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U.S. Senate

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Committee on Environment
and Public Works

Washington, D.C.

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BUSINESS MEETING

Wednesday, September 22, 2021

United States Senate

Committee on Environment and Public Works

Washington, D.C.

The committee, met, pursuant to notice, at 9:34 a.m., in room 406, Dirksen Senate Office Building, the Honorable Thomas R. Carper [chairman of the committee] presiding.

Present: Senators Carper, Capito, Cardin, Sanders, Whitehouse, Merkley, Markey, Duckworth, Stabenow, Kelly, Padilla, Inhofe, Lummis, Boozman, Ernst.

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

Senator Carper. Good morning, everybody. Welcome to our witnesses and your guests. I want to welcome all of our colleagues, Senator Capito and I. I am pleased to be with you this morning. I am pleased to be able to call this business meeting to order.

In a couple of minutes, we are going to hold votes on five nominees to fill important positions within the Environmental Protection Agency, within the Department of Defense, and the Chemical Safety and Hazard Investigation Board, as well as to address four bills and no less than nine General Service Administration resolutions.

After that, we will take a nap. No, but after that, we will really get to work. Once we finish with these naps, these votes, we are going to immediately move to our hearing, and at that time, we are going to hear from a panel of experts about the role we can play in promoting the transition to a circular economy.

I will have more to say on that after the business meeting, but for now, let me just take a couple of minutes to discuss the nominees whom our committee will vote on shortly.

Each of these nominees, from Jeff Prieto, Stephen Owens, Jennifer Sass, and Sylvia Johnson are talented. They are well-

established leaders in their respective fields. Importantly, each has demonstrated deep commitment to making our Country a better, safer, and a more livable place for all Americans.

Let me again briefly reach out, Mr. Prieto, President Biden's nominee to serve as General Counsel at EPA. I met with Mr. Prieto earlier this summer and was very, very impressed. I believe he is an outstanding pick to assist Administrator Regan in leading EPA and keeping its policies and programs consistent with the law. Mr. Prieto has dedicated over 20 years, 20 years, of his distinguished career to public service, serving across multiple departments in the executive branch.

At his hearing, he demonstrated the kind of intelligence, the kind of poise, the kind of forthright commitment to EPA's mission that will make him an outstanding General Counsel. I am proud to support his nomination, and I urge our colleagues to join me in voting to report his nomination favorably to the Senate.

This morning, we will also be voting on President Biden's nominees to serve on the U.S. Chemical and Hazard Investigations Board. Let me just say a couple of words about Stephen Owens, Jennifer Sass, and Sylvia Johnson. Each of these talented individuals brings with them a different set of skills and professional experiences that will greatly benefit the work of

the Chemical and Hazard Investigation Board.

Mr. Owens, a former EPA Assistant Administrator of Chemical Safety and Pollution Prevention, has dedicated decades, not years, but decades, of his career as an attorney and as a regulatory leader to protecting communities from chemical pollution.

Dr. Sass has established herself as a well-respected scientist and leader in deepening the public health community's understanding of how chemical releases affect the health of both individuals and our communities.

Dr. Johnson has built a formidable career as an occupational health expert, working closely with workers who have been exposed to potentially harmful chemicals and industrial hazards to promote worker and operational safety. Her extensive experience includes working directly on hazard assessments and incident investigations that involve worker deaths from hazard exposures.

Separately, I believe each of these nominees to the Chemical Safety Board is qualified to serve and make meaningful contributions to the Board's mission. Taken together, I believe their combined experience made even stronger by the diversity of each individual's contributions represents a great step for the work of the CSB, should they all be confirmed. This board is very much in need of their leadership right now, and I am

enthusiastic about the possibilities of the CSB improving its capabilities and effectiveness following their confirmations.

With that, I am pleased to turn to our Ranking Member, Senator Capito, for any comments that she would like to make on the business portion of today's proceedings.

[The prepared statement of Senator Carper follows:]

STATEMENT OF THE HONORABLE SHELLEY MOORE CAPITO, A UNITED STATES
SENATOR FROM WEST VIRGINIA

Senator Capito. Thank you, and good morning, Chairman Carper.

I am pleased to support two of the nominees for the Chemical Safety and Hazard Investigation Board, known as the CSB. Stephen Owens stated in his written responses to the committee that one of his top priorities would be increasing transparency and information sharing at CSB. I welcome that news. I am pleased to hear that, and I urge him to follow through on this commitment should he be confirmed.

When considering nominee Dr. Sylvia Johnson, I appreciated her commitment in her written responses to spend the next few months of her tenure seeking advice and counsel from internal and external sources. She has expressed a willingness to work collaboratively with stakeholders. I appreciate that.

I regret that I cannot support the remaining nominee at CSB, Dr. Jennifer Sass. CSB plays a critical role in analyzing why industrial accidents occur and how they can avoid them in the future in a technical and unbiased manner.

Dr. Sass's criticism of the chemical industry included deriding the EPA for engaging with the American Chemistry Council about implementing the Toxic Substance Control Act in a

transparent manner. I was troubled by her attempt to conceal that attack and other statements right after the hearing by taking down her, she took down her entire Twitter page. This knee-jerk reaction when confronted with hard questions shows that she is not the right person for a board committed to transparency.

I also cannot support the nomination of Jeffrey Prieto to serve as General Counsel of the EPA. The direction the administration is already taking on Waters of the U.S., combined with Mr. Prieto's refusal to condemn overreaching regulations, mean that I must oppose his nomination at this time. This Administration has announced plans in the environmental policy area, ones that I think could cause major damage to our economy and our energy sectors.

Mr. Chairman, finally, I look forward to reporting five naming bills, including Senator Lummis's legislation, and nine GSA resolutions today on a bipartisan basis. Thank you for having today's hearing, and I yield back to you.

[The prepared statement of Senator Capito follows:]

Senator Carper. Happy to be here with you and our colleagues. I want to turn to Senator Lummis for some comments that she would like to make, and I think Senator Cardin has a comment or two he would like to make. I think we are very close to having the number of members that we need. I think we are maybe one or two short, so hopefully by the time Cynthia is finished and Ben is finished what they want to share with us, then we will have the chance to vote. Senator Lummis?

Senator Lummis. Thank you, Mr. Chairman.

As the first woman to serve in the United States Senate from Wyoming, it really is a privilege for me to talk about a real pioneer woman from the State of Wyoming who then finished her life in Maryland and is buried in Baltimore.

Wyoming was the first State to continuously grant women's right to vote. In fact, it was the first government in the world to continuously grant women the right to vote. This happened fully 50 years before the 19th Amendment to the U.S. Constitution. Louisa Swain was the pioneering woman who cast the first legal vote in a general election under Wyoming law. That happened on September 6th, 1870.

So, I can't think of a better name for a federal building in the first State to recognize this right and enshrine full suffrage for women into law. Many women played an essential

role in the journey towards suffrage, but Louisa Swain's simple act of voting, though quiet, was the shot heard 'round the world. She deserves, I believe, this recognition for a federal building to be named after her in Cheyenne, Wyoming.

I want to thank both Senators Cardin and Van Hollen for joining me in this legislation. After Mrs. Swain left Wyoming, she made her home in Maryland, as I mentioned. She is buried in Baltimore, where you can visit her grave. I know that both Senator Cardin and Senator Van Hollen are proud of their home State's part in the story of women's suffrage. Being from Wyoming, I can't even describe how proud I am of our role.

So, it is a privilege to sponsor the legislation with Senator Van Hollen and Senator Cardin. I appreciate both of you for this and thank you for joining me today in this effort.

Mr. Chairman, I yield back.

Senator Carper. Thanks very much, Senator. I want to turn now to Senator Cardin.

Senator Cardin. Well, Mr. Chairman, thank you, and let me thank my colleague from Wyoming for advancing this bill.

Through the story of Louisa Swain, the State of Wyoming and the State of Maryland share an important piece of the history of women's right to vote. We celebrate Louisa Swain as the first woman in the world to cast a ballot in an election.

She was born in Virginia; she lived for a time in Baltimore before moving to Wyoming. Shortly after casting her ballot in Wyoming in 1870, she returned to Baltimore, where she was laid to rest in 1878. I am pleased to support this legislation to designate a federal building in Cheyenne, Wyoming in honor of Louisa Swain. May it serve as a reminder of the long road women have traveled to secure the right to vote and the long road we have yet to travel to secure equal rights for women in this Country and around the world.

Again, I thank my colleague from Wyoming for advancing this legislation. Mr. Chairman, I would ask consent that I could be added as a cosponsor.

Senator Carper. Without objection.

Senator Cardin. If I might, on a separate issue at this time, I note that we will be considering certain GSA resolutions. One is a consolidated activities program, various locations. As in the last time our committee took up a similar resolution, I have requested a letter and have received a letter from the GSA, Associate Administrator Rivera, dated August 10th, 2021 to make it clear none of these funds will be used for renovations of the FBI facility located on Pennsylvania Avenue. I would ask that this letter be made part of our records.

Senator Carper. Without objection.

[The referenced information follows:]

Senator Cardin. Thank you, Mr. Chairman.

Senator Carper. You are welcome. Anyone else for a comment? We are waiting for one person, Senator Markey, who is under the weather. It is not COVID, but he is a hurting puppy today, and he should be walking in the door any minute.

Anyone else, while we are waiting for Senator Markey? Yes, please?

Senator Inhofe. Mr. Chairman, and I will say this to Mr. Johnson, one of the witnesses, I am going to be, in case some people leave before we get to the second part of the program, we have got a great article here by Andrew Wheeler.

Senator Carper. That is a familiar name.

Senator Inhofe. I am sorry?

Senator Carper. That is a familiar name.

Senator Inhofe. Yes, a familiar name.

Senator Carper. I think you used to work for him, as I recall.

[Laughter.]

Senator Inhofe. He did a great job. And consistent with his past behavior, the article I am going to submit to be part of the record is a very long article. I don't think Andrew Wheeler has ever written a short article, but it is thorough,

and it is one that I think deserves the attention of everyone on the committee and on the second panel.

Senator Carper. All right, without objection.

[The referenced information follows:]

Senator Carper. Any other comments? Any other comments?

Ah, the man of the hour. Eddie, welcome. I called him last night, and he was in bad shape. I am really delighted he made it here today. Okay, we are ready. We have a quorum.

So, let us begin with the Presidential nominees that we will vote on today. First, I want to call up Presidential Nomination 540, Jeffrey Prieto of California to be General Counsel of the U.S. Environmental Protection Agency. I move to approve and report the nomination favorably to the Senate. Is there a second?

Senator Cardin. Second.

Senator Carper. There is a second. The clerk will call the roll.

The Clerk. Mr. Boozman?

Senator Boozman. No.

The Clerk. Ms. Capito?

Senator Capito. No.

The Clerk. Mr. Cardin?

Senator Cardin. Aye.

The Clerk. Mr. Cramer?

Senator Capito. Yes, by proxy.

The Clerk. Ms. Duckworth?

Senator Duckworth. Aye.

The Clerk. Ms. Ernst?

Senator Ernst. No.

The Clerk. Mr. Graham?

Senator Capito. No, by proxy.

The Clerk. Mr. Inhofe?

Senator Inhofe. No.

The Clerk. Mr. Kelly?

Senator Kelly. Aye.

The Clerk. Ms. Lummis?

Senator Lummis. No.

The Clerk. Mr. Markey?

Senator Markey. Aye.

The Clerk. Mr. Merkley?

Senator Merkley. Aye.

Senator Carper. Aye, he voted aye.

The Clerk. Mr. Padilla?

Senator Padilla. Aye.

The Clerk. Mr. Sanders?

Senator Sanders. Aye.

The Clerk. Mr. Shelby?

Senator Capito. No, by proxy.

The Clerk. Ms. Stabenow?

Senator Stabenow. Aye.

The Clerk. Mr. Sullivan?

Senator Capito. No, by proxy.

The Clerk. Mr. Whitehouse?

Senator Whitehouse. Aye.

The Clerk. Mr. Wicker?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Chairman?

Senator Carper. Aye. The clerk will report.

The Clerk. Mr. Chairman, the yeas are twelve, the nays are eight.

Senator Carper. Thanks very much.

Next, I call up Presidential Nomination number 541, Jennifer Sass of Maryland to be a member of the Chemical Safety and Hazard Investigation Board. I move to approve and report the nomination to the Senate. Is there a second?

Senator Cardin. Second.

Senator Carper. It has been moved and seconded. The clerk will call the roll.

The Clerk. Mr. Boozman?

Senator Boozman. No.

The Clerk. Ms. Capito?

Senator Capito. No.

The Clerk. Mr. Cardin?

Senator Cardin. Aye.

The Clerk. Mr. Cramer?

Senator Capito. No, by proxy.

The Clerk. Ms. Duckworth?

Senator Duckworth. Aye.

The Clerk. Ms. Ernst?

Senator Ernst. No.

The Clerk. Mr. Graham?

Senator Capito. No, by proxy.

The Clerk. Mr. Inhofe?

Senator Inhofe. No.

The Clerk. Mr. Kelly?

Senator Kelly. Aye.

The Clerk. Ms. Lummis?

Senator Lummis. No.

The Clerk. Mr. Markey?

Senator Markey. Aye.

The Clerk. Mr. Merkley?

Senator Merkley. Aye.

The Clerk. Mr. Padilla?

Senator Padilla. Aye.

The Clerk. Mr. Sanders?

Senator Sanders. Aye.

The Clerk. Mr. Shelby?

Senator Capito. No, by proxy.

The Clerk. Ms. Stabenow?

Senator Stabenow. Aye.

The Clerk. Mr. Sullivan?

Senator Capito. No, by proxy.

The Clerk. Mr. Whitehouse?

Senator Whitehouse. Aye.

The Clerk. Mr. Wicker?

Senator Capito. No, by proxy.

The Clerk. Mr. Chairman?

Senator Carper. Aye.

The Clerk. Mr. Chairman, the yeas are ten, the nays are ten.

Senator Carper. To expedite this meeting, Senator Capito and I have agreed to consider remaining matters before the committee en bloc and by voice vote.

I would like to call up two Presidential nominations. First, I want to call up Presidential Nomination number 539, Stephen Owens of Arizona to be a member of the Chemical Safety and Hazard Investigation Board. Second, I am going to call up the nomination of Presidential Nomination 542, Sylvia Johnson to be a member of the same board, Chemical Safety and Hazard

Investigation Board.

In addition to these nominees, this vote will include a number of bills that name post offices or federal buildings. I call up S. 2205, 2126, 1226, and S. 233. All in favor, say aye.

[Chorus of ayes.]

Senator Carper. Opposed, nay.

[No audible response.]

Senator Carper. The ayes have it, and all of those are confirmed.

Very good. All right, I think that is it. Is that it? Thanks, everybody. I know we have a lot going on today.

Thank you to everybody who made it here today, a special thanks to Eddie. I hope you feel a lot better, partner. Thanks so much.

[Whereupon, at 9:49 a.m., the committee proceeded to other business.]