. But that needed to be reevaluated. This is the second statement I have here, Senator.

Senator Booker. I just want to clarify that it is a contradiction. There is no expiration on the 2003 agreement. It had a reevaluation, a period in which it would be reevaluated. And it was reevaluated by your State with involvement of the EPA and the involvement of Arkansas, and they came up with the same .037 standard. And if you look at the provisions of what you do have in front of you, the 2013 agreement, and I have a blow-up of page 4 of that agreement, it states that, starting here, it states that Oklahoma, through the Water Resources Board, will propose a rule amendment that removes the date to achieve full compliance with a numeric phosphorus criterion set forth in Oklahoma administrative code. Then it lists these two codes.

If you look at those two codes, what those two codes do, you know what they are, they said the sections of phosphorus concentration shall not exceed .037 by June 30<sup>th</sup>. It is removing the June 30<sup>th</sup> deadline in these two statutes.

So that is what is frustrating to me, is that this is what you are heralding as a great agreement. But you already had, in the year 2013 agreement, it is clear that you are doing, to me, and I don't know any other way of reading the facts, is that you take a binding rule of law and you suspend it for another three years, allowing more pollution to take place.

Mr. Pruitt. Senator, that is not, the issue here was not whether Oklahoma could enforce its .037 standard, it was whether Arkansas was going to adopt that standard on that side of the border. That had

never taken place in history. That was the concern of Oklahomans. That was the concern of Mr. Fite at the Seneca-Illinois River.

Senator Booker. So I am going to stipulate to what you said, because I am running out of time, sir. I agree with you, whether Arkansas was going to be able to live up to that standard. But you are the Oklahoma attorney general. And this is what I want to say. As soon as you did this so-called historic agreement that set it back, you basically turned to the EPA with a rule, with the power of law of the Supreme Court and said, okay, back off my corporations.

Why do I say that so confidently? Because I pulled a letter from Tyson Foods that literally six days after your so-called historic agreement of suspending this rule for three years, they are delighted. They write to the EPA and say, hey, you may have not only heard of the February 20<sup>th</sup> agreement by Oklahoma and Arkansas officials to jointly conduct a comprehensive study of concentrations and impacts in the Illinois Rivershed. They are excited. They literally say, compliance, however, with the now .037 has been suspend. So lay off us, EPA, under this agreement, until the study process is completed. In conclusion, the bi-State agreement has suspended implementation date of .037 during the term of the agreement.

Industry is really happy about this, and believes, and of course this letter, you are saying Tyson is wrong, they believe that what you did is give them, the EPA, with the power of the Supreme Court and 20 years of work that predecessors of yours had done, the power to suspend that power over them to comply with the law.

So that is really what I am struggling with. On one hand, you say that you filed lawsuits against 14 people, against the EPA. It is this idea of federalism, of Oklahoma sovereignty, Oklahoma States' rights, you are fiercely fighting for Oklahoma. And on the side of the polluters. You say the EPA is attempting to do things.

But then on the other hand, in this case that you are talking about, you switch suddenly to say, well, Oklahoma's water quality standard for phosphorus, that has been worked on for 25 years, armed with an EPA approval, armed with a Supreme Court decision, on point saying that up-river States are bound, industries believe that they are bound, but suddenly you are no longer fighting for Oklahoma. You are fighting to protect industry, on the side of industry again.

Mr. Pruitt. I can assure you, Senator, that industry didn't think they were bound.

Senator Booker. Why did Tyson write the letter, sir?

Mr. Pruitt. I don't know why they sent that. Because as Senator Boozman indicated earlier, the phosphorus level at .037 was unenforceable on the Arkansas side of the border. That was the concern. Until this agreement that we have here was negotiated and signed by Arkansas, that had never occurred in the history of Oklahoma.

Senator Booker. But sir, Arkansas was party to the 2012 scientific investigation. They are bound by the Supreme Court case which I pointed out to you already, and I can read you the binding paragraphs, bloodened by the EPA and obviously understood by industry that they were bound by that standard. Your agreement didn't stop it.

It extended the period in which people could pollute. I don't understand how that could be historic.

Mr. Pruitt. Senator, I think as you look at what was achieved between Arkansas and Oklahoma, you had the Arkansas attorney general, Ed Fite, who had been involved in these issues, as indicated earlier, since 1983, trying to enforce and obtain water quality that improved the Seneca-Illinois River, he cited the historic results in this matter.

So I am unaware of the letter that you are referring to, but I can assure that industry was not, not at all excited about .037 being enforced on the Arkansas side of the border.

Senator Booker. And I will conclude just by saying, sir, it is clear that industry was excited about the three-year delay that you bought them to continue to pollute. It is written there in a letter. It seems to me the theme in your work is not federalism and States' rights, but deregulation in siding with polluters against the environment and public health standards. It is unfortunate to me that that, unless you can show me something different in the way that this actually helped to clean up the river quicker, but I just don't see that at all in the evidence and the facts that I have before me.

Senator Barrasso. Thank you very much, Senator Booker. Our next questioner is actually Senator Boozman. Since we have Oklahoma and Arkansas both here, I don't know if you have a question, Senator Boozman, or if you just want to make a comment about this agreement, since both of the States are here. You represent the Congressional district directly adjacent.

Senator Boozman. I want to make a quick comment and then after that, I think all of my questions have been answered. I would yield back if we can have agreement.

I think the thing, Senator Booker, to understand is that first of all, the water was not being polluted at that point. Arkansas had made tremendous improvement over the years, and had just, our discharge in Springdale, Fayetteville, Rogers, Bentonville, the major communities there that have grown tremendously during that time frame, their discharges were down to very admirable levels. So all of that was being done.

The question was, was .037 fair versus .04 or .05. As I mentioned earlier, our most pristine river in Arkansas was not at .037. So we didn't feel like we could do that. So Oklahoma was happy with all this stuff. Arkansas is not. And because of that, in 2013, as the agreement ran out, they were prepared to go back to court again. This thing had been litigated since the Supreme Court finding back in the 1990s all along the line.

To be honest, I am not happy with the .037. I think it is too stringent. I would challenge to find a river in New Jersey that meets that standard, and you can't do it. It is a very, very stringent standard.

So it wasn't continuing to pollute and things like that. Tremendous progress made on the Arkansas side. Everyone agrees with that. It was, where do you draw the limit.

So often with the EPA, and this is so important, we have had on the committee, we have had the gentleman that represents the water

district for this huge area. They spent a billion dollars doing a great job of cleaning things up, raising everybody's rates. EPA has come back and wants them to spend another billion dollars for a tiny fraction that everybody agrees would not have any impact on the water quality in the river. These are the kinds of things that you get into.

So again, I am really not happy at all about the .037. I think that Tyson and the industry were happy in the sense that you would have a situation where you would have some finality, you would have some resolution so that everybody could go forward.

Senator Barrasso. Senator Ernst, any final comments or thoughts or questions?

Senator Ernst. Thank you, Mr. Chairman. I don't have any further questions. Whatever additional questions I have, I will submit for the record.

But I do have some closing comments. I do want to push back a little bit on the Ranking Member's comments earlier. I had gone through a series of examples of overreach by the government with the expanded definition of Waters of the U.S. And the Ranking Member had stated that he had a letter that he had received from Administrator Gina McCarthy. And I have no doubt that she was answering those questions honestly, because she wasn't the one making the statements. The statements that I presented came from the Corps of Engineers and the Department of Justice.

Now, I know this to be true: these are not as implied from some obscure website off of the internet done by some blogger in a basement

somewhere. The comments actually came from this committee, case studies from this committee, September of 2016. These are examples of case studies from all across the United States. I will cite just one that I opened up to.

A landowner in California received an investigation letter from the Corps, informing him that disking performed by a tenant farmer on his land may have resulted in an unauthorized discharge into WOTUS, and that regulators had opened a case against the landowner. They are being implemented, case by case. This letter came as a surprise to the landowner, who had been disking this particular site periodically over the last 15 years to sustain grazing conditions for his cattle, a practice he believed was normal, until he received this notice.

The court told the landowner's consultant that all disking for any purpose and at any depth with any potential WOTUS is a discharge into WOTUS and in the absence of a permit, represents an unauthorized discharge in violation of the Clean Water Act. This is an actual letter from the Corps that was submitted to this committee, the EPW committee, last year.

So this is not made up. This is a very real impact to all Americans. So I appreciate your stance, Attorney General Pruitt, that if you are confirmed, you will work with those that wish to continue farming and normal practices. But this is not made up, folks. We just need everyone to understand that the Corps, the DOJ and the EPA have gone beyond what we consider to be reasonable application of the law. Thank you very much.

Senator Carper. Mr. Chairman, if I could just respond very briefly. The letter that I sent on January 11<sup>th</sup> was not just to the EPA. It was to the head of the EPA and also the Assistant Secretary at the Army, Department of the Army, who is in charge of the Army Corps of Engineers. So it was really to both, both EPA and the Army Corps of Engineers. I gave them a half dozen or more questions and said, these assertions that we are hearing, what is the truth? And they responded jointly.

Senator Ernst. And if I can respond to that, I apologize, because I was going to use Senator Rounds' letter as a prop. I had not seen a letter from the EPA. I had written Administrator Gina McCarthy nearly two years ago on some issues that I was wanting addressed for Iowa. And I invited her to come to Iowa and visit. She never, ever responded to me or my staff.

Thank you, Mr. Chairman.

Senator Barrasso. Senator Markey.

Senator Markey. Thank you, Mr. Chairman.

Mr. Pruitt, you have criticized the Obama Administration on a number of occasions for allegedly "colluding with environmental groups to engage in sue and settle tactics." You just reiterated your concern to Senator Inhofe.

But in December, many of your co-plaintiff attorneys general, who are suing the EPA over the Clean Power Plan, sent a letter to President-Elect Trump, urging him to settle their lawsuits related to the Clean Power Plan. That sure sounds like an invitation to engage in sue and settle to me.

To avoid the appearance of entering into sweetheart settlements on the Clean Power Plan cases, will you commit to recusing yourself from all ongoing litigation that you are involved in?

Mr. Pruitt. Senator, I would say to you that the sue and settle practice, whether by this Administration or future administrations, is a practice that should not be followed. I believe that regulation through litigation is wrong. I believe that the rulemaking process that Congress has established should be respected by agencies, not only the EPA, but across the board.

I would mention one case to you.

Senator Markey. It looks a lot like that is what the attorneys general are doing, who are suing. And you are a co-plaintiff in this case on the Clean Power Plan. Will you recuse yourself from any role in the settling of these cases, in the negotiation on a settling of these cases?

Mr. Pruitt. The sue and settle practice should not be used by any administration to regulate. We have experienced in Oklahoma a case involving the Fish and Wildlife and Endangered Species Act in the relisting of the Lesser Prairie Chicken that impacted our State. So sue and settle is wrong.

Senator Markey. Are you giving me a yes, that you will not settle with these attorneys general?

Mr. Pruitt. I will not engage in a sue and settle practice, if confirmed as EPA Administrator, at any time.

Senator Markey. Will you negotiate with them to reach a settlement, such as has been recommended by the attorneys general who are the plaintiffs in this case against the Clean Power Plan?

Mr. Pruitt. Senator, it is a belief of mine that the use of sue and settle is a practice that should not be done by any agency of the U.S. Government.

Senator Markey. Right. So will you recuse yourself from any involvement in this litigation as it is being decided?

Mr. Pruitt. As I have indicated to you, Senator, the EPA ethics counsel, career staff at the EPA, has said that a particular matter, a specific case that those will be evaluated at the time. I will seek their counsel and comply with their counsel.

Senator Markey. Honestly, Mr. Pruitt, there is no bigger case than the Clean Power Plan. It goes to the promise that the United States is making to the world that we are going to reduce significantly our greenhouse gases. So this just goes to you as an individual saying that since you brought the case, with these other attorneys general, that you will now recuse yourself. Since you are in fact the plaintiff and defendant in this case if you are confirmed as the EPA Administrator.

Mr. Pruitt. Senator, as I indicated to you earlier, and I am sorry to interrupt you, but as I indicated to you earlier, I will recuse if directed by the EPA ethics counsel, career staff at EPA ethics. You know these individuals. They have been there, and I will follow their counsel and guidance.

Senator Markey. All right. I know I am not going to get you to recuse yourself from any of these cases, but I am just telling you, it is going to wind up being a huge conflict of interest if these attorneys general get to settle on their terms with the Trump Administration and you are sitting there in the middle of the room as that occurs.

Now, let me go to another subject, and that is this bottle of Trump water. Trump water, natural spring water. On the label it says, "pure, fresh and free from contaminants. This is water the way it was meant to be." Trump hotel guests have the luxury of drinking this water if they don't trust what comes out of the tap. Low-income communities across our Country do not have the same luxury. Do you agree that the EPA plays a critical role in ensuring that all Americans, regardless of racial, ethnic or economic backgrounds, have a right to clean water, free from contaminants?

Mr. Pruitt. Absolutely. In fact, Senator Booker and I talked about environmental justice in our meeting.

Senator Markey. That is great. As the widespread lead contamination in Flint, Michigan's water supply tragically reminds us, low-income and minority communities often bear far greater environmental burdens. Yet you told Senator Cardin earlier today that you didn't know if there is any safe level of lead. But scientific experts, including the CDC and World Health Organization, have concluded that there is no safe level of lead exposure.

Will you commit to making environmental justice for poor and minority communities an immediate priority of the EPA, if you are confirmed as Administrator?

Mr. Pruitt. I believe it is a very important role of the EPA Administrator.

Senator Markey. Well, minority communities often don't have the money -

Senator Barrasso. The Senator's time has expired in the third round. Thank you.

Senator Sullivan.

Senator Sullivan. General Pruitt, I just have one final question. We talked about some of the challenges that we have, this committee has been working on infrastructure issues. There were a lot of discussions last year about Flint, Michigan and aging infrastructure, which I think is a concern at the State and local and federal levels.

There is also a challenge in certain parts of the Country on no infrastructure. None. No clean water and sewer. My State has over 30 communities that don't have any clean water and sewer. In terms of the diseases and the living conditions in communities like that, as you can imagine, it can be very difficult. So in a bipartisan way, this committee acted last year, established a new program for disadvantaged communities, small communities, to work on those kinds of issues for different communities, whether Alaska or other parts of the Country, that literally live in third world conditions in some communities. So that would be administered by the EPA, this new

program. I just want to get your commitment to work with us to fully fund that new program to work on those kinds of issues.

Mr. Pruitt. As we talked about in our meeting, Senator, I believe sometimes when infrastructure is referenced, we think roads and bridges and we don't think water infrastructure. I think all those are important, and I would make that a priority interfacing with Congress if confirmed as EPA Administrator.

Senator Sullivan. Great. Thank you.

Senator Barrasso. Thank you, Senator Sullivan. I want to thank all the members for the respectful way in which the business was conducted today. Members may also submit follow-up written questions, but it seems that everyone had plenty of opportunity to ask oral questions. Schedule for the close, the recording for the close of business Thursday, January 19th - Senator Carper?

Senator Carper. I thought we were going to do one more.

Senator Barrasso. I thought three rounds was the longest in the history of this. The last, the only other time there were three rounds was Christie Todd Whitman in 2001. Those were three rounds of five minutes each. And the reason that she as a Republican nominee was given three rounds is that the Chairman of the committee was Harry Reid. So three rounds, the witness has been here since 10:00. It is now 4:30, so he has been six and a half hours, and three rounds. By any criteria that one would use, each of five minutes, when Gina McCarthy was nominated, and I had significant numbers of questions, Barbara Boxer limited me to one five-minute round and one two-minute

round. We have more than doubled today that amount of time for questioning.

Senator Whitehouse. Mr. Chairman?

Senator Barrasso. Senator Whitehouse.

Senator Whitehouse. I am certainly not saying that you've been unfair with us, but until this very minute, I don't think it has been clear to anyone that there was a three round limit. I believe you opened the hearing by saying that we would go on until people's questions were answered.

So this is a bit of a novelty. But again, please don't take it as a criticism of your fairness. I think that you have been fair. This is just news. And I do have a bunch of questions right here that I'd hoped to ask as what I expected to be a final fourth round.

Senator Barrasso. Then I would invite you to please submit those follow-up written questions by tomorrow close of business.

Senator Carper. Mr. Chairman, could I be recognized?

Senator Barrasso. Yes, sir. Senator Carper, and then Senator Booker.

Senator Carper. I appreciate the way you've conducted this hearing today. I appreciate all the members coming and coming back again and again. When we were talking a week or two ago about the hearing, whether to have one day of hearings or two days of hearings, our side was interested in having two days of hearings. We were interested in having an outside panel, and it was explained to us that that is not really the tradition of the committee, to have an outside panel.

But you, Senator, preferred to have it in one day, and we'll stay as long as people have questions, I think those were almost exactly your words. And that is hard to argue with, to stay as long as people have questions. Some of the folks have some more questions. I know I do. And we are not running out the clock on those questions. I would just ask that you think back on our earlier conversation and you see your way clear to have one more round and we'll call it a day.

Senator Barrasso. Yes, well, I would say a couple of things. One is, I offered to start the committee meeting earlier today, because there are many of us who have commitments into the evening, people from our home States who are here for the inauguration activities. We have commitments for our home States. And the idea of starting at 9:00 was rejected. And we wanted to go along, right before the third round, I said, now, if there is going to be ongoing, maybe we should take a break, give the witness an opportunity to take a break, you said, no, let's plow on.

The witness has been sitting there now for just about three hours. And depending on wishes of the committee, my preference is to say, we have done more than ever done in the last 16 years or 17 years for nominees. If people have one or two questions, I would want to give the witness an opportunity to stretch his legs. I will be happy to stay. And we can come back with a three-minute round.

But I just think - people have obligations and commitments. And we thought we would be completed by now. It does seem by many of the end, and for people who are here now, they could go. So we have three members, if you want to go two to three minutes or one or two

questions, I think we would be able to accommodate. But to bring back the entire committee and go into the night -

Senator Carper. I am not suggesting we bring back the entire committee. Let me just suggest that if we can, we can agree here. Those that are here today, right this moment, if they have questions, give them five minutes. And then when they're done, we are done.

Senator Barrasso. Any objection from our side? Senator Inhofe.

Senator Inhofe. Though we would be able to yield back any time that we had, if we didn't want to use it.

Senator Barrasso. Sure.

Senator Carper. Or you could yield to us.

[Laughter.]

Senator Inhofe. I can only say that I have chaired this committee for quite a number of years. I have been through this once before and there is always an effort by those who are perhaps not really satisfied, as some of the others might be, to try to make it continue on and on and on.

I would prefer to go ahead. I think we have all had adequate time, and be prepared to vote.

Senator Barrasso. Well, we don't have a vote scheduled for today on this. We don't have an agreement on that. So it wouldn't be a vote. I would say, if we --

Senator Inhofe. Well, if that is the case, then we can confine it for the record, any questions that they have.

Senator Barrasso. Any other suggestions?

Senator Mr. Pruitt. Mr. Chairman, I think you've been exceedingly fair, particularly relative to the confirmation of Gina McCarthy. And I think it is purely within your call to have additional questions be submitted for the record. The opportunity for the witness to answer all the questions, he'll still have to do it before his confirmation. But relative to any other EPA Administrator hearing, you've been very generous, very fair, and I think that, in retrospective, I think that is a very fair outcome, to still ask the questions, just submit the questions for the record.

Senator Carper. Can I respond to our colleague from Alaska? I don't know if you remember a year or two ago, there was a joint session of the House and Senate committees, environment committees. And the witness was Gina McCarthy. And I arrived four hours into the hearing. And after a while, I was recognized to ask a question. And my first question of Gina McCarthy was, you've been here for four hours, haven't you? She said yes. And I said, is there any question you haven't been asked that you wish you had been asked? And she said yes. I said, what is it? She said, I wish I'd been asked if I needed a bathroom break.

[Laughter.]

Senator Carper. I don't know if the witness could use a bathroom break. But if you need one for a couple minutes, we could arrange that.

Here's what we are asking for. Five minutes, Cory Booker, Sheldon Whitehouse, Tom Carper. We ask our questions and we are done.

That's it. Can you handle that? Why don't you say yes? We're wasting a lot of time here.

Senator Barrasso. As you said, you have a couple of questions. Let's go three minutes each and we'll call it good. You're up.

Senator Booker. Mr. Chairman?

Senator Barrasso. Senator Booker.

Senator Booker. I'd asked to be recognized earlier. I do want to -

Senator Barrasso. I apologize. Yes, sir.

Senator Booker. I just want to repeat, I do think what Senator Sullivan said, you have been very, very generous, it is true. I appreciate what seems like an accord right now of a few minutes now. I'd appreciate that.

One thing you didn't mark, which I think should be really important, is I have no sympathy for the nominee and his endurance. I do have for his family, behind him, who has sat through this. I just want to mark for the record that they are true champs. I think that is important to know. I thank them for their indulgence. Not the nominee, but them.

Senator Mr. Pruitt. I would just say that is more evidence that he cares for the children of Oklahoma.

[Laughter.]

Senator Barrasso. I would just say, more people vote for me because of my wife than vote for me, and I would suggest for you as well, in the case of this nominee.

Senator Carper. Let me yield to Senator Whitehouse.

Senator Whitehouse. I just want to touch on two things, and then we'll wrap up. The first is that on your questionnaire you listed an email address with a me.com domain as your business email. You also have an OAG.ok.gov address. Are there other email addresses that you have and are the other email addresses that you use for business other than your me.com and your OAG.ok.gov email addresses?

Mr. Pruitt. I am sorry, Senator. The "me" address is not a business email address. I am not sure why it was designated as such.

Senator Whitehouse. Well, maybe we can just correct the filing on that.

Mr. Pruitt. There are no other email addresses, if that is your question, Senator.

Senator Whitehouse. We have gone through the cases that you list as your environmental cases. When we take out the cases that were started by your predecessor, Drew Edmonson, and when you take out the cases that are fish kill cases, which I understand is a formulaic matter that is resolved by letter at the staff level, you count the fish, you pay the fee, and when you take out the qui tam cases, which are, for those who aren't lawyers, a private individual who brings an action and then the attorney general can step in and take the action over if they want, but it is brought in the first instance by a private individual. And then if you take out the cases in which you sued EPA, there is virtually nothing left.

And in addition to that, we have that you closed the environmental protection unit in Oklahoma as a free-standing unit. You told me when we met that you had rolled it into your federalism

unit. But I was just on the federalism unit is website, and the word "environmental" doesn't even appear on that. It appears to be run by the Solicitor General. It says over and over again that it is involved in appellate litigation. And of course, if you are bringing an action, you are not starting at the appellate level.

Mr. Pruitt. Senator, if I may, the Deputy Solicitor General, Clayton Eubanks, was actually employed by the previous attorney general. He has been designated the Deputy Solicitor General and is responsible for environmental related advice and consent to those agencies.

Senator Whitehouse. Yes. That's a different function, though. That's a different function than to bring an action. I have been an attorney general, too. I know the difference. The attorney general has an obligation to provide lawyers, to give advice to agencies. But you also have the authority to bring criminal actions, if you wish. And you have the authority to bring civil actions, if you wish. And it is those authorities that I believe have not gotten much attention.

And the last piece of that, because you will have a chance to respond, but I am on a short clock, is that there was in Oklahoma an environmental crimes task force that your predecessor led. It describes, and I would ask to have these documents put into the record, from 1997 to 2010 the OECTF, the Environmental Crimes Task Force or the Environmental Protection Unit, in conjunction with EPA and other entities, conducted 142 criminal investigations, resulting in 56 prosecutions. Criminal cases resulted in individual convictions on 110 felonies, 21 misdemeanor counts, corporate convictions, 10

felony and 3 misdemeanor counts, \$8 million in fines, 28 years of jail time. We can put it in the record.

Do you even participate in the Oklahoma Environmental Crimes Task Force still?

Senator Barrasso. Without objection.

[The referenced information follows:]

Mr. Pruitt. Senator, as I have indicated, we work each day with our Department of Environmental Quality on enforcement along with other agencies. I guess it is a matter of "who takes the credit" for that type of enforcement. But those individuals have offered statements to this body. They are a matter of the record. You've heard statements that the Chairman has referred to that we have worked diligently with those agencies to enforce appropriately. And I would refer to their statements in response.

Senator Barrasso. Thank you, Senator. Senator Booker?

Senator Booker. Thank you very much. First of all, I appreciate your talking about environmental justice and mentioning that. We did talk about that, and I felt good about your personal commitment, at least to me, that you would pursue that.

I just want to go through this last point. I want to put together a fact pattern here to let you have at it and dispute it. I know there is at least one point in here you dispute, and I really want to get to what I draw from the facts. And you can, again, have the last word.

So what I am seeing, that I put together all the facts, just a pattern. There's a litigation from your predecessor that you declined to conclude when you got in against polluting poultry producers who were dumping hundreds of thousands of tons of chicken waste into the Illinois River watershed. You shut down the environmental enforcement unit in your office. This is the one I know you do not agree with me on. But I see it as that you also attempted to suspend Oklahoma's water quality standard for three years.

But the last fact, and again, you have the last word here, sir, is that you also supported a constitutional amendment, State Question 777, the so-called Right to Farm amendment, that would have made it more difficult for the Oklahoma State Legislature, again, you talk about federalism, now trying to take the teeth out of the Oklahoma State Legislature and local governments to enact their own environmental laws in the future,

And this kind of support, and I looked all throughout the magazines, you are going in support of this, it is clear. Here you are in the pro and con about supporting 777. Here is, most of the editorial boards were against you on this in your State. Here's one from Tulsa World Endorsement that said the measure would prevent future State and local regulation on farming and livestock activities unless the State has a compelling State interest, a very high legal standard, as I know, not the lawyer that you are, sir, but I know that is a very hard one, standard, to meet.

So this is the challenge, this idea that you are supporting federalism versus, it seems to me, a pattern of you being on the side of the polluters, and even trying to take the teeth out of the State Legislature's ability to regulate these harmful environmental toxins. I am happy that this ballot initiative was overwhelmingly defeated by Oklahoma voters. But as I see you ascending potentially to this very important position, sir, I just worry about whose side you are going to be on, given the fact pattern that I have about big industry, about big pollution, especially as I know the billions of animals that we have in CAFOs that are poisoning rivers all over this Country.

I really just want you to respond to that, sir. And I will say, because this will be my last word, you will have it. I want to thank you for your indulgence. And I want to thank your family as well.

Mr. Pruitt. Thank you, Senator. And let me respond. There's been some confusion about the litigation. You made reference to several things there, and if I may respond to a couple. The litigation to which you refer, Senator Boozman actually to it as well, my predecessor did bring an action, approximately 2007 timeframe, against the poultry industry and many other defendants in the Northern District of Oklahoma. That case had been fully litigated, submitted to the court for decision before I ever came into office. It was an example of potentially regulation through litigation. And I have talked about that earlier, in response to questions.

I had every authority to dismiss that case when I came into office. I did not. That case is still pending today, awaiting a federal judge's decision. I have taken no action to undermine that case. I have done nothing but file briefs in support of the court making a decision. So that is a point of clarity on the litigation.

With respect to our office, I submitted this in response to Senator Whitehouse's request. We met last week and he asked about FTEs and budget. I have submitted response to him. We have almost a \$700,000 budget that the Administrator of our office has attributed to environmental-related activities and seven FTEs that are associated with that as well. So I want to make sure that those two items were shared with you in response to your comments.

Senator Booker. You have nothing to respond to on the State Question 777?

Mr. Pruitt. The State Question 777, we are actually involved in the ballot drafting of those things. So though you represented that I was actively involved in an endorsement, I really was not as far as the actual vote. Now, there was some op ed, and some decisions. But I have tried to make sure that I didn't get involved in that because of our other obligations in the office.

Senator Barrasso. Senator Carper?

Senator Booker. And I can submit this for the record, sir?

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Booker. Thank you, sir.

Senator Carper. Mr. Pruitt, earlier today I mentioned that had submitted a list of about 50 questions to you shortly after Christmas, asked for a response by January 9th and got none. I asked my staff this morning if we had gotten written responses to those questions as of today. And I understand that we have not.

You're going to receive a number of questions for the record from us, Democrats and Republicans. And I am anxious to see what your responses are to those questions. We need your answers, and we need good answers. And the idea of waiting two or three weeks and not providing anything is just unacceptable. So just to put that out there.

And I would like to ask you a question.

Mr. Pruitt. If I may offer this, I tried to, and I talked to the Chairman about this, with respect to your questions I submitted, I was respecting the protocol of the Chair in responding to those questions, and committed that those questions would be answered for the record post the hearing. And that is what I was directed to do by the Chairman.

Senator Carper. All right. Second, based on your other statements, I just want to clarify something. If confirmed, can we have your assurances that the EPA will continue to regulate mercury emissions from power plants under Section 112 of the Clean Air Act, and you will not defer to the States?

Mr. Pruitt. Mercury, under the Section 112, is something that EPA should deal with and regulate.

Senator Carper. Thank you. I came across a quote from you that said, I think you stated the following about an EPA rule involving cross-state smog pollution. And the EPA rule, I think you were quoted as saying, "Threatened the competitive edge Oklahoma has enjoyed for years with low-cost and reliable electric generation. This low-cost energy not only benefits Oklahoma manufacturers but gives our State a considerable edge in recruiting new jobs." And the question I would ask, at the peril of those of us who live in States that are downwind from where Oklahoma might be, as you lower your energy costs to benefit Oklahomans, I just want to ask you, in the spirit of the Golden Rule, keep in mind what that means for us. Keep in mind what that means for us.

Because in my State, I said earlier on, I can shut down my State's economy and we still would be out of compliance on any number of Clean Air requirements. And that was not because of anything we put up in the air, but because of what folks out to the west put up in the air. It eventually came down to the end of America's tailpipe. I would just ask that you do that.

And last, we have a chart, you see this chart. It's an interesting chart. This is what we call a busy chart. It's a busy chart. It looks at the issue of cross-border pollution, as you can see, with this chart, smog, pollution in our Country moves all over the place. I mean, all over the place. As I mentioned, as Delaware's governor, we shut down my State in order to come in compliance with Clean Air challenges. Under your vision for EPA, it sounds like States will be left on their own to deal with this very complex

problem that we see demonstrated right here. I would just ask, how do States address this kind of pollution you see demonstrated here without the assistance of the EPA?

Mr. Pruitt. Well, Senator, as I indicated earlier today, I believe that as an example, the Cross-State Air Pollution Rule, to which you just referred, is a very important authority that the EPA needs to exercise. It needs to do so within the processes that have been provided by the statute. But it is something that is very important for the EPA to perform and execute.

Senator Carper. All right. Mr. Chairman, I have a unanimous consent request to submit for the record, Mr. Chairman, a number of letters with concerns about and many letters in opposition to, some cases for, other cases opposition to Mr. Pruitt's nomination. There are 14 in all.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Carper. Thank you so much. And again, to Mr. Pruitt, to your family, thank you all for joining us today. I see Cage, your son, right behind you, I could barely see Cage's lips moving when you spoke. So I suspect he has a future in law, I am not sure.

[Laughter.]

Mr. Pruitt. We'll see. Thank you, Senator.

Senator Barrasso. Attorney General Pruitt, I do want to follow up, as you said, you were instructed by the committee. I have a copy for the record of a January 9th letter which is the day that you were asked to submit the 52 answers to the questions. It's a letter from

me to the Ranking Member saying, please note the EPW committee does not require nominees to respond to questions in advance of a hearing. And I know you'll be responding to the written questions that will be submitted by tomorrow night.

Senator Carper. Mr. Chairman, could I just add a short thing? That's a conversation between you and the Chairman, I understand that. But again, I would just reiterate, you have received a lot of questions, including some that have been unanswered that I had submitted two or three weeks ago. We need your responses. We need your responses. And I hope the Chairman will give you a reasonable amount of time to respond to those questions, because there will be quite a few of them. They are not going to be like multiple choice answers. They won't be true and false. They will be more complete.

Thank you.

Senator Barrasso. Additionally, I am going to introduce for the record an article from The Economist about mercury and the Mercury Rule. And it is interesting that it says rulemaking is being made to look more beneficial under Barack Obama, but it goes to say, "A casual listener would have assumed that all these benefits came from reduced mercury. In fact, reduced mercury explained none of the purported future reduction in deaths, heart attacks and asthma, and less than 0.01 percent of the monetary benefits. Instead, almost all the benefits came from concomitant reductions in a pollutant that was not the principal target of the Mercury Rule, namely, fine particles."

And I will submit that for the record as we look at the issues going into the future.

[The referenced information follows:]

Senator Barrasso. I want to thank all the members of the committee for your patience. I certainly want to thank the nominee for his time and his testimony today. The hearing is adjourned.

[Whereupon, at 4:55 p.m., the hearing was adjourned.]