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U.S. Senate Date: Wednesday, October 25, 2017

Committee on Environment  
and Public Works Washington, D.C.

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BUSINESS MEETING

WEDNESDAY, OCTOBER 25, 2017

U.S. SENATE

Committee on Environment and Public Works

Washington, D.C.

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

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

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

Senator Barrasso. I call this meeting to order. I thank everyone for coming.

Today we will consider four nominees to serve as Assistant Administrators for the Environmental Protection Agency. This includes President Trump's nomination of Michael Dorson to head the EPA's Office of Chemical Safety and Pollution Prevention; William Wehrum to be the EPA's Office of Air and Radiation Director; Matthew Leopold to head the EPA's Office of General Counsel; and David Ross to lead the EPA's Office of Water.

These nominees have proven themselves to be well-qualified, experienced and dedicated public servants. Their confirmation will fill critically important roles in ensuring that all Americans benefit from clean air, clean water and clean land. I urge all my colleagues to support the nominations.

We also will consider the nominee to serve as the Administrator of the Federal Highway Administration of the United States Department of Transportation. Paul Trombino is well-qualified and brings broad experience, over 20 years of experience, as a State and national transportation leader, to the critically important role of maintaining and improving our Nation's roads, highways and bridges.

I commend President Trump for nominating such a highly-

accomplished and dedicated public servant to serve in this important position. I urge all my colleagues to also support Mr. Trombino's nomination.

Finally, we will consider the nomination of Jeffrey Baran to serve another term as a member of the Nuclear Regulatory Commission.

I would like to call on Ranking Member Carper and recognize him for an opening statement.

[The prepared statement of Senator Barrasso follows:]

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

Senator Carper. Thank you, Mr. Chairman.

We are meeting here today to consider several very important nominations. First, I want to thank the Chairman, our friend, John Barrasso, for working to advance the re-nomination of Jeff Baran to continue to serve on the Nuclear Regulatory Commission. I am hopeful that the Senate will soon be able to act on Mr. Baran's nomination along with the names of two Republican nominees for the NRC that this committee advanced back in June, so that the Commission will once again have a full quorum.

Before turning to the nominees before us, I would be remiss if I did not reiterate once again the continued frustration and disappointment of the Democrat members of this committee with the Environmental Protection Agency's responses or lack thereof to many of our Congressional oversight requests. Of the 26 letters that letters of this committee's minority have sent to Administrator Pruitt, to request information since March of this year, only nine have received complete years. That is nine letters over seven months.

I know that some say that batting 350 isn't bad, but in truth, Mr. Pruitt is capable of doing a whole lot better. After all, it took him just 48 hours earlier this month to provide a

substantive written response to our friend and colleague from Iowa, Senator Ernst, with respect to the renewable fuel standard. Forty-eight hours. He can do this. I think most of us know that.

To be fair, though, I should note that of late, EPA has made some modest progress in responding to committee Democrats. Largely for this reason, I will not object to a voice vote on the two last controversial EPA nominees, whose nominations I plan to support in today's committee vote, Matt Leopold and David Ross. I also welcome the opportunity to support the nomination of Paul Trombino to serve as our Administrator of the Federal Highway Administration.

I have no interest in delay for delay's sake. I do have an abiding interest, however, in ensuring that the oversight requests of our Republican and Democrat Senators receive the timely responses that they deserve. I believe I also suspect for every Democrat on this committee, and I suspect more than a few Republicans, in saying that this committee has a legitimate interest in Administrator Pruitt testifying before us soon, something he hasn't found time to do in almost nine months subsequent to his nomination hearing.

Now, let me turn to the business before us today. Today we meet to consider the nomination of six individuals. Two of those nominations cause me and a lot of other people in this

body and in this Country grave concern. One of those individuals is Bill Wehrum, a Delawarean, the nominee to head EPA's Air Office.

In 2005, I voted against Bill Wehrum, because I feared he would impede efforts to clean up air and protect the health of Americans. Sadly, my fears were not misplaced. One decade later, after reviewing Mr. Wehrum's record, talking to him in person, riding on the train with him yesterday to Washington, D.C., as I was listening and reading his answers to questions posed during the hearing process, I regret to say that my position has not changed.

Mr. Wehrum was evasive on many of the questions asked of him, even conveniently forgetting a case that he worked on in opposition to the Renewable Fuel Standard. What was clear, however, in the answers that he did give, and in his conversation with me, is that the public health does not appear to be one of his principal concerns. In fact, when asked to list the Clean Air Regulations that he does support, he answered with these words, "I represent clients in private practice. It is my legal and ethical duty to zealously represent their interests."

Whether the pollutant is carbon or mercury or silica or other toxic substances, Mr. Wehrum has continued to side with polluters over science and doctors almost every time. As I said

in his hearing, Mr. Wehrum is not a bad person. I think he is a good person. Regrettably, I don't believe he is the right person for this position.

With that said, that brings me to the most troubling nominee before us today, at least for me. In fact, he is one of the most troubling nominees I have ever considered during my 17 years on this committee, Michael Dourson. In 2016, many members of this committee, Democrat and Republican alike, came together to finally pass badly-needed reforms to the Toxic Substances Control Act, after working to find common ground literally for years. Across the board, stakeholders enthusiastically supported our efforts because they saw the need for a credible, impartial and strong chemical regulator at EPA who could provide certainty and predictability for businesses and others, while also inspiring public confidence in the safety of the products that families use every day.

Unfortunately, the nomination of Michael Dourson to lead the EPA's Chemical Safety Office and implement TSCA reform makes a mockery of the entire process of which we were so proud. Dr. Dourson's record is clear: throughout much of his career, Dr. Dourson has essentially sold his science to the highest bidder and recommended standards for toxic chemicals that were tens, hundreds, sometimes even thousands of times less protective than EPA's own standards, less protective.

Dr. Dourson had the opportunity to address some of our fears in response to our questions for the record. Instead, he did just the opposite. For example, he did not answer a single one of the eight questions for the record that I asked him with respect to TSCA implementation. Not one. He would not describe how he thought EPA should protect people from exposure to dangerous chemicals. Yet he wants to be the person who is charged with the job of protecting Americans from dangerous chemicals.

Can this be the best person the Administration can find to entrust the responsibilities of this critical leadership post? God, I hope not.

And then to learn last week that Dr. Dourson, who throughout this process and during his hearing presented himself as a member of the University of Cincinnati faculty is already working at EPA further underscored that we would be foolish to expect any straight answers from this nominee.

But it is really what Dr. Dourson didn't say at his hearing or in his answers to our questions that is most disturbing to me. When confronted time and again with stories of real people who have been harmed, some irreparably, by the chemicals he peddled as safe, Dr. Dourson never admitted that he may have been wrong. Nor did he acknowledge the risk that these chemicals can pose.

I remind us all that this man is being considered for a position in which he would be entrusted to help protect the health and safety of millions of American people. But not once did he make it clear that he understood that his determination could be a matter of life or death for unsuspecting Americans.

This is not just another nomination of Donald Trump. This nominee is not just up for any job at the EPA. The work done in the agency's Chemical Safety Office has a further reach than most Americans will ever realize. Its work determines whether the products we use to clean our kitchen counters are safe. It determines whether the toys our children and grandchildren play with or the bottles they use or the water they drink are free of chemicals that may hurt or harm them in their development.

There is a sense of moral obligation that whoever holds this job must feel. It is not enough to hold a Ph.D. It is not enough to be a scientist. It is not enough to have a good brain. It is also important that this person have a good heart and a conscience and an earnest desire to protect the people we all serve. Confirming the wrong person for this office can leave a generation or more of Americans at risk for dealing with irreversible consequences for the rest of their lives.

This morning, I especially want to appeal to my colleagues who have worked so hard in recent years to craft and pass TSCA legislation. Voting to confirm Michael Dourson is a vote to

negate that hard-fought victory. We put politics aside then to do the right thing for the Country, we have a chance to do that again today. I am afraid if we don't, our efforts will largely have been for naught.

Let me just say, yesterday I visited with the Chairman. We talked about a recent visit he took to Yale, where he spoke on leadership. We have all talked a fair amount of leadership, I used to give speeches on leadership. When I talk about leadership, I talk about my moral compass. It starts out with figure out the right thing to do and just do that, not the easy or the expedient thing to do.

Well, the easy thing to do probably for some of us today would be to go ahead and vote and report him out of committee. I don't think that is the right thing to do. I hope if you think that way too, you won't do it. We will send his nomination back to this President and say, send us somebody better prepared. I think it has become clear in the past several weeks to most of us that Michael Dourson will not be the credible regulator that we envisioned when we wrote the TSCA law. He is most certainly not the one that the American people need. We can do better than this. A lot of people across this Country are counting on us to do just that.

Please join me in rejecting this nomination. Thank you.

[The prepared statement of Senator Carper follows:]

Senator Barrasso. Thank you very much. Yes, Senator Cardin, we are still waiting for one more member to vote. Once we get the quorum here to have the vote, we will move to the vote. Senator Cardin?

Senator Cardin. Mr. Chairman, I understand the urgency, I know we have a vote at 10:30. I just hope the members will have a chance to talk. We have a reasonable committee and I am hoping that we can reach a consensus on Mr. Dourson and not report him out of our committee. I am going to make a plea to my Republican colleagues.

This is an area that Democrats and Republicans worked together to reform the TSCA law. It was not easy. I applaud Senator Vitter and Senator Udall for bringing us together. There are others on the committee that took leadership roles when it was controversial to deal with toxic substance reform. And we came together with an agreement on how we can move forward so the law can work.

Mr. Dourson does not represent a person who can carry out the work of this committee in the TSCA reform legislation we passed. This committee has a proud record. We are an independent branch. We should be exercising independent judgment on nominations. This person, if confirmed, you are putting the fox in the hen house. You know that.

He has represented a side that has misrepresented the

dangers of chemicals. I have heard that directly from our leadership, from Professor Rena Steinzor at the University of Maryland, where she tells me the group that Mr. Dourson formed is known for the whitewashing of work of the industry during public health regulatory procedures.

I could talk about one specific substance that is important to me in Maryland, TCE, which has been found in unsafe levels at Maryland's Eastern Shore. E&E News Greenwire reported that Mr. Dourson's TCE study, which was funded by the American Chemistry Council, found the safety range for exposure to TCE was 3 to 30 times higher than the level recommended in 2014. Mr. Chairman, if we are going to be able to continue to work together on setting a framework of laws that are bipartisan and can be implemented for the health of the people of this Country, then let us exercise independent judgment as to who is the head of that responsibility that we confirm, that this committee recommends to the Senate to confirm.

I can't believe that this will go down to a party line vote. Because if it does, I think it doesn't bode well for the bipartisan cooperation in this committee to pass legislation that we expect to be implemented in the manner in which it was negotiated in this committee.

Senator Barrasso. Thank you, Senator Cardin.

We have enough members who have now arrived, I'd like to

move to the votes. But we will stay here after the votes, so that every member can be heard. Then we have a roll call vote in the full Senate at 10:30 and we have a full hearing scheduled on wildfires. Then we will resume with that hearing when we come back, after everybody has been heard on the nominees.

So now that enough members have arrived, I would like to move the votes on the agenda. We will defer additional statements until the end of the meeting. The Ranking Member and I have agreed to bring up the nominees to lead the EPA's Office of Chemical Safety and Pollution Prevention, as well as the EPA's Office of Air and Radiation for separate votes. And the Ranking Member has requested that each of these nominees receive a roll call vote.

The Ranking Member and I have agreed to vote on the remaining nominees en bloc by voice vote, but members may choose to have their votes recorded for a specific nominee in that bloc after the voice vote.

So to begin, I call up Presidential Nomination 784, Michael Dourson of Ohio to be Assistant Administrator for the Office of Chemical Safety and Pollution Prevention of the EPA. I move the approval and report the nomination favorably to the Senate. Is there a second?

Senator Inhofe. Second.

Senator Barrasso. The Clerk will call the roll.

The Clerk. Mr. Booker?

Senator Carper. No by proxy.

The Clerk. Mr. Boozman?

Senator Boozman. Yes.

The Clerk. Ms. Capito?

Senator Capito. Yes.

The Clerk. Mr. Cardin?

Senator Cardin. No.

The Clerk. Mr. Carper?

Senator Carper. No.

The Clerk. Ms. Duckworth?

Senator Duckworth. No.

The Clerk. Ms. Ernst?

Senator Ernst. Yes.

The Clerk. Ms. Fischer?

Senator Fischer. Yes.

The Clerk. Ms. Gillibrand?

Senator Gillibrand. No.

The Clerk. Ms. Harris?

Senator Harris. No.

The Clerk. Mr. Inhofe?

Senator Inhofe. Aye.

The Clerk. Mr. Markey?

Senator Markey. No.

The Clerk. Mr. Merkley?

Senator Merkley. No.

The Clerk. Mr. Moran?

Senator Moran. Aye.

The Clerk. Mr. Rounds?

Senator Rounds. Aye.

The Clerk. Mr. Sanders?

Senator Carper. No by proxy.

The Clerk. Mr. Shelby?

Senator Shelby. Aye.

The Clerk. Mr. Sullivan?

Senator Sullivan. Aye.

The Clerk. Mr. Whitehouse?

Senator Whitehouse. No.

The Clerk. Mr. Wicker?

Senator Wicker. Aye.

The Clerk. Mr. Chairman?

Senator Barrasso. Aye.

The Clerk. Mr. Chairman, the yeas are 11, the nays are 10.

Senator Barrasso. We have approved the nomination of Dr. Dourson to be Assistant Administrator of the Environmental Protection Agency, which will be reported to the full Senate for approval.

I would like to now bring up Presidential nomination 994,

William Wehrum of Delaware, to be Assistant Administrator of the Office of Air and Radiation of the Environmental Protection Agency. I move to approve and report the nomination favorably to the Senate.

Is there a second?

Senator Inhofe. Second.

Senator Barrasso. The Clerk will call the roll.

The Clerk. Mr. Booker?

Senator Carper. No by proxy.

The Clerk. Mr. Boozman?

Senator Boozman. Yes.

The Clerk. Ms. Capito?

Senator Capito. Yes.

The Clerk. Mr. Cardin?

Senator Cardin. No.

The Clerk. Mr. Carper?

Senator Carper. No.

The Clerk. Ms. Duckworth?

Senator Duckworth. No.

The Clerk. Ms. Ernst?

Senator Ernst. Yes.

The Clerk. Ms. Fischer?

Senator Fischer. Yes.

The Clerk. Ms. Gillibrand?

Senator Gillibrand. No.

The Clerk. Ms. Harris?

Senator Harris. No.

The Clerk. Mr. Inhofe?

Senator Inhofe. Aye.

The Clerk. Mr. Markey?

Senator Markey. No.

The Clerk. Mr. Merkley?

Senator Merkley. No.

The Clerk. Mr. Moran?

Senator Moran. Aye.

The Clerk. Mr. Rounds?

Senator Rounds. Aye.

The Clerk. Mr. Sanders?

Senator Carper. No by proxy.

The Clerk. Mr. Shelby?

Senator Shelby. Aye.

The Clerk. Mr. Sullivan?

Senator Sullivan. Aye.

The Clerk. Mr. Whitehouse?

Senator Whitehouse. No.

The Clerk. Mr. Wicker?

Senator Wicker. Aye.

The Clerk. Mr. Chairman?

Senator Barrasso. Aye.

The Clerk. Mr. Chairman, the yeas are 11, the nays are 10.

Senator Barrasso. We have approved the nomination of Mr. Wehrum to be the Assistant Administrator of the EPA, which will be reported to the full Senate for approval.

I would now like to call us Presidential nominations 901, Matt Leopold of Florida to be Assistant Administrator for the EPA's Office of General Counsel, 902, David Ross of Wisconsin to be the Assistant Administrator of the EPA's Office of Water, 1010, Paul Trombino III of Wisconsin to be Administrator for the Federal Highways Administration, and number 900, Jeffrey Baran of Virginia to be a member of the Nuclear Regulatory Commission, en bloc.

I move to approve and report Presidential nominations 901, 902, 1010, 900 and favorably report to the Senate. Is there a second?

Senator Inhofe. Second.

Senator Barrasso. All those in favor, please say aye.

[Chorus of ayes.]

Senator Barrasso. Opposed, no.

[No audible response.]

Senator Barrasso. In the opinion of the Chair, the ayes have it. We have now approved the nominations of Mr. Leopold, Mr. Ross, Mr. Trombino and Mr. Baran, which will be reported to

the full Senate for approval.

The voting party of the business meeting is finished, but I am happy to recognize any member, I think Senator Whitehouse was first, who wishes to make a statement on any of the nominations. With that, the business meeting will be concluded and then we will resume with our hearing. The roll call vote is at 10:30, we can go vote and return, then start the full hearing right after the 10:30 vote. I will be there for the beginning of the vote and then get back here.

Senator Whitehouse?

Senator Whitehouse. Thank you, Mr. Chairman.

Let me first say that it is a very different thing to be allowed to speak after a vote has been taken than to have the opportunity to try to convince your colleagues before the vote is taken. It is a signal to me that this process is simply not on the up and up. We ought to, on nominees as controversial as these, at least have the committee have a fair chance to try to convince colleagues before the vote is taken. If the majority then wants to ram them through, fine. But we should at least have that chance.

With respect to Mr. Dourson, I think we have a particular problem. On our side, I think we have gradually become accustomed to nominees with massive conflicts of interest having those conflicts of interest overlooked and having them rammed

through on purely partisan votes, irrespective of failure to answer questions, irrespective of massive conflicts of interest, irrespective of failures to disclose huge dark money operations, irrespective of things that in a better day and in a better Senate would be fatal to the nominees.

But with Dourson, it is a little different. Because we just worked together in bipartisan fashion to do something about toxic chemicals. Both sides gave, and we came to what I think was a reasonable, fair and productive result. My opinion is that today's vote breaches the faith of that result. As far as I am concerned, whatever I can do to restore the power of States to regulate in this space, I will do until we get back to a place where the spirit and the balance of what we agreed to is what actually comes out of the EPA.

I think that we have been double-dealt here, and I regret it. I think it is particularly inappropriate in the context of the recent bipartisan passage of TSCA.

And if I could say one last thing that has to do with my home State, my home State wraps around Narragansett Bay. Narragansett Bay is an extraordinarily significant estuary to my home State. We have a Narragansett Bay estuary program that runs in my home State to try to make sure that we are taking good care of Narragansett Bay and that we understand what is happening in Narragansett Bay.

There is a Narragansett Bay estuary program conference that was scheduled for Monday. We have participated with EPA scientists in this Narragansett Bay estuary program throughout. They have been important and valued parts of the work that has been done by the Narragansett Bay estuary program. At some time just shortly before the conference on Monday, the EPA scientists were instructed to stand down and forbidden to speak at the conference.

Now, one thing is clear. They were going to have to talk about climate change. Climate change is affecting Narragansett Bay. Our mean winter water temperature is up three to four degrees, our winter flounder fishery is shot. Our water levels have raised 10 inches since the hurricane of 1938. Fishermen see it, coastal resources managers see it, municipal coastal communities see it. To overlook climate change in any conversation about Narragansett Bay would be preposterous.

It is equally preposterous, in my view, to have an administration that silences and censors its scientists and refuses to let them participate in multi-State, Federal-State partnerships, because they will be obliged to have a talk about climate change. I grew up in the Foreign Service. My family spent time in countries where the government would do things like that, tell scientists what they could and could not say.

Mr. Chairman, I don't know when the point will come when

anybody in the majority will say, enough about what is happening at the EPA. But I would hope that silencing scientists and telling them that they may not speak on the matters to which they have dedicated their lives because climate change is going to be discussed might just be that line.

I will ask that we try to explore what the hell happened in that incident. At the moment we have a very bad record of getting any mail answered by the EPA. It may take some bipartisan effort. I would hope that the Chairman would at least indulge us in getting basic questions answered as to why EPA scientists were forbidden to participate in a scientific conference.

With that, I yield my time.

Senator Barrasso. Thank you.

Senator Duckworth. Thank you, Mr. Chairman.

I have gone through this nomination and confirmation process when I served as Assistant Secretary in the Department of Veterans Affairs. I understand that process. And in navigating it, I did my best to always respond to each Senator's questions fully and honestly. It is one of the reasons why I have been so dismayed by the nomination of Bill Wehrum to serve as Deputy Administrator of the EPA.

I am concerned that during this process, Mr. Wehrum mischaracterized his records on the bipartisan Renewable Fuel

Standard program when he testified, as well as in his written responses. He claimed to be unfamiliar with the RFS, despite having led litigation related to the program for organizations like the American Petroleum Institute at least four times. I don't understand why we wouldn't have simply halted his nomination until after the critical RFS rulemaking on volume obligations and the point of obligation is completed in the coming weeks.

If Mr. Pruitt truly kept his promise, then we could have brought up his nomination after the rulemaking was completed. Instead, the majority is relying on written promises of questionable legality that can easily be challenged in court. There simply was no need to risk devastating communities throughout the Midwest by rushing Mr. Wehrum's nomination.

Now I come to Mr. Dourson. Fighting for those who have served our Country has been my life's work. I cannot believe that the Commander in Chief of our military would nominate someone like Dr. Michael Dourson, an individual who has defended the safety of chemicals linked to high cancer rates in service members and veterans. Four hundred military bases right now are being tested by the military. All over this Country, of 27 bases in 16 States, they have confirmed contaminants in the soil.

Yet, the President has nominated Dr. Dourson, a man who has

been paid to falsely claim that dozens of dangerous chemicals are safe for common use and helped block EPA's efforts to regulate them. These chemicals have been associated with causing adverse health effects like cancer, birth defects, and developmental problems in children, among those of our military families. Simply put, our troops deserve better.

This includes service members at places like Camp Lejeune in North Carolina, where TCE contamination in drinking water has been linked to high rates of cancers like leukemia. It includes places like the former George Air Force Base in California and Hill Air Force Base in Salt Lake City. You probably have one in your State.

And yet, we move forward with a man whose sole purpose has been to sell junk science to support the polluters. Simply unacceptable. Protecting our families, service members and veterans should not be a partisan issue. But it was just made so today with his move in committee.

I hope that all of my colleagues would join me in fighting to block Dr. Dourson's confirmation. It is the absolute person I can think of to be put in charge of chemical and toxics safety in this Country. Thank you. I yield back, Mr. Chairman.

Senator Barrasso. Thank you, Senator Duckworth.

Senator Harris?

Senator Harris. Thank you, Mr. Chairman. Before I arrived

in the United States Senate, I was Attorney General of California. I got a call from then-Senator Barbara Boxer informing me about the bipartisan work of this committee on TSCA. We talked at length, and our teams talked at length about the significance and importance of that piece of legislation. I was proud to support it as Attorney General of California.

My predecessor, Senator Boxer, was extremely proud and in fact, said to me, you will enjoy being a part of this committee. Because on the most fundamental issues, like toxic substances, it is non-partisan, the work that we do. I was eager, for that reason, to be a part of this committee.

The vote I witnessed this morning is so troubling to me. And really, it was painful to watch. Because I sat in this committee hearing when we reviewed these two nominees, Mr. Dourson and Mr. Wehrum. I observed their testimony, I read their backgrounds. I studied the briefings. They so clearly are conflicted on the issues that they are now going to be in charge of making decisions on that will impact directly the American public and some of the most vulnerable members, children, seniors, those who are susceptible to all the toxins and pollutants, that they have for so long advocated are harmless.

I find this outrageous. I find it outrageous. We are at a moment in time in our Country where the American public is so

distrustful, like never before, of their government and its leaders. They are cynical. The vote that I witnessed this morning gives them reason to be cynical.

On the issue of California, I asked Mr. Dourson if he would be willing to recuse himself because of his clear conflicts. He refused. Mr. Wehrum, I asked would he commit to upholding the waiver that courts have upheld, allowing California to have high standards as it relates to its greenhouse gas program for motor vehicles. It was upheld during the Bush Administration and beyond. And he refused.

There is good, sound reason beyond who appointed these nominees, very sound reason to have rejected in a bipartisan way these nominations. Unfortunately, this committee made a decision that was clearly partisan. I think it is a sad day for this committee. Thank you.

Senator Barrasso. Thank you very much, Senator Harris.

Senator Merkley.

Senator Merkley. Thank you, Mr. Chairman.

I am profoundly disappointed in what happened today. I think part of leadership is putting yourself in other people's shoes. My Republican colleagues would be very upset if they had answers like the answers we received from Dourson and Wehrum. The basic questions that we asked, such as can you summarize the hazards of flame retardants, the answer was, it would be

inappropriate for me to comment on a toxic chemical. Is that an answer for somebody who is going to be in the role, and there is a huge amount of scientific evidence that even just a short summary, many flame retardants have been removed because of those studies that show their direct link to cancer. And the challenge is that they are in our carpets, and our babies have their noses inches from the carpet. So from the very first days of life, they are getting filled with cancer-causing chemicals, chemicals that don't actually decrease the flames. This is a widely, widely-known, examined topic. That was Dourson.

And for Wehrum to say, I don't even have the time to look at a chart and comment on it, that is his answer. Mr. Chairman, you would be complaining a lot if you got those answers.

And here we have something, finally this committee did something very bipartisan. Senator Lautenberg threw his heart into it, Senator Udall, who is no longer on the committee, threw his heart into it. Many of us had a massive amount of time dedicated to it, on both sides of the aisle. We did something that nobody thought we could do, and yet, you as chairman have just let that process be completely sabotaged.

Leadership is required for us to be able to work on behalf of the American people. What happened at this moment really is a betrayal of everyone's bipartisan effort from these years past. I hope we can do better.

Senator Barrasso. Thank you, Senator Merkley.

The roll call vote has started. Senator Markey?

Senator Markey. Thank you, Mr. Chairman.

This is one of the low points of my entire career in the House of Representatives and the United States Senate. It is largely because we are forgetting the lessons of history. We have already gone through this once, now we are repeating it. When Ronald Reagan was named President, he then sought someone at the EPA who would undermine its agenda.

When John Hernandez, who was one of the two finalists, wrote his biography, he said that he asked by the vetters of the Reagan Administration, if he was named head of the EPA, would he bring the EPA to its knees. He said it was a breathtaking question. He didn't know how to answer. He said in his biography, it was with the greatest relief that he then learned, within the next month, that it was going to be Anne Gorsuch, and not him, who got the post. Subsequently, Rita Lavelle, who was named as head of the Superfund program, she wound up in prison for violation of the law.

What we are seeing here is a repetition of that history. What we are seeing is a group of people who are clearly trying to turn the EPA into every polluter's ally being confirmed by the committee with responsibility for the environment.

It is absolutely immoral for this committee or this Senate

to confer people with a known animosity toward putting in place standards which protect the public health of our Country. Mr. Dourson and the organization he has led, known as Toxicology Excellence for Risk Assessment, have been routinely paid and funded by chemical companies and polluters defending the need for weakened chemical safety standards. Those same chemicals that Dr. Dourson has been paid to defend will be in front of the Office of Chemical Safety at the EPA for evaluation during his term at the agency. Yet he has refused to recuse himself from this work.

In fact, when asked if Dr. Dourson will avoid actively working to weaken EPA standards of safety, he stated he would bring his "new science" to the agency. Well, that new science has already prejudged the defense of these chemicals and has come to conclusions that are fundamentally threats to the health and safety of the American public.

Dr. Dourson has built a career of being a lawyer defending chemical companies and will now be in a position to be asked to also serve as the judge of the safety of these same chemicals. Chemical safety is an oxymoron for Michael Dourson. No limit is too high, no risk is too great. His position on the safety of toxic chemicals is so far out of the scientific mainstream, it just isn't an outlier, it is outrageous.

I am afraid that Dourson has never met a chemical he

doesn't like. Putting him at the helm of the Office of Chemical Safety would be tantamount to giving the fox complete access to the hen house. He is unqualified to protect the health of the American people. I oppose his nomination.

The same is true for William Wehrum. He as well is, for all intents and purposes, a denier of science. He is someone who has already prejudged the issues of climate change and other issues of science that go right to the core of the jurisdiction of this committee and the responsibility which we have to protect the public health and safety of our Country.

So for me, I see us beginning a very rapid descent into a destruction of the code of safety which we, on a bipartisan basis, put in place last year. And it is a sad day when the illusion of bipartisanship is replaced by the reality of the chemical industry taking over the agenda of the relationship between the American people and carcinogenic chemicals that can harm their families. It is a sad day, Mr. Chairman. I think this day is going to live in infamy in terms of the relationship that our Country has with the chemicals that pervade every single aspect of their lives.

I think that the "no" vote that the minority cast will come to be viewed as the historically correct position. Thank you, Mr. Chairman.

Senator Barrasso. Thank you very much, Senator Markey.

Senator Carper?

Senator Carper. Mr. Chairman, before we adjourn, I would just ask for another minute or so. You and I are pretty good friends, I think really good friends. I value your friendship and your leadership. I have never been this troubled on this committee or any committee in 17 years. We have not done the right thing. We have done the wrong thing.

There are some who will look at this markup today and say, well, the Republicans won. We could also say, you can win the battle but you may not win the war. Winston Churchill said during World War II, when he spoke of the onslaught of the Germans, and his efforts to lead his country and their defense, he said of the Germans, "We will fight them on the sea, we will fight them in the air, we will fight them under the sea, we will fight them on our beaches, in our forests, in our streets. We will never give up."

I will tell you this. On the nomination of Michael Dourson, we will never give up in opposition to it. Thank you.

Senator Barrasso. Thank you. We are now into the roll call vote on the Floor. This business meeting is adjourned. We will return in about five to ten minutes to begin the hearing and the business of today.

[Whereupon, at 10:40 a.m., the hearing was adjourned.]