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HEARING ON CLEANING UP OUR NATION'S COLD WAR LEGACY SITES

Wednesday, March 29, 2017

United States Senate

Committee on Environment and Public Works

Washington, D.C.

The committee met, pursuant to notice, at 10:06 a.m. in room 406, Dirksen Senate Office Building, the Honorable John Barrasso [chairman of the committee] presiding.

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

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

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

Today we are here to talk about the environmental legacy of the Cold War.

For decades, the military took the steps needed to protect our Nation's security against the threat of nuclear war with the Soviet Union. These steps were necessary and prudent to ensure the safety and security of our Nation.

Just speaking from my home State of Wyoming, we are very proud of the role that our State has played in deterring the threat that the former Soviet Union posed.

This involved the development and deployment of Atlas nuclear missiles during the early days of the Cold War. These missile sites were on high alert during the Cuban Missile Crisis. Our servicemen maintained these sites by using vast amounts of trichloroethylene, TCE, to clean rocket fuel lines. These soldiers had no idea that decades later that practice would create a serious negative environmental legacy.

Today there is groundwater contamination from the TCE. Seven of these Atlas Missile sites are around the City of Cheyenne area and they have varying degrees of groundwater contamination. The City of Cheyenne officials approached me

when they found traces of TCE in the city's water wells and they told me that the Atlas Missile Site Number 4 was the reason.

The Army Corps disputed this claim and, despite their denials, I forced the Army Corps to do testing that eventually proved that the TCE was coming from the Atlas site.

According to the Wyoming Department of Environmental Quality, Atlas Site 4's TCE concentrations in the groundwater exceed 240,000 parts per billion, well above a safe drinking limit of 5 parts per billion.

The Atlas site plume of TCE is around 12 miles long and 3 miles wide. According to the Wyoming Department of Environmental Quality, it is "one of, if not the largest TCE plume in all of the Country."

The Corps has since constructed a water treatment plant that ensures that Cheyenne's water is clean and safe, and has provided granulated activated carbon systems for private landowners who use well water.

Atlas 4 is just one of these sites that has large plumes of this pollutant. Atlas 1 has a TCE plume that is a mile long and two-thirds of a mile wide. Atlas 3's plume is a mile long and a half mile wide.

Over the years, I have heard concerns from my constituents about the attitude of regional Corps officials on the ground. Each time communities and impacted stakeholders try and engage

with the Corps on these issues, they have historically been met with an unhelpful attitude. Communities want to have the proper testing done to know the size and the extent of the plumes, and to where the plumes are expanding. They want to know that the Corps will live up to their responsibilities and they want adequate funding to ensure their safety.

Now, I hear time and time again from my constituents that they feel the Corps just wants to do a quick fix or simply walk away from the sites. This needs to change, and I am hoping that this new Administration will bring a new attitude.

I know Wyoming isn't the only State that has Cold War legacy environmental problems. Many States, especially in the West, have quite a few sites associated with the Cold War. We must honor the legacy of our veterans who fought and won this war. The Department of Defense, though, has an obligation to leave States like Wyoming whole; to not only provide for our Nation's safety, but also to restore the environment of the communities.

Senator Carper, I invite you to make an opening statement at this point.

[The prepared statement of Senator Barrasso follows:]

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

Senator Carper. Thank you, Mr. Chairman. Thanks so much for holding our hearing today.

I want to say a special thanks to our witnesses. General, thanks so much for spending the time to visit with us yesterday. It was just a real joy. We very much appreciate the partnership that we have with the Army Corps of Engineer folks mostly in the greater Philadelphia area regional office, but also in Baltimore, too.

Sitting right behind Barry Breen is a fellow who I think is going to ride off into the sunset, a colleague of 32 years of service to our Country at EPA, and his name is Randy Deitz. Randy, would you just stand up? Thirty-two years. Nice round of applause for Randy Deitz. Thank you for your service.

[Applause.]

Senator Carper. Well, today we are going to hear why simply sending barely adequate funding to the EPA and the Army Corps of Engineers for cleanup of contaminated Department of Defense sites just doesn't cut it. Instead, we need to fund these agencies to the fullest extent possible.

Over the next two hours we are going to discuss the status of cleanup projects at coal or legacy sites under three different programs: the Formerly Used Defense Sites, known as

FUDS, the FUDS program; the Formerly Utilized Sites Remedial Action Program (FUSRAP); and the Comprehensive Environmental Response, Compensation, and Liability Act, which we call CERCLA or Superfund.

Unlike some of the States represented here, our Chairman and others, we don't have the kind of contamination from sites that some of our sister States have. Having said that, my father and my uncle served in World War II. My wife's dad was involved in The Manhattan Project, which is sort of like related to a lot of what we are going to be talking about here today, at least indirectly. So we have more than just a passing interest in this.

During the past 200 years, a number of activities that support our Country's military readiness have resulted, as we know, in the need for environmental cleanup. These sites, located in just about every State, were used for a variety of purposes: training and supporting soldiers, airmen, sailors and marines, as well as testing new weapons, warfare capabilities, and energy technologies. The people who worked at these facilities helped to develop the nuclear weapons that ended World War II, the missiles that kept the Soviets at bay for all those decades, and the rockets that sent men to the moon. They often toiled away in secret, on the cutting edge of chemistry,

nuclear physics, and missile engineering. The legacy they left us, though, is one of technological might.

But it is also a legacy that came at a high environmental price. Many of these sites were operated at a time when awareness about environmental health and safety paled by comparison to what it is today. The Hanford Nuclear Reservation site in Washington State was contaminated not just by radioactive material but, as we know now, by toxic chemicals. The site was contaminated by substances like carbon tetrachloride, which caused liver, kidney, and nervous system damage; chromium compounds, which caused cancers and other serious health impacts; as well as other substances that were not well catalogued or properly disposed of. Contamination at the Atlas Missile site in Wyoming included, as the Chairman knows, levels of cancer-causing trichloroethylene that were so high that nearby residents needed to be provided with bottled water and have special filters installed on their drinking water wells.

Thousands of sites across the Country need some form of remediation before they are safe to be re-used, and we owe it to the patriots who worked at these sites, and to the communities of people who now live and work near them, to remove the health, environmental and safety risks that these sites pose to them.

I believe in Abraham Lincoln's philosophy. People used to say, Mr. Lincoln, what is the role of Government? And he would respond the role of Government is to do for the people what they cannot do for themselves. This philosophy, I think, is especially applicable to the cleanup of these sites since no cleanup would have been needed had our Government not needed the weapons and the technology that were developed at those sites.

There are thousands of Formerly Utilized Defense Sites and former Department of Energy sites whose cleanups the Army Corps funds, and there are a number of Federally-owned facilities that have been designated Superfund sites whose cleanups are overseen by EPA. The need for funding always exceeds the amount of money Congress provides because each cleanup poses unique challenges and takes anywhere from several years to several decades in some cases to complete. Cleaning up these sites has always been a challenge.

But these sites and the people who live and work near them face even greater challenges now because the President's 2018 skinny budget decimates the EPA with a 31 percent budget cut and cuts funding for the Army Corps by a billion dollars, almost 20 percent. And EPA's Superfund program I think has been cut by 30 percent under this so-called skinny budget, and although EPA Administrator Scott Pruitt told our Committee that the EPA needs to provide more assistance to the States, the President's fiscal

year 2018 budget slashes State environmental grants by a staggering 45 percent, or \$482 million.

In closing, we look forward to hearing from our witnesses today about the impacts the so-called skinny budget will have on their abilities, your abilities to carry out your Federal responsibilities and what the proposed cuts could mean for contaminated sites in our home States. I honestly hope to work with our colleagues on both sides of the aisle to take a critical look at President Trump's budget proposal and to work with the Administration to ensure that these ill-advised cuts are not ultimately agreed to.

Thanks again, Mr. Chairman. Let's get on with it. Thank you.

[The prepared statement of Senator Carper follows:]

Senator Barrasso. Thank you very much, Senator Carper.

Before proceeding with the witnesses, I would like to invite Senator Sullivan to make a very important introduction.

Senator Sullivan. Thank you very much, Mr. Chairman. I am going to have to leave a little bit early because I need to go preside, but I want to take the opportunity and really a privilege to introduce one of my constituents who is a witness today, a great Alaskan, Sarah Lukin. Sarah has been working to address legacy contamination and cleanup of former Federal sites throughout Alaska for many years, and I want to express my deep appreciation and the Committee's for your willingness to travel so far to provide insights and unique points of view coming from Alaska.

Sarah hails from Port Lions, Alaska, which is a remote Native village on Kodiak Island. Now, for my colleagues who have never been to Alaska, I want to say, and I am sorry Senator Booker already left, Kodiak Island is about the size of New Jersey and it is a magical place with salmon abundance and the biggest brown bears on the planet Earth. So we want to encourage you all to come out to that wonderful place and see our great State.

Sarah is a shareholder and member of the Board of Directors of Afognak Native Corporation and a shareholder of Koniag Incorporation. She is an enrolled tribal member of the Native

Village of Afognak and Native Village of Port Lions, and she has spent years advocating for the cleanup of contaminated sites throughout Alaska, but the sites particularly on Alaska Native Corporation lands. She earned a Bachelor's degree and Master's degree from the University of Alaska, so, Mr. Chairman, we are, I am very excited to have her here, and I appreciate you and the Committee inviting her.

Again, Sarah, thank you for traveling literally thousands of miles to attend this hearing. I know we are going to learn a lot. Thank you.

Senator Barrasso. Thank you very much, Senator Sullivan.

Welcome, Sarah.

As we turn to the witnesses, let me remind the witnesses that your entire written statement will be made part of the record. We ask you to try to keep your comments to within five minutes.

I would like to first welcome back to the Committee the Commanding General and Chief of the Army Corps of Engineers, Lt. General Todd Semonite. Thank you very much for being with us today.

STATEMENT OF LT. GENERAL TODD T. SEMONITE, COMMANDING GENERAL  
AND CHIEF OF ENGINEERS, U.S. ARMY CORPS OF ENGINEERS

General Semonite. Chairman Barrasso, Ranking Member Carper, and distinguished members of the Committee, I am Lt. General Todd Semonite, Commanding General of the Corps of Engineers and the 54th Chief of Engineers. Thank you for the opportunity to be here today to discuss the role of the Army Corps of Engineers in support of the Department of Defense's commitment to protect the environment and restore contaminated sites from past military activities.

Throughout our Nation's history the Department of Defense, or DOD, used land across the United States to manufacture and test new weapons to ensure the Nation's military readiness. When these lands were no longer needed to support the war fighter, the Department cleaned up the properties using the best practices available at the time and returned them to private or public uses. Today DOD is responsible for the environmental restoration of these properties in accordance with current applicable laws and regulations.

The United States Army Corps of Engineers provides critical support to the execution of several programs addressing these activities, and I will quickly walk through all three.

First, Formerly Used Defense Sites, or FUDS. The Corps is working to clean up munitions dating to World War I and World

War II eras. FUDS are defined as properties that were formerly owned or otherwise possessed by the United States and under the jurisdiction of the Secretary of Defense prior to October 1986.

The Corps holds the responsibility of executing the FUDS program under the regulatory framework that identifies mechanisms for funding and implementing the cleanup activities. The remediation program is generally comprised of several categories, including Installation Restoration Program, which addresses the cleanup of hazardous substances; the Military Munitions Response Program, which addresses unexploded ordnance; and, finally, the Building Demolition and Debris Removal Program that removes unsafe buildings and structures.

The scope and magnitude of the FUDS program are significant. Over 10,000 formal DOD properties have been evaluated for the FUDS program since its establishment. The Corps has identified 5,357 cleanup sites at 2,716 different properties where cleanup actions are required. Approximately \$7.1 billion have been appropriated to the FUDS program through fiscal year 2016. Through this investment, 3,513 sites, or more than 65 percent of the initial inventory, are now either closed out or in monitoring status.

Over the last several years, DOD has annually allocated between \$200 million and \$225 million to this program. Clearly,

there is more work to do, with an estimated cost to complete the FUDS program currently projected at \$11.8 billion.

Second program, FUSRAP, another critical program that is executed by the Corps. In 1997, using the FUDS program as a model, Congress transferred the management and execution of FUSRAP from the Department of Energy directly to the Corps. The FUSRAP Program specifically addresses the environmental remediation of sites where Manhattan Engineer District or the Atomic Energy Commission activities were performed during the 1940s, 1950s, and 1960s.

Funded out of the Energy and Water appropriation, the Corps receives approximately \$100 million to \$110 million annually to execute the FUSRAP Program. Funding is prioritized to projects that best support the overall goal of eliminating demonstrable threats to public health, safety, or the environment.

The Corps has completed remediation of 9 sites since the program was transferred from the Department of Energy. Twenty-four sites are currently in the FUSRAP Program, representing a cost to complete of approximately \$1.55 billion.

Third, and finally, since 1982 the Corps has partnered with the United States Environmental Protection Agency for environmental cleanup support of large and complex Superfund sites. The EPA relies on the Corps for the environmental engineering expertise and access to state-of-the-art

environmental technology that is used throughout DOD. The Corps provides, on average, about \$200 million to \$300 million per year worth of remedial design and remedial construction support to EPA Superfund projects across the Country.

In summary, the Department of Defense is committed to protect human health and the environment by investigating and, if required, cleaning up contamination and munitions hazards that may remain on these properties. As my written testimony documents in greater detail, the Corps has made significant progress in the cleaning up of FUDS and FUSRAP sites. I am proud of the work that the Corps has accomplished in delivering these programs to the Nation, and we remain committed to achieving the cleanup program goals established by DOD and the Army.

Mr. Chairman, this concludes my statement. I appreciate the opportunity to testify today and look forward to answering any questions that you and the Committee may have.

[The prepared statement of General Semonite follows:]

Senator Barrasso. Thank you very much for your thoughtful testimony. We appreciate you returning to the Committee today. Thank you.

We will now turn to Mr. Barry Breen, who is the Acting Assistant Administrator, Office of Land and Emergency Management of the United States Environmental Protection Agency.

Thank you for joining us today. We look forward to your testimony.

STATEMENT OF BARRY BREEN, ACTING ASSISTANT ADMINISTRATOR, OFFICE OF LAND AND EMERGENCY MANAGEMENT, U.S. ENVIRONMENTAL PROTECTION AGENCY

Mr. Breen. Thank you, Mr. Chairman, Ranking Member Carper, and members of the Committee. At the outset, let me just thank you for recognizing my colleague, Randy Deitz, at the outset of the hearing. We will have a reception for him later today recognizing his 32 years of Federal service, and I can't wait to brag that the Senate Environment and Public Works Committee recognized him this morning. Thank you very much.

At the EPA, focusing on the Superfund program is one of Administrator Pruitt's top priorities. Extensive data suggests that the Superfund program is a premier example of how EPA can accomplish one of its core missions of protecting human health and the environment, while simultaneously promoting jobs and growth.

A 2012 peer reviewed study by the National Bureau of Economic Research shows that Superfund cleanups reduce congenital abnormalities by as much as 25 percent to families living within 5,000 meters of a site. Birth defects mean improved health for the whole next generation.

Additionally, we have data on 454 Superfund sites in reuse, where about 3,900 businesses are generating \$29 billion in sale

and employing more than 108,000 people earning a combined income of \$7.8 billion.

And we improve property values, as well. A 2013 study by researchers at Duke University and the University of Pittsburgh, now peer reviewed, analyzed census tract data and found that deletion of sites from the National Priorities List after cleanup raises the value of owner-occupied housing three miles from the site by between 18 percent and 24 percent. Those increased property values means that local governments have a more full tax base, and that means that they can provide more fire protection, police protection, libraries, and schools. So many things that local governments do for us can be done better thanks to the Superfund program. Superfund, indeed, can provide tremendous improvements to both human health and the economy.

Since enactment of Superfund, EPA, other Federal agencies, and States and Tribes have made significant progress. We have assessed more than 50,000 sites. The removal program has conducted 15,000 removals at more than 9,000 sites, and 1,782 sites have been proposed on, listed on, or now deleted from the Superfund National Priorities List. More than 90 percent of those have undergone construction activity or the activity has been completed or they have now been deleted from the NPL.

Turning to the Federal facilities program, in particular, within the larger Superfund, Congress provided for EPA to use

the Federal Agency Hazardous Waste Compliance Docket to identify Federal facilities that need to be evaluated. EPA updates the Docket every six months. So far, a little over 2,300 sites are reflected on the Docket, and of those 2,300 174 have been listed on the National Priorities List among Federal facilities; 140 are DOD, 21 are Department of Energy, and 13 are others. In the last five years alone, we have completed construction, along with our partners, at eight of these sites; 7 from the DOD, 1 from the Coast Guard. Completing construction means that all of the actual construction of the cleanup is accomplished, even though more work is needing to be done.

Credit for this progress is shared among EPA, States, and the Federal agencies themselves. Federal departments and agencies pay for the assessment and cleanup of facilities under their jurisdiction; EPA provides assistance and oversight. In the end, the Administrator of the EPA makes the final selection of the cleanup action if the two agencies are unable to agree. We have agreements with nearly all sites and, in many cases, States are indispensable partners. Tribal governments can also be involved and participate in decision-making with the other Federal agency responsible for the tribal consultation.

At most Federal facility sites field staff relationships are strong. The CERCLA framework has worked effectively for more than 25 years. It has a proven track record and provided a

consistent foundation. Because States are most often parties, States are able to participate as well.

In conclusion, protecting human health and the environment through continuing, and perhaps expanding on, the cleanup and reuse activities remains among Administrator Pruitt's top priorities.

Thank you again for the invitation to join you today.

[The prepared statement of Mr. Breen follows:]

Senator Barrasso. Well, thank you very much, Mr. Breen. We appreciate your time here today and your testimony, so thank you.

I am next going to turn to Mr. Kevin Frederick, who is the Water Quality Administrator for the Wyoming Department of Environmental Quality.

I would like to let folks know that Mr. Frederick previously managed the groundwater section for the Water Quality Division in Cheyenne. He oversaw the day-to-day permitting, compliance, inspection, and monitoring activities involving the Underground Injection Control Program, the Groundwater Pollution Control Program, and the Federal Facilities Corrective Action Program.

Prior to joining the Wyoming Department of Environmental Quality, he has worked in the energy, minerals, and oil and gas industry. In 2007 Mr. Frederick received an EPA Region 8 Environmental Achievement Award for leadership in groundwater management. So this is a man who clearly knows from which he speaks. He currently serves on the Board of Directors for the Groundwater Protection Council and the Groundwater Research and Education foundation; degrees in geology and geophysics from the University of Wisconsin at Madison and is a Wyoming licensed professional geologist.

Thank you so much for traveling from Wyoming to Washington to testify to be with us today. Please proceed.

STATEMENT OF KEVIN FREDERICK, WATER QUALITY ADMINISTRATOR,  
WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY

Mr. Frederick. Thank you, Mr. Chairman. Good morning. Good morning, Ranking Member Carper and honorable members of the Committee. My name is Kevin Frederick. I am the Water Quality Administrator for the Wyoming Department of Environmental Quality, and I thank the Committee for inviting the State of Wyoming to share its perspective on environmental cleanup of Cold War legacy sites.

Wyoming is home to 38 Formerly Used Defense Sites. My comments today focus on those that have had the most significant environmental impact, which are the 7 former Atlas Missile sites in southeast Wyoming.

The Atlas Missile was the first fully operational strategic missile developed by the U.S. and was designed for deployment of nuclear warheads during the Cold War era of the late 1950s and early 1960s. Missile sites were used for the housing, readiness, and potential launch of nuclear missiles. The Atlas Missile sites played a crucial role in protecting the safety and security of the American people and ensured the military readiness of the United States armed forces. However, some of the sites have, and continue to cause serious environmental problems.

The Atlas used liquid rocket fuel propellant for fuel and liquid oxygen as the oxidizer. Trichloroethylene, or TCE, a known carcinogen, was used to clean the rocket fuel tanks, engines, and lines to prevent accidental explosions. Spent TCE drained into a series of unlined pits and channels, and into the subsurface. The amount of TCE that may have been released into the subsurface and into groundwater ranges from hundreds to thousands of gallons at each site. It takes as little as two teaspoons of TCE to contaminate an Olympic size swimming pool full of water, more than 660,000 gallons. A number of factors make TCE very difficult, expensive, and time-consuming to clean up.

Groundwater within the Ogallala aquifer underlying some missile sites has been impacted with TCE at levels far above the safe drinking limit of 5 parts per billion. The Ogallala, as you know, is one of the most important of the Nation's aquifers, supplying the agricultural and drinking water needs of the bread-basket States in the Midwest. All of the missile sites are located within 75 miles of Cheyenne, the most densely populated area in the State and the home of F.E. Warren Air Force Base. Residents rely heavily upon high quality groundwater, much from the Ogallala, for municipal drinking water supplies.

Wyoming's missile sites have some of the largest and deepest TCE plumes in the U.S. The largest, at Missile Site 4, 16 miles west of Cheyenne, is roughly 12 miles long and 3 miles wide in places. At Site 4, concentrations of TCE in groundwater are greater than 240,000 parts per billion, or 48,000 times the safe drinking water limit. Some of the City of Cheyenne's municipal drinking water supply wells, as well as two water wells owned by private landowners, have already been impacted by TCE from Atlas 4.

Each of the seven Atlas Missile sites in Wyoming will require significant human and capital resources to complete cleanup, and each presents unique challenges and difficulties. Overall costs expended to date at the seven missile sites exceeds \$45 million, and much work remains to be done. As of 2015, the Department of Defense estimated that the cost to complete the investigation and remediation of Formerly Used Defense Sites in Wyoming at more than \$285 million.

The Department of Defense is ultimately responsible for contamination at the Atlas Missile sites. As the State's lead environmental oversight agency, the Wyoming Department of Environmental Quality coordinates with the Corps of Engineers to investigate, characterize, and remediate contaminated soils and groundwater at these sites. Of the seven sites in Wyoming, only two are in the remediation phase to treat contaminant plumes.

Collaboration between our respective agencies, together with public involvement, allows cleanup of these sites in a way that works and that is cost-effective. Upfront planning and communication, including a clear understanding of the roles and responsibilities of the agencies involved, and a mutual understanding of the Federal and State regulations at work are essential to the success of this endeavor. Adhering to these basic tenets makes the process work best for all parties involved.

Further details on each of the Wyoming missile sites, as well as observations and recommendations that may help improve the overall cleanup process at these sites, are provided in the Appendix to my written testimony.

Mr. Chairman, Mr. Ranking Member, and members of the Committee, I thank you for your time and remain available to answer any questions.

[The prepared statement of Mr. Frederick follows:]

Senator Barrasso. Well, thanks so much for your thoughtful testimony. We are grateful that you have come to be with us today.

Also traveling quite a distance, our next witness has already been introduced by Senator Sullivan, Sarah Lukin, the Board of Director of the Native Corporation, Alaska Native Village Corporation Association.

Thanks for being with us.

STATEMENT OF SARAH L. LUKIN, MEMBER, BOARD OF DIRECTORS, AFOGNAK  
NATIVE CORPORATION

Ms. Lukin. Cama'i, hello, Chairman Barrasso, Ranking Member Carper, and distinguished members of this Committee. My name is Sarah Lukin. Quyanaa, thank you, for allowing me the opportunity to discuss federally contaminated sites on land conveyed to Alaska Native Corporations. I am here before your Committee as a board member of Afognak Native Corporation and a member of the Alaska Native Village Corporation Association.

World War II, Japan's invasion of the Aleutians, and the Cold War had profound impacts in Alaska. If Alaska's expansive forests and tundra could talk, what stories would they tell? We would hear of 55 gallon drums full of toxic materials dumped in lakes, of unexploded ordnances on the tundra, a stream with lead batteries in it, Cold War legacies often hidden from view, but slowly decaying, leaching into the ground and water.

Forty-five years ago, Congress settled Aboriginal land claims with Alaska Native people through the Alaska Native Claim Settlement Act, or ANCSA. Under ANCSA, the Federal Government created Alaska Native Corporations and agreed to convey to our Alaska Native people 44 million acres of land.

During the 1990s, the Alaska Native community raised significant concerns that the Federal Government was conveying contaminated lands to Alaska Native Corporations to meet our end

of the bargain. In response, a 1998 Department of Interior report explained Alaska Native Corporations had been conveyed approximately 650 contaminated sites under ANCSA with various types of hazardous waste and toxic materials that posed significant health risk to humans, animals, and the environment, including arsenic and PCBs, among others. One hundred eighty-nine of the contaminated sites identified were Formerly Used Defense Sites, or FUDS, and many included petroleum contamination.

Sadly, under CERCLA, Alaska Native Corporations may be held responsible for the cleanup of this preexisting contamination. Let me be clear. Under ANCSA, Alaska Native people gave up 88 percent of our traditional lands and, in exchange, we received, in part, contaminated sites that we may be legally liable for.

An updated report to Congress last year confirmed that there are still 537 sites that require remediation on ANCSA lands. Of the sites identified, the majority are Department of Defense; 120 of them are FUDS.

Nearly 100 additional contaminated sites are not in a cleanup program currently. Almost all of these sites are within two miles of Alaska Native villages. These are places where our Native people engage in subsistence activities, obtain our drinking water, and let our children play.

The Natives of Kodiak have spent the last 25 years advocating for the cleanup of an old Army site on their ANCSA land. The Army Corps of Engineers attempted to remediate the site through FUDS and the Native American Lands Environmental Mitigation Program, or NALEMP. The Natives of Kodiak refuses to accept "institutional controls" and "long-term monitoring" of the site as a solution and, instead, continues to seek clean drinking water and land. This painfully slow cleanup has stalled all economic development for the Natives of Kodiak for the last two and a half decades.

The Afognak Lake and River area has been used by my people for over 7,000 years for subsistence hunting and fishing. In 2003, my Tribe and Alaska Native Corporation partnered to clean up an old Navy base located on the shores of our lake and river. In partnership with FUDS and NALEMP, we spent six years cleaning up the site. In addition to removing toxic materials, the project built the business capacity of our organizations and offered our local Native people training and much needed jobs.

With 537 sites still needing cleanup, we need fewer failures like the Natives of Kodiak experience and more successes like Afognak's.

Congress can help move this critical issue forward. I urge you to consider legislation to prioritize the cleanup of ANCSA land. Currently, there is no such priority under FUDS to

protect Alaska Native Corporations from legal liability under CERCLA and to address petroleum cleanup, which is currently not covered.

Quyanaasinaq, thank you very much, and I would be happy to answer any questions that you may have.

[The prepared statement of Ms. Lukin follows:]

Senator Barrasso. Well, thank you very much, Ms. Lukin. We appreciate you being here and appreciate your thoughtful testimony.

Next I would like to turn to Alexandra Smith, who is the Nuclear Waste Program Manager of the Washington State Department of Ecology.

Thank you very much for joining us today.

STATEMENT OF ALEXANDRA K. SMITH, NUCLEAR WASTE PROGRAM MANAGER,  
WASHINGTON STATE DEPARTMENT OF ECOLOGY

Ms. Smith. Thank you. Chairman Barrasso, Ranking Member Carper, honorable members of the Committee staff, thank you for inviting me here today to speak on behalf of Washington State to these important topics. My name is Alexandra Smith, and I am the Nuclear Waste Program Manager for the Washington State Department of Ecology. Our program fulfills the State's environmental regulatory role at the Hanford Nuclear Reservation and also the State's role under what is known as the Tri-Party Agreement, which is a Federal facility compliance order that sets out the respective roles of the Department of Energy, the Environmental Protection Agency, and the State in relation to the cleanup at Hanford.

I am also here today representing the other Washington State departments and programs that play a part in regulating and cleaning up former defense facilities, Federal facilities, and Cold War legacy sites in our State.

Washington State has historically played an important role in our Nation's defense. However, Washington's contributions to national defense and security have come at a cost to our resources and citizens. To this day, contamination at these Federal facilities has significantly impacted our land and

groundwater, posing very real and ongoing threats to human health and Washington's environment.

The Hanford Nuclear Reservation is the most significant example of this, as the more than 40 years of nuclear weapons production at this site left it the largest and most complex environmental cleanup in the Country. In addition to Hanford, Washington is home to approximately 500 Formerly Used Defense Sites in need of remediation, as well as active military installations that are on the Superfund National Priorities List in need of remediation.

The State of Washington and Federal agencies like the Environmental Protection Agency, Department of Defense, Department of Energy, and the Corps of Engineers, play vital roles in cleaning up this environmental legacy of the Cold War. The Federal agencies have provided essential resources for moving these cleanups forward either through direct spending on cleanups or through pass-through funds to the State.

However, proposals in the President's budget blueprint that call for significant cuts to these agencies' budgets could slow or stop cleanup progress altogether in communities that have been waiting decades for the risks associated with these sites to be abated, and could also impair the State's ability to fulfill its role at these sites. If Federal agencies are unable

to fulfill their environmental obligations to our State, Washington does not have the resources to fill the void.

As an example of the challenges, Hanford's 40 years of weapons production during the Cold War left more than 130 million cubic yards of contaminated soil and debris, 1,000 contaminated buildings, and more than 72 square miles of groundwater contamination under the site that flows towards the Columbia River, which is a source of drinking water for local communities as well as irrigation water for local agriculture.

In addition, more than 56 million gallons of high level nuclear wastes are to this day stored in 177 aging tanks onsite. More than 67 of those tanks have leaked, releasing upwards of one million gallons of high level radioactive and chemical waste to the ground. Overall, Hanford has two-thirds of the Nation's high level nuclear waste by volume, is the most contaminated nuclear site in the Country, and its 586 square mile site is the Nation's largest environmental cleanup. Recent estimates have put total cleanup costs over the life cycle of the cleanup to over \$120 billion, and the cleanup effort is expected to run through 2070 under current estimates.

Cleanup activities at Hanford are the joint responsibility of EPA and the State. The State implements the Resource Conservation and Recovery Act at the site with oversight by EPA, and EPA is the lead regulatory authority under CERCLA. EPA has

final authority over remedial decisions made under CERCLA at Hanford's four National Priorities List sites, while DOE is the owner and operator at the site responsible for implementing the cleanup.

Since 1989, cleanup progress at Hanford has been directly correlated to the availability of funds for cleanup. Washington State is very concerned that proposed Federal budget cuts could negatively impact the already slow progress on Hanford cleanup.

I did want to note that when it comes to the Department of Energy's budget, historically the Department of Energy's environmental management budget has fallen short of its obligations nationwide to fulfill its cleanup obligations, and under the current resolution funding, it virtually guarantees DOE is unable to meet its legal obligations at the site. Any reduction will slow cleanup progress further.

The longer it takes for cleanup to happen at these sites, the more money it takes for DOE to simply meet its obligation to maintain the sites' nuclear safety, which means maintaining its aging infrastructure in a safe and secure condition; and that means less money goes to cleanup. Currently, 40 percent of DOE's Hanford budget goes to simply keeping the site safe, with the remaining 60 percent going to cleanup. Any reduction in DOE's Hanford budget comes out of the funds available for cleanup, not the funds necessary to keep the site safe.

If EPA's budget for Hanford work is reduced, there is similar risk that progress on the remaining CERCLA cleanup at the site will slow or stop, because EPA has the exclusive authority to make remedial decisions under CERCLA. If EPA does not have the resources to dedicate to the cleanup, there is little the State can do to fill the void. A slowing of CERCLA cleanups at Hanford could also slow progress on cleaning sites up under RCRA because the State and EPA are trying to combine the RCRA and CERCLA cleanups, allowing the CERCLA cleanups to lead the effort. Delays in the CERCLA cleanups necessarily means delay in the RCRA cleanups.

EPA also provides oversight and technical assistance for the State under RCRA. If EPA loses resources in the RCRA program, the State will lose that technical expertise as well as a backstop if the State is ever unable to fulfill its RCRA role at the site.

I apologize, I am going over time here.

In addition, EPA has historically taken on the large and technically complex enforcement actions at the site and the State does not have the resources to fill that void if EPA is unable to do so.

In sum, on Hanford, it has historically stood out for the slow pace of cleanup. However, a 30 percent or larger cut to EPA's budget could mean this already progress towards cleanup by

2070 would go even more slowly, and the local communities would continue to face risks from the site well beyond our and even our children's lifetime.

I also wanted to touch briefly on the other Cold War legacy sites in Washington. There are more than 500 Formerly Used Defense Sites there. EPA plays a role in oversight on those and the Corps of Engineers plays a role on the actual cleanup. Washington's concern that reduction in those funds will also lead to a de-prioritization of the cleanup of those fund sites.

Finally, the State is concerned that its own work could be impacted by the reductions in the EPA funding. Federal funding accounts for approximately 34 percent of Washington's Department of Ecology budget, with 80 percent of that funding coming from EPA. Superfund grants, State cooperative agreements, and EPA funded cleanups are potentially impacted by proposed cuts, and the State's categorical grants that support air and water quality work would be significantly impacted.

In conclusion, Washington has long played host to vital national defense facilities, doing our part to ensure the Country's safety and security, yet our citizens and resources have been left with a harmful environmental legacy of those sites. The pace of their cleanups has rarely been quick, but to date it has been steady. Without adequate funding from the Federal Government to fulfill this cleanup obligation,

Washington fears progress at these facilities will slow or stop, forcing Washington's citizens to continue to live with the environmental risks associated with these national defense sites.

Thank you very much for the opportunity to testify.

[The prepared statement of Ms. Smith follows:]

Senator Barrasso. Well, thank you very much for your testimony.

We will turn to Senator Sullivan with questions.

Senator Sullivan. Thank you, Mr. Chairman, for allowing me to ask a few questions before I go to preside. I do want to associate my initial remarks with what Senator Carper mentioned at the outset of his remarks.

As this Committee knows, I was a strong supporter of Administrator Pruitt, and I am glad to see him in the position that he is in. He did make commitments to many of us during the confirmation process on certain issues that weren't reflected in the President's budget, and I think that is a bit of an issue from my perspective. If you make commitments in a private setting, meetings, or in a public hearing, it is an important deal when you are trying to get confirmed, and we expect those commitments to be kept. So I think that is a message I want to make sure the EPA hears loud and clearly.

Ms. Lukin, thank you very much for your testimony. I want to raise a couple issues that relate to your testimony and what you talked about. The one seems to be a very difficult kind of Catch-22, where Alaska Native Corporations receive land from the Federal Government. It is contaminated, and then all of a sudden the Native Corporations who are trying to develop this land -- it is very difficult to develop any land economically

when it is contaminated -- not only don't have the opportunity to develop the land for economic opportunity, but all of a sudden are looking like they are on the hook for CERCLA liability. So it is kind of a double whammy.

The land was supposed to be given, the part of the deal ANCSA was to enable Alaska Natives to develop their land economically. You can't do that because it is contaminated. And, B, now the Feds are telling you that you are liable. So it is almost like a lose-lose, as opposed to a win-win.

Can you talk about that a little bit more and how we in the Congress could fix that, which is clearly, from my perspective, a double unfair situation to you and the Alaska Native people you are representing?

Ms. Lukin. Senator, thank you very much for the question. So regarding CERCLA, there is a section called Section 107(a), and it basically says that we are on the hook to clean up any preexisting sites. And what we found, because ANCs are currently, under Federal law, legally liable to clean up this federally caused preexisting contamination, that some ANCs are unwilling to come forward and say we have a contaminated site on our lands and it needs to be cleaned up. Instead, they are living with that contamination and not notifying the proper authorities, because basically they are afraid they are going to have to pay for this cleanup and they can't afford to do so.

EPA does have a policy that says it won't pursue cleanup under Section 107(a). However, that policy does not create any legal rights for Alaska Native Corporations. And the EPA did reserve the right to depart from that policy on a case-by-case basis, so although the policy exists, it is not exclusively helpful.

Senator Sullivan. So you can't rely on it.

Ms. Lukin. We cannot rely on that policy currently. So it is really my recommendation and the recommendation of Alaska Native Corporations that Congress provide Alaska Native Corporations protection under the law from Section 107(a) of CERCLA.

Senator Sullivan. Well, I think that would be something that would be very fair.

And, Mr. Chairman, I would like to work with you and Senator Carper and other members of the Committee to try and work on something like that, where, again, it seems to me the point of ANCSA was to help promote the economic opportunities for Alaska Native people, and this kind of loophole, I guess, undermines that.

Thank you very much, Mr. Chairman.

Senator Barrasso. Thank you, Senator Sullivan.

Senator Carper.

Senator Carper. This is gripping testimony. It is hard not to be affected by it. Not infrequently here in this Committee we talk about the Golden Rule; how would we want to be treated if we were in somebody else's shoes who is my neighbor. And, boy, that is ringing in my ears as I listen to your testimony today.

Ms. Smith, there are, I believe, 500 Formerly Used Defense Sites and I think 51 or so Superfund sites in Washington State alone. Hanford Nuclear Reservation alone contains such a toxic stew of contamination that four separate Superfund sites were designated there, I think, if I am not incorrect.

The President's budget includes a \$1 billion cut to the Army Corps' budget. That is over 15 percent. The President's budget also proposes a 30 percent cut of \$330 million to the Superfund account.

I am looking for a yes or no answer here. Do you agree that there will be fewer and slower cleanups of toxic sites like Hanford if Congress goes along with these proposed Draconian cuts?

Ms. Smith. Yes, Senator.

Senator Carper. Thank you.

I have a question, if I could, for Ms. Lukin and Mr. Frederick. Do either of you disagree with Ms. Smith's response?

Just keep it simple. Do you agree or disagree with her response?

Mr. Frederick. Mr. Chairman, with respect to the missile site cleanups funded under the Corps of Engineers, no, we wouldn't feel any affect.

Senator Carper. Please.

Ms. Lukin. No.

Senator Carper. Okay, thank you.

If I could, General Semonite and Mr. Breen, I would like to ask you to provide a list for the record indicating which site cleanups in which States would be slowed or cut if Congress agrees to the President's fiscal year 2018 budget proposal. If you would do that for us, we would appreciate it.

Back to Ms. Smith. In his confirmation hearing, and Senator Sullivan alluded to this, Mr. Pruitt said, "State regulators possess the resources and expertise to enforce our environmental laws" and said that he thinks that "EPA needs to provide more assistance to States." Surprisingly, though, the President's fiscal 2018 budget proposes to cut State grants by a remarkable, as I said earlier, 45 percent, or some \$482 million.

And I just ask of you, Ms. Smith, do you agree that the State of Washington will be severely limited and may be unable to do the Superfund work it is doing if Congress agrees to these cuts?

Ms. Smith. Yes, Senator.

Senator Carper. Thank you.

You all are terrific to be here and I just applaud the work that you do with your lives. Let me start with you, General. Thinking about what you said and the other witnesses have said, give us one good takeaway where you think you agree. Like say we all agree on this. Just give me one really good takeaway where you think there is broad consensus.

General Semonite. Sir, I will go first. I think we all agree, or I certainly hear a consensus of the commitment of the Federal Government to continue to try to clean these up. I think it is going to be primarily limited by resources, not by a will of not wanting to do it. And the challenge is going to be where are those priorities and where is the risk if we don't. But I think all of us are committed to continue to be able to put America's dollars back in to fix some of these things that just were not done properly in the earlier years.

Senator Carper. Thank you, sir.

Mr. Breen, consensus. Just very briefly. Major point.

Mr. Breen. I suspect there is broad agreement that these are programs, whether they are developed by States or Tribes or the Federal Government, that can be both good for the environment and good for health and good for jobs and good for

growth. It is a broad improvement in our well-being in many years.

Senator Carper. Good. Thank you.

Mr. Frederick?

Mr. Frederick. Mr. Chairman, I would agree with the previous two speakers. It is absolutely something that we believe the Corps of Engineers, with respect to the Formerly Used Defense Sites, have committed to under the Department of Defense. We believe it holds essentially Government to the same level of accountability for cleaning up the environment that the rest of us are held to, including industry and the private sector.

Senator Carper. All right, thanks.

My time has expired.

Ms. Lukin, just very briefly. Very briefly consensus, big point, major point.

Ms. Lukin. Thank you for the question. I am absolutely thrilled to see the interest and desire to work with our organizations to clean up our lands. I would love to see the Army Corps of Engineers, the EPA, the BLM, and other Federal agencies better coordinate in cleanup efforts, and I would be happy to talk with them further about that. Thank you.

Senator Carper. Thank you so much.

Ms. Smith?

Ms. Smith. I think everybody agrees on the importance of these cleanups to the local communities not just in terms of environmental protection, but also to putting the contaminated lands back to productive use, and their economic importance as well.

Senator Carper. Thank you so much.

Thank you all.

Senator Barrasso. Thank you, Senator Carper.

Senator Rounds.

Senator Rounds. Thank you, Mr. Chairman.

Lt. General Semonite, I have heard concerns over the Black Hills Ordnance Depot. That is a site that is near Edgemont, South Dakota. In 2016 the Army Corps installed a barbed wire fence to protect the public from explosive hazards; however, many residents feel that these fences are not adequate to protect the public from explosives and toxic contamination that may be located on the site. Can you give me an update on the safety measure the Corps may be taking at this site, any public outreach that you have done or that you plan to do to make certain that the public feels secure with the safety measures taken by the Corps?

I recognize that you have a number of sites out there. If you are not prepared to provide that to me at this time, I would take that for the record as well, sir.

General Semonite. Thank you, Senator. South Dakota does have 58 different FUDS projects out there. We have about 25 remaining, so that means that the bill to be able to really remediate these in the right way is about a \$45 million bill.

Specifically on that one, we have had some protective measures put in place. We are concerned that if there are sites that we can't get to in time, we have to be able to make sure that not only do we have some type of a physical barrier, but also this is a training piece as well. So we invest a significant amount of money on to be able to make sure that we are doing community outreach and to let people know safety. The last thing we want to have is somebody to get hurt in one of these sites.

I don't know exactly whether that fence is to the standard that meets certainly the intent of South Dakota but, if not, I will certainly find out and get back to you and let you know where we are at on that.

Senator Rounds. Thank you, sir.

Lt. General Semonite and Mr. Breen, portions of Ellsworth Air Force Base, in Meade and Pennington Counties in South Dakota, are listed on the EPA's National Priorities List due to petroleum products and waste solvent contamination. Can you give me an update on the cleanup efforts at Ellsworth? And if

you are not familiar with them, I would also take that report for the record as well.

Mr. Breen. Thank you, Senator. I can start and I will turn to the Lieutenant General to see if he would like to add.

The Ellsworth Air Force Base is indeed on the National Priorities List. Actually, the Air Force completed construction in 1999. As a Federal facility, the actual carrying out and paying for the work would be done by the Air Force, not by the EPA.

After construction was completed in 1999, we moved to partial de-listings at the site; that is, some parts are actually able to be taken off of the Superfund list and we did partial de-listings in 2006 and 2012. What is the only remaining portion requiring focus is the groundwater, still very important, and the issue there is the TCE, trichloroethylene, and its breakdown products, together with one area mixed with petroleum. In addition, studies for perfluorinated compounds, a comparatively new, emerging contaminant, are underway as well as one for dioxane -- I am doing chemistry now, sir -- and munitions.

But the point is that this continuing work is in progress or awaiting funding for the Air Force's taking the next steps.

Senator Rounds. Okay.

General Semonite?

General Semonite. Sir, I have nothing to add to that.

Senator Rounds. Thank you.

Mr. Breen, I also want to take just a step back from the specific sites and ask a more general question regarding the Superfund cleanup program itself.

I know that there is reprioritization going on at the EPA. We recognize that. We also know that in the President's budget there was a reduced amount which was being proposed to be funded at the EPA level. Can you give me and this Committee some insight as to the planning or the discussions that went into place and the priorities which the Department or the EPA is planning with regard to where you are putting your priorities now versus what it might have been under the previous Administration's budget proposal?

Mr. Breen. Thank you. So, first, in the site-by-site prioritization we have a longstanding practice which is in place now for probably 20 years or more of funding those sites that have an imminent endangerment; making sure those are taken care of. Then we fund sites that are ongoing, where construction has been going on year-to-year. And then we take up new sites with what funding we have after that. And it is often the case that we can't take up as many new sites as we would like, and that has been the case for a very long time.

In terms of the broader picture, we are looking for efficiencies; we are looking for ways we can go deeper into using accounts that the Treasury Department has allowed us to set up. These are interest-bearing savings accounts with the U.S. Treasury where we have put money that defendants have given us and we have deposited there and we can draw on. Looking for ways to draw on that. And because Congress has made Superfund no-year money, we don't have to spend every year what is given to us in any particular year, so we can look to prior years' funding in order to fund needs in future needs. So we will be looking for efficiencies administratively, efficiencies in the way we move funding among accounts and more in order to get as much progress for the public as we can.

Senator Rounds. Thank you. My time has expired.

Thank you, Mr. Chairman.

Senator Barrasso. Thank you, Senator Rounds.

Senator Booker.

Senator Booker. Mr. Chairman, I really appreciate this. This hearing I am deeply grateful for, just because of the reality in my State we have 91 FUDS sites, 7 FUSRAP sites. Nearly half are still awaiting cleanup. Every State has Superfund sites. I have 114 in New Jersey. And I have to say this is something that was astonishing, because I didn't know it before I came to become a Senator, that we as a Nation had a

bipartisan commitment. Ronald Reagan reauthorized Superfund monies to clean up these messes. It was voted on by members in the Senate here. But that has now lapsed. We don't even have the money. Superfund sites in America are going up. And what makes these sort of more astonishing to me, Mr. Chairman, is that it is the mess that we made. The fundamental thing, all I need to know in life I learned in kindergarten: clean up the mess you made.

But this is what is even more stunning to me about the situation, is that we now have longitudinal evidence, data to know what happens to human beings that live adjacent to these sites. So just to look at the studies, right now, for Superfund sites, 11 million Americans and 3 million to 4 million kids live within 1 mile of a Superfund site. And I have families that are living close to these FUDS sites as well. And now we know that mothers living within 1 mile of an unremediated Superfund site have a 20 percent greater rate, greater incident of being born with birth defects. Studies have shown they have substantially higher rates of autism as well.

So here we have sites that we made that have deeply hazardous, harmful substances to them, and we are missing an opportunity to do right by the children of America, pregnant women, elderly. And more than that, not only that moral urgency, but we could actually create jobs as well. As a former

mayor, I know when you remediate these sites, then they actually create economic opportunity for communities. It is like a win-win-win for the economy and for the health of our families.

So it is beyond me that we don't have more urgency as a Nation to clean up this mess that in many cases we ourselves made and now are inflicting on families and children. The autism rates in New Jersey, the children being born with defects, talk to those parents; and if any of us in Congress had families and had children living within a mile of a Superfund site or one of these sites, and, unfortunately, I live within a mile or so of a Superfund site.

So this is a funding issue, and I would like to know, Lieutenant General, would funding for FUDS and FUSRAP immediately expedite the cleanup process? Yes or no?

General Semonite. Sir, I think that we certainly have capacity to do more. So additional funding would in fact have an impact on cleaning these up faster.

Senator Booker. So this is a matter of the United States Government, which made this mess, and we are not investing in cleaning up the mess we made and there are people today who are pregnant, people today that are expecting kids living close to these sites facing this danger; and today there are people that desperately need work that could be going to work doing this.

You know, a GAO study found appropriations to Superfund sites declined by nearly 50 percent from 1999 to 2013, meaning fewer cleanups.

So, Mr. Breen, it is my understanding that the EPA has shovel-ready sites that could be cleaned up if sufficient funds were available. So, again, in your opinion, is this a funding problem?

Mr. Breen. Thank you, sir. And I will just point out with some pride that that statistic that you pointed out about the birth defects is actually in a review studied by Professor Janet Currie of Princeton University in your home State. So there is some connection to New Jersey.

Senator Booker. I will never look askance at Jersey pride statistics.

[Laughter.]

Senator Booker. Thank you very much, sir. But it is a funding issue, yes?

Mr. Breen. Well, what we know is a number of things. One is that it has been true for some time that EPA will often get to the end of a fiscal year and have sites ready for funding that there is not funding to do those sites. That has been true for many years more often than not.

What we also know is that there is room to look for efficiencies and that Superfund is enforcement first. And we

know that Superfund money is no-year money. So there are lot of ways we can look for ways to get more done, and we will be doing exactly that.

Senator Booker. Okay, so my time has expired.

I just want to say for all of this talk in the Executive Branch and the Legislative Branch about investing in homeland security, this is about protecting our homeland from toxic threats to families and children.

Senator Barrasso. Thank you, Senator Booker.

Senator Inhofe.

Senator Inhofe. You know, Mr. Chairman, I am reminded and have quoted Ronald Reagan before when he said there is nothing closer to life eternal on the face of this earth than a Government agency once formed. And he went on to talk about things that have to be done and can be done, and every time there is an effort to try to have efficiencies in Government, that that is they will pick out the one thing that is of greater concern to everyone and use that.

I want to say to you, Mr. Breen, I appreciate two things that you said in your opening statements, as well as responding to questions. I really appreciate it. First of all you are saying yes, we are, right now, looking for efficiencies, and for efficiencies knowing that there are, in any bureaucracy, areas

where we can find efficiencies, we can find waste and abuse and all of that. I applaud you for it.

And the second thing is when Scott Pruitt was up for his nomination, he made the comment over and over again, he did so before this Committee and elsewhere, about the significance of the cleanups and his effort to really concentrate and get things done. I have to admit that I have only been over there once since he has been there, and that was yesterday. He took me into the long table room. I suspect there is a seat for you at that long table when he was talking about the priorities that he had and how quickly he is really getting into talking to you guys who know more about it than we do up here in establishing priorities.

So I appreciate the fact that you have made those comments.

I think also, I wrote this down when you said it, General, it sounds like you are doing a pretty good job. Correct me if I am wrong, if I got this down wrong, but 5,357 cleanup sites, and now 3,513 are either closed out or in the monitoring status. Is that accurate?

General Semonite. Yes, sir. And I think the other thing that goes back to the efficiency piece, we continue to try to find ways of continuing to get more value out of those funds that do come in; also to be postured for year-end money. And there are several times when we have contracts that we can put

money on so that if in fact it is unobligated somewhere else, we are able to go back in and be able to make sure we are optimizing the use of that money through the contract vehicle we have.

Senator Inhofe. Yes. Yes. And there are some other things, before I got distracted on that, that I was going to mention, but I do want to mention one, and that is Tar Creek. Nod if you have ever heard of Tar Creek. One. All right.

Tar Creek was the number one site in America at that time. Historically, it was a big mining area in northeastern Oklahoma, actually extended up into Kansas and over into Missouri. But it was a huge thing. And the mining that took place there took place back in the 1940s, and we didn't have any really good, accurate records as to what was underneath the ground. Later on we found there was an elementary school that any day could have caved in with all those kids there, and we were able to get into there. Well, that was a major thing.

I have to say that even though this was not a site, a former site that you would be dealing with, General, you still did. We had a lot of activity from the Corps and from all the agencies that worked together. It kind of reminds me a little bit of the disaster that we faced in Oklahoma just last week when we had this terrible fire, the worst in history, and

everybody did come together and did a good job. That is exactly what happened to Tar Creek.

So I want to say to all of the players it really did work, and it worked successfully. And if we hadn't gotten on it, you don't know how many of those little kids at that elementary school might have sustained really serious problems.

So I think it is sometimes important to talk about the good job that is being done. I appreciate it and I do think in this new Administration you are going to have a new concentration, less concentration on trying to build sciences and more concentration on getting things done. And I thank you for your testimony.

Thank you, Mr. Chairman.

Senator Barrasso. Thank you, Senator Inhofe.

Senator Cardin.

Senator Cardin. Mr. Chairman, I first want to thank you for holding this hearing. I think it is an extremely important subject. I was listening to the testimony from my office because I had an appointment and I was here as we started the hearing. I wanted to thank all of our witnesses for their commitment to our Country and to our environment.

I just really want to bring attention to two sites we have in Maryland. One is a site that qualifies for Formerly Utilized Sites Remediation Action Program, which is located in South

Baltimore, 260 acre site that was formerly used by W. R. Grace. And we are working on that site and I appreciate the work that is being done.

The other is a more recent identified problem and does not come under that program, and that is the site of Bainbridge, which I think received a great deal of attention. This is an issue I just want to bring to the Committee's attention because it is extremely frustrating, Mr. Chairman. I know the work that you have done to try to have the right relationship between Government and the private sector.

Here is a situation in which the Navy used an 1,186 acre site in Cecil County, Maryland from 1942 to 1976. The property is contaminated, badly contaminated by asbestos and lead, and there has been some cleanup done there. The Navy transferred the site to the Bainbridge Development Company in 2000. That is 17 years ago, Mr. Chairman. And as part of that transfer the deed made it clear that the Navy was responsible for the cleanup. There was no dispute about that. Of course, the Navy would also be responsible under Federal law. So there is no question that there is contractual responsibility as well as legislative responsibility for the cleanup.

The Bainbridge Development Corporation has made some efforts with developers to develop a mixed-use property. It has been determined not suitable for that purpose because of the

environmental contamination of asbestos and lead. And there has been negotiations going back and forth for these 17 years. Just last year there were some additional monies made available for soil investigation.

Mr. Chairman, this is very frustrating, that after 17 years we are still evaluating what the problem is on a property that has transferred. In Cecil County, to put this into economic development would be critically important for their economy. And everyone is together; local government is fine with what is trying to be done. The holdup is the environmental restoration and Navy carrying out its responsibility. And I know they have budget problems. I get that. But 2000, the transfer of property and still not have it ready for its appropriate use?

So our office is working very hard with the Department of Defense and with Cecil County to try to find a remedy here to move this along, but I just really wanted this Committee to be aware. It is not directly related to some of the subjects we are talking about, but I think it is related.

And I see our witnesses shaking their heads affirmatively, and I would just welcome any thoughts you may have as to how we can move these procedures more efficiently so that this type of property can be put back in use, as the community wants it put back in use, which was formerly used by the Department of Defense.

Mr. Breen, do you want to respond?

Mr. Breen. Yes, sir. So you are exactly right. As a former Navy site, it is the Navy's responsibility to address it. EPA is able to offer some help, which we did at this site. There was a Brownfields Program which is not part of this hearing, but part of this Committee's jurisdiction. Pursuant to the Brownfields Program, in 2010, we performed an investigation of what are the issues at the site, and we found that there are both chemicals and heavy metals at the site as a result of that Brownfields review that did affect significant areas. So we were able to bring that technical assistance to bear. But, as you said, it is not on the NPL, not on the National Priorities List, so not an EPA lead.

Senator Cardin. And this is not an EPA area, I recognize that; it is more DOD.

General, do you have any suggestions here?

General Semonite. Sir, I don't have any specific knowledge of that site, but you have a great point, and that is that we cannot afford, as a Nation, for every one of us to work in a stovepipe based on some certain account and the authorities in that account; we have to share this body of knowledge of when we learn something. And if we are learning something on a FUDS or a FUSRAP site and we can somehow make sure we export that knowledge across and we can all work together, somewhere we are

going to find better value. So we can certainly take a look at it. I don't know where the Navy is at on this one, but I think that if there are some things that we can learn from all the other 5,400 sites we are doing, and be able to make sure somehow those things can be wrapped in, the Nation is going to benefit.

Senator Cardin. Thank you. I appreciate that response. We will follow up.

Thank you, Mr. Chairman.

Senator Barrasso. Thank you very much, Senator Cardin.

Senator Capito?

Senator Capito. Thank you, Mr. Chairman.

And thank all of you. I am sorry I missed your testimony. Probably Senator Inhofe told you that the Commerce Committee is meeting at the same exact time, so we are sort of jumping around here.

This is a bit off topic, but since I have General Semonite here, I am going to lodge the question, because I wanted to take the opportunity to talk about something important that we have been working with the Corps on, and that is the Appalachian Corridor H. This issue has to do with a Section 404 permit of that project between Kerens and Parsons, West Virginia. The subcontractor for West Virginia DOT is working on this section, submitted the application October 13, 2016, and is frustrated it hasn't heard. This morning, however, we did get notice,

following an inquiry from my office, that the Huntington Corps District informed my staff that they will be opening a 15-day public comment period on the permit modification. So I want to thank the Huntington Corps for that. It is very important if you are trying to drive from here to the beautiful ski regions in West Virginia over to Canaan Valley or Snowshoe, Corridor H is extremely important.

So basically what I would like from you, General, really is that you would ensure to me that the public comment will in fact open when our local Corps told that it would, and pledge to kind of prioritize this project once that begins.

General Semonite. Senator, I don't know exactly that permit. We certainly are committed to continue to stay on these timelines. I think the whole Nation is continuing to look at permitting. We need to do this in a right manner based on our authorities and our statutes. But, on the other hand, we have to be able to make sure we are expeditious in this. So I will go back and double-check with the Huntington commander and find out where we are at on it. But unless there is some reason that we can't do that because of a regulatory issue or something, we want to be aggressive and continue to do permitting in an efficient manner, but also to be able to make sure that we are being responsive back to the applicant.

Senator Capito. Thank you so much. I think, too, a yes is always what they want, but even a no is helpful, because you can either, A, restart or abandon the project, whichever direction. But being held in limbo is costly. So I am very pleased to hear you say that.

Another question, again to you, General, is on the topic. On the list of one of the FUDS sites for West Virginia, almost 70 percent of the Corps work is focused on a project that I have actually toured. It is called West Virginia Ordnance Worksite. It is in Mason County. It was an old storage facility for all kinds of different weapons and chemicals and ammunitions. It would be a good history site, I think, for our younger people to see what was going on in World War II and how the whole Country was pulling together.

But it mentions that one of the areas that is going on is long-term management. I was just wondering what does long-term management mean and how does that unfold for a site such as this?

General Semonite. So, Senator, if in fact there are some lower priority sites, and I hate to use that word because they are all critical, but if there are some that we just can't get to it because of lack of funding, then we have to be able to make sure that we are addressing that from a life safety perspective, and also make sure that we are educating.

Conversely, if there are sites that have actually been remediated to a given standard, it doesn't mean we just take our eye off the ball. So we have a five-year renewal process where we go back out, we continue to look at that, we continue to do outreach back in there.

So I think on this one I have to get back with you and find out exactly where we are at on it, but what we say on long-term management is to be able to make sure we continue to be able to make sure there is not any new issues that come up with a site and we continue to have some degree of accountability back in to watch what happens on that site.

Senator Capito. Well, one good thing about that particular site, too, is there are some contractors in and around that site where it has been cleaned, so that there is some economic activity in the local area; it is not just sitting there without any kind of a use. There are some folks that are repurposing that, because it is quite a vast site and it has a primo spot because it is right on the Ohio River.

General Semonite. Yes, Senator. And I can add it looks like we are continuing to do a treatability study on one of the specific sites that is called OU-4 to be able to make sure that we are looking at the technology to be able to remediation there. We are doing the long-term modeling I talked about, and monitoring, and we are continuing to work with EPA 3 to be able

to look at restoring groundwater to drinking water standards in the manufacturing area. So our guys are working very closely on that and we will continue to monitor it closely.

Senator Capito. Right. I appreciate that.

Thank you, Mr. Chairman.

Senator Barrasso. Thank you, Senator Capito.

Senator Harris. Good morning.

Mr. Breen, according to the GAO, it can take up to 10 years to clean up a Superfund site. Do you agree with that, or does it take longer?

Mr. Breen. So I actually am not sure which GAO study you are talking about, but there are sites which would take longer than 10 years.

Senator Harris. And, on average, is that how long it takes?

Mr. Breen. I don't know.

Senator Harris. Okay. If you could follow up with me, that would be great.

Mr. Breen. Sure.

Senator Harris. And you probably know that California has the second largest number, second only to my friend, the Senator from New Jersey. I believe we have 98 active Superfund sites. I would like to ask you, and perhaps, General Semonite, you might have some information about some specific sites. In

particular, starting with Oxnard, California, we have a site there where a company, Halaco, started dumping in 1965 and there was a 1997 cease and desist order from the Army Corps which was ignored for about three decades, so there was continuing pollution in the coastal wetlands. And then in 2007 the EPA finally listed the site as a Superfund site.

The cleanup is ongoing, but I think you would probably agree it should not take that long. So my question is, given this experience, what plans do the EPA and the Army Corps have to put in place a process so Superfund investigations can begin as soon as the Federal agency notices the contamination?

Mr. Breen. Thank you, Senator. I can offer some, but I am going to suggest we also get you more detail for the record.

Senator Harris. Right.

Mr. Breen. You are right that we listed the site in 2007, and one of the first things we did was to undertake what we call removal actions. These are short-term actions to deal with the most pressing things. So we undertook removal actions in 2007 and 2010. We demolished two buildings and we stabilized the site and we consolidated the waste so that it was less spread out.

While the site planning is undergoing, we made a Brownfields job training grant of \$200,000 to the City of Oxnard. This is a way in which, then, local residents can get

the jobs that are being created in their communities. This is like a triple win, right, good for the EPA, we get people who know their communities the best; good for the residents; and, of course, it is good for the site.

In terms of what immediate next steps are planned, I would best be getting those to you after the hearing.

Senator Harris. Okay, that would be great. I would like an update on that.

And then, General Semonite, as has been mentioned, we have many sites that have been active for over 30 years in California. The USEPA and Cal/EPA have worked together to investigate and clean up the Sulphur Bank Mercury Mine Superfund site in Clear Lake, California, it is actually in Lake County, since 1990. My understanding is the EPA estimates that 2 million cubic yards of mine waste still pollute Clear Lake, and the EPA has not yet taken significant remedial action, I am told, to control the contamination in the surrounding groundwater.

So can you tell me, or Mr. Breen, what the progress is and the timeline for the cleanup of the Sulphur Bank Mercury Mine Superfund site?

Mr. Breen. What limited I have on that, Senator, is that we are recognizing the prospect, the need to address the possibilities of rainfall, but that we also think steps are in

place so that if that were to happen we are prepared for it. But I will get you more on that.

Senator Harris. Okay, I appreciate that.

General, do you have any information about it?

General Semonite. Senator, I think the main thing we are focused on, you have an awful lot of FUDS sites, so we started out with 721; we have actually closed 476. So of the 245 left, your outstanding balance, we probably need about \$1.2 billion to clean those up. We have categorized eight of those as what we call the scale of two. We re-rank everything through a risk management database. So you have a couple that are our highest priorities. The ones that really I want to make sure to highlight is Elliott. That is one that has been significant. Several years ago, in 1983, we had two children that were killed out there, so we have gone back in and cleaned up Tierrasanta, it is called, and that one we think is very good and we are monitoring that.

We have cleaned up Mission Trails, so I think that one is also going well. And the last site we are continuing to work through right now in investigation, so I will certainly have my staff get with your staff to be able to make sure you know. And on any one of these sites we can go in unbelievably deep detail to show you exactly where it is at, where it is at on the priority list. Our intent is to never hold anything back. We

want to be able to be as transparent as possible so you know what we are doing, what we are not doing, and where we see that coming through when it comes to potential funding and requirements.

Senator Harris. That is great. I appreciate that follow-up. And then you mentioned \$1.2 billion you need to deal with the remaining. Do you see that coming to you, or what is the challenge there?

General Semonite. So clearly this is probably something of interest to all of them, but we are just like the other agencies; we have three different accounts, so the EPA obviously is the one that is working the Superfund, and I will let Mr. Breen address that. Clearly, the FUDS is a DOD requirement, so we continue to articulate our most important risk up through the DOD budget, and when we see the way the 2018 budget comes out, we will certainly be able to advise you on where that is at. But at any given point we want to continue to be able to get visibility of where the highest risk is, and some of these like Elliott is ones that we want to continue to be able to make sure that DOD leadership knows the risk that is out there.

And then, finally, the FUSRAP sites are back into really the civil works budget, another completely different pot of money, but that is where we have to continue to champion those as we go up through the civil works account and then see where

the Committee and the Administration prioritizes FUSRAP with respect to the rest of the civil works account.

Senator Harris. So, Mr. Chairman, I just have one more.

Senator Barrasso. Yes, please.

Senator Harris. So what I would also appreciate by way of follow-up is, given the skinny budget that has been proposed, which sites in California you believe would not be addressed if that budget is actually the budget that we have to work with.

General Semonite. And I will definitely give you that, but the real short answer is if we go from worst is number 1 down to number 8, right now we are really keying on the sites that are number 2. You have eight of those. Those are the ones that we continue to try to champion, and then we want to continue to work our way down that list.

Senator Harris. Thank you.

Thank you.

Senator Barrasso. Thank you, Senator Harris.

Mr. Frederick, the Army Corps has proposed no further action for the Atlas Missile Site 7. It is my understanding that Wyoming DEQ has not concurred and it believes that further investigation is necessary in order to support that determination. Can you comment on that?

Mr. Frederick. Thank you, Mr. Chairman. Yes. There are some questions that we have that deal on the technical side of

things, technical interpretations that have been made by the Corps with respect to what is going on at that particular missile site. There is a little bit of an unusual geologic condition that exists at that site in particular. There is actually what is referred to as piping in the formation that contains the groundwater, and this piping is more than likely a result of animal burrowing, wormholes, things like that. It is a fairly unique situation. But in that type of condition groundwater really behaves a little bit differently than what you would see it behave in when you are dealing with just a typical sand and gravel aquifer with forced flow. So the piping essentially directs where the groundwater is going to go and, thus, any contamination with it as well.

So what we have seen is, in this particular case, where you would think you would not find any TCE, that is up-gradient from the missile site, we are actually finding TCE, and we have asked the Corps to try and help us understand why we would be seeing it up there. And if we are seeing it there, what does that mean and where else should we be looking?

Senator Barrasso. Thank you.

So, to that, General Semonite, will the Corps do further investigation, as requested by the State?

General Semonite. So, sir, two points. First of all, in your opening statement I think you mentioned that there was a

perception of an unhealthy attitude with respect to Atlas, and that for some reason maybe the Corps was trying to do a quick fix. I have 34,000 employees, and I would put my engineers against some of the best in the world; and not just because of technical competence, but because of compassion to do the right thing for this Nation. So if I ever find somebody who I think is unhealthy, please notify me personally. The only reason that we should not be able to do something is just lack of resources or for some reason we are technically challenged, but it is not because of an attitude. And I will certainly rectify that if that is out there.

Now, specifically on No. 7, and I have all 7 here we can talk about, 3 is a great example. We have some challenges at Site No. 3. We work side-by-side and Mr. Frederick has been there for several years, much smarter than I on a lot of these things. But 3 we found a compromise where we all could come together. We moved on and I think we have a successful solution with 3 after \$12 million. We are dealing with the same thing on 4 and we can talk about that.

Seven is a good example where we had eight rounds of sampling performed from 2011 to 2013, and the wells were below that minimum level for the contaminants concerned. Decision document to close the site was signed in September 2014; EPA Region 8 supported that closeout decision. But, again, we want

to go back in and we don't want to just close the door. If there is something we need to do to work with Mr. Frederick and team, we certainly want to do that to try to find out how to get the resolution.

I think the bottom line is these are all not simple cookie-cutter solutions, so we have to take the best science out there with the best authorities, see what Mr. Frederick's concerns are and try to find a consensus.

Senator Barrasso. Mr. Frederick, do you believe that the Corps is doing what it is doing to help with some specific sites? Has that been helpful? And where should we proceed from here?

Mr. Frederick. Mr. Chairman, certainly the issues with respect to some of the sites that we have had in the past I think the Corps has made some good efforts to try and address our concerns. The Lieutenant General mentioned Site 3, for instance, as an example. Nevertheless, we still have a long way to go. We have a lot of work to be done in front of us. It is going to be challenging, and I am sure we will still see situations where we don't necessarily agree on the approaches for delineating sites, characterizing sites, and so forth, but we will be working hard to make the best of those situations.

Senator Barrasso. Okay.

So, General, you would agree that Wyoming should be treated as a peer in this process and its expertise should be given considerable weight as you make these decisions?

General Semonite. Yes, sir. And I am more than willing to offer that at some point, if we can't let the technical staff work this out, then leaders like Mr. Frederick and I can certainly come see you with our division commanders, I have one of the best districts working this particular site, and certainly lay out where we see it is. And, again, we lean heavily on EPA's opinion in all this. It really is the entire community coming together to figure out what is the right thing to do for the Nation.

Senator Barrasso. Mr. Frederick, so what would happen if the Corps doesn't do the cleanup missile sites, as you suggested that they make sure get done?

Mr. Frederick. Mr. Chairman, what will happen is that the TCE is going to continue to leach into groundwater. As it continues to leach into groundwater, plumes are going to continue to expand. Ultimately, what we are looking at is a far more expensive cleanup when we get around to it at some point in time because the contamination has actually gotten much worse in size.

Senator Barrasso. So, General, then I can count on you to make sure that this does not happen?

General Semonite. Sir, we will take the available science and make sure we work through an acceptable solution. A good example is 3. We went down through with a lot of different, very innovative techniques to be able to make sure we could contain that plume. We do not want this to leach into the groundwater. I think we have the same end-state here; we just have to make sure that the science all puts us in the same direction.

Senator Barrasso. Mr. Frederick, in your written testimony you included some recommendations that you said could help improve things with regard to the cleanup of Cold War legacy sites such as the Atlas Missile sites. Could you take a few moments to just elaborate on those?

Mr. Frederick. Thank you, Mr. Chairman. Certainly, cooperation between State and Federal agencies plays a very important part in determining how quickly and effectively sites are remediated. We have found that effective components of any missile site cleanup strategy emphasized real results for the money spent. They incorporate State requirements early on, they adequately fund State involvement, and clearly define Federal and State roles in the cleanup and include opportunities for public comment, as well.

In addition, consistent application of both State and Federal regulations and guidance regarding investigation and

cleanup is highly important. We don't like to see situations where we are seeing guidance applied differently in one site or one State, as opposed to another. There needs to be consistency in the application so we are all on the same page.

Adequate funding can significantly improve the remediation process in terms of both time and overall cost. Lack of Federal funding in particular may lead to technically inadequate and incomplete site characterizations. Source areas may not be adequately investigated and defined, and ineffective costly remedies may be determined from incomplete information.

States play an important role in this process and often have a great deal of institutional knowledge and familiarity with the sites and understand State requirements that apply to the cleanup process. We would encourage those to take advantage of those opportunities that States can provide to help the process along.

Finally, the Association of State and Territorial Solid Waste Management Officials, or ASTSWMO, of which the Wyoming Department of Environmental Quality is a member, has recently published a position paper, that I have attached to my written testimony, on performance-based contracting at Federal facilities. It also includes a checklist that is intended to help improve the efficiency and the ultimate performance-based contracting process. And we would certainly encourage everyone,

especially the Corps of Engineers, to take a look at that position paper and give it serious consideration, and involving States early on in performance-based contracting. We believe that would also be one way, at least, to make the whole process more cost-effective and efficient.

Senator Barrasso. Thank you very much.

Senator Markey.

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

Massachusetts has 47 former military sites that need some form of investigation and potential remediation; potential cost of \$126 million. We have at least 10 Superfund sites that will lose access to critical cleanup services. And we have a Trump Administration which is proposing a \$1 billion cut in the Corps of Engineers' budget and slashing the entire EPA budget by nearly a third. So that is just so irresponsible, because these individual communities, they are left with a legacy that they didn't create. Irresponsible kind of management ultimately created these problems, both in Superfund and in the problems that the Army Corps looks at, and they don't have enough money to deal with it.

We ran into the same thing in the Reagan Administration. What they did was they really harbored an animus towards the Superfund program and they just began defunding. They named Anne Gorsuch as the head of the EPA, Rita Lavelle as the head of

the Superfund program, and one of the top five sites in America was the Woburn site that I represented, which ultimately became the subject of a movie and a book called A Civil Action. And in 1986 I had to release a report called Deadly Delay; hat the EPA was doing deliberately in Woburn, kind of slowing it down; notwithstanding the number of children who had contracted leukemia, the number of families that had been totally irreparably harmed. And all we are seeing here is just a repetition, this whole idea that you can attack an agency in general without ultimately impacting the lives of ordinary people.

So, Ms. Smith, let me begin with you. What do you think the impact is going to be of ultimately extending the deadlines that it will take in order to clean up these sites and what the impact is on the public health and safety of people who live in those neighborhoods?

Ms. Smith. Thank you, Senator, for the question. As I indicated before, in Washington State in particular, and at the Hanford site in particular, delays in cleanup progress mean just unacceptable lengths of cleanup. Hanford is currently scheduled to be cleaned up by 2070, and we have seen some budget indicators that that could go beyond and well into the year 3,000, which seems unfathomable. And it does place unacceptable risks on both the local community and the local resources.

Senator Markey. It absolutely does not seem unfathomable to me. I issued a report in 1987 on the Hanford Reservation and on the lack of progress that was being made. That was denial. That was deadly delay right there. They knew what was going on; they knew what they had left behind. The military didn't want to deal with it; they didn't want it to come out of their budget. They need more bombs over here that Hanford had been producing, but they don't want to then deal with the consequences left behind for the public.

So how devastating will this be to you, General, in terms of your ability to be able to deal with all of these sites that are under the Army Corps jurisdiction?

General Semonite. So, sir, we do deal with three different types of accounts. Clearly, there is Superfund, FUSRAP, and FUDS, so all of those are different funding streams.

Senator Markey. What does FUDS stand for?

General Semonite. So, sir, FUDS is Formerly Used Defense Sites.

Senator Markey Formerly used, now abused, military sites, meaning the military just walking away from it. Formerly. That is nice, FUDS. And what is the middle one?

General Semonite. FUSRAP, sir.

Senator Markey. What does that stand for?

General Semonite. I have it here. It is a long acronym.

Senator Markey. But the name of what you describe will tell us what it is.

General Semonite. Formerly Used Sites Remedial Action Program.

Senator Markey. There it is. Yeah. But the remedial action program is now going to be just push-back, push-back, push-back, because you need money. You know, a vision without funding is a hallucination. So you can't pretend that without money, without the personnel, you are going to be able to solve this problem. So you will have to triage this, then, huh, General?

General Semonite. So, sir, we do a risk informed decision process on every one of these sites. We take a look at the complexity of the site and the danger of the site.

Senator Markey. No, I appreciate that. So you are going to have to leave behind sites that you have determined to be dangerous, but not as dangerous as the ones that need more help immediately.

General Semonite. They will not be able to get attention as fast as others, yes.

Senator Markey. Right. Exactly. So you just say to those people, sorry, not enough room on the lifeboat, and you are just going to have to stay onboard here.

Yes, ma'am.

Ms. Lukin. If I may, I am so glad you asked this question, Senator Markey, because Ranking Member Carper asked a question earlier about funding and issues around sites, and I misheard him and misspoke. so I want to correct that answer, because in Alaska we would take cuts to funding for Army Corps of Engineers, for DOD FUDS programs, for EPA. It would have an extremely detrimental impact on the cleanup of sites across the State of Alaska. We absolutely need increased efficiencies and better coordinating between Federal agencies.

But if we saw an even further decline in cleanup of our contaminated sites, our Native people are very concerned about food security, about things leaching into our rivers, into our lakes where our fish are, into our land where we hunt and fish. We have concerns over significantly high rates of cancer among our Native people. Some very strongly believe that this is linked to the contamination that we are experiencing throughout our Native communities. And we are also concerned about drinkable water, because we do have locations near our Alaska Native villages where you can't drink the water.

So thank you very much for the opportunity to say that.

Senator Markey. No, thank you. And let me just say this. I had a mother, Ann Anderson her name was, come into my office in Congress 1979, and she brought her little boy with her, Jimmy. And she just sat in my office and told me that Jimmy had

leukemia and that she had actually gone door-to-door and found other mothers who also had little girls and boys with leukemia in one area that was only like a tenth of the size of the whole city, but it was where all the contaminated wells were, where all this residue had just been left behind, the arsenic, the mercury, whatever, in the water and in the land. And she went door-to-door and she found all these kids, and every mother and father felt that they had just been unlucky. Oh, my God, and then they figured out that it wasn't. So that is really, along with Love Canal, where the Superfund program began, with Woburn and with Love Canal.

And it was a tough fight. The city was in denial because it would ruin property values if they made all this public, you know, and you have all these issues. And the EPA was not that enthusiastic about coming in, especially after Reagan took over and named Ann Gorsuch and Rita Lavelle. But eventually, it took a long time, we cleaned up the site, and on that site now is a huge industrial site and a huge transportation center, which we then named the Jimmy Anderson Transportation Center, which now creates thousands and thousands of jobs.

So it does work. When you clean it up, you can reuse it for community purposes. But as long as you are in denial, more children die across the Country; more families are exposed to this; more property is never used because the Army walked away

from that, because the Defense industry walked away from it, because Monsanto and other companies walked away from it and left the community to figure it out. They can't do it alone; they need the Federal Government to help them. There is just no capacity in an individual community. And that just transformed the whole way this community views itself, and it now can see, in retrospect, that it was wrong to kind of get mad at the mother and saying, oh my goodness, you can't talk about this, it is going to ruin property values.

So I just hope we don't have to repeat history again, because there are too many people depending upon us, because we know that the Army needs the resources. The private sector companies have walked away, and unless we have a comprehensive way of looking at it, families are going to suffer.

So I thank you, Mr. Chairman, very much.

Senator Barrasso. Thank you, Senator Markey.

Senator Ernst.

Senator Ernst. Thank you, Mr. Chairman.

Senator Markey, thank you for bringing up the budget. I think this is going to be an area that we really do need to work through. So my line of questioning will be a little bit different, but it does focus very much on budget and funding issues.

General, thank you for appearing for the second time in a month in front of this Committee. I am greatly appreciative. And I am sure you know where my questioning will go this morning. It is really good to have you here. We have had many discussions over the course of the past several months.

But I wanted to take the time today to just reemphasize the flood mitigation projects that we have hanging out there. One of those is in Iowa, in Cedar Rapids. And thank you again for participating in those discussions with me.

On Monday I met with OMB Director Mulvaney, alongside Senator Grassley and Congressman Blum, to talk about the Cedar Rapids flood mitigation project and how important that is for our State, and I know that you are aware of it. I appreciate your work on this with me. And it is my understanding, when we visited with Director Mulvaney, it is my understanding that the Corps, as of Monday, had not yet submitted their budget to the OMB for fiscal year 2018. Is that correct?

General Semonite. So, ma'am, we got guidance about three weeks ago. We have been cranking hard all the way through that, and then we provided our update to the Assistant Secretary to the Army on Monday. That budget is being worked right now at the senior levels of the Army and then will go to OMB on this Friday. That is the current timeline.

Senator Ernst. Excellent. Thanks, General.

General Semonite. So the short answer is we have submitted it to our higher level, but it has not been submitted to the OMB.

Senator Ernst. To the OMB. Okay, thank you very much for that.

The Cedar Rapids project was authorized in 2014 and WRDA 2016 directed the Corps to prioritize funding and expedite completion of the Cedar Rapids project. I also received a handwritten note from you on January 30th that said you and the Corps agree in the risk to Iowa citizens and that you will pursue all possible options to support this critical project. And I do ask that you carefully consider all of these provisions when making your determinations going forward in the budget. Will you do that?

General Semonite. Yes, ma'am. Unfortunately, though, as you are probably aware and some of the people have already highlighted this year, there could be potential cuts to the civil works account based on what was in the President's initial proposal. So we will have to see how that plays out and our ability to be able to then fund all of those critical priorities.

Senator Ernst. Thank you. And will you commit to work to solve this particular issue expeditiously and to work with myself and the OMB to modify the metrics that the Corps utilizes

so we can stop discounting the rural areas such as Iowa and other Midwestern areas that have lower property values?

General Semonite. Senator, you and I have talked about that in the past and you have some very good points on property values and economic values. I think we want to continue to try to make sure that the processes that are used to be able to support the priorities of the Corps budget are the same things that come back out of the budget on the other end. I can't guarantee you, though, that what I put in in the budget is necessarily what is going to ultimately be approved.

Senator Ernst. Well, we will continue working on this issue. Again, it is very important not just for the Cedar Rapids flood mitigation project, but for so many of those other projects that are authorized but continue to hang out there. So, General, I thank you for your work.

Thank you, Mr. Chair.

Senator Barrasso. Thank you very much, Senator Ernst. I appreciate it.

I do ask unanimous consent that the testimony from the FUSRAP Coalition be placed in the record for this hearing. Hearing no objection, that will so be done.

[The referenced information follows:]

Senator Barrasso. I know that Senator Carper is meeting with some constituents. I know he wanted to make one or two little final wrap up, so we are waiting for him.

I will just, if I could, run down the panel and start with you, General. Any summary thoughts that you might have to share briefly with us?

General Semonite. Senator, I want to just thank you and the Committee for taking this opportunity to hear some of the challenges that we all have. Clearly, we are all very committed to try to clean up these areas. I think, though, that we are also are very realistic that understanding the size of this problem is immense, and I think we have to be transparent to stakeholders that some of these projects are just not going to be funded as fast as other ones. So this is where we have to figure out how can we continue to keep the momentum there, but in a deliberate manner that is putting priorities that are really life safety and risk to the environment. We have to be able to make sure that we are putting the best value out to where it needs to be.

Senator Barrasso. Mr. Breen, any thoughts in summary?

Mr. Breen. Thank you, Mr. Chairman. I think this is an area where the Committee's jurisdiction can do both environmental and economic good at the same time. Thank you for holding the hearing.

Senator Barrasso. Mr. Frederick, any final thoughts?

Mr. Frederick. Mr. Chairman, thank you. Yes, I am sure you have heard as well as I have that residents in the Cheyenne area affected by missile site contamination are concerned about it, and they are concerned about when it is going to be cleaned up. And for too many sites we just haven't heard when that is going to happen. I am hopeful that today's testimony will help bring some attention to the funding projects that the Corps faces, and I appreciate the opportunity to talk to you today.

Senator Barrasso. Thanks for being here.

Ms. Lukin.

Ms. Lukin. Quyanaa. Thank you so much for inviting me to come today. We urge Federal agencies to work together. We look to leadership and guidance from Congress and we would be happy to work with you to continue to resolve this important issue for Alaska Native villages.

Senator Barrasso. Thank you for being with us.

Ms. Smith.

Ms. Smith. Thank you, Mr. Chairman. These sites are really the moral and legal obligation of the Federal Government, and history in Washington State has shown that funding is really the primary thing that drives cleanup faster. So we appreciate you holding this hearing, and we will do all we can in Washington State to help support funding.

Senator Barrasso. Thank you.

Senator Carper, some final thoughts.

Senator Carper. Quyanaa. How's that? All right. We learn something every day in this job.

Thanks so much for what you do with your lives. Thanks so much for being with us here today.

One of the things I focus on not only in this Committee, but in the other work that the Chairman and I and others do across the board is I focus on root causes. I focus on root causes of problems. And a lot of times we spend our resources and we focus on symptoms of problems, addressing the symptom, like cleanup. We have these cleanups, we clean them up. We spend a lot of money; it takes a long time.

And I just want to make sure what are we doing to make sure that we are not creating, unwittingly, future cleanup sites? Are we going to have to do this more and spend more money and more time and disadvantage more people, harm more people? Anything that we are doing to make sure this kind of thing doesn't happen again and again and again?

General?

General Semonite. Senator, from a construction perspective, when we are out working on military installations and building new ranges, or trying to figure out what are impact areas, we have come generations ahead of where we were at 30 or

40 years ago. I think the Americans that were here back in 1930 and 1940 were just as committed to this Country; they just didn't have the ramifications to understand the second and third order effects from that. So you have a very good point. We have to make sure that 30 or 40 years from now, even the fact that we might not know what is going on, we have to think through the depth of some of these actions to make sure that our grandchildren don't have the same burden that, unfortunately, we have inherited here.

So I can get into more technical, but some of the things that we are doing environmentally and to be able to make sure we are thinking through what about rounds that are left in the ground. What are the ramifications of that? How do you get a bullet now that can basically be biodegradable and you don't have any ramifications? Some of those kind of things is what we are doing.

Senator Carper. All right, thanks.

Anybody have a differing view? Anybody want to add to what the General has said? Do you all agree?

Mr. Breen. I certainly agree, Senator. It is the case that Superfund is one of the Nation's safety nets. It is what is there to stand in when other things have not worked. In some cases that is things that have been put into place decades ago. I think the Congress took an important step with the amendments

to the Toxic Substances Control Act, the new TSCA, in making improvements in the way we deal with chemicals at the outset. But that doesn't mean Superfund doesn't need to be there for many years to come to deal with problems that are already entrained.

Senator Carper. Anyone else want to say anything? Okay.

You mentioned TSCA. That is something that Senator Inhofe and myself, others on this Committee worked literally for years, David Vitter worked for years, Tom Udall, Frank Lautenberg, and I am very proud of that. Very proud of the work that was done. But in the last Congress this Committee played a lead role in reauthorizing TSCA, I think maybe rewriting it in a way that will actually work and be effective. It turns out that the very first chemical safety rules proposed last fall under the new rule were rules to ban some uses of TCE. I know we talked a little about TCE today, but let me just follow through on this. But the rules have not yet been finalized.

Ms. Smith, Mr. Frederick, Ms. Lukin, do any of you disagree that EPA should act to finalize these rules just as quickly as possible in order to prevent future exposure to TCE like the exposures that people near the Wyoming Atlas Missile site are at risk of? Go ahead and speak.

Ms. Smith We do not, I do not disagree.

Senator Carper. All right.

Ms. Smith. Thank you, Senator.

Senator Carper. Thank you.

Mr. Frederick. Mr. Chairman, Senator, I am not familiar with the rule.

Senator Carper. Okay.

Ms. Lukin?

Ms. Lukin. I am also not familiar with the rule.

Senator Carper. All right.

If you were familiar with the rule, what would --

[Laughter.]

Ms. Lukin. I would suggest that I would not disagree with the rule, but I would have to read it to give you a for sure answer on that. Thank you, sir.

Senator Carper. Last word. Ms. Lukin, I may have misunderstood what you said in your earlier testimony, although I thought you were all brilliant, just exceptional. But I think I understood you to say that there was a land swap that occurred involving Native Americans and that in the land swap that occurred I think between maybe the Federal Government and the Native Americans, the Native Americans ended up with land that had been contaminated with toxic materials or whatever, and now that needs to be cleaned up. And I don't think you said that the Native Americans were left holding the bag in the cleanup,

but it sounds like that might be what has happened. Is that what you said?

Ms. Lukin. In a sense, sir. There is a section within CERCLA which basically says that the current landowner could be liable for the cleanup of preexisting contamination. So under the situation with Alaska Native Corporations, although this contamination occurred during the Cold War and World War II, these are events that happened prior to conveyance of the land to Alaska Native Corporations. Under CERCLA, we are legally liable to clean up that land, which we feel is extremely unjust given that we received the land under our aboriginal land claim settlement with the Federal Government.

The EPA does have a longstanding policy that says that it won't pursue legal action against parties under this particular provision of CERCLA, but it doesn't provide us any legal rights under the law and EPA reserved the right to depart from it on a case-by-case basis. So essentially this has a situation where Alaska Native Corporations in some cases are unwilling to bring forward and notify agencies of prior contamination on their lands simply because they don't want to be held legally liable for the cleanup. So we are asking Congress to consider providing Alaska Native Corporations protection under the law from this particular section in CERCLA.

And, sir, you stepped out a moment ago and I misspoke and misanswered your earlier question about budget funding for agencies.

Senator Carper. Oh, that's too bad.

Ms. Lukin. No, sir, so I wanted you to know I absolutely do not support cut funding to Federal agencies for cleanup of these lands. We have already been delayed over 45 years in the cleanup of these sites across Alaska. We need more funding, not less, to make this right. Thank you.

Senator Carper. Would you say that just one more time?

[Laughter.]

Senator Carper. It's on the record twice. That's good. Thank you.

Just in closing, Mr. Chairman, what I opened up with, Golden Rule, treat other people the way we want to be treated, who is my neighbor. And you are neighbors and the folks that you are trying to help, they are our neighbors as well. And we have an obligation, I think, a moral obligation to do our part. And also, while we clean up these messes, toxic messes that have been created, that we work really hard to make sure we are not unknowingly creating more of them.

This was a wonderful hearing and appreciate very much all of you being here and enlightening us today. Thank you.

Senator Barrasso. Well, thank you, Senator Carper.

I just want to thank all the witnesses again for your testimony, for your thoughtfulness.

If there are no more questions, members may also submit follow-up written questions for the record. The hearing record will, therefore, stay open for two weeks.

I want to thank all the witnesses for their time, testimony, and congratulate our friend who is retiring after 32 years of service to our Nation; not just to the agency, but to our Nation. Thank you.

With that, the hearing is adjourned.

[Whereupon, at 12:02 p.m. the committee was adjourned.]