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HEARING ON OVERSIGHT OF EPA UNFUNDED MANDATES ON STATE, LOCAL,
AND TRIBAL GOVERNMENTS

Tuesday, June 7, 2016

United States Senate

Committee on Environment and Public Works

Subcommittee on Superfund, Waste Management, and Regulatory
Oversight

Washington, D.C.

The committee met, pursuant to notice, at 2:36 p.m. in room
406, Dirksen Senate Office Building, the Honorable Mike Rounds
[chairman of the subcommittee] presiding.

Present: Senators Rounds, Markey, Boozman and Inhofe.

STATEMENT OF THE HONORABLE MIKE ROUNDS, A UNITED STATES SENATOR
FROM THE STATE OF SOUTH DAKOTA

Senator Rounds. Good afternoon, everyone. While we are waiting on Mr. Markey to arrive, I think we will begin with opening statements just to preserve your time as well.

I would like to, first of all, let you know that the Environment and Public Works Subcommittee on Superfund, Waste Management, and Regulatory Oversight is meeting today to conduct a hearing on Oversight of EPA Unfunded Mandates on State, Local, and Tribal Governments. Today we will examine the EPA's compliance with the Unfunded Mandates Reform Act and the impact of unfunded mandates imposed by the EPA on State, local, and tribal governments.

I am pleased our witnesses include State, local, and tribal representatives with extensive experience in balancing their demands required of States, localities, and Tribes in complying with EPA regulations, while managing limited resources and budgets.

The Unfunded Mandates Reform Act, or UMRA, was enacted in 1995 and sought to avoid imposing unfunded Federal mandates on State, local, and tribal governments, and to make certain Federal agencies take costs into account when imposing new regulations.

When a Federal agency seeks to impose regulations on a

State, local, or tribal government that will result in \$100 million or more a year in expenditures, UMRA requires Federal agencies to evaluate a reasonable number of regulatory alternatives and choose the most cost-effective alternative that will meet the regulatory goals of the agency without imposing unreasonable compliance costs on smaller governments. However, the EPA's overly burdensome and aggressive regulatory agenda has resulted in billions of dollars in regulatory costs on State, local, and tribal governments, and often leads to citizens footing the bill.

Under the current Administration, the regulatory burden imposed by the EPA on the American people has steadily increased. According to the American Action Forum, from 2009 to 2016, the EPA has finalized 163 overall regulations at a regulatory cost of \$312.2 billion.

The number of unfunded mandates being imposed by the EPA has also increased. From 2005 to 2008, EPA finalized seven regulations that triggered UMRA. However, from 2009 to 2014, the EPA issued 19 rules that contained unfunded mandates, a total of more than three annually. Further, in just the past two years, the EPA has moved forward with finalizing multiple regulations that will impose unprecedented costs on State, local, and tribal governments.

Despite the Administration's insistence that most of these

rules are not unfunded mandates, in reality, rules such as Waters of the U.S., the Ozone NAAQS rule, and the Clean Power Plan will undeniably result in hundreds of millions of dollars of compliance costs imposed on small governments faced with limited resources. For these rules, State, local, and tribal governments were not properly consulted throughout the rulemaking process as required by UMRA. The EPA finalized these regulations without considering the impact these regulations will have and the EPA did not consider alternatives that would be more cost-effective and easier to comply with before imposing these large, one-size-fits-all regulations that will have little environmental benefit.

As a result, State, local, and tribal governments will be forced to use limited resources to comply with burdensome Federal regulations, when they could put to better use providing basic services and benefits to their citizens. Further, some small governments have no other choice but to raise taxes on American families in an attempt to manage the cost of complying with these Federal regulations.

UMRA was created to make certain Federal agencies took the time to consider how Federal regulations would impact those required to comply with them. Unfortunately, the EPA has issued regulations in a way counter to the core intent of UMRA and continues to impose burdensome, costly regulations without

undertaking proper consultation process or analyzing more cost-effective alternatives.

Federal agencies cannot continue to impose billions of dollars in regulatory costs on State, local, and tribal governments. We must recognize the unique characteristics of these governments that are tasked with managing multiple Federal, State, local and responsibilities with limited resources, while also trying to provide for American families. State, local, and tribal governments should be equal partners with the EPA in the regulatory process, rather than victims of an adversarial regulatory process.

I would like to thank our witnesses for being with us here today and I look forward to hearing your testimony.

Now I would like to recognize my friend, Senator Markey, for a five minute opening statement.

[The prepared statement of Senator Rounds follows:]

STATEMENT OF THE HONORABLE EDWARD J. MARKEY, A UNITED STATES
SENATOR FROM THE STATE OF MASSACHUSETTS

Senator Markey. Thank you, Mr. Chairman, very much, and I thank you very much for scheduling today's hearing.

Imagine rivers catching fire, cities choking on smog, and toxic chemicals seeping into the classrooms of school children. Imagine an odorless, tasteless, and colorless toxic gas being sprayed across your entire community. These aren't the plots of a horror movie, but the stories of the Cuyahoga River, Los Angeles, Love Canal, and the former prolific use of the insecticide DDT, described by Rachel Carson in her book, *Silent Spring*.

These catastrophes started an environmental revolution in our Country. President Nixon created an Environmental Protection Agency in 1970, saying that we must preserve "the earth as a place both habitable by and hospitable to man." And in an unbelievable decade of environmental activism between 1970 and 1980, Congress passed the Clean Water Act, the Safe Drinking Water Act, the Toxic Substances Control Act, and the Resource Conservation and Recovery Act, and significantly strengthened the Clean Air Act and the Federal Insecticide, Fungicide, and Rodenticide Act.

These laws have saved countless lives and billions of dollars in health costs, and created an expectation that the air

we breathe, the water we drink, and the land we use are safe.

Much has changed since those bedrock environmental laws were first enacted. Eight track tapes, the Ford Pinto, and pet rocks were, thankfully, left in the 1970s. But what has also changed is that EPA has been so effective that people now take clean air, clean water, and land that is also clean, they take those laws for granted.

Contrary to the doom and the gloom prognostications of polluters, we have cleaned up the environment and grown the economy at the same time. Since the strengthening of the Clean Air Act in 1970, there has been a 70 percent reduction in smog, a 70 percent reduction in soot, and a 70 percent reduction in other pollutants. Meanwhile, American gross domestic product has grown by more than 200 percent.

From Flint, Michigan to the Tar Creek Superfund site on the lands of Chairman Berrey's Quapaw Tribe, we have a responsibility to ensure that all people have access to clean air and safe water and land. The Unfunded Mandates Reform Act was enacted in 1995 as a way to better understand the economic impact of Federal mandates on State, local, and tribal governments, and ensures that they are consulted, establishes a procedural mechanism for Congress to block consideration of legislation containing unfunded mandates, and requires detailed cost-benefit analysis.

Since 1995, Executive Orders 12-866 and 13-123 have also established cost-benefit analysis requirements for agency regulations. Similarly, the Administrative Procedures Act requires agencies to conduct cost-benefit analysis when issuing rules.

The EPA is actually the most aggressive agency of the entire Federal Government in implementing Executive Order 13-123, having voluntarily applied its requirements to more of its rules than required, which has resulted in a tenfold increase in EPA rules requiring consultation with State and local governments. Yet, some in Congress want to add even more requirements, analysis, and roadblocks to the already lengthy and extensive regulatory process.

Everyone on this Committee agrees that the EPA should have to do cost-benefit analysis and consult with stakeholders. Everyone should also agree that adding so many layers to the rulemaking process that it becomes paralyzed will result in the erosion of the important public health protections Congress intended these laws to provide, because undermining our public health gains could truly be the beginning of a new horror story.

Mr. Chairman, I thank you for having this hearing and I yield back the balance of my time.

[The prepared statement of Senator Markey follows:]

Senator Rounds. Thank you, Senator Markey.

Our witnesses joining us for today's hearing are Mr. George Hawkins, CEO and General Manager, District of Columbia Water and Sewer Authority; Mr. Robert Glicksman, Professor of Environmental Law, The George Washington University; The Honorable Senator Mark Norris, who is the majority leader of the Tennessee General Assembly, on behalf of the Council of State Governments; the Honorable Christian Leinbach, Commissioner Chair, Berks County, Pennsylvania, on behalf of the National Association of Counties.

And I would like to call upon Chairman Inhofe as the senior member from Oklahoma, to introduce our final guest today.

Senator Inhofe. First of all, let me say that it is really nice to have John Berrey here. John Berrey is the Chairman of the Quapaw Tribe in my State of Oklahoma. We have been good friends for many years, as has Senator Boozman and John Berrey.

But, you know, I suffered through being mayor of the City of Tulsa through over-regulations and unfunded mandates, and I remember, as you pointed out, Mr. Chairman, in your opening statement, that we had to start passing tax increases because these mandates were in fact mandates and they were unfunded. And I remember the first act I had to do was to pass a 1 cent tax increase just to take care of unfunded mandates.

So it is a problem that has been there for a long time. Yes, right now I have the Congressional Record in front of me from 1995, but our effort goes all the way back to 1979.

But back to John Berrey, a great guy, a good friend, and who is going to give us a perspective that I don't believe we have had this before, as to the tribal effects that come from unfunded mandates.

Thank you, Mr. Chairman.

Senator Rounds. Thank you.

Chairman Berrey, welcome.

Now we will turn to our first witness, Mr. George Hawkins, for five minutes.

Mr. Hawkins, you may begin.

STATEMENT OF GEORGE HAWKINS, CEO AND GENERAL MANAGER, DISTRICT
OF COLUMBIA WATER AND SEWER AUTHORITY

Mr. Hawkins. Good afternoon, Chairman Rounds, Ranking Member Markey, distinguished members of the Subcommittee on Superfund, Waste Management, and Regulatory Oversight. My name is George Hawkins. I am the Chief Executive and General Manager of the District of Columbia Water and Sewer Authority, more commonly known as DC Water.

DC Water is one of the few "one water" utilities in the Country, providing drinking water, waste water, and stormwater services from one enterprise to millions of retail and wholesale customers in the Washington, D.C. region. DC Water is regulated by EPA Region 3 for Safe Drinking Water Act and Clean Water Act compliance. From an environmental health and public health perspective, these seminal pieces of legislation have brought forth tremendous benefits.

Growing up in the suburbs of Cleveland, Ohio, I recall visiting the Cuyahoga River on a class field trip in 1969, and will never forget seeing the surface of the river, which looked like a finger painting, water swirling with colors and powerful aromas. The same year of my visit, the Cuyahoga caught on fire from sparks of a passing railcar and burned for a week.

Today, thanks to the Clean Water Act, many of our rivers are healthy and thriving. Today, thanks to the Safe Drinking

Water Act, the overwhelming majority of people in this Country have safe, reliable drinking water at the tap 24 hours a day, 7 days a week, and 365 days a year.

In my view, this outcome is one of the great public policy accomplishments of the last century, and one of the often overlooked miracles of modern society. However, it is the success of these statutes that highlights the need to be flexible and thoughtful to ensure that we continue to derive success in the future. We still have water quality challenges to overcome and new threats on the horizon.

Currently, DC Water is in the process of implementing two massive projects with a total cost approximating \$4 billion. Under the terms of a 2005 consent decree, DC Water is implementing the \$2.6 billion Clean Rivers Project. The first phase is underway to construct a massive underground tunnel system to control combined sewer overflows to the Anacostia River.

Our second massive undertaking involves removing nutrients from our treated water at our Blue Plains facility. EPA's discharge permit requires us to reduce dramatically the level of nitrogen in treated water we discharge into the Potomac River, which leads to the Chesapeake Bay. The recently completed enhanced nitrogen removal project cost approximately \$1 billion.

DC Water has received some Federal funding for these

initiatives, but the overwhelming portion of these projects are funded by our ratepayers and wholesale customers. Beginning in October of next year, the average monthly bill for a residential customer will for the first time be over \$100, more than double the average bill when I arrived in 2009.

Given the declining role of the Federal Government in funding water infrastructure, utilities like DC Water must account for all of our costs in the rates that we charge our customers. The price of clean and reliable water is increasing, and so is the need to replace aging infrastructure.

I support full-cost accounting for water services that enables DC Water to fund our needs and enables our customers to make appropriate market choices on water use and conservation. I state this view with two reservations. First, as you well know, the District of Columbia is an urban area with a very high cost of living and a sizeable low income population. Unfortunately, our affordability analysis demonstrates that many of our customers struggle to pay their water and sewer bills, and will have even more challenges in the future. This scenario is all too familiar to most jurisdictions across the Country.

The practical consequences that many jurisdictions are not able to raise rates to cover their needs because of the limitations of their lowest income customers. With constrained income, utilities will nonetheless undertake mandated work,

reducing focus on basic infrastructure investments. The condition of these assets then continues to deteriorate and utilities risk falling into a downward spiral of poorer service and reduced support.

Second, I am also concerned that the success of our Nation's water statutes pushes us to continue doing what we have always done, just more so, to a point of drastically declining benefits at the margin. DC Water faces enormous escalation of costs in reducing nutrient discharges. For the years 2000 to 2015, the capital cost to remove one pound of nitrogen has increased about 380 times. I believe there is agreement that Chesapeake Bay goals are well intentioned and deserving, but I also believe they could be met with a more flexible and holistic watershed approach that would include regulating non-point sources like runoff from suburban development and agriculture.

I want to note that EPA has made progress in considering the fiscal impact of their regulations. Specifically, EPA's Integrated Planning Framework provides the flexibility to consider community affordability and financial capability when making Clean Water Act determinations.

Additionally, EPA Region 3 recently negotiated DC Water to modify our \$2.6 billion consent decree for combined sewer overflows. As part of these negotiations, EPA thoughtfully considered the economic burden of the previous 20-year

construction timeline placed on our low income customers. The modified agreement extends the latter stages of the project, which allows us to spread out rate increases.

I am confident that no one intends for regulatory requirements to feed into a cycle that generates poorer service and diminished support. I am also confident that a clear solution exists: a Federal assistance program for low income customers. An example of a similar assistance program exists in the long-standing and long-successful Federal program to subsidize heating assistance, the Low Income Heating and Energy Assistance Program. Providing an income-based assistance program for water utility bills would help our poorest customers with this essential service, enabling water utilities to increase rates for other ratepayers who can afford to help invest in water services and infrastructure improvements.

I commend the Subcommittee for holding this hearing and bringing attention to the impact Federal regulations have on State, local, and tribal governments, and ultimately to all residents of the great Nation we live in. A balance must be achieved between protecting the environment and protecting our most vulnerable from rising costs. These endeavors are not mutually exclusive and we look forward to working with the Subcommittee on these matters.

I will welcome your questions. Thank you.

[The prepared statement of Mr. Hawkins follows:]

Senator Rounds. Thank you, Mr. Hawkins.

We will now hear from Professor Robert Glicksman.

Professor Glicksman, you may begin.

STATEMENT OF ROBERT GLICKSMAN, PROFESSION OF ENVIRONMENTAL LAW,
THE GEORGE WASHINGTON UNIVERSITY

Mr. Glicksman. Chairman Rounds, Ranking Member Markey, and members of the Subcommittee, I appreciate the opportunity to testify on the importance of the Environmental Protection Agency's actions to protect health and the environment, and on how regulatory procedures can impair the Agency's ability to perform that function.

My written statement makes four points which I will summarize today.

First, the environmental safeguards EPA has put in place have delivered enormous benefits to the American people. Second, these safeguards should be available to all Americans, regardless of location or income level. Third, a hobbled regulatory system undermines EPA's ability to carry out its statutory missions of protecting public health and environmental quality. And, fourth, pending proposals to amend the Unfunded Mandates Reform Act would create duplicative requirements that would hinder EPA's ability to provide adequate health and environmental protection.

Congress passed the Nation's key environmental laws during the 1970s by overwhelming bipartisan majorities. It formulated goals while delegating to EPA standard setting authority to achieve them. This approach has allowed EPA's technical and

policy experts to determine how best to achieve desired health and environmental protection goals in a manner consistent with legislative direction.

Congress also built these laws on a cooperative federalism framework, which allows the States to implement EPA's regulatory standards in ways that reflect State policy choices and accommodate local needs.

Opinion polls consistently reflect the public's strong support for these laws, and for good reason: their successes are impressive. For example, by preventing exposure to dangerous air pollutants, the Clean Air Act saves thousands of lives and avoids hundreds of millions of lost work and school days each year. EPA regulations have reduced the incident of dangerous blood lead levels which can create cognitive impairment in children from 88 percent in 1976 to 0.8 percent in 2010.

Because of the Clean Water Act, the percentage of surface waters meeting the Act's fishable, swimmable waters goal increased from between 30 to 40 percent in 1972 to as much as 70 percent in 2007.

These laws and regulations are not cost-free; they require those polluting the Nation's air and water to upgrade the technologies used to reduce pollution. But a 2015 report by the Office of Management and Budget, which performs a watchdog role

over regulatory agencies, concluded that the benefits of the major EPA rules issued between 2004 and 2014 outweighed costs by a ratio of up to 20 to 1. It also found that the monetized benefits of EPA's Clean Air Act regulations alone accounted for up to 80 percent of all Federal regulatory benefits across all of the agencies examined in the report.

As new threats to public health emerge due to technological and other changes, it is critical that EPA retain its authority to continue to provide these important protections.

EPA is obliged by statute to provide the same minimum level of protection for everyone, regardless of their geographic circumstance or economic situation. Generally, subnational governments over the years have supported EPA's regulations. Some have even exercised the authority preserved to them under Federal law to adopt standards that are more protective than EPA's.

On occasion, State and local policymakers failed to take adequate steps to protect their citizens. Consequences can be dramatic, as the recent drinking water crisis in Flint, Michigan illustrates. One reason Congress chose to require EPA to deliver universally applicable minimum safeguards was to ensure that everyone, including the Nation's most vulnerable populations, enjoy basic public health protections.

Some pending legislation, including bills that would amend

the Unfunded Mandates Reform Act would hamper EPA's ability to deliver that level of protection. EPA and other Federal agencies already must comply with procedural and analytical requirements, many of which duplicate each other, that make the process of adopting rules much lengthier than it has ever been. It can take years for EPA to adopt a single major rule. In the interim, the problems targeted by the rule continue to threaten public health and environmental quality.

The proposed unfunded mandates amendments would aggravate the situation by imposing on agencies requirements that, for the most part, duplicate those that already exist under the Administrative Procedure Act, the Regulatory Flexibility Act, and presidential executive orders. The bills express concern about duplicative regulations as a source of waste for businesses, but duplicative regulatory procedures have the same effect for governing.

Delays resulting from an ossified regulatory process can harm interests across the board, including small businesses, States, localities, and Tribes. The requirements that bills like H.R. 50 would impose on agencies would apply to repeal or modify rules that have become obsolete or that produce unjustified regulatory burdens, as well to initial rule adoption. The Supreme Court has indicated the courts must review regulatory repeals with the same scrutiny as they do rule

adoptions.

While some provisions would not duplicate existing law, they would add little value to the regulatory process. H.R. 50, for example, would require agencies to assess the costs and benefits of regulatory action before issuing even a notice of proposed rulemaking. The point of the notice and comment rulemaking process is to solicit input from affected interests, including subnational governments, on whether the agency's initial take is adequately informed and reflects sound policy.

It is hard to see how an agency can perform a meaningful cost-benefit analysis of a rule it has not even formulated in sufficient detail to be suitable for public comment. Costs of delayed protection resulting from this requirement, therefore, are unlikely to be offset by the benefits of an improved regulatory process.

For 70 years, the Administrative Procedure Act has provided a process for adopting rules. That process balances the need for timely and responsive action by agencies whose duties are to protect the public interest with the benefits to inform regulation that result from public participation. The law is not perfect, but the reforms being considered would exacerbate its weaknesses, not cure them.

I am happy to answer any questions you may have.

[The prepared statement of Mr. Glicksman follows:]

Senator Rounds. Professor Glicksman, thank you very much for your testimony.

Our next witness is Senator Mark Norris.

Senator Norris, you may begin.

STATEMENT OF THE HONORABLE MARK NORRIS, MAJORITY LEADER,
TENNESSEE SENATE, ON BEHALF OF THE COUNCIL OF STATE GOVERNMENTS

Mr. Norris. Thank you, Chairman Rounds and Ranking Member Markey and members of the Committee. Thank you for the opportunity to testify today. I think it is very important that you are giving us this opportunity because one of the things that we are frustrated about at the State level these days is the lack of the opportunity to communicate in this way with our friends in the Federal Government.

I am Mark Norris. I am the Senate Majority Leader from the State of Tennessee. I have the honor of serving the citizens of the 32nd District, which I mention because it is part of the west coast of Tennessee. We are along the Mississippi River, which means we deal with things like basin authorities and the Corps of Engineers, which brings relevance to me today for why I am here.

In the interest of full disclosure, I should also mention that I am the Senate representative from Tennessee on the Southern States Energy Board and I had the privilege of serving as the chairman of the Council of State Governments in 2014, also known as CSG, and Chairman Rounds served as our president in 2010.

So on behalf of CSG and State leaders throughout the Country, we appreciate the opportunity to be heard. And I

should also mention that CSG is the only organization of its kind that serves all three branches of government in all 50 States, so we understand bipartisanship and we understand the separation of powers.

Last week in Tennessee we celebrated the 220th anniversary of our statehood. This is statehood week whereby Tennessee became the sixteenth State in the Nation. The act was signed by none other than President George Washington himself, and Thomas Jefferson commented on our constitution in Tennessee as the least imperfect and most republican of State constitutions. It provides that the citizens have the power and the right of exercising sovereignty so far as is consistent with the Constitution of the United States, recognizing the Articles of Confederation and the Bill of Rights.

And I mention this at the outset because really what we are talking about here today is sort of the two Cs, as I hear them, not only the Constitution, but more effective communication under the Constitution.

As Chairman Rounds would particularly understand, the States are the foundation of our federal system as enshrined in the Tenth Amendment. This is the foundation upon which States develop innovative ideas and policies, and often fulfill their roles as the laboratories of democracy. But all too often today we find that those laboratories are being interfered with.

State-based innovation is increasingly adversely impacted by the growth of some of these Federal policies and regulations and rules that we have been talking about, which often manifest in the form of unfunded mandates.

We can talk perhaps in the Q&A portion of this, but Chairman Rounds mentioned the Clean Power Plan and the Clean Water Rule, both of which are being challenged by a number of States in federal court. Interestingly, perhaps, Tennessee is not a party to the 111(d) legislation; it is a party to the waters of the State, the Clean Water rule litigation. And the difference is that the Federal Government, the EPA, and the particular departments and agencies involved in the 111(d) case gave us much more advanced notice, gave us much more opportunity to participate and be heard than was the case with the Clean Water Rule.

Notwithstanding that, studies do show that Tennessee could experience electricity price increases of as much as 15 percent under the Clean Power Plan, and Tennesseans already spend an estimate average of 12 percent of their after-tax income on energy, so the impact is disproportionately high.

Along with the cost of financing these new unfunded mandates, the majority of Federal regulations have too often been enacted with insufficient input, if any, nor adequate consultation from State and local governments; and more often

Federal agencies regularly process rules without even conducting an appropriate analysis of the potential economic costs, as required by UMRA. This is what led, in part, to the formation of our Federalism Task Force at CSG. My colleague, Alaska State Senator Gary Stevens, and I put forth a study over a period of two years to examine what we could do better to not only adopt a seat of principals that articulate a helpful vision, but how we would implement those.

I have included in my submission a full list of the principals that we adopted, and they focus, generally speaking, on avoiding preemption, avoiding unfunded mandates, promoting State flexibility, promoting State input on international trade policy, and also focusing on civics; not only making sure that civics are being taught so that our next generation understands the nature of our government, federalism, how things work in our Republic, or should, but also make sure that we are teaching each other, as State legislators with responsibilities, about the rule of law and constitutionalism as it affects our daily responsibilities.

It is this type of tension and the lack of constructive communication that has led to a number of initiatives, one of which is the adoption by eight States, including Tennessee, of the resolution calling for Congress to adopt the Regulation Freedom Amendment to the United States Constitution.

In the past years, we have held a variety of meetings with the White house, Federal agencies, and members of Congress on all of these issues, but all too often we feel as though we are incidental, rather than integral, to the process. In a word, folks feel the Federal Government simply doesn't care, and that is not constructive for anyone.

So this brings me to an important point, which is that we need to take a closer look at what we call consultation with the States. Many of our State legislators, like me, are truly citizen legislators. It is sort of a full-time, part-time job. But it is very difficult for us to keep up with the proliferation of rules and regulations, even for our departments to do so and communicate with us in a meaningful way.

We are thankful for organizations like the Council of State Governments, which is our eyes and ears in Washington, but we also need to identify other real and concrete ways to improve the consultation process.

In the past year, CSG has had the opportunity to chair the organization known as the Big 7, and under the leadership of CSG's Executive Director, David Adkins, the coalition also worked to identify recommendations on how to improve the State-Federal regulatory process. Those recommendations are also included in my materials.

As you will see, they include updating UMRA, establishing

consistent State-Federal advisory committees within Federal agencies, and simply ensuring State legislators know how to contact each Federal agency, who to contact it, and how to do it in a meaningful way. Navigating the relationship between State and Federal governments is no easy task, but we are hopeful that we can take practical steps to improve our cooperation.

In conclusion, members, I want to stress the importance of establishing a process that ensures States are true partners in our Federal system, and not just another stakeholder. I believe, with your leadership, we can take steps to improve the outreach and consultation between our States and the Federal Government.

Thank you very much for the opportunity to appear before you today and I look forward to your questions.

[The prepared statement of Mr. Norris follows:]

Senator Rounds. Senator Norris, thank you very much for your testimony.

We will now hear from our next witness, Commissioner Christian Leinbach.

Commissioner Leinbach, you may begin.

STATEMENT OF THE HONORABLE CHRISTIAN LEINBACH, COMMISSION CHAIR,
BERKS COUNTY, PENNSYLVANIA, ON BEHALF OF THE NATIONAL
ASSOCIATION OF COUNTIES

Mr. Leinbach. Chairman Rounds, Ranking Member Markey, EPW Chair Inhofe, and distinguished members of the Subcommittee, I am honored to testify today on the impacts of EPA regulations on State, local, and tribal governments. My name is Christian Leinbach, and I serve as Chairman of the Berks County Board of Commissioners in Pennsylvania, and today I am representing the National Association of Counties.

While Berks County is considered urban, with a population close to 415,000, we have a diverse mix of urban, suburban, and rural communities. Manufacturing accounts for more than 30,000 jobs in our county and agriculture is our number one industry.

As a county commissioner, I have seen firsthand how our local communities, major employers, and important infrastructure projects have been directly and indirectly impacted by Federal environmental regulations, and today, as you continue to assess Federal regulations and their impact on State and local governments, I would like to share with you three key points for your consideration.

First, this is important because counties and other local governments play a key role in the federal regulatory process. Counties build, own, and maintain a significant portion of

public safety infrastructure that may be regulated under Federal and State laws. This includes over 45 percent of America's roads and nearly 40 percent of all public bridges. We also own and maintain roadside ditches, flood control channels, stormwater culverts and pipes, and MS4, just to name a few.

But just as important as our infrastructure ownership, we share co-regulator responsibilities with Federal and State governments for a number of environmental programs, including the Clean Air Act and the Clean Water Act. So when EPA crafts new rules, their decisions have a direct impact on how we serve our residents at the local level.

Second, the growing number of Federal regulations and mandates is significantly impacting counties and our residents. In recent years, the Federal Government has increasingly relied on State and local governments to shoulder implementation costs for more than just environmental programs. This has caused an imbalance at the local level since counties are limited in our ability to generate local revenue. In fact, more than 40 States limit our ability to collect sales, property tax, and/or other fees. These leave counties with a difficult choice: do we cut critical local services like law enforcement, fire protection, and emergency services or delay needed infrastructure projects? These choices have significant repercussions for our residents and businesses, and affects the quality of life within our

communities.

Counties nationwide continue to be very concerned about EPA's water of the U.S. rule, the ozone rule, and risk management rule, which are quite complex and costly regulatory mandates that involve environmental compliance. These rules will extend Federal jurisdiction over a greater number of county projects and could compromise our ability to fulfill significant infrastructure construction, maintenance activities, and public safety responsibilities.

Berks County has felt the effects of the growing number of EPA regulations over the past years. In fact, one of our largest coal-fired power plants shut down due to the NAAQS rules. Seventy-five employees lost their jobs, and these were quality jobs paying around \$70,000 a year.

Ultimately, counties support environmental protections and share many of the same goals as the Federal agencies. But we are concerned that the current rulemaking process does not take into account the true implications of these regulations.

Finally, and most importantly, meaningful intergovernmental consultation will create greater clarity and increase the effectiveness of Federal regulations. Even though EPA has one of the strongest internal consultation requirements, it is inconsistently applied. Although waters of the U.S., ozone and risk management rule will have a major impact on county

governments, we were not meaningfully consulted with, despite repeated requests.

In conclusion, while we share many of the same goals as our Federal partners, the current consultation process must be strengthened. Counties, with our experience and expertise, stand ready to work with Congress to improve the Federal regulatory and consultation process.

Thank you for the opportunity to testify today. I look forward to your questions.

[The prepared statement of Mr. Leinbach follows:]

Senator Rounds. Commissioner Leinbach, thank you for your testimony.

Our next witness is Chairman John Berrey.

Chairman Berrey, you may begin.

STATEMENT OF THE HONORABLE JOHN BERREY, CHAIRMAN, QUAPAW TRIBE
OF OKLAHOMA

Mr. Berrey. Thank you, and good afternoon, Chairman Rounds, Ranking Member Markey, and also Senator Inhofe and Senator Boozman. I appreciate the opportunity to speak to you today, and I am going to echo a lot of the same concerns these gentlemen have with me.

I am the Chairman of the Quapaw Tribe of Oklahoma. We live in northeastern Oklahoma. We were the indigenous people of the State of Arkansas until the mid-1800s, when we were removed to Oklahoma, so we were across the river from our friend here from Tennessee.

I have a prepared statement I have delivered to you, but I am just going to make a few points that I would like to point out and hopefully you can understand better from the tribal perspective how a lot of these rules and regulatory mandates negatively impact the tribal governments, and the Quapaw Tribe in particular.

The Quapaw Tribe is a very progressive tribe. We are a self-governance tribe, which means that we do not rely as much as some tribes on the Bureau of Indian Affairs and the Department of the Interior. We take the funding and we manage it ourselves, and we provide those programs that the Federal Government has for years provided us that we manage ourselves.

But we are more than that. We provide emergency medical service, fire protection, and law enforcement not just for our Indian community, but for the local non-Indian community in our area. Ottawa County, Oklahoma, we provide the greatest fire protection of all of the local governments. In 2011, the Joplin tornado, the Quapaw Tribe provided the 911 emergency services for the City of Joplin for five weeks post-tornado. So we are very involved in the community and our resources are spent in the community, but they are not just targeted strictly to Native Americans.

So I would like to talk to you that my Tribe doesn't have a tax base. That is part of being a Tribe. We live on lands that aren't taxed because it is under Federal jurisdiction and it makes it so our lands are not taxable. In some ways that is a benefit to the Tribes, but in other ways it makes it very difficult for the Tribe to develop an infrastructure to help develop our communities.

This means, like all Indian Tribes, we must create opportunities. We must create economic development to ensure that we can provide the needs for our local community. We have a casino thanks to the Indian Gaming Regulatory Act. But we are more than that. We are building a USDA-inspected meat and beef, bison, pork processing plant now that, if I was building it across the street on fee land, it would take me probably half

the money and half the time. But because I am on Federal land and I have to follow the Federal rules and the mandates by the EPA, it is taking me twice as long and is costing me twice as much. And we are going to provide jobs not only for Native Americans, but for the local community. And we are going to provide a new source of meat cutters for the local grocery chains that are desperately looking for people to fill that trade.

We have a heavy legal burden that is put on us because we are Native Americans, and we don't get the opportunity to consult with the EPA and other agencies, so it makes it very difficult for us to keep up with the rules and regulations that come down the pike. Every time that the Quapaw Tribe tries to incorporate our resources to develop economic opportunity for not only our people, but for the people of the local community.

Earlier, Senator Markey spoke of the Tar Creek Superfund Site. That is 40 square miles within our tribal jurisdiction. It is a scar you can see from the moon. It is the result of heavy zinc and nickel mining that left a lot of contamination on the land. I believe if it wasn't for a lot of the regulations and the mandates by the EPA, we would probably be further along in the cleanup than we are to date. Currently, the Quapaw Tribe is the contractor of choice for the State and for the EPA to do the removal of the contamination on the surface, but we are

constantly facing new rules, new mandates that make it difficult for us to stay focused on doing what it is that we do to save the taxpayer money and get the work done.

So we are constantly dealing with this Federal system of rules and regulations that impede us in our ability to work fast, gain financing, get projects going and get them completed to actually get something that creates more jobs, more economic development, and more opportunity.

You can go across the Country today and you can fly at night, and you can see the reservations in the West purely because of regulatory mandates that tribes have difficulty meeting. The reservations are dark. You can go to North Dakota and you can spot the three affiliated reservations because it is dark, but everywhere around it is lit up as they are fracking and they are creating economic development using those resources that are there underground. But because it is so difficult for tribes under these rules, it is very visible at night because there is little activity.

It is happening in Navajo, it is happening at Crow because of the coal rules. It has killed jobs, it has killed hope, and it has killed opportunity for so many Native Americans in those regions. These are places where people freeze to death in the winter. These people are hungry. They are rural, they are isolated, and they have very little opportunity. And when we

create rules and regulations without consulting with the local community, we never really understand the impacts it has on those people until they are already on the books and the saw mills close, the coal fields shut down, and then the people begin to starve.

So what we want, we are hoping for, and why we are very grateful for this opportunity is we want true consultation, we want true communication, and we want collaboration. We believe that we know what is best for our people. Native Americans don't want to trash the rivers. We don't want to trash the air. We don't want to make the world a worse place for our grandchildren. But we believe that we have the insight and the respect for Mother Nature that is necessary to come up with rules and regulations that we can fund and that will make the world a safer and better place, instead of creating confusion and stagnation based on new rules that come out without any thought put into it with the local community.

So on behalf of the Quapaw Tribe and all Native America, I want to thank you, Senator Rounds, Senator Inhofe, and you too, Senator Boozman and Markey for the work you do for Native Americans. I know you are trying to work in other venues to help the Indian people across this Country and we are very grateful for that. I am grateful for this opportunity today and I look forward to any questions.

If you want to come out and really see where these mandates that are unfunded has created havoc, come to the Quapaw Reservation and come see the Tar Creek Superfund site, which, for 30 years, we have been battling this. They have spent millions and millions of dollars, but you can't really see what has changed except what we have worked with with Senator Inhofe, who we have been able to get through by beating up the EPA and making the things work.

[The prepared statement of Mr. Berrey follows:]

Senator Rounds. Chairman Berrey, thank you for your testimony.

I would note at this time that, without objection, the written testimony of all of the witnesses will be included for the record.

Senators will now each have five minutes for questions, and I will begin.

Let me start with Senator Norris. Senator Norris, you were involved in an effort by the Council of State Governments to improve the role of States in the Federal process. Can you share with us some suggestions you have that could improve the federal regulatory process through increased State participation?

Mr. Norris. Thank you, Chairman Rounds. A couple of those that are enumerated in the materials we have submitted include these that come first to mind.

First, establishing State and local government advisory committees within Federal agencies. Not to add to bureaucracies, but absent what we used to have, the Advisory Commission on Intergovernmental Relations, ACIR, there really isn't anything equivalent to that today that is consistent through the Federal agencies, and we think that perhaps establishing a State and local advisory committee, something like that but perhaps a new generation, something different,

within each Federal agency could help to ensure that there is consistent input and consultation and analysis of these proposed rules.

In Tennessee we have the Tennessee Advisory Commission on Intergovernmental Relations, which I chair, and have for a number of years, and it becomes a pretty effective think tank as well as a roundhouse, if you will, for communicating with our stakeholders, the county governments, local governments, and other State agencies.

Another idea is to develop an annual or perhaps a biannual session between agency staff and association staff. This would allow all groups to make introductions and facilitate dialogue, including with both political and career Federal agency staffs. Also, to exchange rosters of key contacts between senior agency officials, including career and political employees responsible for writing regulations. Again, this isn't rocket science, it is not earth-shattering, but it is sort of common sense changes that can be made at the administrative level to really effectuate more effective communication across all these levels.

Those would be just two ideas, Chairman Rounds.

Senator Rounds. Thank you.

Commissioner Leinbach, States and counties are not only responsible for administering State and Federal regulations, but they also must provide other critical services to citizens, such

as waste management, law enforcement, emergency services, and education. How has the recent barrage of EPA regulations impacted counties' ability to provide these vital services to American families?

Mr. Leinbach. Looking at Berks County as an example, we have had to deal with the issue of waters of the U.S. and the potential impact on costs for counties, the implementation of roads. If you look across the Country, 45 percent of roads in America are owned and maintained by counties. We believe it is imperative that counties be brought into the process in the very beginning.

In Berks County we noted, and I have more details in my formal testimony, that we lost 70 jobs with our largest power supplier, and that was the Titus Station Generating Plant. Through the lead attainment standards several years ago, our largest employer, East Penn Manufacturing, over 7,000 employees, they were already meeting the new lead attainment standard for a year and a half. They had a year and a half of data.

They came to the county and asked for help because they were notified that EPA was requiring three years of data. And in spite of our pleas to the EPA not to put that part of our county in non-attainment, they were placed in non-attainment. That meant that our largest employer during that period of time was not able to expand and we were not able to attract

manufacturing businesses to that region of the county. That has a direct impact economically.

If you look at county government, we are concerned about the same issues that the Federal Government is concerned about. Number one, we believe in clean water, we believe in clean air, and public safety, number two, is our number one job. The 911 services, police, fire, rescue, and those are costs we have to absorb. When we are challenged with the cost of regulations, those other areas often suffer.

Senator Rounds. Thank you, sir.

My time has expired. Senator Markey.

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

Mr. Norris's testimony, Mr. Glicksman, cites a report that lists the costs of Federal mandates as being between \$57 billion and \$85 billion every single year. But that very same report estimates the benefits of regulations to be between \$68 billion and \$103 billion per year.

Professor Glicksman, do you agree that environmental regulation often produces more net benefits than the costs?

Mr. Glicksman. I do. And the OMB report from 2015 that I cited provides ranges of estimates of environmental benefits, environmental costs for various EPA regulations. The report in all cases provides estimates in which the upper estimate of regulatory cost is lower than the lowest estimate of regulatory

benefit. So even in a worst case scenario EPA regulations are providing significantly greater benefits than the costs they impose.

Senator Markey. Let me just stop there for one second. Let me just ask the next question, which is that EPA regulations have helped to protect wetlands and reduce lead in gasoline, making sure our drinking water is safe to drink and saves thousands of lives by reducing air pollution.

Do any of you disagree that EPA regulations have made people healthier and improved our environment?

Mr. Leinbach. Senator Markey, I do not disagree. In fact, we believe, as counties, that our objective of clean air and clean water is consistent. And our issue is not with the desire for clean water.

Senator Markey. Okay, I understand. That is the question.

Well, the situation in Flint, Michigan has been a recent reminder that Americans look to the government to ensure that the water they drink is safe. Does anyone disagree that providing safe drinking water to everyone is an essential service that we must provide to every American?

[Affirmative nods.]

Senator Markey. Well, let me then move on. Experts say \$1 trillion is needed to upgrade drinking and clean water infrastructure and prevent future Flints. Congress provided not

\$1 trillion, but a mere \$1 billion each in fiscal year 2016 for drinking water and clean water State revolving funds.

Would you all support increased funding for communities to meet the public health standards established under the Safe Drinking Water Act and the Clean Water Act?

Mr. Berrey. Well, I believe I would as long as they reduce some of the regulatory burdens that they have added to it that add the costs at the end of the day don't complete the project.

Senator Markey. But would you support Congress appropriating \$1 trillion to help the Tribes and help the cities and towns and counties to deal with the issues?

Mr. Berrey. As long as it came along with a reduction with unnecessary regulatory involvement that doesn't come with consultation with the Tribes.

Senator Markey. So you wouldn't want the money if the regulations didn't go away.

Mr. Berrey. I would want the money, but I would want to be able to get a dollar for dollar for all the work that I put into it.

Senator Markey. I appreciate that.

From the District of Columbia, would you want that extra money?

Mr. Hawkins. Just to give a sense of perspective, of the \$1 billion appropriated for the revolving funds, DC Water's

capital budget alone is \$600 million.

Senator Markey. That is what I am saying. Thank you. So \$1 trillion is what experts say is needed to help DC and to help all the other counties.

Mr. Hawkins. It would be the single best investment in our economy.

Senator Markey. I agree with you. We should not have kids not having safe drinking water.

The Clean Water Act ensures pollution is kept at a safe level in our water system. Does anyone disagree that tributaries that provide drinking water should be protected from the dumping of dangerous substances that harm public health and environment?

Mr. Norris. Senator Markey, how would you define tributaries? Because that is a case in point. That is one of the things we are struggling with at State and local levels now. Your definition of tributary may differ from ours. You know, a cow path from my barnyard out to the pasture does not a tributary make. However, some regulators would disagree. And that is how we are at loggerheads with one another.

Senator Markey. Well, again, we have an issue that if in fact any of these entities are dumping dangerous chemicals into that tributary, then ultimately some child somewhere downstream is going to be drinking it. So you have this real conundrum,

don't you? You want to protect young people from drinking water, especially in their formative years, and so it is a very profound question that allows somebody just to say, well, I am small, so I should be able to dump dangerous chemicals into the water. And that is fine for that one entity, but what about for all of the children who then have that chemical in their water as they are drinking it and as their brains are still being formed?

So I thank you, Mr. Chairman.

Mr. Leinbach. Senator Markey, one of the problems is the definition in waters of the U.S. of a tributary, and it says, "a tributary can be a natural, man-altered, manmade water and includes waters such as rivers, streams, canals, and ditches."

Our challenge as commissioners, ditches are the areas along the side of a roadway which historically have not been regulated by EPA and Army Corps. Our challenge is not with clean water; our challenge is with the ambiguity of the rule itself. Most people would think a tributary is some type of body of water, but by its own definition it includes ditches in tributary, and that is problematic.

Senator Markey. And, again, I appreciate what you are saying, but a ditch used by a nefarious character can just be pouring huge amounts of dangerously laced water that has chemicals in it into the water. So one person's ditch is

another person's tributary, especially if it is a bad person, and that is what we found in the Woburn Hazardous Waste Site in my congressional district.

They were just dumping all this stuff into the groundwater, and that is why all these boys and girls wound up with leukemia up there. They were just using it as a place dumping these dangerous chemicals, and they did it as secret dumpers at night, just unloading it right into the water table; and to a certain extent that is what illuminated my attitude towards this from the late 1970s on and the creation of Superfund.

And I would say, Chairman Berrey, that it is critical that we do fund Superfunds so that you have the funding that you need, but beginning in 1995, as soon as the Democrats lost power, there was a defunding of the taxes that the oil companies and the chemical companies had to pay into Superfund, which would have helped you with your problems.

Thank you.

Senator Rounds. As I move to Senator Inhofe, I just think part of the challenge here that we are seeing and that I think this brings out is that you have counties, who clearly are not bad actors, who have ditches that they are responsible for maintaining, and yet now they find themselves, under WOTUS, having to comply with new regulations that they did not have to comply with before, and it is adding to their costs. I think

that is the point that I was hearing. It is good to have that discussion come up.

Senator Inhofe.

Senator Inhofe. I think, Mr. Leinbach and Mr. Norris, you ought to come out to Oklahoma and talk to our farmers. Tom Buchanan, who is the President of the Oklahoma Farm Bureau, says, and he is on record saying of all of the problems that farmers and ranchers, and we are a farm and ranch State, are facing, the worst is nothing that is found in the ag bill, it is the overregulation by the EPA.

And of all the overregulation by the EPA, they say that the WOTUS, those regulations scare them the most because you don't know. They have different people out there making their decisions as to what is good, what is a bar ditch, what is something that only has temporary water after a storm. This is what I am concerned about.

Chairman Berrey, Tribes have different problems than the rest of the people at this table. Do you want to elaborate on any of those that are different because of the tribal application?

Mr. Berrey. Well, I think that the real conundrum for Tribes is some Tribes, like the Quapaw Tribe, are sophisticated and we are, with our resources, able to get a lot of intellectual help to develop our community. And we think, with

consultation, if people at EPA would listen to us, we could get things done.

I think my fears are there are rural Tribes out there that don't have the economic development that we have and the opportunities that we have, that they need added sort of capacity development to help them develop the regulatory and the infrastructure to manage their environment.

So, fortunately for us, we are very educated about it because we are in a Superfund site. But I don't think the problem with Superfund is just the lack of funding. A lot of it has been the management by the EPA in the cleanup since it was identified as a Superfund site. They should have sat and talked to us a little bit, and we could have saved them about half the money they have wasted.

Senator Inhofe. You know, you and I were both there when that happened, and it was a mess.

Mr. Berrey. Yes, sir.

Senator Inhofe. Senator Norris, it is interesting. You and I have a lot of things in common. I also was the chairman of the Oklahoma State Senate. You mentioned the ACIR. I haven't heard anyone mention the ACIR, I bet, in 20 years. And 35 years ago Lamar Alexander was then governor of Tennessee. He represented the governors; I represent the mayors.

And then, of course, you had a representative of every

political level. And it didn't occur to me until you said that that maybe that does have some application here. I mean, if you get together, you have the mayors and the governors and the county commissioners and the State legislators, and representatives from here, that is a pretty good idea.

Mr. Norris. Well, thank you, Senator Inhofe. I spoke with Senator Alexander several years ago, when this idea began percolating, and, of course, we both share the concern that I think was primarily responsible for the sunset of ACIR in the early 1990s, and that is as it relates to cost. Apparently it was an expensive organization and there was bureaucracy associated with it that he and I would eschew. We are not looking to create another department; we are not looking to spend a lot of money. But, again, I keep using the term common sense, and I am glad you picked up on it because there is some variation on what used to be ACIR that it seems to me would be an effective forum.

Senator Rounds. What is ACIR again?

Mr. Norris. The Advisory Commission on Intergovernmental Relations. And if I remember correctly, I believe it was in 1994 or thereabouts that it sunset, as we say in State government. And I get that. We don't want to create a new bureaucracy, but we need a forum that is recognizable and that is recognized where we can exchange these ideas and have better

results.

Senator Inhofe. Well, I do want to pursue that with you. I think the idea is good. And I want to find out why that was so expensive and bureaucratic because, frankly, I don't agree with that. We had the periodic meetings.

Anyway, I do want to get one question in here because we recently had Administrator McCarthy, who said that she was unaware of any instances, and this will be for you, Mr. Leinbach, unaware of any instances where the EPA actions have negatively impacted jobs. That was her statement. That is a quote.

When asked about the statement before this Committee, sitting right here, McCarthy essentially said companies use EPA as an excuse.

Let's start with you and your response to that.

Mr. Leinbach. First of all, we have had direct experience in our own county and counties across the county, and counties across the Country have experienced the same thing, that there absolutely are impacts. I need to emphasize again, as Senator Markey made, I think, legitimate points that EPA has played a critical role in cleaning up our environment over the last number of decades. We are not against the rules. We are concerned about the process. And there is an idea of federalism, that Federal Government, State government, and local

governments ought to work together.

We are not a stakeholder just like anybody else; we are in a unique intergovernmental relationship. And counties have people on the ground, our engineers, our county planners, people that know what needs to be done; and, unfortunately, we are brought into the process very late in the game and are not able to have the impact on the rules. And Waters of the U.S. is a great example, and the recent ozone rules. Virtually no say. We are part of the partnership and all we are asking is for that partnership to be brought back together.

Senator Inhofe. Now, of course, we are concerned about ozone, too. All these things come within this Environment and Public Works Committee.

Mr. Leinbach. That is correct.

Senator Inhofe. And that has such an effect on the lives of everyone, particularly everyone out there who is in business.

Under the ozone, of course, that is done by counties, and there is legislation that Senator Thune I think is the primary mover of the legislation would say we are not going to have any more reductions in the ozone until 85 percent or something of the counties comply with the old.

Do you think that is reasonable?

Mr. Leinbach. That is the position of the National Association of Counties, that we should not be imposing new

ozone regulations until the 2008 standard is met. And I would add I have been elected by counties in the northeast United States to represent them, and this is an issue we have discussed in one of our monthly conference calls, because an ozone in the northeast counties, we are unduly impacted by prevailing winds. So how is it that we are going to be held accountable from a standard when prevailing winds are one of the major factors and we have no control what is happening upstream?

Senator Inhofe. Well, let me ask you again to respond to this statement that she made before this Committee. I know my time has expired, but let me at least get this in.

Unaware of any instances where the EPA actions have negatively impacted jobs.

Mr. Norris. Senator Inhofe, if I may be recognized. I would invite her to Erwin, Tennessee, the tiny town that was home to CSX Rail, which just late last year had to shut down its operations because of what we call the war on coal, and 300 jobs were lost overnight. There aren't that many folks in Erwin, Tennessee, but I have been over there to talk with them, and now we are trying to find ways to retrain them and re-educate them to get them back to work.

And I give that example because here we are in Washington, D.C. and I know we talk in terms of hundreds of thousands of jobs. But in a town like Erwin, when 300 people go out because

of the loss of coal, it hurts; and that is a pretty good example.

Senator Inhofe. Excellent example.

Senator Rounds. Thank you.

It would appear to me, as we listen to the witnesses, that there is a sense that everybody wants good environmental rules; everybody wants good environmental regulations. The challenge sometimes is to find that middle ground where we have the Federal Government looking perhaps not down at, as you may suggest, subnational governments but, rather, States, counties, and municipalities for their input in terms of true consultation. And that is kind of what I take away from this today, is the desire for true consultation.

Reasonable people can have clean water and clean air and still do it in such a fashion that you have consensus that you build at the local level as well, and I suspect that that should be our goal and that perhaps we are not doing the best job of getting that done in the regulatory processes that we do today that could be improved upon.

Before I close today, I would like to ask unanimous consent to enter a letter from the U.S. Conference of Mayors regarding a listing of multiple unfunded mandates that have been imposed on State, local, and tribal governments into the record.

Without objection.

[The referenced information follows:]

Senator Rounds. With that, once again, I would like to thank our witnesses for taking the time to be with us today, and I would also like to thank my colleagues who have attended this hearing for their thoughts and questions.

The record will be open for two weeks, which brings us to Tuesday, June 21st.

Senator Markey, thank you for your participation and discussion as well today.

And with that this hearing is adjourned.

[Whereupon, at 3:47 p.m. the subcommittee was adjourned.]