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U.S. Senate Date: Wednesday, May 12, 2021

Committee on Environment
and Public Works

Washington, D.C.

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HEARING ON THE NOMINATIONS OF SHANNON ESTENOZ TO BE ASSISTANT SECRETARY OF FISH AND WILDLIFE AND PARKS OF THE DEPARTMENT OF INTERIOR, RADHIKA FOX TO BE ASSISTANT ADMINISTRATOR FOR WATER OF THE ENVIRONMENTAL PROTECTION AGENCY, AND MICHAL FREEDHOFF TO BE ASSISTANT ADMINISTRATOR FOR CHEMICAL SAFETY AND POLLUTION PREVENTION OF THE ENVIRONMENTAL PROTECTION AGENCY

Wednesday, May 12, 2021

United States Senate

Committee on Environment and Public Works

Washington, D.C.

The committee met, pursuant to notice, at 10:07 a.m. in room 253, Dirksen Senate Office Building, the Honorable Thomas R. Carper [chairman of the committee] presiding.

Present: Senators Carper, Capito, Cardin, Whitehouse, Markey, Kelly, Padilla, Inhofe, Cramer, Lummis, Boozman, and Ernst.

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

Senator Carper. Good morning, everyone, Senator Capito.

I want to start off the hearing today and welcome our witnesses. I want to welcome the family members and hope you will introduce those who are here to cheer you on.

I want to start the hearing by expressing my thanks to Senator Capito, to Adam and the folks who work with you, Mary Frances, John Caine and others who are part of our Water team on the Democratic side.

I like to describe this committee as workhorses, not show horses. I think we showed that in spades a couple weeks ago on the Floor of the United States Senate. To be able to report out the first major infrastructure legislation and water bill on an 89 to 2 vote was a source of great pride.

I cannot tell you how many people have said to me, I am sure they have to you too, Senator Capito, how many of our colleagues have said it was like the Senate of old. People were able to offer their amendments but they also had the opportunity to share their amendments with us and we could make them a part of the manager's amendment.

We had a real debate on amendments. We voted up or down and at the end of the day, we had just a wonderful vote, a very strong endorsement letter out of the Administration.

I explained to some of my colleagues and my wife when I got home that night, I said that it was one of my happiest weeks in the U.S. Senate in 20 years. I am just very, very proud of the work that we did.

We are working still on the next step, and that is surface transportation and I hope we can come through that with an equally good outcome.

I just want to say thanks to everyone who has been a part of that, a special thanks to Senators Duckworth, Cardin, Inhofe, and Lummis. Thank you all for your good work and the work of your staff.

I am happy to see you. Some of you look pretty familiar and the other two, I really have not had a chance to see except maybe remotely. We are pleased to welcome each of you outstanding nominees to fill critically important roles at the Environmental Protection Agency, and in one case, within the Department of the Interior.

Thank you for joining us today. We thank your family members for joining us today. For those who might be joining us remotely, a big thank you to your family members who are willing to share you with all of us.

Before getting to the particulars of our nominees, I want to take a moment to reflect on the issues we, as members of the Senate Committee on Environment and Public Works, and our

constituents back home are wrestling with that make these roles so critically important for each of us and each of our States. There isn't one of us who does not value the special natural spaces near our homes and in our States, including our national parks, including our wildlife refuges, from the First State National Historic Park to the Everglades and a lot of places in points east and west from there.

These spaces support the fish, support the wildlife and quality of life that we take every opportunity to brag about. I know I brag about our national parks, I brag about our national wildlife refuges in our States and I suspect each of you do for your own. These spaces support the fish, the wildlife, the quality of life that we take again every opportunity to brag about.

I think we have a moral obligation, which I talk about a lot, the moral obligation that we have to this planet that we have inherited. We have an obligation to care for these special places, we have an obligation to care for the habitats that they host, and the variety of species, including us, that they nurture.

Of course, that requires skilled and committed leadership in places like the Department of the Interior. We are thankful to Shannon Estenoz for offering that leadership.

Water has played, as I said earlier, a significant role in

each of our lives already this morning. I don't know about you but we turned on the faucet at our home, brewed some coffee, and took a shower, with all the confidence that the water coming from our spigots was clean and safe, whether because of lead or PFOS contaminants or other contaminants, or because they simply can't afford it.

We took a large step last week, as I said earlier, toward addressing the concerns with the passage of our Drinking Water and Wastewater Infrastructure Act, but there is a lot more still to do, as we know. I am grateful that Radhika Fox is ready to help us tackle those challenges at EPA.

Every day, millions of people across our Country struggle with the threats posed by chemicals that pervade their homes, their workspaces, their water, their food and household products. Whether it is from PFAS in their water, for ethylene oxide in their neighborhoods, or formaldehyde in their wallboards, people are suffering.

The American people need assurances that their products, their water, their food is safe for them and their families. That is a prodigious responsibility. We are grateful that Michal Freedhoff is willing to serve in this critical position.

Michal, as some of you know, used to work with Ed Markey, or actually, I think he worked for her in the House for a long time and maybe in the Senate as well. We are delighted that you

have this opportunity to serve in a new capacity.

We are happy to welcome your daughters who are sitting over your left shoulder. I am always amazed at people like Michal, raising four kids, helping raise four kids and working really hard at the job here with all of us and somehow making it all work. Thank you.

To the girls, I want to say, those who are here and those watching remotely, thank you for sharing your mom with all of us.

Shannon Estenoz brings 24 years of conservation experience to the job, including as the Department of the Interior's Director of Everglades Restoration Initiatives and Executive Director of the South Florida Ecosystem Restoration Task Force. Her work prompted Eric Eichenberg, Everglades Foundation CEO, to say of her nomination, "They are bringing on an extraordinary woman who is committed to the natural resources and environment of this Country."

Radhika Fox brings to her prospective role as head of the EPA Water Office a deep understanding of water policy and the importance of making clean water accessible to all Americans, regardless of their income or regardless of their zip codes. She has found success in working with people across the spectrum, prompting, I think this is a quote from the Iowa Soybean Association, and I am going to quote, "Ms. Fox

understands how water management issues are interwoven with the fabric of rural and urban communities and that our farmers must be part of the team and beneficiaries of this work. This integration is key for making real and long-lasting progress on protecting and improving water in the 21st Century." Again, that was a quote from Iowa Soybean Association.

Last, but certainly not least, is Michal Freedhoff, someone well known to us at EPW. I already spoken about her and rather than embarrass her further, I think we will cut to the chase and let me just say that we are lucky to have someone who has your profound understanding of chemicals, oversight and management policy.

During her time when she worked with Senator Markey, who was kind enough to let her come work with us on the Committee, she played a key role in helping convert a highly divisive bill to reform the Toxic Substances Control Act, better known as TSCA, into a package that gained broad bipartisan support throughout the Congress.

It was initially championed by Frank Lautenberg, as I recall, and later by Tom Udall and by David Vitter, an unlikely partnership but one that was successful. Michal deserves a lot of credit for getting us to the finish line.

It is that kind of knowledge-based, thoughtful and inclusive engagement that we so sorely need as head of the

Chemical Safety Office at EPA. I think our Country will be well served to have Michal in that leadership role at EPA.

I thank you all of you again for your willingness to share your wisdom, your expertise, and your inclusive instincts with our Nation.

With that, I am happy to recognize the Ranking Member, Senator Capito, for her opening statement. Senator Capito.

[The prepared statement of Senator Carper follows:]

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

Senator Capito. Thank you, Mr. Chairman.

It is nice to be here with you after our win on the Water Bill on the Floor. I add my voice of congratulations to you and your leadership team and your staff. Our staffs worked great together.

Somebody asked me, how did you do that? I said, well, we listened to our committee, and we listened to our witnesses, and we wrote a bill that tried to accommodate, as much as we could, the varying views.

I think in a place where there is a lot of talking, maybe listening is the better key to getting things done. You are a great listener and I appreciate being a part of your committee. Thank you for that. I also do want to thank the staff.

I look over here and I see three very talented women. I am very proud of the fact that, with your beautiful daughters here, we get to see more and more women taking the helm of the leadership positions in the highest levels of our government. Congratulations to the President for nominating three strong women and having them in front of our committee today.

We are going to look at another core function of our committee. Then I want to add a caveat that we are working hard to do the same thing with surface transportation that we were

able to do with water. It is a heavier lift, we are finding, but we are working hard together to reach that point at which we can bring something to not just our committee, but to the full Senate as well.

We are gathering today to do the consideration and oversight of the President's nominees. You all have a wealth of experience in your respective fields, and the Chairman went over that.

Unlike the past nominees who have appeared before us this year, all three of today's nominees are already in place at the agencies in which you are nominated to serve. Put in another way, you have already been beginning to execute President Biden's agenda.

Ms. Estenoz, Ms. Fox, and Dr. Freedhoff, thank you for your willingness to serve and for appearing before us today. Given your perspective from now being inside the Administration, I especially look forward to hearing about the policies that you are working on. I am interested to know what roles you have played in the decisions that the Biden Administration has made to this point.

I also want to understand in which new or different directions you would push the Administration, being in a Senate-confirmed role, and what additional authorities you believe that additional layer of accountability will allow you to bring.

That insider perspective will be very helpful to us.

From the outside, the pace of executive action has seemed to occur at warp speed and without a lot of external engagement, especially from many of us in Congress. As National Public Radio reported, President Biden issued more Orders in his first 100 days than any President since Harry Truman.

NPR observed that Biden "may have campaigned on bringing bipartisanship back to Washington, but much of his early focus at least is on policies that he can implement on his own." That is an NPR quote. Many of President Biden's key actions and reversals have come in the environment and energy policy area.

I understand that we should expect a new Administration of the opposite party to have different positions than its predecessor. However, the pace of these changes and their unilateral nature concern me.

Dramatic changes in regulations without adequate thought or input can hurt people, businesses, and local communities. That is particularly true during this economic recovery that we are facing.

Of particular concern to me and this committee are issues like the Biden Administration's decision to revisit the Navigable Waters Protection Rule, we will be talking about that, the streamlined NEPA Act, and the recent Migratory Bird Treaty Rule, the last for which a proposal was just released last week.

That said, some of the activities we have seen so far at the Department of Interior and EPA I do agree with and wholeheartedly support. Just last week, I participated in the sign unveiling for America's newest national park, really a source of pride for me, the New River Gorge National Park and Preserve. It is already bringing that economic opportunity and excitement to my home State. I cannot overstate how excited folks are, and I am too. Its administration will come under your oversight if confirmed, Ms. Estenoz.

In the activities of EPA, I was pleased to see the Administration prioritizing research on PFAS in its budget proposal. I am also that glad EPA is moving forward with a primary drinking water regulation for PFOA and PFOS.

If confirmed in the Office of Water, Ms. Fox would take the lead on that. We already talked about that on our Zoom call.

Dr. Freedhoff, I know you have a wealth of experience. I believe we have actually been in the same room talking about PFOS together in your former role dealing with PFOS and other bioaccumulative chemicals from your years of service, including to our chairman, Chairman Carper. I look forward to hearing how the Office of Chemical Safety and Pollution Prevention also plans to address PFOS.

I hope we can use this hearing to discuss both my points of concern and equally important, our areas of agreement.

Thank you, Chairman Carper, for holding today's hearing. I turn it back to you.

[The prepared statement of Senator Capito follows:]

Senator Carper. Thank you, Senator Capito.

When you said the words the New River Gorge, it brought a smile to my face. As a little boy, I learned to fish there with my dad and my grandfather. What a beautiful place.

All right, thanks, Senator Capito. Now I want to introduce our nominees. I think Senator Markey is going to help me a little bit with one of them.

First, we have Shannon Estenoz to be Principal Deputy Assistant Secretary for Fish and Wildlife and Parks for the Department of Interior. Shannon served as Chief Operating Officer and Vice President of Policy for the Everglades Foundation. She has also served as the U.S. Department of the Interior's Director of Everglades Restoration Initiatives, and Executive Director of the South Florida Ecosystem Restoration Task Force.

Her previous professional roles also included Executive Director of the Environmental and Land Use Law Center; Everglades Program Director of the World Wildlife Fund; Sun Coast Regional Director of the National Parks Conservation Association; and three terms as the National Co-Chair of the Everglades Coalition.

Shannon's public service includes appointments to Florida's Governor Lawton Chiles, with whom I had the privilege of serving as Governor, on the Commission for A Sustainable South Florida;

Governor Jeb Bush's Commission for the Everglades; the Governing Board of the South Florida Water Management District and Water Resources Advisory Commission; and the Broward Water Resources Task Force.

That is a pretty impressive list. We welcome you here today. I am going to ask you to share your testimony with us and then I will introduce Ms. Fox. Go ahead, please. Thank you, Shannon.

Senator Markey. Mr. Chairman?

Senator Carper. Why don't you please go ahead, Mr. Markey

Senator Markey. I appreciate that. Thank you so much. I would like to begin just by saying that I know your wife, Martha, thinks of you as a show horse while here you are a workhorse. But back in Delaware, you are the show horse.

[Laughter.]

Senator Markey. I thank you, Chairman Carper, and Ranking Member Capito, for the opportunity to introduce Michal Freedhoff before the committee today. It is wonderful that two of her four children are here with us, the twins, her oldest daughters, Zahava and Rena.

By nominating Dr. Freedhoff to serve as the EPA Assistant Administrator for Chemical Safety and Pollution Protection, President Biden is tapping an incredible scientific mind, a tenacious fighter for the public interest and a brilliant

policymaker who has made a career out of bipartisan solutions.

With all due respect to Senator Inhofe of Oklahoma, with whom we disagree on climate issues, I have to give credit where credit is due because it was Dr. Freedhoff, working with Senator Inhofe's staff, who got us to work together and pass numerous pieces of bipartisan legislation on brownfields, on chemical safety in the interest of consumers and our communities. In my opinion, there is truly no better candidate than Michal Freedhoff for this very important job.

Dr. Freedhoff began her career in Congress in 1996 as a Science Fellow in my office in the House of Representatives. I couldn't have been too bad a boss because it began an incredible 20-plus years of work in Congress, including more than a decade of working with me in the House and the Senate from 1996 all the way up until 2017.

Congressional staffers and scientists reach a point in their careers where they have to pick whether to know a little about a lot or a lot about a little. Michal is the rare blend of the two who knows a lot about a lot of things. She truly is a congressional expert.

From her successful work strengthening fuel economy standards and ensuring DOE whistleblower protections to raising the alarm about chemical disburants used during the BP oil spoil to investigating nuclear safety, she has used her keen

intelligence and scientific training as a chemist to draft and pass the best policy.

She also got me to sing about chemical safety and security in the Energy and Commerce Committee dais to the tune of What A Wonderful World It Would Be. Yes, she got gas chlorine to rhyme with water clean, so her talents truly know no limits. She really does know how to get things done.

Michal was absolutely instrumental to our bipartisan work in strengthening the Toxic Substances Control Act. She can tell you what almost every chemical abbreviation stands for as well as what it would stand to do to our communities. For Dr. Freedhoff, the Periodic Table of Elements is her alphabet.

She fought for firefighters, for workers, for children's health and for strong standards that provide certainty to businesses. During these negotiations, she worked to ensure EPA had enough funding from industry fees to assess and regulate chemicals and that industry had deadlines for compliance with EPA regulations.

She pushed so that regulations on the most dangerous chemicals are finished more quickly and that if chemicals are found to be unsafe for groups like pregnant women, children, or workers, that EPA has to write regulations to protect those more vulnerable communities.

She recognized that it is bipartisan commitment, married

with consensus and give and take, that yields important, long-lasting legislation. She is now in a position to help implement that historic legislation. Our communities and families will be healthier for it.

I saw back in 1996 that there was a tremendous intellect and spirit in Michal. That excellence has only continued. For 20 years, she has served the public in Congress making policy stronger and smarter at every turn.

I urge the committee to approve her nomination as EPA Assistant Administrator for Chemical Safety and Pollution Protection. She served us well as Minority Director of Oversight on this committee. Now the entire Nation can benefit from her leadership, building the strongest possible protections against dangerous chemicals in our environment.

Thank you, Mr. Chairman.

Senator Carper. I am Tom Carper and I approve that message.

[Laughter.]

Senator Carper. We will not ask you to sing but we are delighted that you were able to introduce Michal to all of us.

I am going to move next to Radhika Fox. We will just introduce you, then we will come back and ask you to give your comments. Ms. Fox currently serves as EPA Principal Deputy Assistant Administrator for Water. In that role, she is the

Acting Assistant Administrator for Water.

Ms. Fox has more than 20 years of experience in developing policies, programs and issues-based advocacy campaigns. She previously was the CEO of the U.S. Water Alliance. She also led the Value of Water Coalition, a program administered by the U.S. Alliance that spearheaded the popular Imagine A Day without Water Advocacy Campaign.

Prior to joining the U.S. Water Alliance, Ms. Fox directed policy and governmental affairs for the San Francisco Public Utilities Commission, where my wife and I were last weekend for Mother's Day.

Ms. Fox holds a BA from Columbia University and a Master's in City and Regional Planning from the University of California at Berkeley where she was a HUD Community Development Fellow.

Finally, I am not going to attempt to match Senator Markey's comments with respect to Michal Freedhoff, but I think you can sense we know her and we love her. We are pleased she has this opportunity.

I think it is really great, I will say this to this to your daughters, the law that your Mom was very much involved in writing, she now has the opportunity to implement for our Country and I think she will do very good work with us. That is something of value.

With that having been said, I think I will come back to

you, Ms. Estenoz, for your statement. Thank you and welcome.
Feel free to introduce anyone who has joined us today in person
or remotely if you would like to.

STATEMENT OF SHANNON ESTENOZ, NOMINEE TO BE ASSISTANT SECRETARY
OF FISH AND WILDLIFE AND PARKS OF THE DEPARTMENT OF INTERIOR

Ms. Estenoz. Thank you, Chairman Carper, Ranking Member Capito, and members of the Environment and Public Works Committee. It is an honor to appear before you as President Biden's nominee to be Assistant Secretary of the Interior for Fish and Wildlife and Parks. I am very honored to be on this panel with these distinguished nominees from EPA.

I want to say hello to my husband, Richard, our sons Nick and Spencer, my mom, my friends, my family who are all watching this morning.

Senator Carper. Where are they?

Ms. Estenoz. They are all over. I have folks in Pittsburgh, Arizona, Tennessee, Florida, everywhere. I want to say hi to everyone. Thank you.

I am a fifth generation Floridian, born like all of my grandparents, in Key West. We call ourselves Conchs after the beautiful mollusk once plentiful in the Florida Keys. My father was a civil engineer and for the first ten years of my life, his career took us to oil platforms off the coast of Louisiana, the Tennessee Valley Authority in Knoxville, and the U.S. Army Corps of Engineers in Kansas City.

Before my father passed away in 1979, we returned to Key West where his last job was as an engineer for Monroe County,

where he worked to replace the old Seven Mile bridge, perhaps the most famous section of the Overseas Highway.

To grow up in Key West is to grow up on the water, swimming, fishing, snorkeling, boating and whether you know it or not, the water and its wildlife shape you. One of my earliest memories on the boat with my grandfather fishing was the day he caught me setting free the bait fish in his live well. He didn't scold me, because he knew there is no conflict between harvesting fish and wanting to protect them. Because when your family has been in a place for many generations, there is an instinct to conserve that has nothing to do with science or regulations. It has to do with a connection to place and to a way of life.

My own career path includes many echoes of my father's. I too pursued civil engineering. As a student, I returned to eastern Tennessee to intern at Eastman Chemical Company. Of course, I dedicated 24 years of my career to an infrastructure modernization program, led by the U.S. Army Corps of Engineers, to restore the Everglades. I guess I never lost my childhood instinct to help fish, and birds, and mammals, and people, by helping to restore the land and the ecosystem that sustains them all.

My father was a bridge builder, and as part of my work on Everglades Restoration, I was proud to play a part in building

new bridges across the Everglades. Today water flows under those new bridges into Everglades National Park.

So I know that jobs, infrastructure, conservation, and restoration can and should go hand in hand. My work in the Everglades was ideal training for the role of Assistant Secretary for Fish, Wildlife and Parks. I spent more than two decades in the trenches of collaborative conservation, land and ecosystem restoration, species recovery, water management, invasive species response actions, and National Park stewardship.

I spent seven years at the Department of Interior as its Director of Everglades Restoration, reporting directly to the position to which I have been nominated. I was a colleague and leader of the dedicated career staff in both bureaus that this Assistant Secretary manages.

As a State official, I have been a customer of the Fish and Wildlife Service's regulatory programs. So I know firsthand what it is like to be a State trying to work with the Federal Government. As a stakeholder, I participated in the government's efforts to engage the public, and I have put in the hard work that it takes to build consensus and coalitions to get things done.

I have been in my current role at Interior for 112 days. Every day I learn more about the fish and wildlife and parks

issues facing your States and the Nation. If I am confirmed, I will draw on my long State and Federal experience as I work on issues such as water management and predator recovery in the West; protecting resources central to the cultural and economic well-being of tribes; combating invasive species; and collaborating on conservation of the sagebrush ecosystem.

The National Park Service and the Fish and Wildlife Service play crucial roles in the challenges before us: recovering species and conserving habitat; supporting recreation and restoration jobs on public lands; and stewarding our most treasured landscapes and imperiled species through threats like wildfire and drought that are intensifying as a result of climate change.

The Fish and Wildlife Service is on the front lines of wildlife disease, including preventing those diseases from spreading to humans. The Park Service will play a key role in recommitting to our government-to-government relationship with Tribal Nations and telling the stories of all Americans.

If I am confirmed, I will bring with me the tools that have served me best in my career: communication, transparency, and intellectual honesty. I will approach this role with a passion for collaboration and meeting big challenges in partnership.

I look forward to celebrating together the results that we achieve together. I hope that today will be the first of many

conversations with this committee.

Thank you, and I look forward to answering your questions.

[The prepared statement of Ms. Estenoz follows:]

Senator Carper. Thank you very much.

Did you say your Mom is watching today?

Ms. Estenoz. My mother is watching today, yes.

Senator Carper. Your dad passed away a number of years ago?

Ms. Estenoz. He did, when I was 11.

Senator Carper. I am sure they are very proud of you.

Ms. Estenoz. Thank you, Mr. Chairman.

Senator Carper. Thank you very much for that statement.

The position that you have been nominated for was held most recently by Rob Wallace, who was a good friend of many of us and good for the John Barrassos as well. I will never forget at his confirmation hearing, he talked about the bipartisan nature of this committee and the way we work together, whether it was water, surface transportation or other issues.

He said these words, he said, "Bipartisan solutions are lasting solutions." I have quoted him a million times. Thank God, I haven't had to pay him for the times I have quoted him. That spirit really underlies much of what we do here. So thank you.

Next is Radhika Fox. Ms. Fox, you are welcome to begin when you are ready.

STATEMENT OF RADHIKA FOX, NOMINEE TO BE ASSISTANT ADMINISTRATOR
FOR WATER OF THE ENVIRONMENTAL PROTECTION AGENCY

Ms. Fox. Thank you, Chairman Carper, Ranking Member Capito, and members of the Committee. I am humbled to be nominated by President Biden, and honored to be considered by this esteemed committee, for the position of Assistant Administrator for Water at the U.S. Environmental Protection Agency.

I am excited to engage with you today, to hear about your water priorities, and discuss how the Office of Water can support the communities that you so proudly represent.

I want to acknowledge the family that is here with me today: my husband, Jamie; my dad, Dr. K., as his patients call him; my brother, Raghu, and his wife, Katie. And my kids, Anjali and Krishna, wanted to be here, but I said no skipping school.

My family is the American dream at work. I am a first generation American. My father and my mother grew up in rural India. My grandparents provided for their families as small farmers growing rice, lemons and bananas. They relied on wells for their drinking water and pit latrines for their wastewater management. Everything I have accomplished is because I stand on the shoulders of my parents' hard work. Thank you for that, Dad.

Today, I sit before you as the first woman of color, the first person of Asian-American descent, to be nominated to lead EPA's Office of Water. Only in America could that happen in one generation. If confirmed, it would be my honor to serve the country where my parents' hopes and dreams took root and flourished.

Senators, as you all know, water is the world's most precious resource. However, our Nation's water systems are often invisible to most. The vast majority of Americans turn on the tap and safe water flows out. Used water goes down the drain and is treated before it is safely returned to the environment.

Most people just don't think about the environmental policies, the funding and financing programs, the work of local water utilities, and the key role of States and tribes in providing these essential water services. It just works for most Americans, but not for all.

During the Flint Water Crisis, Time Magazine told the story of two-year-old Sincere Smith, featured on the cover with a full body rash from bathing in the water. What Sincere and his family experienced should not be experienced by any child or parent in this Country. That is really what brings me to this work.

If confirmed, I will dedicate myself to ensuring that all

people, regardless of their income, their zip code, or the color of their skin, will have access to clean and safe water.

Prior to joining the EPA, I served as the CEO for the U.S. Water Alliance, where I championed consensus-based progress on complex water issues. I worked with water leaders across the country, from rural hamlets to urban enclaves, from America's heartland to both coasts.

I also worked at the San Francisco Public Utilities Commission, the public water agency that provides drinking water, wastewater, stormwater and municipal power to 2.7 million people in the Bay Area. There, I learned what it takes to comply with the range of regulations promulgated by the Office of Water, and I also built practical knowledge on how to manage water systems, whether it is capital and budget planning, infrastructure project delivery, planning for drought and diversifying of water supplies and managing through crises like wildfires.

Throughout my career, I have been guided by one foundational principle: listen to all sides in order to find enduring solutions. If confirmed, I will manage the Office of Water in a manner that is grounded in the wisdom, the voice, and the lived experience of those who are impacted by our decisions.

We can't make policy sitting behind a desk in Washington, D.C. We have to actively engage with all those who are impacted

by our decisions, whether it is water utilities, farmers and ranchers, community organizations, environmental organizations, States, tribes, local officials, and many, many others.

I truly believe, Senators, that water is the great uniter. It can unite this Country; it can help pull us out of the compounding crises that face our Nation, whether it is a global pandemic, economic recession, longstanding racial inequities, and climate change. Water brings us together across society and across the aisle.

If confirmed, it would be my honor to work with Administrator Regan and all of you to advance durable water solutions.

I look forward to your questions. Thank you so much for your time.

[The prepared statement of Ms. Fox follows:]

Senator Carper. Thanks again.

Would you ask your Dad to raise his hand? Thank you so much. Who is that other fellow sitting next to him?

Ms. Fox. My husband.

Senator Carper. My staff tried to convince me he was your brother, but that is your husband.

Thanks to both of you for being willing to share your daughter and wife with all of us. It is nice to see you all.

Dr. Freedhoff, please.

STATEMENT OF MICHAL FREEDHOFF, NOMINEE TO BE ASSISTANT
ADMINISTRATOR FOR CHEMICAL SAFETY AND POLLUTION PREVENTION OF
THE ENVIRONMENTAL PROTECTION AGENCY

Ms. Freedhoff. Good morning, Chairman Carper, Ranking Member Capito, Senator Inhofe, and other members of the committee.

It is an honor to be here today, though I will admit it is kind of strange to be sitting on this side of the dais. I am fortunate to have what I think of as three honorary home State Senators on this committee: Senator Cardin, from my adopted home State of Maryland; Senator Markey, my first Capitol Hill boss and for whom I worked for more than 15 years; and Chairman Carper, who gave me the opportunity to work on this committee staff the last four years.

Senator Inhofe. What about me?

Ms. Freedhoff. Okay, you too.

[Laughter.]

Ms. Freedhoff. I am joined here today by my twin daughters, Zahava and Rena Van Leeuwen, who hopefully are not playing on their phones. Watching from home are my husband, Michael; my son, Sammy; and daughter, Vivienne.

My late mother, Helen Freedhoff, and my 85-year-old father, Stephen, who is stuck behind a closed border in Canada, would have been here if they could have been.

I moved to Washington the day after I defended my Ph.D. in chemistry. Although I didn't even have a job lined up, I was drawn to working in government, knowing that I could use my scientific background to make a difference in people's lives.

During my time on Capitol Hill, I was remarkably fortunate to have had the rare opportunity to work with so many of you and your staffs to rewrite the Toxic Substances Control Act. I certainly never imagined that I would have this once in a lifetime honor to be President Biden's nominee to lead the Office of Chemical Safety and Pollution Prevention at EPA and implement the law that we all worked so hard on.

During my more than two decades working for the Legislative Branch, I believe I earned a reputation for being fair, approachable, substantive, and able to craft provisions and consensus by bringing people with disparate viewpoints together.

Many provisions of this committee's unanimously supported PFAS legislation demonstrate the way I approach the legislative process. Some of these measures, like adding almost 200 PFAS chemicals to the Toxics Release Inventory that Senators Capito, Gillibrand and Carper co-authored, actually fall within the office I would manage if confirmed.

It is that spirit of collaboration that I would bring to this new role. I believe that we can, and we must, fulfill EPA's mission of protecting human health and the environment in

a manner that includes input provided by a diverse set of stakeholders. That applies to ensuring chemical safety under TSCA, to providing safe, effective tools for farmers to protect our food supply under the Federal Insecticide, Fungicide, and Rodenticide Act, FIFRA, and to working to incentivize more sustainable practices and products in our pollution prevention programs.

If confirmed, one of the responsibilities I most look forward to is implementing the Frank Lautenberg Chemical Safety for the 21st Century Act, TSCA. I consider that work to be a highlight of my career.

Some combination of the complexity of the subject matter, the intense debate surrounding some of the issues, and the shared legislative battle scars made the bipartisan team of staff, who spent months together as we worked to get it done, among my most trusted colleagues and friends today still. We took the time needed to understand each other's perspectives and made important compromises as we negotiated difficult and sometimes very divisive provisions of the bill. That hard work produced a law that was supported almost unanimously

I want to provide my assurance that if confirmed, I will ensure that our activities are conducted transparently, using the best available science and informed by EPA's expert career staff. While you may not ultimately agree with every decision I

make, I can commit to you that if confirmed, all our decisions will be well documented, transparently made, and will seek and incorporate input from all stakeholders.

Finally, while I have worked closely with EPA staff for years, I have developed newfound appreciation for their dedication, talent and resilience since arriving at the agency a few months ago. I am looking forward to working with the scientific, legal, and policy staff to implement America's chemical and pesticide safety programs.

If confirmed, I am confident that with their partnership we can move TSCA implementation forward in a manner that honors the late Senator Lautenberg's legacy and lives up to Congress's expectations that EPA uses its new authority to protect Americans against the risks of unsafe chemicals.

Thank you very much for the opportunity to testify, and I look forward to your questions.

[The prepared statement of Ms. Freedhoff follows:]

Senator Carper. Thank you very much for that statement, Michal.

Before I turn to Senator Capito for the first round of questions, we have something we do at each of our hearings with witnesses who have been nominated. I ask you three questions. After I ask the question, we will just go down the line and you can say yes or no. I would urge a "yes" response but it is up to you.

The first question is, do you agree, if confirmed, to appear before this committee or designated members of this committee and other appropriate members of the Congress, and to provide information subject to appropriate and necessary security protections with respect to your responsibilities? Do you, Ms. Estenoz?

Ms. Estenoz. Yes.

Senator Carper. Ms. Fox?

Ms. Fox. Yes.

Senator Carper. Dr. Freedhoff?

Ms. Freedhoff. Yes.

Senator Carper. Thank you. So far so good. Second question, do you agree to ensure that testimony, briefings, documents and other electronic forms of information are provided to this committee and its staff and other appropriate committees in a timely manner?

Ms. Estenoz. Yes.

Ms. Fox. Yes.

Ms. Freedhoff. Yes.

Senator Carper. Thank you. One last one. Do you know of any matters which you may or may not have disclosed which may place you in a conflict of interest if you are confirmed?

Ms. Estenoz. No.

Ms. Fox. No.

Ms. Freedhoff. No.

Senator Carper. Thank you. Senator Capito, we are going to have two five-minute rounds in terms of questions. She needs to be in two places at one time right now and the Commerce Committee. Thank you very much for being here.

Senator Capito. Thank you, Mr. Chairman, for giving me the privilege of going first. I apologize, after I question them, I have to go over to Commerce. We are working on the Endless Frontiers Act which is --

Senator Carper. Endless.

Senator Capito. Endless. That is a good way of putting it.

[Laughter.]

Senator Capito. I am going to start with you, Ms. Fox. We talked about this issue on Waters of the U.S. You have all pledged clarity, thoughtfulness and regulatory certainty.

Administrator Regan committed to not going back to the verbatim reading of the 2015 Obama Waters of the U.S. rule. This is a very far-reaching rule that impacts a lot of people and a lot of agriculture as well. But he hasn't provided much detail on this.

I am wondering, in your opinion, do you believe that the 2015 rule was overreaching? What would your plans be to ensure we do not return to that overreaching definition which I, obviously, believe that it was? Also, do you agree or disagree with the court decision, including the injunctions against the rule issued in 2015?

Ms. Fox. Thank you, Senator Capito, for the question. Also, thank you for the opportunity to visit with you recently on so many of the issues before the Office of Water. I really look forward to accomplishing great things with you and your office if confirmed.

On the question of Waters of the U.S., this is, of course, one of the most foundational components of the work before the Office of Water because it sets the foundation for how we protect our lakes, our rivers, our oceans, our wetlands. We are in the process of reviewing the Navigable Waters Protection Rule. Under Administrator Regan's direction, we are really trying to understand what are the lessons learned from an implementation perspective on both the 2015 rule and the 2020

rule.

You asked about how we are going to approach that review and that consideration. It will really be, as Administrator Regan has said, to listen to all sides to understand what is working, what is not working from an implementation perspective, from the agricultural community, from industry, from environmental organizations, as well as our co-regulators, the States and tribes. Based on that feedback, and really based on the science and the economic analysis, we will make a determination moving forward.

What I can say, Senator Capito, is that Administrator Regan and I want an enduring definition of Waters of the U.S., one that can withstand Administration changes, that can protect our waters and ensure the economic vitality of all communities. That is our commitment as we do this review.

Senator Capito. I would implore you again, as I think a lot of folks did who opposed the direction the Obama Administration went, that we don't go down that path again. Obviously, the courts agreed with that presumption and caused a lot of confusion at the same time.

Ms. Estenoz, I wanted to ask you about NEPA. Just recently Secretary Haaland signed secretarial orders that directed the DOI to ignore and to not follow the commonsense reforms to the implementation of NEPA. We hear about this from everybody in

terms of how long it takes to get things approved, how long the process is, how lengthy and expensive it is, and we still are having issues.

Did you play any role in advising the Secretary in the NEPA implementation decision? Are there elements of the Trump Administration's NEPA reforms that you could support? The first question is, did you play any role in them?

Ms. Estenoz. Thank you, Senator Capito.

I was not directly involved in the development of the NEPA recommendations, but as part of the DOI leadership team during these first 112 days, I have paid close attention. Obviously for the two bureaus that I have managing, this is a very important issue for them.

I think the Secretary's goal here is to make sure our environmental reviews are thorough but also timely and efficient. I think it is very important that that balance be struck.

We are reviewing the procedures and policies the previous Administration had in place. The elements of it that work, I fully expect we will continue those and refine those that need to be refined to achieve the right balance between thoroughness and timeliness.

In my career, I have been on all sides of NEPA. So I have been a customer waiting for a NEPA to be finished and then I

have been involved in the development of them. So I am sensitive to how long those analyses can take. But again, I think it is finding that right balance between making sure they are thorough. It is an important bedrock of the way that government implements programs and projects, and then doing it in a way that is efficient, transparent and accessible to the public and to sort of our customer base for projects and programs.

Senator Capito. As we look to the big Surface Transportation Bill that we are working on, that is obviously a critical aspect of this. I would encourage you to take that practical experience that you bring in terms of length and time, without skirting any environmental regulations, into consideration.

The new national park in West Virginia, since you will have oversight over the national parks, I wanted to get a reassurance, number one, that you would come and visit our brand new park, where he learned to fish with his father and grandfather. It is a really special place. So, a commitment that the new park will be able to get the infrastructure that is needed with the increase visitorship that we are already seeing.

Ms. Estenoz. Senator, let me say that I, my husband, and our two at the time very young children spent a magical summer vacation at New River Gorge, one of the most magnificent places

in our Country. For a Florida girl, where we measure topography in inches, it was really a staggering and profoundly impactful experience for me. It is really one of my favorite places. You can count on me, if I am confirmed, to make sure that the National Park Service has what they need to make the most of that. I want to congratulate you and Senator Manchin on that.

Senator Capito. We will have to clip that and put that out around the Country. That is a great advertisement for our beautiful spot.

Last question, Dr. Freedhoff on the PFOS issue. You know this is something I am deeply committed to and you mentioned it in your opening statement.

Do you feel there is a scientific gap between the tools that EPA needs to decide whether or not to regulate? It seems like it has taken so long in some ways. Is that because there is a gap in tools and a gap of certifiable data that can be used to move forward?

Ms. Freedhoff. Thanks very much for that question, Senator.

I know how important the issue is to you and to so many members of the committee as well. I know there is sometimes a disconnect between the urgency that people expect the agency to be able to act with and the urgency that we actually act on.

Senator Capito. Right.

Ms. Freedhoff. Part of the reason for that are the research gaps that you are talking about. One of the provisions that was in this committee's PFOS legislation was language directing EPA's Office of Research and Development to come up with a way to prioritize PFOS so that the agency will be able to focus its research and monitoring efforts a little bit more strategically.

In my office, if I am confirmed, there are a few different efforts that we have been working on that will help complement that. First is the Toxic Release Inventory language that you co-authored which will give us information about which PFOS are still being released into the environment.

Second is a proposed rule that is at OMB that will require manufacturers who make PFOS to tell us what they made, how much they made and what it was used for. That would give us a snapshot of what is in commerce. That will also be able to inform our research efforts, and monitoring and regulatory efforts as well.

Finally, just a couple weeks ago, we announced a policy that is designed to prevent unsafe new PFOS from entering commerce. That will prevent future problems that will cause us to play catch-up again as well.

Senator Capito. I appreciate that.

Thank you so much. I have to run.

Senator Carper. Thanks for being here. We will see you later.

I will start my questioning with Ms. Fox. Ms. Fox, if confirmed, what will you do to make sure we have affordable, clean and safe drinking and wastewater for all Americans?

Ms. Fox. Thank you, Senator Carper.

First, I would make sure that the Office of Water is implementing the range of water infrastructure funding and financing programs that this committee has taken so much leadership on developing. I would also focus on strengthening and supporting the capacity of our States and our tribes, because they are often the ones that are working with local communities and getting these resources delivered.

I also think we have an opportunity to do more on affordability. I know this is an issue that is very important to you and other members of the committee, that as we make these infrastructure investments, we have to do them in a way that makes them continue to be affordable both to individual families, but also that there is affordability at the utility scale.

A third priority will really be around PFOS and emerging contaminants. I think as Michal just said, we have so much exciting work happening at EPA right now. I was really proud just a couple of weeks ago to be asked by Administrator Regan to

co-chair a new PFOS Executive Council. I think that is going to be important as we think about making sure that water is clean for all families.

Senator Carper. My second question is for Dr. Freedhoff. Dr. Freedhoff, first of all, let me say I am very pleased you received support from former EPA Administrators, both Democrat and Republican, who have led the Office of Chemical Safety and Pollution Prevention before you.

I would like to ask unanimous consent to enter into the record a letter from no less than seven former directors or administrators of the Office of Chemical Safety and Pollution Prevention urging your confirmation.

Not hearing any objection, so ordered.

[The referenced information follows:]

Senator Carper. One area I am really interested in, and I suspect many of us are, in hearing from you on, and I suspect many of us are, is how EPA plans to implement TSCA, the Toxic Substances Control Act, to protect American workers. We have heard from environmental groups that they are unhappy with the way EPA assumed workers would always be wearing protective gear. We have heard from companies that they are unhappy that EPA made unrealistic assumptions about risks to workers.

With that in mind, would you tell us how you think the worker safety concerns should be addressed?

Ms. Freedhoff. Thanks very much for that question, Mr. Chairman.

I have heard a lot from environmental organizations and industry as well. As you know, the last Administration finalized the first ten risk evaluations under TSCA. I think there was a lot of good work that went into those risk evaluations but I think a lot of them were rushed as well. But I also know the career scientists at EPA really moved heaven and earth to get them done.

So I can't really speak to you as to why those decisions were made, but I can tell you a little bit about how I see the issue of worker safety and how I would implement it if confirmed. First of all, if our scientific risk evaluations find that a chemical burns your hand, but gloves solve that

problem, then our chemical safety rule is just going to say you have to wear gloves.

It is the same for OSHA. If the chemical safety risk evaluation finds a risk we identified can be solved by complying with OSHA regulations, then our rule is just going to say follow OSHA rules.

The second thing I would say is that industry clearly feels like it has a lot of information that the agency needs to make our decisions. I have met with industry a number of times and I really want to say that I welcome their input. If they show us that something that they are currently doing to protect workers is enough to address the risk, then our rule is just going to say, keep on doing what you are doing.

The third thing I would say is I think the agency could do a better job with risk communication. The law tells us that we have to look at potentially exposed and susceptible subpopulations. Of course that includes workers.

But saying that a risk exists to workers in the absence of protections doesn't mean the protections are absent at chemical companies all over this Country. I think we will do better in the future to provide context that is important for everyone to understand in future.

Senator Carper. My time has expired.

Senator Inhofe, you are next. According to my list,

Senator Whitehouse is going to join us next by Webex. I see we have been joined by Senator Cramer. Senator Markey was here and he may come back. My guess is he will. We are looking for Senator Kelly and Senator Padilla as well.

Senator Cardin. Senator Cardin is on Webex.

Senator Carper. Senator Cardin on Webex. Good. Thank you.

Senator Inhofe. Thank you, Mr. Chairman.

I do have a question for each of the witnesses. I am been looking forward to this. I had a chance to visit with some.

Let's start with you, Ms. Fox. The WOTUS rule that was in place prior to the last Administration was one that we had a real concern with out in Oklahoma. That was primarily that we had the idea that the State regulation of the water was working very well in our State of Oklahoma.

There is a fear that with a regulation coming from Washington, that even out, we are a pretty arid State. If you get out in the panhandle of Oklahoma, it does not get a lot drier than that. They were saying they felt that under the federal rules that would probably end up being a wetland and be over-regulated.

So I would just like to know the specifics on the rules that Trump replaced WOTUS with, what specific things about that do you find to be objectionable, if any?

Ms. Fox. Thank you for the question, Senator.

I think the example you just shared from your home State of Oklahoma is exactly why, if confirmed, I would really manage the Office of Water in a way that really tried to understand the wisdom, the voice and the lived practical experience of people in complying with our rules. I bring that orientation because I worked at a local water agency that had to comply with all of the things that the Office of Water did.

To your question specifically, as we have been conducting our review of both the 2015 rule and the 2020 rule, really at the direction of Administrator Regan, we have found implementation challenges with both of the rules. For example, with the 2015 rule, there were a lot of case-specific jurisdictional determinations. What we found from listening to folks in the States is that was really cumbersome from an implementation perspective. That is what our career staff have heard.

At the same time, I think the 2020 rule tried to correct for that. But now what we are hearing, our career staff are hearing from several States is, now we have the vast majority of waters in some of the States that are now not jurisdictional. So it is raising a different kind of implementation challenge as far as water quality protection.

Senator Inhofe. I don't mean to interrupt you but I know I

have to get to all three of you. I appreciate your comments. Particularly your opening statement, I enjoyed that. I look forward to working with you. If you don't behave, I am going to talk to your Daddy.

I want to real quickly go to Ms. Estenoz on the Lesser Prairie Chicken. I know you are fully familiar with that. You and I had a chance to visit about that.

We are facing something right now in a federal court in Texas about the threatened listing for the Prairie Chicken. The reason at that time they didn't think the conservation efforts were really impressive, were really considered at that time. We are talking about five States who are involved in this. You and I had a chance to talk about that.

I would just like to kind of get your input into how much weight are you going to put, attach to, the conservation efforts of the five States in terms of your jurisdiction?

Ms. Estenoz. Senator Inhofe, thank you so much. Thank you for the time you spent with me talking about this and other issues. I very much appreciate it.

We are under a court deadline to issue a 12-month finding near the end of the month. What I would say is that the conservation efforts of States and private landowners are central, really, to any hope we have for recovering species, before they are listed or whether they are listed or not,

regardless of their conservation status.

You gave me good counsel yesterday to reach out and learn more about those conservation efforts. I have already taken steps in the last 24 hours to begin that dialogue. I think that is really where the hope for the Lesser Prairie Chicken lies, in our collaborative efforts to recover that species.

Senator Inhofe. That is good. We will be visiting with you. I appreciate it very much. I have every reason to believe that you will take great consideration of the input that is out there.

Ms. Estenoz. Thank you, Senator.

Senator Carper. Your time has expired but go ahead. We are going to have a second round as well.

Senator Inhofe. I have a picture here I want everyone to look at. I want the little girls here, Zahava and Rena, to listen to what I am saying. Your Mama probably is the only person in America that will have equal praise from Senator Markey and me. I say that in all honesty, because we have worked so well together.

In fact, we shared some credit. I have often said I felt that I was more responsible for getting Barbara Boxer to come with us on the chemical legislation and they all now are giving you that credit. So I am not sure, I think we shared that credit at that time. And I have always enjoyed working with you

and certainly do.

I would like to have any comment you would make to update us as to what we are going to be doing with the Prairie Chicken. You and I both know all the background of that. I would like to see where you think we are going to be on that issue.

Senator Carper. I would ask you to be very brief if you will, please.

Ms. Freedhoff. I am hoping that I don't have to talk about the Prairie Chicken for the entire four years that I spend in this position if I am confirmed.

[Laughter.]

Senator Carper. That was very brief and to the point. I think she got her message across. That was lovely. I am glad you asked for the extra time. We will come back to you for a second round, Senator Inhofe.

Senator Inhofe. We will.

Senator Carper. Senator Cardin is going to join us next by Webex, followed by Senator Cramer, Senator Whitehouse by Webex, Senator Lummis by Webex, Senator Markey, and Senator Kelly.

I have to go join a Finance Committee hearing for a little bit. Senator Kelly is good enough to take the gavel for me while I do that. Senator Kelly, I think Ben Cardin is up next.

Senator Cardin. Thank you, Mr. Chairman.

Let me thank all of our witnesses. I have had a chance to

meet with each of you. Thank you very much for your public service.

I would first ask unanimous consent to submit letters of support for Ms. Fox to be Assistant Administrator of Water from three Maryland organizations: Waterkeepers Chesapeake, Moonshot Missions and South Easterners Royal Community Assistance Project.

Senator Kelly. [Presiding] Without objection.

[The referenced information follows:]

Senator Cardin. Thank you very much.

Ms. Estenoz, if I could, we had a wonderful conversation and I appreciate your knowledge and sensitivity to the wildlife refuges that are located in the State of Maryland and your desire to fill critical positions, your knowledge of the National Park System in our State of Maryland and the request to expand the National Park System and your sensitivity to that, your understanding of the Chesapeake Bay and the importance it has to our entire region.

I am going to ask you a question we did not have a chance to talk about during our meeting, one I think is critically important in the theme of the Biden Administration in dealing with equity issues. One of the goals of the 2014 Chesapeake Watershed Agreement is to expand public access to the Bay and its tributaries through existing and new local, State and federal parks, refuges, reserves, trails and partner sites.

Can you share with us how you would prioritize the accessibility of outdoor space and the equity issues and so many Americans today who would enjoy access but find it difficult if not impossible to gain access?

Ms. Estenoz. Senator, thank you so much. Again, thank you for the time you and your team spent with me this week. I appreciated that so much.

Expanding public access to nature and public lands is a top

priority for the Administration, for the Secretary. If I am confirmed, it will be a top priority for me. We have spent a lot of time in the last 112 days talking about the programs we have and that we can leverage, existing programs that we can leverage to increase public access.

Our National Wildlife Refuge System is particularly promising in terms of its accessibility to underserved communities and the millions of Americans that live within a 60-minute drive, for example, of a National Wildlife Refuge and looking for opportunities to help those folks get out to our public lands.

The other very big opportunity we have is in the LWCF Program. On Monday, we just announced the Outdoor Recreation Legacy Competitive Grant Program of \$115 million. We are so grateful for the Congress' work to fully fund LWCF.

That program is specifically designed to help underserved communities, rural communities, and urban communities increase their access to parks and open space. It is one of the initiatives that I am the most excited about. If I am confirmed, it will be one of my top priorities.

Senator Cardin. I look forward to working with you on those issues, because I think it is an area where we can make significant progress and get greater support for the programs of our national parks, refuges and just conservation.

Ms. Fox, I want to ask you one question. We had a chance also to talk about the resiliency and stabilization funds that were approved by the Senate, and the affordability issue. I want to just, if I might, talk about water affordability.

It is extremely challenging for the ratepayers to have to deal with what is necessary for clean, safe drinking water. Senator Wicker and I have put into the bill passed by the Senate a pilot program on water affordability that would be implemented by the EPA. It would be a new program for you all to implement.

Can you just tell us your willingness to take on this responsibility if we get you the resources and authority?

Ms. Fox. Yes, thank you, Senator Cardin, for the question and for the opportunity to visit with you earlier this week.

Absolutely, if confirmed, water affordability would be a top priority for me. Senator Cardin, as we talked about earlier this week, I have a long track record of working on water affordability issues, because I really view affordability as the flip side of the coin of making infrastructure investments. What I saw working at a local water agency is we were always balancing affordability with the timing, phasing and sequencing of our infrastructure projects.

We would absolutely work at the EPA Office of Water to design and quickly implement the affordability pilot program that is in the Water Infrastructure bill that this committee led

the development of. I would draw on my experience, having helped communities around the country in the design of their water affordability programs. One of the things that I did when I was at the U.S. Water Alliance was to establish something called the Water Equity Network working with over 20 cities around the Country on these very issues.

Finally, one of the things we have just started over the last month at the Office of Water is a Water Affordability Learning Exchange. What we are doing with that Learning Exchange is creating an informal, ad hoc mechanism for our team, the career leadership in the Office of Water, to regularly engage with equity and environmental justice organizations who are working on water affordability issues, the water associations that represent both rural and urban water utilities to really find lots and lots of common ground on water affordability.

So you would have my absolute commitment, Senator Cardin. Thank you for the question.

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

Senator Inhofe. Mr. Chairman, a point of clarification. In my haste to try to get everything done, I didn't get around to the real question I was going to talk to you about, Ms. Freedhoff. I will do that for the record, okay?

Ms. Freedhoff. Absolutely. Thank you.

Senator Inhofe. You bet.

Senator Kelly. Senator Cramer is recognized for five minutes.

Senator Cramer. Thank you, Senator Kelly. Thank you to all of the witnesses for being here.

Ms. Estenoz, I am from North Dakota. We are a big prairie pothole State, potholes and prairies everywhere. One of the reasons we have so many potholes and so many wetlands is because unlike many of the other prairie pothole region States, our farmers did not drain when everyone else was draining. Consequently, they have been punished for their good behavior on a regular basis by I am sure well-intentioned bureaucrats over the years.

There are a number of programs, but one I have been the most frustrated with, that would be under your jurisdiction should be confirmed, of course, is the waterfall production areas. Those are these pre-1976 that fathers and grandfathers and grandparents signed in difficult times with unclear maps and not very good definitions.

I brought an example of what I think has been a real abuse with the Fish and Wildlife Service. I have been very frustrated.

There has been some work done that is beneficial like new

mapping. It has been very delayed but it is getting better. The old maps are like on a napkin or an envelope drawn with a pencil. I am only exaggerating slightly. Of course, we have better technology today.

But here is one of the frustrations I want to point to in this map. We have copies for you as well in case you don't get a good view of this. This is literally a picture of land I visited last year with the Director of the Fish and Wildlife Service. This is an area that has a water production area easement on it. One of the definitions for the easement from pre-1976, in some of the language of the grant easement, it says, "protects large bodies of surface water including lakes and ponds."

Now, I am not a hydrologist. But I am pretty sure I can see where the lakes and ponds are. Can you see where there are lakes and ponds on this? Those would be wetlands in the easement.

Now, here is the frustration. I am going to replace this picture with the map that came from the Fish and Wildlife Service identifying the wetlands for the easement contemporary. We are going to flip that up so we can get it in the right direction. In the upper right-hand corner is that same large lake. As you can see, it is not assessed any acres for the easement.

Now, why would that be? Well, the reason for that, in my view, is because there is a cap of acres for the easement. Whoever decided that that wasn't a wetland decided this .15 spot down there is a wetland. This dry spot of .14 acres is a wetland. This dry spot of .49 acres is a wetland. All added up, so that the dry land can be considered water for the easement and not attribute any of the real water to the easement. This is called taking. It has been a legal fact in my view, by the Fish and Wildlife Service.

As I said, we have made some progress at least in the mapping side. And we think we have made some progress on the administrative side through an appeals process. Our farmers and landowners have gotten their new maps. Not all of them are done yet even though they were promised. This COVID thing happened and a lot of people did not work for a long time.

At the same time, their appeals have fallen on deaf ears. Not a single substantive appeal has been granted, not one, including this, especially one that got to the -- not a single director's appeal. Now, I am talking about the previous Administration.

I am hopeful that you, if confirmed and the others in the Fish and Wildlife Service, the director, when that person is nominated and confirmed, will take the time to come out and hear frustrated farmers one more time who I will have to beg to get

there because they have no faith that the government is going to look out for them.

This is what helps get the 12 percent conservation folks. We have not even talked about WOTUS. We will do that later. But this is where it gets to 12 percent, is taking a bunch of dry land and calling it a wetland and ignoring the wetland. To get to 30, people would starve, because there wouldn't be enough cropland left. We have to take a realistic view of this. More important than that is the fact that farmers own this land. This is their land that is being taken.

I know I have been out of commission for a couple weeks. I hope that you and I can get to know each other better. I would love to bring you up to speed on all this and would love to hear more.

Ms. Estenoz. Senator, if I may, thank you for this. I do look forward to us getting to know one another and for the opportunity to dig into this issue.

I do know and I am pleased to hear that you consider it to be a step in the right direction, that there is an appeals process that appears to be something that is working for the Fish and Wildlife Service. I think that is good.

I obviously need to dig deeper and fully understand the parameters of how we are delineating what is a wetland. I have a lot of experience in wetlands being where I am from in south

Florida. It is an area of both the law and science I am familiar with.

I thank you for the images. This is very helpful. If I am confirmed, I pledge that I will be in close contact with you. If I heard an invitation to come out to North Dakota, I would very much like to take you up on that.

Senator Cramer. But they are skating rinks in February, so we have to pick the time. It is very important when you come to North Dakota.

With that, Mr. Chairman, there was a letter written to the Acting Director from a number of organizations from North Dakota. If you have not received it, we will make sure you get it. I would ask unanimous consent to place it into the record. Thank you.

[The referenced information follows:]

Senator Kelly. Thank you, Senator.

Joining via Webex is Senator Whitehouse, who is recognized for five minutes.

Senator Whitehouse. Thank you, Chairman Kelly.

First, let me welcome Ms. Estenoz, Ms. Fox and Dr. Freedhoff. It is great to have you here in the committee with us even if we are just here electronically.

For Ms. Fox and Dr. Freedhoff, I want to ask about the problem of science in the last Administration which was routinely ignored and even disparaged. That was done on a repeated, consistent, systematic basis. I think any notion that this was a coincidence or a fluke is living in a dream world.

I know that Administrator Regan has pledged to take a look at all of that disparagement and violation of science. In the conversation we had, it was clear to me he was going to look at who, what, where, and when, but not at why things went wrong.

I would encourage you, if you are confirmed, to make sure you are answering the question of why. Because if this was systematic, we need to know who was behind it.

When January 6th happened, I pushed very hard on the Department of Justice to make sure they were not just challenging the people who came through the windows and doors of the Capitol but looking upstream to who might have been behind it, who might have been organizers or funders. I think you need

to have the same conversation with your employees.

My question to you is going to be one for the record because I want you to have the chance to sit down and answer it fully, and not under the pressure of my five-minute limit.

That is, what is going to happen when people come forward to disclose things that were done wrong at EPA in the past? Are they going to be told, we are not interested, go away, we are looking forward, not backwards? Are they going to be told we are not really interested, but why don't you go down to that overworked inspector general? Maybe they will take an interest there.

Are they going to be told, look, this really damaged an important agency. We are taking this seriously, and here is our system for dealing with your concerns. Here is who is going to hear you out, here is how we are going to coordinate the different stories we are hearing. Here is what our response plan is to the predicament we have been left with.

I hope you can all answer that. I would appreciate very much if you gave that some time and attention and answer those questions for the record.

Ms. Estenoz, welcome. I am delighted that you are here. I hope we can bring you up to Rhode Island to visit the park that is going in along the Blackstone River. It is a slightly unusual park because it is made up of lots of old historic mills

and parts of the early industrial revolution which were joined together for power by the Blackstone River.

Now, it is very unusually -- it does not have borders like a lot of parks. It is like jewels strung along the string of the Blackstone River. I hope very much that you will come and see it and help us turn that into the facility that it really should be. It has just gotten started.

I want to talk generally with you and put a flag up about the problem of waters and coasts being overlooked. I am thrilled that you are from the Everglades, so you know what a coast is. You know what salt water is. I think that is great.

The Land and Water Conservation Fund, I have complained about for years for its upland bias. In fact, I am filing legislation to rename it the Upland and Freshwater Conservation Fund, so that any pretense that it treats coasts and salt water fairly is removed and we can set up a Coasts and Salt Water Conservation Fund that can, I hope, stand on its own and have the resources that upland and freshwater gets.

The Army Corps of Engineers has a flood program that is just horrible for coasts compared to what it does for upland and inland. The Department of the Interior is named Interior so it is not exactly a coast facing agency.

Our coasts are seeing unprecedented hazards from sea level rise, from warming of the seas, from upheaval in the biota in

the fisheries, and from really catastrophic storm risk. Rhode Island is right in the target area for that. It is a very coastal, ocean State.

I hope as you go about your responsibilities, you will make sure that this long tradition of overlooking oceans and coasts gets whittled back. We even saw it in the Biden infrastructure plan, which is extremely weak on everything having to do with oceans and coasts. It is like there is a missing section on oceans and coasts.

I am going to be a persistent nag, I guess, of the Interior Department to pay more attention to oceans and coasts. I just wanted to lay the marker down right now, and if I have any time left, to ask you for a quick response.

Ms. Estenoz. Yes, Senator, I am happy to respond to that. When you are born on an island, it is all coast. My husband and I have raised our family in Broward County, Florida, which regularly experiences now several times a year what we call sunny day flooding, which is essentially the ocean coming in and occupying our streets.

The amount of work that needs to be done to build coastal resilience is really, and from the Interior Department, the equities that we have on the coasts are incredibly significant.

If I am confirmed, coastal restoration and coastal resilience, these will be high priorities for me and in terms of

the Fish and Wildlife Service and the National Park Service. An I look forward to visiting Rhode Island.

Senator Whitehouse. We will be in touch a lot. I welcome you and thank you.

Ms. Estenoz. Thank you.

Senator Kelly. Thank you, Senator.

Now joining us also via Webex is Senator Lummis who is recognized for five minutes.

Senator Lummis. Thank you very much.

Ms. Estenoz, you have an impressive career. It is very nice to meet you by Zoom.

I take note of a statement in your testimony where you said, "As a State official, I was a customer of Fish and Wildlife Service's regulatory programs and know firsthand what it is like to be in the shoes of States trying to work with the Federal Government." In your view, what is the role of States in the context of the Endangered Species Act?

Ms. Estenoz. Thank you, Senator. Thank you for that question.

I think the States play an absolutely central role when it comes to the Endangered Species Act, particularly when it comes to species recovery and management. What we want is to recover species. We want species not to need the protection of the Endangered Species Act.

States have a tremendous amount of expertise on the ground in species management. It has been my experience in my own career that in the almost 25 years I was working in Florida, the State of Florida was our strongest partner. The Florida Fish and Wildlife Conservation Commission was a tremendous partner there.

I believe very strongly in partnerships with States and really leveraging the expertise that we have in States.

Senator Lummis. I am delighted to hear you say that, because one of the great success stories of the Endangered Species Act since it was enacted is grizzly bears in the Greater Yellowstone ecosystem. The U.S. Fish and Wildlife Service, in the Bush Administration, the Obama Administration, and the Trump Administration all agreed that the Greater Yellowstone ecosystem grizzly bear population has recovered and should be delisted.

Ms. Estenoz, do you believe we should keep species on the list that every scientist in the past three Administrations agrees should be delisted, has recovered and management handed back to the States?

Ms. Estenoz. Thank you, Senator. I believe when species meet the definition of delisting or down listing, then we should delist or down list. The Greater Yellowstone Ecosystem grizzly population is doing very, very well. The grizzly is listed as an entire lower 48 population.

But I want to say something specifically if I may about predator recovery in particular. Species recovery is always challenging. But I want to recognize that there are special challenges when it comes to predator recovery, particularly for folks on the ground who find themselves sharing the landscape with a recovering predator species.

It is really important for folks to feel supported, and listened to and that we have the right tools in the toolbox to help folks live and exist with a recovering predator species. State management and State expertise, as I said before, is absolutely essential to this approach.

If I am confirmed, I will prioritize understanding and working closely with States to recover all species and in particular, predators.

Senator Lummis. Thanks so very much.

I am going to shift over to Ms. Freedhoff but if I get a chance, I will come back to you.

My question is about chemicals that make benefits and marvels of modern life possible. According to the Department of Energy, more than 96 percent of all manufactured goods rely on chemicals. One of the duties of the Office of Chemical Safety and Pollution Prevention is to weigh the benefits and risks associated with chemicals.

How do you intend to weigh those two things, both the

benefits and the risks of chemicals, before your office?

Ms. Freedhoff. Thanks very much for that question, Senator.

You are absolutely right. Both of the laws that serve as the primary authority for the Office of Chemical Safety and Pollution Prevention require the EPA to consider costs and benefits and risks. For example, in TSCA, Congress actually gave EPA the authority to exempt uses of chemicals if that use is needed for an economically significant reason from our rules. If confirmed, I intend to follow the law.

Senator Lummis. Thank you. Hopefully, I will get a chance in round two to visit with you again.

Mr. Chair, I yield back.

Senator Kelly. Thank you.

Is Senator Markey here via Webex?

[No response.]

Senator Kelly. I will recognize myself for five minutes.

Ms. Fox, I want to get your thoughts on the Waters of the United States or WOTUS rule. As you know, in June of 2015, the Obama Administration finalized a new rule which expanded the scope of waters protected by the Clean Water Act.

While I support efforts to reduce surface water contamination, the way the 2015 WOTUS rule was written did not work for Arizona and wound up defining irrigation ditches, dry

riverbeds and washes as waters of the United States when there is no water.

While these rules were repealed last year, I understand the EPA is considering reevaluating the WOTUS rules in the coming months. As Assistant Administrator for Water, how will you ensure the EPA takes into account the unique geographies of desert southwestern States like Arizona?

Ms. Fox. Thank you for the question, Senator Kelly.

I think the example you just provided from Arizona is why, if confirmed, I will do the work of the Office of Water based on the wisdom, the experience, the practical implementation of what these rules look like in communities around the Country.

To your question of how is it that we will consider the very diverse ecosystems, the topography and geography when it relates to water, one of the things Administrator Regan has really directed us to do is to have robust stakeholder engagement around understanding both how 2015 was implemented and how the 2020 rule is currently being implemented.

One of the things we plan to do is initiate listening sessions this summer. Then in the fall, what we have been talking with the Army Corps, who jointly developed the WOTUS rule, as you know, with EPA, that we will be doing regional roundtables. Really, Senator Kelly, the reason we want to do these regional roundtables is we recognize that when we create a

national definition like Waters of the U.S., it looks different. I am still living in California, so I share the arid State concerns that you have in Arizona. It looks different there than it does in the Great Lakes or in the southeast.

We will be having these regional conversations to really better understand the very concerns you have raised.

Senator Kelly. Thank you, Ms. Fox. I look forward to helping us come up with a good list of stakeholders in the State of Arizona for the summer and fall.

Dr. Freedhoff, I want to discuss, for our remaining time here, EPA regulatory actions with regard to semiconductor production in the United States.

As you know, in January, the EPA issued five final rules under TSCA for certain chemicals that are persistent, bioaccumulative, and toxic. One rule was for phenol, phenol isopropylated phosphate 3:1, which is a chemical widely used in semiconductor manufacturing. After hearing belated concerns from industry, I appreciate that the EPA has reopened the comment period and provided a no action assurance and hope that semiconductor producers fully take advantage of this additional time to help shape the final rule.

As the Senate prepares to consider efforts to promote additional semiconductor manufacturing in the U.S., has EPA engaged with the Department of Commerce to discuss ways to

provide regulatory stability under TSCA for the semiconductor industry?

Ms. Freedhoff. Thanks very much for that question, Senator. I appreciated talking to you about that issue when we met privately.

As you pointed out, those five rules were finalized by the last Administration. Honestly, the last Administration, from a process perspective, did nothing wrong when it finalized those rules because they asked for public comment, they reached out to stakeholders and really tried very hard to get the input of the regulated companies that would be subject to it.

As you said, when we started hearing from your constituents and many, many other companies across the Country with their concerns, that they hadn't really realized the implications of these rules on their business, we did take quick action to give them some more time and flexibility to give us the information we need. We really do encourage them and other industry sectors to bring us that information, because I know the EPA career staff wants to address all of the valid concerns that have been raised about those rules.

In terms of what you are asking about interagency coordination, there is actually a TSCA Interagency Coordinating Group. That group consists of representatives from many different agencies, including the Department of Commerce, the

Department of Defense, NASA, the Small Business Administration, and many others as well. Our career scientists meet with them on a regular basis. I think it is more frequently than once a month. Sometimes it is weekly, depending on what we are doing. We do that because we really have a strong interest in understanding what other agencies feel their needs are as we move forward with regulatory actions.

Senator Kelly. Thank you, Dr. Freedhoff. My time is expired.

I will now recognize Senator Ernst for five minutes.

Senator Ernst. Thank you very much. I welcome our witnesses here today, and look forward to our discussion.

Ms. Fox, I will start with you, please. I am going to take what Senator Kelly was talking about, with the 2015 WOTUS Rule, and just add a little bit to that. Because as you see, there is a bipartisan disagreement with the 2015 rule that was put into place.

I adamantly was opposed to what we saw under the Obama Administration in 2015. It was very damaging to the State of Iowa. What we saw with that rule and the way it was defined, those new Waters of the U.S. then allowed the Federal Government, or would have allowed the Federal Government to regulate 97 percent of Iowa's land. Not just water, but land.

So I know that we talked about stakeholders, and I am

really glad to hear you say that. Because many of my constituents felt that their concerns were ignored during the 2015 WOTUS rulemaking process. And in 2014, the Obama Administration's very own SBA Office of Advocacy submitted comments to the EPA and Army Corps of Engineers, arguing that the agencies hadn't conformed to the Regulatory Flexibility Act's requirements that small business concerns be considered.

So you have mentioned you want to bring stakeholders to the table. What will you do specifically to ensure that the concerns of all of these impacted stakeholders, especially as you look at States across the Midwest, maybe in California, those that are in agriculture, those concerns are addressed in the event that a new definition is proposed?

Ms. Fox. Thank you for the question, Senator. One thing I will say is that in my former role as the CEO of the U.S. Water Alliance, I had the opportunity to spend quite a lot of time in Iowa. We had our One Water Summit every year, and Iowa brought the biggest delegation of farmers and water utilities and business leaders.

When I hosted something called the One Water for American listening sessions, we went to Iowa to hear about really the tremendous innovation that is happening on both water quality and farm profitability, because we saw municipalities and farmers working upstream, downstream. In fact, last year,

during my final year at the U.S. Water Alliance, we awarded the Iowa Soybean Association the U.S. Water Prize because I truly believe that it is through collaboration and partnership that we will get the work of protecting our Nation's waters and protecting our agricultural productivity at the same time.

So what I commit to, if confirmed, is, I want us to find an enduring definition of Waters of the U.S. That is what Administrator Regan wants. We don't want to see this ping-pong any more. For our career staff at EPA, they have written three rules in six years. That seems crazy to me.

So what we are very committed to, Administrator Regan and I, is to understand the implementation challenges of both rules in communities around the Country and to work with folks like you, your constituents, to get to something that is enduring. We would love to have a definition that does not shift as administrations shift. I would love to have the opportunity to work very closely with you to make that happen, if confirmed.

Senator Ernst. Thank you. I appreciate that. And I do hope that we can move on to a definition that would be enduring. I think absolutely you are correct there. But we have a lot of different States with a lot of different needs. The nexus really does have to be water, not a bunch of land surrounding an intermittent stream, or whatever it might be. But it needs to be about water.

So I do have a question about WOTUS and the 30 by 30. I am not sure what agency is actually going to be in charge of the 30 by 30 rule that is being proposed by President Biden. Is that the EPA, is it USDA? Do you happen to know?

Ms. Fox. I can find out and get back to you.

Senator Ernst. Okay. Because this plan has been proposed, but nobody really knows who is going to administer this, and we have no idea how we arrive at putting 30 percent of America's lands in a protected status. I talked to Secretary Vilsack, we had an informal question session with him a few weeks ago. He told my senior Senator, Chuck Grassley, oh, we are going to get this done by using CRP. Well, I don't see how that works. CRP is for vulnerable lands. Not every State farms. So I am not sure. I guess maybe he just wants to take it away from those of us that farm.

Does the Biden Administration plan to use --

Senator Carper. [Presiding] Senator, your time is expired. Go ahead and ask this question but then we will have to go to Senator Padilla.

Senator Ernst. Okay, thank you, Mr. Chair. So we will take this for the record. But we just want to know about the definition of WOTUS and how it ties into the 30 by 30. Because what we are concerned about in Iowa is that the Federal Government starts using expanded definitions and rules that then

to take away land, productive land from farmers, and put it in a protected status, we do not want to see that. I think that is Federal Government overreach. I will send the question to you and we will do it for the record.

Thank you, Mr. Chairman.

Senator Carper. Would you like to respond just briefly to that question? Maybe you can do more in writing later on, but anything you want to say right now, you are welcome to.

Ms. Fox. I am happy to answer that question for the record. But I think, Senator Ernst, one thing that is going to guide the work of the Office of Water if confirmed is we have to balance all of these interests of water quality, ensuring the profitability of our farmers who feed the Nation, they feed the world.

So we have to balance those things. What you can count on me if confirmed as the AA for Water is that I will always listen to your constituents, I will hear them out. And as I make decisions, I will always look back with you and them. I really think that through partnership, through collaboration and through really transparent decision making, that is what is going to be best for the people of this Country. You have my commitment on that.

Senator Ernst. Yes, thank you. And I appreciate the commitment.

Senator Carper. Senator Ernst, sometimes I ask people who have been married a long time, what is the secret to being married a long time. As you might imagine, I get hilarious answers, and I actually write them down and use them from time to time for comic relief. One of my favorite answers, though, is communicate and compromise. Communicate and compromise. That is also the secret to a vibrant democracy. I would add a third C, and that would be collaboration. Communicate, compromise, collaboration. I think that is what we are hearing both of you talk about today. I welcome that. Thanks for joining us.

All right, Dr. Padilla, Dr. Senator Padilla, I know you are out there somewhere. You are recognized next. And if we don't have anybody else intervene, then Senator Cramer would be after you. Senator Padilla, please.

Senator Padilla. Thank you, Mr. Chair. For the record, I am not a doctor, nor do I play one on TV.

I have a couple of questions and topics I would like to raise with Ms. Estenoz regarding the National Park System. We know it is a source of pride for so many Americans. Our national parks boast not just stunning scenery and our national monuments and historical parks, but it helps tell the story of our Country.

However, the stories told by our park system don't

completely paint the full mosaic of America, nor does it adequately preserve the full culture and legacy of all Americans. We have a lot of work to do to diversify our national parks and monuments. Too few sites focus on the experience of the Black, Asian, and Native Americans, or teach us about our Latino heritage. And we don't have enough parks and monuments proudly dedicated to the contributions of the LGBTQ community and not nearly enough sites that celebrate the contributions of women to our Nation's history.

I wonder if you can talk for a minute about how you would work with the Biden Administration to ensure that the National Park Service sites better tell America's rich and diverse history?

Ms. Estenoz. Thank you so much, Senator, for that question. This is an incredibly important priority for the Administration and for the Secretary.

The National Park Service, in many ways, is our government's preeminent experts on the power of place and how important places can be in our effort to tell a story. You are right, I agree 100 percent, as does the Secretary, that the range of stories that we tell isn't broad enough. It doesn't tell the full, rich story of America. And it is an absolutely high priority for us to fix that problem, and to think of our national park sites, which some of them are parks, but they are

also historic and scenic trails. We have historic sites, we have national seashores. There are a rich diversity of stories to be told at most of those sites.

So if I am confirmed, this will be a top priority for me, it is a top priority for the Secretary. This includes telling the rich story of our indigenous communities, and revitalizing our commitment to telling the stories of tribal nations and involving them in weaving those stories and sharing them with visitors to our national park sites. I very much appreciate the question.

Senator Padilla. Thank you. I look forward to working with you and the Administration on that in the years ahead.

Next question is a topic that was raised earlier about access to outdoor spaces. I want to dig a little bit deeper. As you know, too many children, especially in communities of color, grow up without access to outdoor spaces. Nationwide, three-quarters of people of color live in nature-deprived communities.

Los Angeles County, not just my home State, but my home county, is one of the most densely populated regions in the Country. It has one of the lowest rates of park access. It has 3.3 acres of park space per 1,000 residents, half as much as other high-density areas.

The COVID pandemic has showed us how important access to

outdoors is, and that our local parks can bring just as many mental and physical and educational benefits to residents as a national park. So I want to thank you for your work in helping to rescind President Trump's Secretarial Order 3388 and reinstating funding for the Outdoor Recreation Legacy Partnership Program, which helps fund the parks for urban communities. I would encourage the Administration to go big and include a robust funding request for this program in the next fiscal year budget.

Again, I know it was brought up earlier in the hearing, but if you want to speak for a few more minutes on how you would approach the work to ensure more urban communities in particular can access quality green spaces.

Ms. Estenoz. Thank you, Senator. Again, this is a part of a similar issue. Equal access to nature, the year that we have been through as a Nation is perfect evidence of how important it is for folks to have access to outdoor spaces. So many Americans this year have taken refuge in the parks in their neighborhoods and their communities. For folk who don't have access to those areas, it has been that much harder to cope with the year that we have lived through.

As I mentioned earlier, we just two days ago announced \$150 million investment in the ORLP program. This is the largest investment. It is a competitive grant program. One of the

things that is a high priority for us is to ensure that communities have the opportunity to actually compete for those dollars.

So we are working hard internally to ensure that we are promoting the program, that we are offering our technical assistance to folks who want to try to participate in that program. Now that the Congress has invested in full funding of the LWCF, that is an absolute game changer for communities who need and deserve greater access to the outdoors in their lives and in their communities.

Senator Padilla. Thank you for that. Again, I look forward to working with you on this in the years ahead.

Thank you, Mr. Chair.

Senator Carper. Senator Padilla, thanks so much for joining us today, and for those questions.

Senator Cramer is back for a second round. I think Senator Markey is trying to join us. The vote starts in the Senate, we have two votes, they are going to start the first one in about three or four minutes. But we have some time.

Senator Cramer.

Senator Cramer. Thanks you, Mr. Chairman. Thanks again to all of you.

Ms. Fox, as I mentineod during the first round, I wanted to get to WOTUS. You have answered a lot of WOTUS questions since

I have been here, and you have done very well with them. So I am just going to add my illustration and ask some pretty simple questions.

Last Congress, in this committee we did hold a hearing on the Trump WOTUS rule. One of the witnesses was the North Dakota Commissioner of Agriculture, Doug Goehring. Doug testified, "The most fundamental management practice in agriculture is effective water management, either to retain, conserve, or convey. An overly rigid, one size fits all federal intervention and regulatory oversight is not reasonable, not workable and not appropriate."

Now, Administrator Regan, whose nomination I supported in this committee, and on the Floor, has said the EPA is going to rewrite the regulation again, but not as the Obama Administration did in 2015. You have echoed that sentiment a couple of times. I like consistency within an Administration, Mr. Chairman.

North Dakota successfully litigated against the 2015 regulation, which would have laid claim to over 80 percent of our land mass with its 4,000-foot buffer. In 2006, if we are looking for a definition, I think Justice Scalia got it exactly right in his majority opinion when he set the standard for continuous surface water connection to relatively permanent bodies of water. There was a little vagueness in a few of those

words, but nevertheless, I think it is a pretty good starting point.

So with that in mind, I want to refer to this map of North Dakota, just to help people understand. We literally are, people always say they are something, we really are the center of the North American continent. There is a monument in Rugby, North Dakota, that says, this is the center of the North American continent.

We are prairies, we are badlands. Theodore Roosevelt National Park, the only national park named after a person, place matters, right? This is where his ranches are. Right out here in the badlands, limestone, sandstone, cactus, badlands.

This map illustrates what would fall under Waters of the U.S. definition of navigable waters. Now, I have a pontoon, I live on a bay of the Missouri River. If I can't drive my pontoon on it, I know it is not navigable, right? But this is a whole bunch of stuff that you couldn't drive a pontoon on.

So anyway, obviously WOTUS is at the heart of agriculture, as you have been hearing from others. It is very near and dear to North Dakotans. We want to get it right.

So I am just going to ask you some really basic things. First of all, and I think you testified to this. But they didn't get it right in 2015. Do you think they got it right in 2015?

Ms. Fox. Senator, it sounds like, first of all, that Shannon and I need to do a joint trip together so that we can understand the two very original challenges. So maybe we can do that.

Senator Cramer. That would be fun, yes. The Administrator promised to do it too, but you can either come with him or at another time.

Ms. Fox. Senator Cramer, again, we all want an enduring rule. I think we want an enduring definition that is national, but really can address the particular local circumstances of water. As we know, water is also changing rapidly, the Great Lakes are warming, parts of California and Arizona are drying very rapidly.

So how do we create a rule that can withstand the test of time and respect the local needs? That is really what Administrator Regan wants, that is what he has directed me to do, that is what I want to do. I want to get it right, and I want to get it right with all of you.

So I hope you will help us with that.

Senator Cramer. You raise a really good point. Both you and the Administrator I think bring some very valuable experience. He as a State regulator, you as somebody who has been in a regulated industry, although not agriculture, but again, WOTUS was clearly important.

That is what gives me hope, as well as your willingness to talk, to collaborate, to communicate. We have lots of Cs that work: Carper, Capito, Cardin, Cramer, there are lots of C words that work.

Ms. Fox. And Cramer.

Senator Cramer. And Cramer. So I look forward to that. I really do. I am an eternally optimistic person, Mr. Chairman.

So you are invited, you are welcome. You can leave the Administrator at home or bring him with you if you want, but he is coming at some point. You raised an important point, and this would have been relevant to the previous discussion, that changing, that has been going on for centuries. That is part of why North Dakota farmers didn't drain. They moved with the water. They farmed when it was dry, if it was wet over here, then the next year they farmed over here, because they valued having that water around them. They were naturally conservationists. But they reject the notion that the Federal Government is going to tell them how to do it if not a partner.

With that, thank you both. Thank you, Mr. Chairman.

Senator Carper. Thank you, Dr. Cramer.

[Laughter.]

Senator Carper. We can never have too many Cs.

There is a good spirit here. I hope this is a good spirit that we can continue to embrace as we go forward and address

some thorny issues and really important issues for all different parts of our Country.

I would like to come back to you, Ms. Estenoz. I have a question. And I think senator Markey is trying to get here. I won't stretch it out too long, but we will make sure he has a chance at a second shot here.

Ms. Estenoz, our committee has spent considerable time in recent years, I have been on this committee for 20 years, I love this committee. I feel so fortunate to serve on it.

In recent years we have deliberated matters involving the Endangered Species Act. While the Endangered Species Act is one of our Nation's most popular and successful environmental laws, it is not without controversy, as you know. That said, I believe we can all agree more than we disagree when it comes to preserving and when it comes to implementing this bedrock law.

My question, Ms. Estenoz, is, is in your opinion, how can the Department of Interior best foster collaboration, one of those Cs, versus conflict, another C, when it comes to the Endangered Species Act?

Ms. Estenoz. Thank you, Mr. Chairman, for that question. I think it is such an important one. Because we have talked a little bit with some of the other questions and some of the other discussion earlier about how important recovery is in the Endangered Species Act, as an ultimate driver of what we want to

try to do. There is a whole movement regarding conservation without conflict, and moving past conflict to cooperation and collaboration, just to keep the C theme going here. In my experience in Florida, that is when we have gotten the most done, even when we are dealing with listed species, even when we are dealing with species that are on the brink.

And we have a couple, we have a couple in Florida. We have many, too many, in our Country. We have some 12,000 species that need conservation assistance to avoid extinction. That is too many.

I think everyone would think that is too many. I don't think that is a particularly controversial statement.

We are not going to recover those species or improvement their conservation status unless we can work together. As I said earlier, some of the strongest expertise when it comes to specific species management, it is on the ground, it is the folks who are closest to those species, and it is incumbent upon Fish and Wildlife Service.

Frankly, I think we do a good job integrating our work, particularly through, for example, the Association of Fish and Wildlife Agencies throughout the Country. There are tremendously strong relationships among the people on the ground there. It is really great to watch. We need to empower those relationships and those partnerships.

If I am confirmed, it will be my job to support them and to encourage that collaboration and if I am confirmed, I will pledge to do just that.

Senator Carper. All right.

As we wait for Senator Markey, I want each of you to take a minute and talk to us about your top priorities, one or two top priorities. We have heard from you about some of the pressing issues that face our Nation and the roles that you will be playing. But I would like to, before we finish up, to get your perspective on some additional matters that you expect to address once you take office. Just mention for us briefly a couple of your top priorities.

Dr. Freedhoff, I am going to ask you to start out. Just talk about some of your top priorities briefly.

Ms. Freedhoff. Thanks very much, Mr. Chairman. I would say number one is really implementing TSCA and recognizing that when that law was enacted, everyone, environmental organizations, industry groups, Republicans, Democrats, everyone wanted EPA to have the authority that it needed to protect families and workers all across this Country from unsafe chemicals. So getting that program off the ground and starting to write some of those protected chemical safety rules is one of my first priorities.

Second, I would say it is about trust. I think in the past

four years, there was a lot of fantastic science that went on in the agency, but there were also some examples of times when the scientists were told to change their conclusions or exclude data or when people raised concerns were kicked out of meetings and told that they couldn't work on those things anymore. I think as a result, some of those decisions, again, not everything that happened in the last four years, but as a result of some of those decisions, when EPA says that a chemical or a pesticide can be used safely, sometimes people don't trust us.

I think the public needs to trust us. That is not just good for the environment and for human health, I think it is also really important that the public has confidence in the products that companies make. And when we say the chemicals that they use are safe, they really are.

So I think working to restore trust in what the agency says about the safety of chemicals and pesticides is one of my other top priorities that I hope to work on if confirmed.

Senator Carper. Thank you for that, very much.

Your daughters are sitting behind you over your left shoulder. The former chairman of this committee was a fellow from Wyoming, John Barrasso. He still serves in the Senate, but not in this committee. He and I love music, and we used to like to interplay musical lyrics when appropriate with the comments that we make from the dais.

One of the songs we liked to quote was by a one-hit wonder named Thomas Dolby, She Blinded Me With Science. Some of you may remember that song, a great song. We don't need to be blinded by science; we need to be guided by science. I think we have in the witnesses here before us today adherence to that principles. I like to think we have on this committee and in the new Administration a real strong desire to be guided by science. Thank you for that.

Top priority, Ms. Fox, please.

Ms. Fox. Thank you, Senator. I had a chance to talk a little bit earlier about some of the priorities around implementing our infrastructure programs well, PFAS, affordability. I want to add a couple. One is, and to really build on Lee Howell's point, and this is something that talk about quite often, is really the tremendous career staff that exists across all of the offices at EPA.

I think one of my internal priorities is really around supporting them, building their morale. We have a big agenda when it comes to water. They have decades and decades of experience. So that will be a big internal priority.

Another internal priority that I have if confirmed goes back to what Senator Whitehouse said earlier around science. One of the first things that I did was meet with our scientific integrity official. I got briefed on concerns that had been

raised around scientific integrity over the previous administration. I issued a memo to the entire Office of Water to say, if there are every concerns around scientific integrity there will always be an open door policy.

So I think in addition to pursuing the big water agenda that President Biden and Vice President Harris has laid out for us to also do the internal work, so that we have a strong, productive work force that is value and respected for all of their contributions. That would be another big priority of mine.

Senator Carper. All right. Thank you, Ms. Fox.

Ms. Estenoz?

Ms. Estenoz. Thank you, Mr. Chairman.

My priorities roughly fall into three categories. Sticking with our alliteration theme, they are policy, program, and people. I too am a music fan, and Stephen Stills is very important to me.

Senator Carper. Something's Happening Here.

Ms. Estenoz. Something is happening here, indeed. So my policy priorities are the President's and the Secretary's policy priorities. So if I am confirmed, my job will be to help the National Park Service and the Fish and Wildlife Service contribute to our efforts to tackle climate change, our efforts to increase equal access to nature, to tell all of America's

stories, to recommit ourselves to our government-to-government trust responsibility to tribes, and to build back better by investing in our infrastructure and our public lands, our coastal resilience, so many of the issues that we have heard today.

Programmatically, I think right off the bat my priority is going to be the implementation of the Great American Outdoors Act and the fully funded Land and Water Conservation Fund, a huge responsibility.

Senator Carper. That should be a lot of fun.

Ms. Estenoz. I am already having fun and looking forward to more. The commitment that the Congress made last year, I and so many Americans are so grateful for it. It is really now our job to make sure that we squeeze every ounce of value out of every single dollar and we get it on the landscape, working for the American people.

Speaking of people, my other priority is supporting our career workforce. Our people have had a rough year, just like every other American has had a rough year. The National Park Service is facing what could be one of the busiest summers for our national parks and national wildlife refuges in the history of those services.

So part of my priority will be to ensure that they feel supported and that they have the tools that they need to welcome

America back to our public lands over the next year, as we come out of this COVID crisis and take refuge in the beautiful places that the services that I have the pleasure of working with are responsible for. So thank you so much for the question, Mr. Chairman.

Senator Carper. Senator Markey I am told is on his way. I don't want to disappoint him by leaving him an empty room. Hopefully, he will make it soon.

While we are waiting for another minute or two, there is question I like to ask sometime when we have time. Is there a question you wish you would have been asked that you have not been asked by anyone on this panel? We will start with Dr. Freedhoff, is there a question you wish you had been asked, but you didn't get it?

Ms. Freedhoff. I am sorry, Senator, you wanted to know what question --

Senator Carper. Yes, what is a question you would like to have been asked that no one has asked you?

Ms. Freedhoff. I would like to have been asked how the agency responded to COVID. The reason for that is because my part of the agency literally dropped everything in order to respond to the virus. About 100 of our career scientists stopped what they were doing and focused all their efforts onto approving about 550 different disinfectants that were certified

as effective against COVID, and also helped support the agency's efforts to crack down on fraudulent claims made by companies about COVID products.

They really rose to the challenge and met it. It was very important for both the Country and the agency that they did so.

Senator Carper. Thank you. Next time, we will ask that question. Senator Markey has joined us. Senator?

Senator Markey. Thank you, Mr. Chairman. I apologize to you.

Senator Carper. Glad you could make it.

Senator Markey. We are still in the midst of the Commerce Committee markup. We used to say in Boston, Wednesdays are Prince Spaghetti Day. Now we just say, Wednesday is a day when every committee meets simultaneously. And you can be omniscient, but you cannot be ubiquitous. So I apologize to you for not being here.

Dr. Freedhoff, back in 2016, you worked with me on the issue of PCBs which contaminate as many as 25,000 schools across the Country despite being banned by the EPA in 1979. Students should be learning their ABCs, not their PCBs. That is still a situation in the Country right now.

So I am planning on reintroducing the Get Toxic Substances Out of Schools Act, which would reauthorize and expand Title 5 of TSCA to help schools remove PCBs and other toxic substances.

Are you going to be working on that issue? I would love to partner with you in moving legislation that could give you more power to deal with that issue.

Ms. Freedhoff. Thanks very much, Senator Markey. I appreciated talking to you about this as well, earlier in the week. It is funny, one of the first calls that I had with our acting regional administrators, it was just an opportunity to get to know them all. More than half of them, I would say, from all across the Country, raised this very issue with me. Because you are absolutely right, it is not just PCBs, it is asbestos and it is other toxic substances as well.

The challenge that they really face is that as these schools age, the PCBs and the asbestos are released, and actually have in the past exposed both teachers and students. A lot of time also these schools are in economically and otherwise underserved communities that are also at risk of other environmental exposures in disproportionate ways compared to other communities.

So I think there is great interest at the agency in working with you on this. I look forward to it.

Senator Markey. Thank you. I appreciate it.

And you know, there is kind of a way of looking at these environmental issues which says, oh, my goodness, they are so expensive, they are going to create real problems in our society

if we really try to remediate it. But the other side of the coin is, it is a job creator for construction, painting, and other occupations that will have to go in and do this work.

Can you talk about that a little bit?

Ms. Freedhoff. Yes, I think you are absolutely right, Senator, to raise that. I would add additionally on that, a lot of State budgets are probably pretty challenged because of what they have gone through in the past year on COVID. I actually think that a lot of schools that might have been otherwise slated for remodeling or reconstruction are going to have to wait a lot longer, because of the challenges to State budgets.

So I sort of see it as a win-win-win. It is a win for the environment, it is a win for jobs, and it is a win for the children and the teachers who are in those schools every day.

Senator Markey. Yes. I thank you for that.

In terms of using this funding that is going to be at the EPA and under your leadership to quickly evaluate dangerous chemicals, you may have already answered the question, but could you talk about that, how you are going to try to telescope the timeframe to deal with these issues under the constraints that exist statutorily?

Dr. Freedhoff. I think that was one of the provisions that you cared the most about, as I recall, is making sure that the chemicals that EPA already knew they had concerns about were

moved along at a faster timeframe. So what we are doing right now is we are taking sort of a forensic look back at the first 10 risk evaluations that were completed in the last Administration. Our objective is to move as many of them as possible into rulemaking as quickly as we can.

There may be times when we have to supplement some of them in order to make sure that the rules that flow from them are as protective and legally defensible as they need to be. But really, our focus is on giving Americans the chemical safety protections that everyone expected EPA to provide.

Senator Markey. So as you are looking back at the previous Administration, there are flaws in the methodology which was used by the preceding Administration. And of course, our goal is to make sure that families are not exposed to asbestos, are not exposed to other dangerous chemicals. So how are we going to fix those flawed chemical risk evaluations completed by the previous Administration to ensure that they account for legacy exposures and use the best available science?

Ms. Freedhoff. Well, the court, on legacy exposures there was actually a court decision telling the agency that the law clearly expected the agency to consider legacy exposures. That was about the asbestos risk evaluation, and the agency is certainly going to abide by that court decision.

But more generally, I think the expectation in TSCA was the

EPA would study the chemicals comprehensively. That means knowing whether people are getting exposed from the air, from the water, from the disposal of those chemicals.

So what we are doing now is we are going through those first 10 pretty intensively. But we also recognize that the point of TSCA was to write chemical safety rules that were protective. So what we want to do is move past the risk evaluation phase and into the protection phase of our activity just as quickly as we can.

Senator Markey. So when I entered Congress, I had Chelsea, which was the poorest and most vulnerable community in New England, had huge exposure to lead. That was like the first project that I worked on, again, poorest community in New England. We saw during the Coronavirus pandemic that Chelsea has extremely high asthma rates, and as a result, it made them more vulnerable to the Coronavirus.

When we were working together on Woburn and the toxic site in Woburn, that goes back to the 1970s when the EPA and other agencies were just turning a blind eye, which ultimately led to the creation of the Superfund law, which I was proud to be a part of in 1981, in getting that law on the books.

Senator Carper. Senator Markey, your time is expired. We will run into overtime and we are running out of time on the Floor. So if you want to wrap it up really quickly.

Senator Markey. I will wrap up quickly. Environmental justice, Dr. Freedhoff, how can we ensure that it is built into every single part of the activities taken by this Administration?

Ms. Freedhoff. I appreciate the question. You know what? Congress told us to study potentially exposed and susceptible subpopulations. We have to consider those subpopulations every time we study a chemical. I do think we could be doing more with that authority than has been done in the past Administration.

I think one thing we are really focused on now with those first 10 is really looking at whether there are fence-line communities, communities that have been disproportionately exposed to pollution from chemical companies and other things, and seeing whether there is more that we need to do to supplement those risk evaluations as we move to rulemaking.

Senator Markey. You are going to do a great job. Thank you.

Thank you, Mr. Chairman.

Senator Carper. Senator Markey, I would ask you just to stay in the room for another minute before you go, and I will go with you.

Let me just close by saying how pleased I am, in talking to my colleagues as they come and go. Almost without exception the

comments are just, you have really won the hearts of your moms and dads and maybe even your daughters. Very, very good job. We have been fortunate to hear from three outstanding nominees for critical roles in the Environmental Protection Agency in the Department of Interior. You are experienced, you are intelligent, and you are committed public servants.

I want to close by thanking you all once again for your willingness to share your wisdom, your expertise, and inclusive instincts with our Nation. And three days after Mother's Day, our thanks to the moms that brought you into the room, and maybe your dads and husbands might be sharing you with us, your children, sharing you with all of us.

I would like to ask unanimous consent to submit for the record a variety of materials, including letters from stakeholders and other materials that relate to today's nomination hearing. Without objection.

[The referenced information follows:]

Senator Carper. Senators will be allowed to submit questions for the record through close of business on Friday, this Friday, May 14th. We will compile those questions, send them to our witnesses, and ask our witnesses to reply to us by Wednesday, May the 19th. If you could do that, that would be very helpful.

With that, it is a wrap. We thank you all again. The hearing is adjourned.

[Whereupon, at 12:23 p.m., the hearing was adjourned.]