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Senate Environment and Public Works Committee Holds Hearing on Nomination of Scott Pruitt to be EPA Administrator

LIST OF PANEL MEMBERS AND WITNESSES

BARRASSO:

Good morning. I call this hearing to order. We have quite a full house today. I welcome the audience. This is a formal Senate hearing, and in order to allow the committee to conduct its business, we'll maintain decorum.

That means if there are disorders, demonstrations by a member of the audience, the person causing the disruption will be escorted from the room by the Capitol Police.

Since this is our first hearing of this session, I'd like to welcome our new members, Senators Jerry Moran and Joni Ernst, Tammy Duckworth, and Kamala Harris. Thank you very much, and congratulations in joining the committee.

I'd also like to welcome Senator Tom Carper, in his new role as the ranking member of the committee.

You are here, even if you have a scratchy throat, 40 years from when you were a treasurer of Delaware, member of Congress, governor, member of the U.S. Senate, have not missed a day. You are Cal Ripken, Junior, the Iron Man, so thanks for being here. Thank you. I look forward to looking with you.

Yeah, he deserves applause, that's right.

With regard to procedure, we will follow the early bird rule in terms of the order of member questions. Members who were here at the start, as you all are, will be placed in the line based on your seniority on the committee. Members who arrive after the hearing has started will be added to the line in the order they arrive.

With respect to today's hearing, we'll be -- we'll abide by the committee's five-minute rule. The five minutes includes not just the questions, but also the nominee's answer, so I ask our members to please leave enough time for the nominee to answer your question. Today, we'll have many rounds of questions, as are necessary, so that members' questions are answered.

Today's hearing is to consider the nomination of Attorney General of Oklahoma, Scott Pruitt, to be the administrator the Environmental Protection Agency.

Attorney General Pruitt has been a distinguished public servant as well, and we will hear from his, the same from his fellow Oklahomans today. He served eight years in the Oklahoma State Senate, before being elected attorney general of Oklahoma in November of 2010, where he still serves.

There are numerous statements from his peers and the people that he has helped over the years, that stand as a testament to his strong qualifications to run the Environmental Protection Agency.

Twenty-four state attorneys general wrote to both Ranking Member Carper and to me, stating that quote, "As attorneys general, we understand the need to work collaboratively to address threats to our environment that cross state lines, as well as the importance of a federal counterpart in the EPA administrator, who possesses the knowledge, experience and principles, to work with our states to address issues affecting our environment. We believe that no one exemplifies these qualities more than Scott Pruitt."

Now Attorney General Pruitt has taken on polluters, including the oil industry, when there is cause. Randy Ellis, an award winning investigative reporter with The Oklahoman newspaper, praised Pruitt for his ability to take on industry.

The paper highlighted the work of Attorney General Pruitt to hold a large oil company accountable. This is what Ellis stated. He said, "Mr. Pruitt demonstrated that he will take on industry when they overstep, when he sued oil companies such as BP, who knowingly double-dip by collecting reimbursements for corrective environmental costs for sites that they've polluted."

This is why I believe President-elect Trump nominated Attorney General Pruitt to serve as the administrator of the Environmental Protection Agency. The EPA, under the leadership of a qualified and responsible administrator, is a vital tool, that must be used to protect the air we breathe, the water we drink, and communities where our families live. It's truly a sacred trust.

Colleagues on both sides of the aisle say that Attorney General Pruitt has the right experience for the position. Attorney General Pruitt understands the need to both protect the environment, while allowing our nation's economy to grow. The agency needs a leader who will follow the laws created by this committee.

During the last eight years, EPA administrators created broad and legally questionable new regulations, which have undermined the American people's faith in the agency. These regulations have done great damage to the livelihoods of our nation's hardest working citizens.

The regulatory zeal of the last eight years has violated a fundamental principle of environmental stewardship, which is do no harm. This failed environmental leadership has contributed to two of the worst government-created environmental disasters in decades, the Gold King Mine spill, and Flint Michigan's water crisis. Those disasters hurt people, many from low income and minority communities who can least afford it.

As I've discussed with Attorney General Pruitt, my home state of Wyoming is a leading energy producing state. We have abundant supplies of coal, natural gas, crude oil and uranium. These industries provide thousands of good-paying jobs for Wyoming communities.

We are also, in my opinion, one of the most beautiful states in the nation. We are home to Yellowstone and Grand Teton national parks, and numerous national forests and pristine lakes and waterways. Our wildlife population is diverse and abundant. We have thriving populations of grizzly bears, wolves, elk and bison.

People travel from around the world to come to Wyoming, because our state's natural resources are spectacular. Wyoming has managed to strike that balance between our environment and our economy, and it shows.

For eight years, Wyoming has suffered under an EPA that didn't believe in striking a balance. As EPA regulations crushed energy jobs in my state, state revenue fell, that pays for state programs. This includes paying for our vital environmental programs.

Clearly, a wholesale change is needed. Any new administrator of the Environmental Protection Agency needs to protect the environment in a responsible way, that doesn't ignore the good work that states do to protect their air, land and water, as well as their economies.

At this time, I'd like to ask ranking member, Senator Carper, for an opening statement.

CARPER:

Mr. Chairman, thank you. Thank you for bringing us here today. Thank you for your kind, kind words, as well. Let me begin by welcoming our nominee, his wife Marilyn -- Marlyn, and their children, Cade and McKenna, to what's a very important hearing.

Just put -- this past Sunday morning, I rose at dawn, and I went for a long run. It took me through a beautiful state park in the northern part of Delaware.

I reached the park at sunrise, just as the sun was coming up, and the sky was turning a brilliant blue. The winter air was crisp, and clear. Wildlife was all around. In a word, it was perfect. As I ran, I said a prayer of thanksgiving for the gift of this moment.

Later that morning, my wife and I went to church, and there we joined our congregation in singing a hymn that began with these words. "For the beauty of the earth, for the glory of the skies, for the love which formed our birth, over and around us lies. Lord of all, to thee we raise this, our hymn of grateful praise."

Those words filled my heart with emotion then, and they do so again this morning. In a little more than 48 hours, Donald Trump will place his hand on a bible. He'll take an oath to defend our country and constitution. That bible reminds us repeatedly to love our neighbors as ourselves, and it answers the question, who is my neighbor.

Also found in those pages are scores of admonitions with -- about another obligation that those of us who live on this earth are expected to meet. Simply put, we're to serve as stewards of this planet. I believe that we have a moral obligation to do so.

A great many of my colleagues in the Senate agree, and so do most Americans. We need to be convinced that you embrace it as well, not just with your words, but with your deeds. Much of your record suggests otherwise. And today, and in the days that follow, we need to find out where the truth lies.

Leading the Environmental Protection Agency is hard work. That agency, created by President Richard Nixon and a bipartisan Congress, 46 years ago, is tasked with implementing our nation's most important clean air, clean water, and safe chemical laws.

The EPA is required to use sound science to protect both our environment and our public health. By and large, the EPA has done this successfully for decades, while our economy has continued to grow.

Many in this room today may not remember a time before the EPA, a time when states had to work individually to protect citizens in the community in which they lived, a time before the Clean Water Act and Clean Air Act were signed into law, a sign when businesses operating throughout the U.S. were faced with a myriad of conflicting state and local laws affecting our health and our environment.

The choking smog and soot of a half century ago seem unfathomable now. Rivers on fire, and deadly toxic plumes sound like something from another world, impossible in our United States of America.

Today we have the luxury of largely forgetting these frightening circumstances, thanks to the efforts of the Environmental Protection Agency, its employees, in partnership with state and local agencies, and with companies across America.

In fact, the EPA and its many partners throughout this country have been so successful, that it's easy for some of us to forget just why this agency is so critical. For some, it's also easy to presume that not much more -- there's not much more for the agency to do, and that just could not be further from the truth.

The environmental threats that we face today are real. They don't respect state boundaries. As we consider a nominee to run our nation's foremost environmental legacy agency, it's worth reminding everyone here why the mission of the EPA is so critical, and just what is at stake.

Over time, my state of Delaware's made -- they have made great strides in cleaning up our own air pollution, but our work only goes so far. Delaware, like many states on the East Coast, sits at the end of what is known as America's tailpipe.

Ninety percent of the air pollution in Delaware comes from outside of the first state, from power plants, hundreds of miles away, in places like Kentucky, Ohio, Indiana and across the Midwest.

As governor of Delaware, if I had eliminated every source of air pollution within my state, stopped every combustion source and ordered every motor vehicle off the roads, Delaware would still have faced deadly doses of air pollution.

Should children and others in Delaware really be forced to live with the consequences of decisions made by polluters hundreds or even thousands of miles away, who gain economically from our disadvantage? I don't think so.

Fortunately, the EPA has recently implemented something called the Good Neighbor rule, to make sure that all states do their fair share to clean up the air. Every citizen in this country has a right to breathe clean air, regardless of whether they're in a downwind or an upwind state. That is why we have the EPA.

I remember fishing, as a boy, with my dad, along the Dan River, near my hometown of Danville, Virginia. We brought home the fish that we caught, to eat, and my mom and sister ate them as well.

Today, that quintessential American pastime comes with a warning label. That river, along with countless other polluted streams, rivers and lakes, in all 50 states, are subject to public health advisories, cautioning citizens against eating the mercury-laden fish found in them.

We've known for decades that most of the mercury in our fish come from air pollution, that's emitted from the dirtiest coal plants, and then settles in our water ways. We also know that mercury is a powerful neurotoxin, that accumulates in the human body over time, threatening the health of this environment and this generation, and for generation to come.

The EPA recently issued public health protections to clean up the toxic air pollution from our dirtiest coal plants, allowing families in Delaware and thousands of other communities to once again eat the fish from our rivers, our lakes, our streams, without concern of mercury poisoning. That's why we have the EPA.

Too often, when state and local communities are pinched for cash, they try to save money by short-changing clean air and clean water protections. Improvement to water infrastructure are often times ignored. Corners are cut. Solutions are adopted that may save dollars now, but inflict costly and unnecessary damage later.

As we've seen most recently in the city of Flint, Michigan, these cuts can have a terrible, even a tragic impact on the health of the most vulnerable in our society, especially the youngest among us. Today, the citizens of Flint still lack clean drinking water. And the new generation there, which has been exposed to high levels of lead, faces an uncertain future. That's why we have the EPA.

You may not know it, Mr. Pruitt, but Delaware is the lowest-lying state in our nation. The highest point in Delaware is a bridge. Back home, the reality that our climate is changing is not up for grabs, or up for debate.

Families and business owners face the stark reality of climate change every single day. And tackling that challenge is not just the right thing to do, what is best for Delaware's economy, it is a matter of survival.

Take a ride with me sometime, some 30 miles south of Dover Air Force Base, heading east toward the Delaware Bay on Prime Hook Road, and you'll see what I mean. There was a time, not long ago, where just before you reached the Delaware Bay, you came to a parking lot. Today that parking lot is under water.

Stand there with me, looking to the east, and you'll see part of a concrete bunker sticking up out of the water, about 1 o'clock. Recently, someone showed me a photo taken of that bunker in 1947, the year I was born. It was on dry land, 500 feet west of the water's edge, 500 feet west.

But our little state alone cannot stem the flow of greenhouse gases into our atmosphere that's largely causing our climate to change, our seas to rise, and our coastline to retreat. Every state must do its fair share to safeguard our climate and their neighbors. That is why we have the EPA.

Examples of air and water pollution produced by one state in fouling the air and waters of other can still be found in too many parts of America, like the runoff from Pennsylvania that degrades the waters of the Chesapeake Bay, or the haze exported from other states which often times shrouds the Smoky Mountains and degrades visibility at the Grand Canyon. That's why we have the EPA.

And some of my colleagues describe me as "recovering governor." For the most part, I believe that governors and presidents deserve deference in picking the members of their leadership teams. And as a result, I've given presidents of both parties that deference, in most instances.

Since coming to the Senate in 2001, I've opposed only one of the nominees for EPA administrator, supporting two Republicans, two Democrats nominees. Subsequently, every EPA administrator that I've supported demonstrated clearly that they were committed to furthering the overall mission of the EPA, protecting human health and our environment.

I'm also committed to a full and fair confirmation process, with respect to our nominations that this president-elect has offered, too. And having said that, though, I've shared with Mr. Pruitt, and I'll share with my

colleagues today that too much of what I've seen of his record on the environment, and his views about the role of EPA are troubling, and in some cases, deeply troubling.

Even former Republican Administrator, EPA Administrator Christine Whitman, with whom I served for seven years as governor of neighboring states, recently said that she can't, and I quote, she "can't recall ever having seen an appointment of someone who is so disdainful of the agency and the science behind what the agency does."

Let me conclude with this. It's hard to imagine a more damning statement, and from one who served not long ago in that position of trust, Mr. Pruitt, to which you've been nominated. Today is your opportunity to show that she's gotten it wrong. To be honest with you, coming to this hearing today, I fear that she's gotten it right. Thank you.

BARRASSO:

Thank you very much, Senator Carper.

In a few moments, I'd like to turn to Senator Inhofe and Lankford, from their home state of Oklahoma, regarding the nominee's distinguished career. Before I do that, though, I want to say a few words about Senator Inhofe and his distinguished career as chairman of the Senate Environment and Public Works Committee.

First I want to thank my friend, Jim Inhofe, for his leadership of this committee. His dedication to protecting the environment, rebuilding our nation's infrastructure, strengthening the country's economy, were clearly evident throughout his time as chairman. He worked across party lines to get things done.

During the 114th Congress, under Jim Inhofe's leadership, this committee held 67 hearings. Of those, eight were field hearings. Thirty-two bills passed out of the committee that were signed into law. Chairman Inhofe oversaw -- oversaw the first long-term highway bill in a decade. This law will improve the nation's roads, bridges, transit systems, and rail transportation networks.

He also worked, on a bipartisan basis, with former ranking member, Barbara Boxer, to pass badly needed Water Resources Development Act legislation. This new law prioritizes dam, waterway and port construction projects, and it supports flood control projects that protect millions of people.

For the first time in 40 years, the Toxic Substances Control Act was modernized, under Chairman Inhofe's tenure. This law enacts a new uniform regulatory program that will improve public confidence in the safety of chemicals, promote innovation, and provide manufacturers with certainty regarding regulation.

Chairman Inhofe also worked to keep the administration accountable. Chairman Inhofe worked to ensure that there was oversight of over-reaching administration regulations concerning the clean power plan, Waters of the U.S., the stream buffer rule, coal ash regulations and many more.

So I'm very glad that Senator Inhofe will remain on the committee. I look forward to working closely with him to protect our environment and bolster our nation's economy.

Senator Inhofe, thank you for your hard work, your dedication, and your leadership. Senator Inhofe, you're now recognized, to introduce and talk about Attorney General Pruitt. Thank you.

INHOFE:

Senator Barrasso, thank you very much. And I'm looking forward to working in a very senior position of your committee. And this is the committee that gets things done, as Scott Pruitt's fully aware.

Now, I thank you, Chairman Barrasso, and also you, Senator Carper, for letting me join you for this. And I'm honored to join my fellow senator, Senator Lankford, in introducing not just the attorney general of -- Scott Pruitt, but my good friend, and to offer my support for his nomination to be the next administrator of the Environmental Protection Agency.

Though neither of us were born in Oklahoma, we got here as quick as we could, and both ended up in Tulsa, and so he's also a neighbor. Attorney General Pruitt, you'll be glad to know this (inaudible), but he was born in Kentucky.

And he showed what -- what he was made out of. He ended up a great baseball player, that was -- was able to get a scholarship, and go through the university there. Then he came to Oklahoma and went through law school, at Tulsa University in Tulsa, and did all kind of things. He specialized, at that time, in constitutional law.

In 1998, General Pruitt -- Pruitt ran and was elected to the Oklahoma State Senate, where he served six years, and he quickly became a leader. Indeed, success has followed him throughout his law practice, to the State Senate, to become the co-owner and manager, managing general partner of Oklahoma City's AAA minor league baseball team -- see, we have something in addition to the Thunder, that we're all fully aware of, and is currently Oklahoma's, of course, attorney general.

Through the course of his career, Attorney General Pruitt has stood out as a champion of state and individual rights, and has fought against federal over-reach. He has earned a reputation as a defender of the rule of law, and has worked to keep those -- the role of the federal government in check.

As head of the Environmental Protection Agency, Attorney General Pruitt will ensure that the agency fulfills the role delegated to it by the laws passed by Congress, nothing more, and nothing less. Oklahoma is an energy and agriculture state, but we're also a state that knows what it means to protect the environment, while balancing competing interests.

As attorney general, Scott was instrumental -- oh, this is a big deal. We actually have had an ongoing litigation for 100 years. It was the State of Oklahoma, the City of Oklahoma City, the Choctaw Nation -- the Chickasaw Nation. It was over water rights. And we weren't able to resolve that problem.

This guy comes trotting along and resolves it overnight, after 100 years of failures of trying to get this done. He's also worked with the Oklahoma Department of Environmental Quality, and the Oklahoma Water Resources Board, to protect the scenic rivers.

He's kind of a hero of the scenic rivers place. People don't -- they don't know, Scott, that we, in Oklahoma, actually have more miles of fresh water shoreline...

(PROTESTER)

BARRASSO:

I would ask the senator to please...

INHOFE:

Yes.

BARRASSO:

... suspend his remarks for a few seconds, maybe. Thank you, Senator Inhofe.

INHOFE:

They obviously don't like scenic rivers, but we do, in Oklahoma.

Anyway, additionally, in 2012, Oklahoma partnered with three other states, New Mexico, Colorado, Kansas and Texas, to bring together state officials, conservation groups, energy and ag industries, and other private land owners, to address the challenges facing one of our -- one of the problems that we have there, having to do with a, what might become a -- an endangered species.

It was an effort that saw success in its first year. Now this is working with four -- four different states. Despite endorsing the plan, the Fish and Wildlife Service moved forward with listing the species as threatened, endangering the cooperation reached between these varying interests.

So Attorney General Scott sued the Fish and Wildlife Department for ignoring the unique cooperative agreement, and he won. He wins. He wins these things. Yes, as attorney general, the -- Scott Pruitt has fought the EPA, the Fish and Wildlife Service, the oil companies, and the out of -- outgoing administration, on many fronts.

But all of these suits were brought to protect state and local interests from over-zealous and activist executive agencies. Over the last eight years, the Obama administration has advanced a radical environmental agenda, has exhibited a deep distrust of state governments and private land owners, and has worked to obstruct the fossil fuel industry and agriculture producers, the most ardent protectors of the environment.

These are industries and interests that Oklahoma relies on. And far from being an enemy of the environment, Scott has proven himself to be an expert at balancing economic growth with environmental super -- stewardship.

So I believe that Attorney General Pruitt will return the Environmental Protection Agency to its proper role as a steward for the environment, acting within the bounds prescribed by Congress and the Constitution.

Thank you, Mr. Chairman.

BARRASSO:

Thank you, Senator Inhofe.

Senator Lankford.

LANKFORD:

Chairman Barrasso, thank you. Ranking Member Carper, members of the committee, thank you for allowing me to be able to be here today, to introduce my fellow Oklahoma, and for Senator Inhofe and I to both be able to stand with him, and to be able to introduce who we believe will be a tremendous nominee for the, as administrator for the Environmental Protection Agency. It's an honor to speak in support of Attorney General Pruitt today.

Over the past six years, Scott has been a leader in the State of Oklahoma, strongly committed to enforcing the law and adhering to the Constitution. He's a statesman. He's a dedicated public servant. As the administrator of the EPA, I would fully expect Scott to lead the agency to follow every environmental law, and to partner with states, local authorities, and tribes, to do what's best for our present and for our future.

As attorney general of Oklahoma, he stood shoulder to shoulder with more than half of the states, to ensure the federal government operates within the bounds of the statute and the Constitution. He's argued consistently that many regulations that the EPA promulgates are, in fact, the responsibilities of state governments, first.

In an environment where Chevron deference is precedent, it is critical that the leader of an agency has -- that has such wide latitude to extract cost from the economy, also respects the importance of our federalist foundation, and the pocketbooks of hard- working families.

In previous congressional testimony, Scott has emphasized the importance of laws like the Clean Air Act, stressing that it -- stressing that the intention was for states and the EPA to work together, under a model of cooperative federalism, that protects the environment, while considering economic cost.

As attorney general, Pruitt -- as attorney general, Scott has been an ardent defender of the rule of law for Oklahomans. In 2012, he sued British Petroleum, arguing that they knowingly doubled-dipped, through the collection of funds, through a cleanup fund, despite having insurance coverage for environmental cleanup. He did not hesitate to stand up for his constituents and for his state.

Mike Turpen is the former attorney general of the State of Oklahoma, and the former chairman of the Oklahoma Democratic Party. He spoke out in mid-December, when Scott was first announced. Let me just read a short portion of his very long statement in support of Scott Pruitt.

Former Attorney General Mike Turpen, and our former Democratic Party Chairman said, "Oklahoma Attorney General Scott Pruitt is a good choice to head up the Environmental Protection Agency. I'm convinced Scott Pruitt will work to protect our natural habitats, reserves and resources. His vision for a proper relationship between protection and prosperity makes him a superbly qualified to serve as our next EPA administrator."

Scott is an active member, and a deacon at his church, First Baptist Church Broke Arrow, a congregation of almost 2,000 people. He's incredibly strong in his faith, and he strives to walk in integrity. Scott's a serious baseball fan as well. If you run out of environmental or legal questions today, which I doubt you will, but if you run out, why don't you ask him a couple of questions about baseball strategy and spring training, which starts in just a few weeks.

I have to tell you, Scott's a friend. I've prayed with Scott. I've seen Scott struggle with hard decisions that affect our state's future. I've seen Scott listen to people, to try to learn all sides of an issue, and I've seen Scott take difficult stands on matters of law.

I think he'll be an excellent administrator for the EPA. And I think he'll do very well today, in getting a chance to bring you the confidence that he will work hard for our nation's present, and for the future.

Thank you, Mr. Chairman.

BARRASSO:

Well thank you so very much, Senator Lankford, and Senator Inhofe. Senator Lankford, you're welcome to stay, but you can't stay in that seat. So...

LANKFORD:

You got it.

BARRASSO:

Now I would like to welcome Attorney General Pruitt to the Senate Environment and Public Works Committee.

Welcome. I invite you to first introduce your family, and then proceed with your statement. Congratulations, and welcome.

PRUITT:

Good morning, Chairman Barrasso, Ranking Member Carper, members of the committee. It is an honor and a privilege to be before you today, to be considered for the position of EPA administrator.

I first want to say thank you to Senators Inhofe and Lankford for their opening comments. Senator Inhofe has been a mentor and a friend to me, many, many years. And he's spent a lot of time through -- with me through this process, introducing me to many of you. And I really appreciate his guidance and his help. Senator Lankford was a friend well before he entered Congress, and he's already serving Oklahoma and his country with great distinction.

Mr. Chairman, you indicated to introduce my family. I am blessed today, to have my family in attendance with me. My wife, Marlyn, of 27 years, is in attendance, along with my children, McKenna and Cade. There's a little change going on in their life, as well.

McKenna is actually graduating from Oklahoma University this spring, and heading into Senator Whitehouse's alma matter, the University of Virginia law school. And my son is going to be graduating high school and heading to Oklahoma University, following his sister's footsteps, to be a Boomer Sooner.

So there's lots of change going on in their lives, lots of change going on in my family's life, and lots of change going on in the country. And I think the people of this country are really hungry for some change. And with change comes an opportunity for growth, an opportunity to assess how we can reprioritize, as a nation.

And when I ponder leading the EPA, I get excited about the great work to be done in behalf of our nation, in protecting the stewards -- in being a good steward of the natural resources we have as a nation. What could be more important than protecting our nation's waters, improving our air, and managing the land that we've been blessed with as a nation, all the while protecting the health and welfare of our people?

So if confirmed, I would lead the EPA with the following principles in mind. First, we must reject, as a nation, the false paradigm, that if you're pro-energy, you're anti-environment, and if you're pro-environment, you're anti-energy. I utterly reject that narrative.

In this nation, we can grow our economy, harvest the resources God has blessed us with, while also being good stewards of the air, land and water by which we've been favored. It is not an either/or proposition.

Next, we should celebrate the great progress we've made as a nation since the inception of the EPA, and the laws that have been passed by this body, but recognize that we have much work to do.

Third, rule of law matters. Process matters. It inspires confidence in those that are regulated. The law is static, not transient. Regulators are supposed to make things regular, to fairly and equitably enforce the rules, and not pick winners and losers.

A regulator should not be for or against any sector of our economy. Instead, a regulator ought to follow the law in setting up the rules, so that those who are regulated can plan, allocate resources to meet the standards, versus operating in a state of uncertainty and duress.

Fourth, federalism matters. It matters because Congress says so, and because we need it to achieve good outcomes as a nation for air and water quality. We need the partnership of the states to achieve that. It is our state regulators who oftentimes best understand the local needs and the uniqueness of our environmental challenges. Plus, our state regulators possess the resources and expertise to enforce our environmental laws.

Fifth, public participation is key. We need to hear all voices, as we make decisions in behalf of our country, with respect to environmental laws.

Two final things, personally. I seek to be a good listener, to listen, and to lead. You can't do one without the other. Listen to those career staff...

(PROTESTER)

Listen to those career staff at the EPA, as I've done as attorney general of Oklahoma, and listen to you here in Congress, with respect to the needs of your respective states, and listen to the voice of all Americans, as we seek to carry out our duties under the law.

Lastly, and this is very important, I seek to serve with servility. Oftentimes, as policy-makers, you deal with very contentious issues. I have, as attorney general of Oklahoma, as well. We deal with weighty issues, and there are -- there's passion on both sides of issues.

But we should not succumb to personalizing matters. We should encourage open and civil discourse. One such issue where civil discourse is absent, involves climate change. Let me say to you, science tells us that the climate is changing, and that human activity, in some manner, impacts that change.

The ability to measure, with precision, the degree and extent of that impact, and what to do about it, are subject to continuing debate and dialogue, and well it should be. So with these principles in mind, I seek to answer your questions today, and I am honored to be here today to be considered for the position of EPA administrator.

Thank you, Mr. Chairman.

BARRASSO:

Well thank you very much. Welcome, to your family, and thank you, and congratulations again.

Attorney General Pruitt, you've answered the committee questionnaire. The United States Office of Government Ethics has stated that you are, quote, "in compliance with applicable laws and regulations governing conflicts of interest."

Now, you know, throughout this hearing, and with the questions for the records, our committee members will have an opportunity to learn more about your commitment to public servant and our nation. I would ask that, throughout this hearing, you please respond to the questions, for the record.

With that said, I have to ask the following questions that we ask of all nominees on behalf of the committee. Do you agree, if confirmed, to appear before this committee or designated members of this committee, and other appropriate committees of the Congress, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities?

PRUITT:

Yes, Mr. Chairman.

BARRASSO:

Do you agree to ensure that testimony, briefings, documents and electronic and other forms of information are provided to this committee and its staff, and other appropriate committees, in a timely manner?

PRUITT:

Yes, Mr. Chairman.

BARRASSO:

And do you know of any matters, which you may or may not have disclosed, that might place you in any conflict of interest if you are confirmed?

PRUITT:

No, Chairman.

BARRASSO:

Thank you. Just a couple of quick questions before we go back and forth. I'd just ask if you could just please describe your environmental philosophy, of what you would do to protect our environment.

PRUITT:

Well, Mr. Chairman, as I indicated in my opening statement, I believe that the role of a regulator -- and this may not sound too exciting, but is to make things regular. And I think, one of the -- the difficult challenges we see, with individuals across the country, is the ability -- the inability to predict, or know what's expected of them, as far as their obligations under our environmental laws.

And -- and I really believe, Mr. Chairman, that if confirmed as EPA administrator, this public participation, cooperative federalism, rule of law being the focus of how we do business at the EPA, is center to restoring confidence and certainty in those that are regulated.

Clearly, the mission of the EPA, as I indicated in my opening statement, to protect our natural resources, protecting our water quality, improving our air, helping protect the health and welfare of our citizens, is key to the leadership of the EPA, and where enforcement is necessary, a vigorous enforcement.

I've done that as attorney general in Oklahoma. I've taken very constructive steps against those that have violated the law. But we have done so, I think, in a very decisive and -- and meaningful way, so Mr. Chairman, with that in mind.

BARRASSO:

I'm going to ask one other question, and then I'm going to reserve the -- the balance of my time for some interjection and questioning throughout. But there's still a number of environmental problems that I see in the country and in my state.

Cold war legacy pollution is a serious problem, where chemical compounds are left deep in the soil, from our military activity, years -- decades ago. Often there are not the tools yet available to adequately address this pollution. If confirmed, would you advocate increasing the EPA's focus on innovative technological solutions to address these and other environmental problems?

PRUITT:

Yes, Mr. Chairman. In this -- this Congress, this past Congress, as you indicated in your statement, and as Senator Inhofe recognized, with the changes to the TSCA law, there are priorities this year, new authority, actually, that's being given to the EPA administrator, to order testing on certain chemicals.

As I've spent time with some of the members on this committee, Senator Gillibrand, as an example, mentioned PFOA, as a concern, with respect to the Safe Drinking Water Act, along with TSCA.

And so yes, Mr. Chairman, I believe that there are priorities that are key to improving our environment, from CERCLA, to TSCA, across air quality, with non-attainment to attainment, and would seek to focus, and prioritize those efforts.

BARRASSO:

Thank you.

Senator Carper.

CARPER:

Mr. Pruitt, you know, we don't often have the kind of disruptions in this room, and in this building, that was witnessing here today. This is extraordinary. It's not unprecedented, but extraordinary.

And people might ask, well why -- why are folks so concerned? Well I'll tell you why they're so concerned. And you'll have to go back to March 3rd, up in Detroit, Michigan, where President-Elect, then Candidate Trump, Donald Trump said these words.

"We're going to get rid of it, EPA, in almost every form. We're going to have little tidbits left, but we're going to take a tremendous amount out." That's what he said during the Republican primary.

And what did he say after the election? Well, November 10th, Fox News with Chris Wallace, he said, "Environmental Protection, what they do is a disgrace. Every week they come out with new regulations."

And then Chris Wallace asked him, "Well who's going to protect the environment?" He said, responded to him and said, "Well, we'll -- we'll be fine with the environment. We'll be fine with the environment."

Well we're concerned that we won't be fine with the environment. Sometimes words do matter. And one of the -- one of the concerns that I have is -- is, he's the president. You would be his nominee. You would be his EPA administrator.

Does all -- all the things that he said in the campaign, do they just go away? In you, he's put somebody in place who has actually defunded, or led to the defunding of the environmental protection unit within your own agency. And yet you've joined in a dozen or more lawsuits, over the last six years, ever since you've been attorney general, in going after the EPA.

That's why you have the kind of concern that you're witnessing here today, not just on that side of the dais, but on -- on this side as -- as well.

You just took an oath. You raised your hand and took an oath to answer the questions, questions that our chairman asked of you. And one of them was a question dealing with your willingness to -- to respond to reasonable questions that are asked of -- of you.

One of the things I ask of you, I submitted a letter, that I think you received in, shortly after Christmas, December -- maybe December 28th, close of business. And in it, I asked a lot of questions. I asked that you try to respond by January 9th.

You didn't respond to one of them by January 9th. You certainly didn't respond to me, not even one. Today's hearing, I just asked my staff, have you responded to any of those questions, in writing, that I asked almost three weeks ago, and to my knowledge, no response has yet been -- that we've received. That's why we have a concern. That's why we have a -- a concern.

Mercury.

PRUITT:
I'm sorry?

CARPER:
I'm going to ask you -- I'm going to start off by talking about mercury. In 2011, the EPA required dirty coal power plants to clean up mercury and air toxic emissions by issuing the Mercury and Air Toxic Standards Rule.

This rule will reduce the mercury and neurotoxin that contaminates our stream, and our oceans, pollutes our fish and harms our children's health. As attorney general, I believe you've been part of at least 14 legal cases against the EPA, in at least three of these cases, against the EPA's rules to reduce mercury emissions from power plants.

Is that correct, just yes or no?

PRUITT:
Senator, we have been involved in litigation around the MATS Rule...

CARPER:
Is that correct, yes or no?

PRUITT:
As I indicated, yes we've been a part of litigation...

CARPER:
Thank you.

PRUITT:

... following the MATS Rule.

CARPER:

It's my understanding that at least one these cases against the mercury rule is still pending. Is that correct? Just yes or no.

PRUITT:

I believe so, Senator. Yes.

CARPER:

In the cases against the mercury rule, you questioned the EPA's determination that mercury emissions from power plants are harmful to health, and should be regulated.

To be clear, have you ever supported a case against the EPA that claimed, quote -- this is a quote, "Human exposure to methyl mercury resulting from coal fired power plants is exceedingly small"? Yes or no.

PRUITT:

Senator, that's not a yes or no answer. And if I may -- if I may...

CARPER:

Fair enough.

PRUITT:

OK.

CARPER:

This position seems to question a, an EPA decision in 2000, in which the agency determined, after almost a decade of study, that -- this is a quote from them, "Mercury emissions from power plants pose significant hazards to public health and must be reduced," close quote.

Would you say the legal cases you've supported in the past directly challenged this agency finding? Yes or no.

PRUITT:

Senator, the -- the challenges we've had, as a -- as a -- as a state...

CARPER:

Yes or no?

PRUITT:

... along with the other states...

CARPER:

Yes or no?

PRUITT:

If I may, Senator -- if I may.

CARPER:

Just -- just hold your fire. Just hold your fire.

PRUITT:

OK.

CARPER:

The legal position you've taken on mercury health also seems to call in question the 2003 testimony from then EPA Assistant Administrator of Air and Radiation, Jeff Holmstead, under George W. Bush, sat right where you're sitting today, and this is what he said.

"EPA is required to regulate mercury, because EPA determined that mercury emissions from power plants pose an otherwise unaddressed significant risk to health and the environment, and because controls, options to reduce this risk are available."

This Bush EPA statement on mercury risk seems contrary to the legal arguments you supported in the past. Is that correct? Yes or no.

PRUITT:

I agree with -- I agree with Mr. Holmstead's position, that mercury is something that's very dangerous to the environment...

CARPER:

Thank you very much.

PRUITT:

... and should be regulated under Section 112.

CARPER:

Are you aware that the last three administrators have publicly stated that the EPA is required to regulate mercury from power plants because of the health risks? Yes or no.

PRUITT:

I believe that mercury should be regulated under Section 112.

CARPER:

Thank you very much. According to the EPA -- my time is about to expire. I'll just hold -- hold it for there. Thank you very much, Mr. -- Mr. Chairman.

BARRASSO:

Thank you, Senator Carper.

Senator Inhofe?

INHOFE:

Thank you, Mr. Chairman.

Well, I don't think you had adequate time to answer some of the questions that were asked. Is there anything you'd like to add, to elaborate on...

PRUITT:

Yes, Senator. And thank you. I do want to say, to Senator Carper's concern, with respect to the president-elect's statements throughout the campaign, I believe there is a very important role for the Environmental Protection Agency. In fact, you and I talked about that in -- in your office.

I believe that there are air quality issues, and water quality issues, that cross state line, that the jurisdiction of the EPA, its involvement in protecting our air quality, and improving our nation's waters, is extremely important. And the EPA has served a very valuable role, historically.

After all, it was Republicans who created the EPA under executive order in the 1970, and this body has passed many pieces of legislation since the 1970s, to focus upon improving our air, improving our water quality. And we have much to celebrate.

Actually, those six criteria pollutants, under the MATS program, since 1980, are down 63 percent. We have made progress as a country, but we have work to do, and the EPA has a very valuable role in partnering with the states to carry out those steps to ensure improving our air quality and protecting our nations waters.

So Senator Carper, I'm hopeful that, in response to your concern about the role of the EPA, I believe it's a very valuable role. And it's something that we should focus on, and partner with our states.

With respect to mercury, the litigation that you referred to, there was no argument that we made, from a state perspective, that mercury is not a hazardous air pollutant under Section 112. Our argument focused upon the cost-benefit analysis that the EPA failed to do.

And the Michigan v. EPA case, the Supreme Court actually agreed. So it was more about the process, again, that the EPA was supposed to go through, in regulating mercury, to provide certainty those in the marketplace, not a statement with respect to whether mercury should be regulated or not under Section 112.

Thank you, Senator Inhofe.

INHOFE:

Thank you, General. I've -- I'm glad you brought up this thing about the -- the Clean Air Act. The amendments from 1990, I was one of the co-sponsors. It's been incredibly successful. I mean, you mentioned that we've reduced those pollutants by 53 percent, but what you didn't -- 63 percent, what you didn't add was, that was in spite of the fact that we had 153 percent increase in our economic activity. That's a major thing.

In my introduction, I mentioned this thing that you did that no one could figure out how you did it. Involved a 100-year dispute between not just the State of Oklahoma and the City of Oklahoma City, and the Chockchaws (sic) and the Chickasaws. You want to share with us how you did that?

PRUITT:

What are you...

INHOFE:

You know, they tried for a hundred years, and you came in and did it in less than a hundred days.

PRUITT:

Yeah, less than eight months in to my administration as attorney general, we were sued, as a state, by the Choctaw and Chickasaw Nation with respect to water, in 17 counties in Southeast Oklahoma.

Many of you, if you know anything about water litigation, it generally takes decades to resolve water litigation. We were able to go from August of 2011 until 2016, and negotiate an historic water rights agreement with those two nations, to provide certainty to those that are regulated, to provide a voice to the tribes, in -- with respect to water allocation, and water quality.

And the state has maintained its position of the arbiter of how those permits are allocated as well. So it was a partnership. It was the way things ought to work, when litigation occurs, sitting across the table from individuals, and working together to try to solve the problem.

And Senator, we were able to achieve that in record time, and I'm very proud of what we did, as a state, and as the Chickasaw and Choctaw Nation together.

INHOFE:

Yeah, that's good. I think, also, you got them all in one room, didn't you?

PRUITT:

Yes, sir.

INHOFE:

That works. You may criticize, and some of the people talking about your -- your environmental record, I would like to be sure that people are aware of -- a number of people -- I have some here, that I'll submit for the record, but a guy named Ed Fite is the vice president of Scenic Rivers and the water quality of the GRDA.

This is a person who has really been at the forefront of our Scenic Rivers program. He praises you, saying "I found that General Pruitt has always done right by our scenic rivers. He's done everything constructive that he told me that he would do."

The same thing comes from the North Carolina Department of Environment Quality, Donald van der Vaart, he wrote, "Pruitt is committed to clean air and clean water, and to restoring the EPA to its original mission of enforcing the environmental laws written by Congress."

J.D. Strong, head of the Water Resources Board, he said, "Attorney General Pruitt" and he goes on and praises you. I'd like to know why it is you have become a hero of the Scenic River people.

PRUITT:

Well Senator, as you know, Oklahoma has endured many decades of dispute, with respect to phosphorous levels in the scenic Illinois River. In fact, there's been litigation that's been a part of that dispute for some time.

There was actually a memorandum of understanding that Arkansas and Oklahoma entered into around 2002, 2003, and that memorandum expired during my time as attorney general. There were many in government at the time that said we should just wait on the EPA to come in and address the issue. And I chose a different path.

I actually reached out to my Democrat colleague, Dustin McDaniel, the attorney general of the State of Arkansas, and we were able to negotiate an agreement that had phosphorous levels set at 0.037, scientifically driven, and enforced on both sides of the border, for the first time in history.

And so I think Mr. Fite is actually the head of Scenic Illinois Rivers Commission (sic). He's been center on this issue for a number of years. And I think his good word relates to the work that we did, in my office, working with Dustin McDaniel to achieve that good outcome.

INHOFE:

Yeah. I know my time has expired, but Mr. Chairman, I'd like to enter into the record, at this point in the record, the statement by the Environmental -- the DEQ, that I referred to.

BARRASSO:

Without objection, hearing none.

Senator Whitehouse.

WHITEHOUSE:

Thanks, Chairman. Welcome to the committee, Mr. Pruitt. As we discussed when you and I met, the oceans off of our ocean state are warming, due to fossil-fuel-driven climate change. It is crashing our fisheries, like lobster and winter flounder, and making earning a living harder for our fishermen. I see nothing in your career to give those fishermen any confidence that you will care one bit for their well-being, and not just the well-being of the fossil fuel industry.

In a process that you could replicate in an Oklahoma high school science lab, excess carbon dioxide from fossil fuel emissions is turning our seas more acid. Rhode Island shell fishermen and shellfish growers are concerned. In my colleague, Senator Merkley's state, they've already had oyster spat wiped out for businesses by acidified waters. I see nothing in your career that you would care at all about our Rhode Island shell fishermen.

In Rhode Island, we have bad air days. And because of EPA's work, they are fewer and fewer. A bad air day is a day when people driving into work hear on the radio that ozone from out-of-state smoke stacks has made the air in Rhode Island dangerous, and that infants, and the elderly, and people with breathing difficulties should stay home, on an otherwise beautiful day.

Because those smokestacks are out of state, we need EPA to protect us, and I see nothing in your record that would give a mom taking her child to the hospital for an asthma attack any comfort that you would take the slightest interest in her.

And your passion for devolving power down to states doesn't help us, because our state regulators can't do anything about any of those problems. They all come from out-of-state sources. In this respect, we are very like Delaware.

One of the things I'd like to ask you about here is the connection between you and some of these fossil fuel companies. This is -- these are some of the companies that have supported you. These are some of the political organizations that you've raised money for. You've raised money for them for -- for Pruitt for attorney general, correct?

PRUITT:

Yes, sir. I have a campaign committee that -- yes.

WHITEHOUSE:

And Devon Energy, Koch Industries, Exxon Mobil have all maxed out to that account...

PRUITT:

I'm not aware if it's...

WHITEHOUSE:

... at various times?

PRUITT:

-- maxed out or not, Senator, but they have -- I'm sure they have given

to the -- to that committee.

WHITEHOUSE:

Oklahoma Strong PAC is your leadership PAC?

PRUITT:

It was, yes.

WHITEHOUSE:

It was? And similarly, they gave money, they maxed out to that organization as well, which you control?

PRUITT:

I'm not sure about that, Senator.

WHITEHOUSE:

OK. They contributed to it?

PRUITT:

I'm even unsure about that, as well. I haven't looked at that.

WHITEHOUSE:

You closed your super PAC, Liberty 2.0, but that took fossil fuel contributions as well, correct?

PRUITT:

That -- that particular entity has been closed, yes.

WHITEHOUSE:

Now, you helped raise money for the Republican Attorney Generals Association (sic) while you were a member of its executive committee. They received \$530,000 from Koch Industries, \$350,000 from Murray Energy, \$160,000 from Exxon Mobil, and \$125,000 from Devon Energy, a company whose letter you transposed onto your letterhead, and sent as an Oklahoma attorney general document.

Did you solicit, in your role at the Republican Attorney Generals Association (sic), any of that funding?

PRUITT:

I'm unable to confirm if they gave those numbers, Senator, those amounts that you -- there were several on the list there...`

WHITEHOUSE: Did you solicit funding from them, as -- in your role at the Republican Attorney Generals Association (sic)?

PRUITT:

I attended fundraising events as an attorney general, along with other attorneys general, with respect to the RAGA.

WHITEHOUSE:

And did you solicit? Did you ask them for money?

PRUITT:

That...

WHITEHOUSE:

For RAGA?

PRUITT:

As I -- as I indicated, I attended fundraising events with...

WHITEHOUSE:

But that's different. Attending a fundraising is one thing. Asking them, is my question. Did you ask them for money?

PRUITT:

I mean, specifically, you would have to ask about certain -- certain entities. I don't know -- you can go through an entire list...

WHITEHOUSE:

Go through the entities. Koch Industries, Murray Energy, Exxon Mobil,

Devon Energy.

PRUITT:

I did not ask of Koch, or -- or that -- what were the other ones?

WHITEHOUSE:

Murray Energy, Exxon Mobil, Devon Energy.

PRUITT:

I -- I have not asked them for money, for -- on behalf of RAGA.

WHITEHOUSE:

And then we have -- you said to the Chairman that there is nothing that might place you in a conflict of interest, that you have not disclosed. Yet you founded the Rule of Law Defense Fund, which is a dark money operation that supports the Republican Attorney Generals Association (sic), and you have not disclosed any of your solicitations for that entity, nor have you disclosed what money was raised pursuant to those solicitations.

This is an organization that appears to have a million dollar a year budget. So very substantial funds have been solicited. I believe you were its chairman. Will you disclose your role in soliciting money and in receiving money for the Rule of Law Defense Fund pursuant to your solicitation?

PRUITT:

Senator, a point of clarification. I actually did not start, nor initiate the Rule of Law Defense Fund. That is something I didn't...

WHITEHOUSE:

You led it.

PRUITT:

... do. I've been a -- an officer of that organization...

WHITEHOUSE:

OK.

PRUITT:

... for 2016.

WHITEHOUSE:

An officer of it.

PRUITT:

There is an executive staff, fundraisers that actually carry out the functions of that organization. There are many attorneys general that serve on that board. It's not a decision of one. It's a -- it's a decision of those that have been empowered to make those decisions.

WHITEHOUSE:

But you haven't told us anything about that. You haven't told us...

PRUITT:

I have no access...

WHITEHOUSE:

... who you asked money...

PRUITT:

That -- that's a...

WHITEHOUSE:

... from. You haven't told us what they gave, if you asked them. It's a complete black hole, into which, at least a million dollars goes. And based on your record of fundraising, it appears that a great deal of your fundraising comes from these organizations who are in the energy sector and devoted to fighting climate change.

PRUITT:

Some of who -- some of whom I've actually sued as well, Senator. But with respect to the role that...

WHITEHOUSE:

Name one you've sued up there.

PRUITT:

Exxon Mobil.

WHITEHOUSE:

Really?

PRUITT:

Yes.

WHITEHOUSE:

My time has expired. We'll pursue this in further questioning.

PRUITT:

Yeah. We're -- we're involved in -- as I indicated, I think, in -- in your office, we are involved in -- and Senator Inhofe mentioned it in his comments, a situation in Oklahoma where multiple oil and gas companies, ConocoPhillips and others, have defrauded the state, in cleanup, with respect to spills that have occurred. And Exxon Mobil...

WHITEHOUSE:

Yeah, it's a qui tam fraud case. It has nothing to do with the environment.

PRUITT:

Senator, I would -- I would beg to disagree.

BARRASSO:

I think we're going to reserve that for the second -- for the second round.

WHITEHOUSE:

Or I'm sorry. He was coming back to me, so I was responding. Thank you.

BARRASSO:

Before heading to Senator Capito, there are two articles I'll be introducing into the record, one from the Wall Street Journal in September, headlined, "Hillary Clinton Raises More than Donald Trump from Oil Industry."

The second article that I'll be introducing for the record is from Politico, from December 27th, by Elena Shore, who quotes American Rising (sic) Executive Director Brian Rogers, quote, "This is a partisan fishing expedition by six liberal Democrats who, combined, have taken more than \$1.2 million from far left environmental group, dead set against any reforms to an out-of-control EPA."

Senator Capito.

CAPITO:

Thank you, Mr. Chairman, and thank you, Attorney General Pruitt, for being here, for your willingness to throw your hat in the ring to serve. I'd like to quote the ranking member, when he says it's hard work, because it is. The EPA is hard work.

But one of the things you said really struck me, and I -- I believe that the rule of law does matter. And I'm heartened by your -- your passion for that. The regulatory over-reach of the EPA has contributed to economic devastation in my state of West Virginia in the -- in my region.

Data from the Mine Safety and Health Administration shows that 60,000 coal jobs have been lost between 2011 and 2016. Thousands of these are in West Virginia. We're in a desperate situation in our state right now because of this.

We had a field hearing in Beckley, West Virginia, where our WVU economist, John Deskins, said that the coal industry downturn had resulted in a sixth of our Southern West Virginia counties being in a great depression.

For the past eight years, the EPA's given no indication at all that it cares about the economic impact of its policies. Even though Congress has said, very clearly, in the Clean Air Act, and other environmental statutes, that we expect jobs and economic factors to be taken into account -- that's part of the law, in October, a federal court held that the EPA had failed to evaluate the job impact to the EPA Clean Air Act as required by 321(a) of that act, and ordered the EPA to submit a schedule for conducting these economic -- the required jobs analysis.

Incredibly, the EPA told the court it would take two years -- this was just this past -- it was just in the last several weeks, it would take two years just to come up with a plan on how to do the analysis, which, in my view, if that's part of the law that EPA's supposed to be following, they should already have the protocols set up to do an effective and accurate job analysis.

So the court responded like this. "This response is wholly inefficient, unacceptable and unnecessary. It evidences the continued hostility on the part of the EPA to the acceptance of the mission established by Congress."

So I would at -- like to ask you to commit to me that -- to ensure that the EPA will follow the law it is charged with implementing, and do those ongoing evaluation of job losses and economic shifts due to the requirements of the act as required by the law.

PRUITT:

Senator, as you indicated, I really believe that it's important that rule of law is adhered to, because it inspires confidence in those that are regulated. I think, oftentimes, those that are regulated don't know what's expected of them.

They look at a statute. They see the requirements of the statute. And then those that are regulating act in a way that's not consistent with that framework. And so they don't know what's expected of them, and that causes uncertainty, and I think, paralysis, to a certain degree.

So rule of law is something that we should take seriously. It's been at the heart of the litigation that we have initiated, as a state. A lot of times, these cases, as we were talking earlier with Senator Carper, there's a policy or political kind of attention that's drawn to it.

But it really is about process and rule of law, and making sure that the framework that this body, Congress has established, is respected, and enforced. And so I appreciate your comments.

CAPITO:

Well, in looking for the balance, we need to have -- we need to have at least a correct analysis of what the -- the economic implications are of regulations.

It's so important, and critically important that we enforce our environmental laws, and to continue to keep our air clean and our -- get it cleaner and protect our waters. In January of 2014, a storage tank in Charleston, West Virginia, was corrupted and it went into the river.

It was right by the -- the water flow of the -- the major water source in my community. Three hundred thousand people had to do without water for several weeks. It caused a lot of angst, economically, to small businesses. Imagine a restaurant not being able to use water, or you can't, you know, wash your clothes. You couldn't do anything with the water.

But also -- and -- and I share this concern -- concern about the health and the long-range implications of what's happened, several people, multiple individuals and Freedom Industries have pled guilty into environmental crimes in federal court, which I'm very pleased about.

So let's talk about TSCA, because in TSCA, I was able to support a provision that would say that if you -- if you're storing in close proximity to drinking water, you have to take that into consideration when you're reviewing potentially hazardous chemicals.

Can we count on you to work with this committee to make sure that this bipartisan TSCA reform bill is fully implemented, and efficiently and fully?

PRUITT:

Absolutely, Senator. In fact, I would commend the work of this committee, with Senator Inhofe's leadership, in passing that update to the TSCA legislation. For the first time in history, as you know, the EPA has the ability to order testing to address chemicals that are going to be entered into the stream of commerce.

And that's a very big, substantive change that exists. There are many deadlines. And...

CAPITO:

And I would also add, that in TSCA -- excuse me just a minute, because I'm running out of time. In TSCA, we actually expanded the EPA's reach.

So when you're asked if you -- if -- if you're, you know, wanting to, you know, get rid of the EPA, or it doesn't have a value, we -- I voted to expand that reach of EPA, to make sure that I have clean water, and that a spill happens in a community around this country, or what's happened in Flint, Michigan, doesn't have the far-reaching implications that it does. Thank you very much.

PRUITT:

Thank you, Senator.

BARRASSO:

Senator Cardin.

CARDIN:

Thank you, Mr. Chairman. Mr. Pruitt...

PRUITT:

Good morning.

CARDIN:

... welcome to the committee. Thank you for your willingness to serve our country.

I want to talk about the Chesapeake Bay Program. We talked about that in my office. I explained to you, and I'll do it very quickly, that this is a program that was developed at the state level, with the states that are in the watershed, including Delaware, with my colleague, Senator Carper.

It's the state that the locals have determined how it's best to reach their pollution targets, in order to help preserve the Chesapeake Bay. It's the largest estuary in the northern hemisphere. It's critically important. It's complicated, doesn't flush itself as -- as many bodies of water does. It's, has a reduction of oyster crops. There's so many problems.

All the stakeholders have gotten together. They've worked out a plan. The federal government is part of that plan. It's enforced through the TMDL program, and it has been agreed to by the local governments.

It was challenged, the TMDLs, including -- you joined that lawsuit. The Supreme Court refused to overturn the court of appeals' supporting the use of the TMDLs. If you are confirmed, will you support the federal role in the Chesapeake Bay Program, as envisioned by the partners and stakeholders, in enforcing the TMDLs, if necessary?

PRUITT:

Yes, Senator. And as I indicated in our office, in our time -- the time that we had together, I really commend the six states that joined together to address the Chesapeake Bay, and to try to set a level for both point source and non-point source type of discharge into the Chesapeake Bay.

There were some concerns about the precedent, the role that EPA was playing, initially. But through that litigation, the EPA has acknowledged that their role is more informational. And -- and there was concern in Oklahoma about the Mississippi River Basin, and the precedent that was set in that matter, and that's what spawned our litigation.

But I really want to emphasize to you, that process represents what should occur. For states to join together, and enter into an agreement to address water quality issues, and then involve the EPA to serve the role it's supposed to serve, is something that should be commended and celebrated.

And as it relates to enforcing that TMDL, I can commit to you that, in fact, I will do so.

CARDIN:

Part of the federal government's partnership is to provide resources. There are several programs that fund initiatives within the Chesapeake Bay watershed. Probably the largest is the state revolving funds dealing with wastewater.

Will you support the federal government's partnership through funding these programs that are critically important to make the advancements in the Chesapeake Bay watershed?

PRUITT:

Yes, Senator. I believe that the grant-making role of the EPA, as we talked about in your office, is very important to states across this country, whether it's the revolving funds, or the WIFIA portions of our statutes, but grant-making, in general, is very important, and I will commit to you, in that regard, that -- that -- would -- I would do so, with respect to the Chesapeake Bay.

CARDIN:

I want to continue on clean water for one moment. We've had significant problems with safe drinking water, and clean water. The -- let me ask you preliminary question. Do you believe there is any safe level of lead that can be taken into the human body, particularly a young person?

PRUITT:

Senator, that's something I've not reviewed, nor -- nor know about. I -- I would -- I would be very concerned about any level of lead going into the drinking water, or in -- obviously, human consumption. But I've not looked at the scientific research on that.

CARDIN:

The Clean Water Act provides for a federal guidance as to acceptable clean water. It's enforced by the states. So my question to you, in regards to clean water, is what steps will you take to make sure that our children are safe?

We saw, in Flint, Michigan, a tragedy occur. Where do you think the federal government needs to strengthen its regulatory roles, to make sure that our children are safe from -- from lead?

PRUITT:

Well I think, with Flint, Michigan, it's an example of -- or not -- a delay in response by the EPA. There should have been more done on corrosion control programs, with the Flint, Michigan system. As you know, under the Clean Water Act, and the Safe Drinking Water Act, if there's an emergency situation, the EPA can enter an -- an emergency order to address those kinds of concerns.

I think there should have been a more fast response, a more -- a more rapid response to Flint, Michigan. I think, with respect to water quality, it is -- it is infrastructure. Water infrastructure is important. And -- and as you indicated, the states play a very vital role in that process. And there needs to be more cooperation between the EPA and the states to ensure water quality is protected.

CARDIN:

Just so I understand it, you have filed, and participated in several lawsuits against the EPA's involvement, saying that the locals should have the responsibility. If you are confirmed, will you support federal enforcement, particularly in multi-state issues, where the only way we can get enforcement is at the federal level?

PRUITT:

I believe that is a vital role of the EPA, as I've indicated in your office, with air quality, water quality, issues across state line. There is an enforcement mechanism that is important. And -- and would seek to do so if confirmed as EPA administrator.

CARDIN:

Thank you.

BARRASSO:

Thank you, Senator Cardin.

Senator Fischer.

FISCHER:

Thank you, Mr. Chairman, and thank you, Mr. Pruitt, for being here today, but also for accepting the nomination. It -- it is a service and a sacrifice, not just for you, but for your family, as well, to step forward to serve this country. So thank you, sir for...

PRUITT:

Thank you, Senator.

FISCHER:

... being willing to do that. For your testimony, I do thank you. And I'd like to, first of all, let you know that Nebraskans, they've been really affected by the EPA in many instances, and I will give you some examples of that.

Nebraska's public power utilities are grappling with how they could ever comply with the EPA's carbon emission reduction mandates. The City of Omaha is struggling with the agency's expensive CSO mandate, and drinking water affordability.

Nebraska farmers are waiting on new crop technology products that are stuck in a broken regulatory process. Our biofuel investors and producers are desperate for certainty under the RFS. Homebuilders, transportation stakeholders and local county officials are concerned about the jurisdictional expansion to control our state's water resources.

Communities and small business owners fear that the EPA's ozone mandate will stunt potential economic development and growth in our state. As a result of the activist role the EPA has played for the past eight years, families are concerned about the futures of their livelihood.

We all want clean air. You know, we all want clean water. That is one point that I know each and every person here agrees on. But with the EPA's tremendous impact on Americans' lives, each and every day, it is important that the agency be open, transparent, and answerable for its actions.

Given these concerns, along with the many others that have been, and will continue to be discussed today, what steps will you take, as the EPA administrator, to provide relief for American families, that are faced, truly, with an onslaught of EPA rules?

PRUITT:

Senator, you mentioned open, transparent rulemaking. There are concerns that have been expressed recently, with -- with respect to regulation through litigation, where groups initiate litigation against the -- the EPA, and the United States government, and set environmental policy through something called a "sue and settle" process.

I think this body, as well as the U.S. House, have looked at those kinds of issues. And when we talk about open transparency, there's a reason why the Administrative Procedures Act exists. It is intended to provide notice to those that are going to be impacted with rules, to give them an opportunity to offer comment, and -- and to inform the regulators on the impact of those rules.

And then it's the obligation of the regulator to take those things into consideration in finalizing rules. Otherwise they act in an arbitrary and capricious way. And so it's very important that that process be adhered to, to give voice to all Americans, in balancing the environmental objectives we have, but also the economic harm that results.

And the Supreme Court has spoken about that rather consistently, of late. And I would seek to lead the EPA in such a way to ensure that openness and transparency.

FISCHER:

You know the -- a couple of weeks ago, we had a -- I think we held a very good conversation about our shared vision for the EPA, to bring common sense and accountability back to that agency. And I -- I think that's going to go a long way in restoring confidence in the agency by the American people.

One issue we did discuss was the Renewable Fuel Standard, and its importance to my home state of Nebraska. We are the largest ethanol producer west of the Missouri River. Our neighbors to the east, Senator Ernst's home state, they do lead the nation in ethanol production.

So honoring the congressionally mandated timelines and the volume requirements that are critical, from an investment point of view, and -- and also from a planning perspective, I think that this is especially relevant, and especially during the -- the current farm crisis that we are seeing, and the negative impact on -- on people and agriculture all across this nation.

In our meeting, you did express your commitment to me to honor the law. And you echoed President-elect Trump's support for the statute itself, and a strong RVO. And for the record, can you please, once again, express your commitment to uphold the congressional intent of the RFS?

PRUITT:

Yes, Senator. And you said it well, to honor the intent, and the expression of the Renewal Fuel Standard statute is very, very important. It's not the job of the administrator of the EPA to do anything other than administer the program according to the intent of Congress, and I commit to you to do so.

FISCHER:

And you...

PRUITT:

And the waiver -- and I would say this. The waivers that routinely are offered by the administrator -- recently another waiver was offered. It should be used judiciously. There's a reason why congress put in that statute those statutory objectives.

The market has changed since 2005, and the waiver authority that's been provided by this body is important. But it -- that waiver authority should be used judiciously. And the act should be complied with and enforced consistent with the will of Congress.

FISCHER:

Thank you, sir. And I would ask that you also tell us publicly what you told us, that you will honor the timelines, on the volume levels that are mandated by Congress, as well.

PRUITT:

Yes. Yes. Yes, Senator.

FISCHER:

Thank you very much.

BARRASSO:

Thank you, Senator Fischer.

Senator Merkley.

MERKLEY:

Thank you, Mr. Chairman. Over a number of years, information started pouring into EPA that the estimate of the amount of fugitive methane escaping in gas and oil drilling, have been deeply underestimated. In 2011, the EPA put out its best estimates, based on the information that was being presented.

And this is relevant because methane is a -- a global warming gas, more potent than CO2. Gas companies didn't like this, because well, it presented a vision natural gas being more damaging, environmentally, than folks had previously understood.

Devon Energy is one of the groups that sought to cast doubt on this scientific information, and they came to you to be their spokesperson. And they asked, will you be our mouthpiece in casting doubt, and send a letter we have drafted to the EPA? And you sent that letter.

And I just want to ask, first, are you aware that methane is approximately 30 times more potent than carbon dioxide as a global warming gas?

PRUITT:

I am, Senator. It...

MERKLEY:

Thank you.

PRUITT:

The impact on human health...

MERKLEY:

That's the -- that's the answer. Yes. Thank you. It's a yes/no question. And on a 1 to 10 scale, how concerned are you about the impacts of fugitive methane in driving global warming?

PRUITT:

Methane, as you indicated, has a...

MERKLEY:

One to ten scale, highly, ten, very concerned, or one, not so concerned?

PRUITT:

The quantities of methane in the atmosphere, compared to CO2 is less, but it's far more potent, and it is simple...

MERKLEY:

Are you concerned? I'm asking about your level of concern.

PRUITT:

Yes, yes.

MERKLEY:

Highly concerned?

PRUITT:

I'm concerned.

MERKLEY:

Thank you. Do you acknowledge sending this letter to the EPA in October 2011?

PRUITT:

Senator, that is a letter that's on my letterhead, that was sent to the EPA, yes, with respect to the issue...

MERKLEY:

Do you acknowledge that 97 percent of the words in that letter came directly from Devon Energy?

PRUITT:

You know, I've not looked at the -- the percentage of similar...

MERKLEY:

The statement that's been analyzed many times is that all of the 1,016 words, except for 37 words, were written directly by Devon Energy.

PRUITT:

Senator, that was a step that was taking as attorney general, representing the interest of our state. Over 25 percent of our...

MERKLEY:

Yes. So I didn't ask that question. I was just asking if you copied the letter, virtually word for word. You've acknowledged that yes, it's in the -- it's in the record. People can count it. It's correct. All right.

So a public office is about serving the public. There is a public concern over the impact of methane on global warming. There is scientific research showing that it's far more devastating than anticipated, and far more is leaking than -- but you used your office as a direct extension of an oil company, rather than a direct extension of the interest of the public health of the people of Oklahoma.

Do you acknowledge that you presented a private oil company's position rather than a position developed by the people of Oklahoma?

PRUITT:

Senator, I -- with respect, I disagree. The efforts that I took as attorney general were representing the interests of the State of Oklahoma.

MERKLEY:

Earlier you said you -- you -- you...

PRUITT:

And there was a concern about the...

MERKLEY:

No. No, excuse me. I'm -- I'm asking the questions. You said earlier, you listen to everyone. In drafting this letter, you took an oil company's position, and then, without consulting people who had diverse views about the impact, you sent it off. How can you present that as representing the people of Oklahoma when you simply only consulted an oil company, to push its own point of view for its private profit?

PRUITT:

Senator, there's an obligation the EPA has, to follow processes as established by this body. The cost-benefit analysis, under Section 112, is something that they have to engage in. There was a concern about the over-estimated percentages that the EPA put in the record.

It was a record-based challenge. That was the expression of the letter to the EPA, and it was representing the interest of an industry in the State of Oklahoma, not a company.

MERKLEY:

Thank you. So...

PRUITT:

An industry.

MERKLEY:

So my question was, what other groups, environmental groups, or other groups, did you consult, so you had that full perspective before representing simply a for-profit oil company, using your official office and your official letterhead?

PRUITT:

There -- I -- I consulted with other environmental officials in Oklahoma that regulate that industry, and learned from them, with respect to the concerns about the estimates that were provided by the EPA.

MERKLEY:

Could you provide this committee with information showing who you consulted, and representing this letter, specifically, for Devon Energy? Because the information that's in the public realm only shows that they simply sent you a letter, asked you to send it, and you sent it, without questions.

PRUITT:

Yeah, we have seven or so individuals in our office that are involved in these kinds of issues, and we will collect the information they have and provide it to this body, pursuant to the chairman's direction.

MERKLEY:

Your staff expanded substantially while you were in charge, to 251 staff members. Why do you need an outside oil company to draft a letter when you have 250 people working for you?

PRUITT:

Senator, as I've indicated, that was an effort that was protecting the state's interest in making sure that we made the voices of all Oklahomans heard on a very important industry to our state...

MERKLEY:

You said that...

PRUITT:

... concerning record...

MERKLEY:

... all heard, but you only sent it on behalf of a single voice, the oil company. Thank you.

BARRASSO:

I still have some time remaining from my questioning. Are there anything that you'd like to add, that you haven't felt you've had a chance, in terms of answering fully, some of the areas of the questioning?

PRUITT:

I think, Senator, that the clarification, that the -- the letter that was sent to the EPA was not sent on behalf of any one company. This was not particular to Devon Energy, not particular to Chesapeake, not particular to other companies in our state. It was particular to an industry.

The State of Oklahoma has an oil and gas industry that is vibrant to our state, as you might imagine, just like many of you have industry in your state. There was concern expressed by that industry, many folks in that industry, about the over-estimating that occurred with that methane rule.

That was the communication to the EPA. It was the position of the state, not the position of any one company.

BARRASSO:

Thank you. Senator Moran.

MORAN:

Chairman, thank you very much.

General Pruitt, welcome to the committee. I thank you for your public service. I'm going to see if I can get through three areas in the five minutes that I have.

First of all, WOTUS, waters of the United States, despite there being an injunction against the enforcement of the WOTUS rule, I'm told that EPA Region 7, the region in which Kansas is part, those regional inspectors have increased their inspection of smaller animal feeding operations.

Unlike many states, Kansas has a well-established state permit system for small facilities, as well as the delegated authority under the Clean Water Act. Rather than coordinate, the EPA -- rather than coordinating

with the state agency, the EPA has engaged in its own inspections and its own enforcement on these small facilities, often conflicting with state permitting in the enforcement process.

In these actions, the EPA has claimed jurisdiction over features like grass waterways, culverts under county roads, unconnected to the feeding operation, and not situated in or near any body of water.

General Pruitt, what would your direction be to the EPA staff, to Region 7 and others, in regard to their actions enforcing WOTUS while an injunction is in place?

PRUITT:

Well Senator, as you indicated -- and I do want to acknowledge, the same concerns have been expressed by those individuals in Oklahoma and different groups, with respect to the -- the WOTUS definition that has been offered by the EPA, that is subject to a 31-state challenge, that was consolidated there before the Sixth Circuit. And as you indicated, there has been a stay of enforcement against that particular rule.

The Supreme Court actually, last Friday, took up a matter of jurisdiction on that -- on that case, so that adds some complexity to this. But I think the role of the EPA, prospectively, is to -- to seek to provide clarity on -- on what the true definition, what the best definition is, with respect to waters of the United States.

As you know, there is much flexibility and discretion there, given to the EPA, in a series of cases that lead up to the Rapanos decision, that haven't provided a tremendous amount of clarity. The best thing the EPA can do, going forward, is to reestablish that clarity so that states and individuals know what's expected of them in compliance.

MORAN:

General, thank you. I don't think I need to -- to remind you, in particular, about the role that states play in clean water.

But I -- but I would take a moment to highlight something that is often, I think, forgotten in the regulatory world of water, water quality, is the Department of Agriculture, the natural resource conservation service in which landowners are assisted, through the Department of Agriculture,

in improving water quality and water quantity, in a very partnership-oriented, local effort, that is significantly different than the tremendous reach from the EPA in Washington, D.C., as compared to the local efforts by landowners, themselves, to work with USDA to solve problems.

Let me move to my second question. It revolves the Flint Hills. That's a native grassland in our state. The owners of those grasslands -- these are thousands of acres of grass, they burn the prairie in the early spring, for purposes of regeneration of that grass.

It is learned from the Indians. Lightning used to be the method by which that grassland burned, less so now, with the settlement that have occurred of our country. And as a result of that annual burning, that is ecologically desirable, there is times in which a city, even one of our own, Wichita, for example, is no longer in it -- no longer in -- it's been a non-attainment under the Clean Air Act.

And I raise this issue to you, in asking that you work -- if you are confirmed, you work to -- with the State of Kansas, in our local efforts to manage the burning of the national grasslands, in a way that is advantageous to wildlife habitat, at the same time, is done in a timely fashion at appropriate times, in appropriate amounts that preserves the air quality, but again, not a heavy-handed approach, that one-size solution or a ban fits the circumstance.

PRUITT:

If confirmed, Senator, I look forward to working with you on that issue.

MORAN:

I thank you for that. And finally, I want to highlight a small town in Kansas named Pretty Prairie, a typical name, or a perfect name for a town in our state. Pretty Prairie, Kansas has a population of about 700 people.

For several decades, because of the need to -- because of high nitrates in the water, the city's water levels -- I didn't say that very well. Because of high levels of nitrate in the city water system, the city has provided free bottled water to its citizens.

And my question to you is, now the EPA is disallowing that practice and requiring the city to spend approximately \$2.4 million, and raise the rates of our residents of that community by \$80 a month, while the community seemingly is satisfied with the solution of the city providing an alternative to the expense of a new water treatment plant.

I ask this question as, again, as an example of where a rigid decision, as compared to a community-based decision, seems to prevail at the EPA, and would give you an opportunity to confirm to me what I hope you would say is that you will work with communities.

You, as an Oklahoman, and me as a Kansan, and many of the members of this committee, represent lots of communities in which the population is insufficient to meet -- to be able to pay for the cost of water or sewer treatment. We need financial resources to accomplish that, but we also need common-sense solutions to the problem.

PRUITT:

Senator, I look forward to working with on that issue as well as the other. There was a saying in the environmental space, national standards, neighborhood solutions. And I think it's important for the EPA administrator, those in Washington, to learn, as I indicated -- as I said in my opening statement, to listen and learn from those, from you, with respect to the needs of your community and your state, and collaborate with you and local officials to achieve good outcomes.

MORAN:

I look forward to educating you on behalf of Kansas.

BARRASSO:

Thank you, Senator Moran.

Senator Booker.

BOOKER:

Good morning, Mr. Pruitt.

PRUITT:

Good morning, Senator Booker.

BOOKER:

I have a letter that I read, that you sent to the committee last year, and you said that the Oklahoma attorney general, you said, "I am responsible for protecting the welfare of Oklahoma citizens." I assume that's still correct, and you believe that?

PRUITT:

Yes, Senator.

BOOKER:

And during the past six years, in pursuit of that, if you look at the record of the lawsuits you filed against the EPA, you've had -- you joined or filed 14 lawsuits against the EPA, challenging clean air and clean water rules, yes?

PRUITT:

We've been involved in multiple pieces of litigation, Senator.

BOOKER:

Yeah, but I'm looking at, specifically, 14, and Mr. Chairman, I'd like to put those 14 lawsuits into the record, where you specifically challenged the EPA on air quality. And let me just go through some of those.

BARRASSO:

Without objection.

BOOKER:

Thank you, sir.

To refresh your recollection, you filed two lawsuits challenging the EPA Mercury and Air Toxics Standards. You filed a lawsuit challenging the EPA's 2015 National Ambient Air Quality Standards for Ozone. You filed four lawsuits challenging the EPA's Clean Power Plan.

You have sued to challenge the EPA's 111(b) standards for carbon dioxide emissions from new power plants. And you also sued to challenge the EPA's federal implementation plan for Oklahoma under the Regional Hayes rule. You're familiar with those, I imagine?

PRUITT:

Yes, Senator.

BOOKER:

And you filed a lawsuit challenging the EPA Cross-State Air Pollution rule, something, in New Jersey, we're very concerned with. And are you aware that that rule, which you lost, in that suit, scientists estimate that that, alone, prevents 400,000 asthma attacks, nationally, each year. Are you aware of those explanations?

PRUITT:

Yes, Your Honor. Or yes, Senator. May I offer a...

BOOKER:

I appreciate your promoting me to judge.

(LAUGHTER)

BOOKER:

Let me continue, Mr. Pruitt. I don't have that much time.

PRUITT:

OK.

BOOKER:

So each of these lawsuits that I just went through, and that we analyzed, all of them challenge attempts by the EPA to reduce air pollution. In all of them, except one, you filed those lawsuits joining with polluting companies that were also suing the EPA.

And so, in addition to filing those lawsuits, with some of the polluting companies, or at least one that have now been specifically mentioned by two of my -- two of my colleagues, you used substantial portions of the letters from those companies, put them on your official attorney general letterhead.

And what was sort of surprising to me is that, when you've been asked about this in the public, you basically represented that that's actually called representative government in my view of the world. Your testimony here says that you were representing industry. You were representing the polluters.

And so with all of these lawsuits you filed, and with all of these letters, like this one, written to the EPA on behalf of the industries that are causing the pollution, it seems clear to me that obviously, the fact pattern, on representing polluters, is clear, that you worked very hard on behalf of these industries, that have their profits externalize -- negative externalities, are there pollution.

And so, I just have a question for you, specifically about the children of Oklahoma. Do you know how many kids in Oklahoma, roughly, have asthma?

PRUITT:

I do not, Senator.

BOOKER:

Well, according to data published by the nonpartisan -- very nonpartisan group, the American Lung Association, more than 111,000 children in Oklahoma, which is more than 10 percent, more than 1 in 10 of all the kids in Oklahoma, have asthma. That's one of the highest asthma rates in the entire United States of America.

Now, this is a crisis, similar data, for where I was mayor, and I can tell you firsthand the devastating impacts that kids with -- that asthma has on children and families, affecting their economic wellbeing. Parents who have to watch their children struggle to breathe. People that have to miss work, rushing their kids to the hospital.

One in ten kids having a disease, missing school, is a significant problem. And so you have been writing letters on behalf of polluting industries. I want to ask you, how many letters did you write to the EPA about this health crisis?

If this is representative government, did you represent those children? I want to know what actions you've taken, in the past six years, in your capacity of protector of the welfare of Oklahoma citizens, to protect that welfare of those 111 children -- over 111,000 children.

Did you ever let any of them write letters on your letterhead, to the EPA, and did you even file one lawsuit, one lawsuit, on behalf of those kids, to reduce the air pollution in your state and help them to have a healthy life?

PRUITT:

Senator, I've actually provided a list of cases to the Chairman with respect to enforcement steps we've taken in multiple pieces of environmental litigation. But let me say to you, with respect to cross-state air pollution, and some of the cases you referred to, the state has to have an interest before it can bring those cases, as you know.

You can't just bring a lawsuit if you don't have standing, if there's not been some injury to the State of Oklahoma. And each of those cases, before...

BOOKER:

My time's expired, but if I could just say, injury, clearly asthma is triggered and caused by air pollutants. Clearly there is an air pollution problem. And the fact that you have not brought suits, at any of the level to which you've represented the industries that are causing the pollution, is really problematic when you're going to sit in a position that is nationally supposed to be affecting this reality. And asthma, in our country, is the number one reason why children in America, health reason why children in America miss school.

Mr. Chairman, thank you.

BARRASSO:

Thank you very much. I'd submit for the record, first, an article from the Tulsa World, from Scott Thompson. The headline is, "EPA Will Be in Good Hands with Scott Pruitt." Scott Thompson is the executive director of the Oklahoma Department of Environmental Quality.

It talks about the excellent work done, and ends with the quote, "EPA will be in good hands with Scott Pruitt." The -- I would point out that between 2004 and 2008, and we'll submit this for the record, the most recent employers of the Obama administration's senior EPA officials sued the EPA, with 12 lawsuits at least, in the time that, when George W. Bush was in his second term, including Lisa Jackson, Assistant Administrator Cynthia Giles, Gina McCarthy, and Stephen Owens. They were petitioners and plaintiffs, filing suits against the EPA.

And finally, I'll submit a -- an editorial, where -- to point out that -- this is from the -- back to the Tulsa World, "Over the past six years, Pruitt's legal team has consistently shown deference to the legal expertise and professionals at DEQ," the Department of Environmental Quality. This was written by the executive director.

"More importantly," he said, "I cannot recall an instance where they did not allow us to pursue legal action when deemed necessary." And then finally, from Mike Turpen, who is the former chairman of the Oklahoma Democratic Party, he said, "The job at the EPA is the essential mission of guaranteeing clean air and clean water. Pruitt has never compromised those critical components of a healthy population with any actions he has taken."

Senator Rounds.

ROUNDS:

Thank you, Mr. Chairman.

Welcome, Attorney General Pruitt.

PRUITT:

Thanks, Senator Rounds.

ROUNDS:

I noticed that -- that you didn't have the opportunity, in the time allotted for Senator Booker's question. Would you care to finish your response, with regard to the -- the role that the states have, and their ability to either participate in a suit, and whether or not they have standing? Would you like to finish your thoughts on that?

PRUITT:

Thank you, Senator.

And Senator, as I indicated in our office, in your office, when we spent time together, the enforcement role in the State of Oklahoma is different than other states, with respect to the Department of Environmental Quality, the Oklahoma Water Resources Board. We have multiple agencies -- the Department of Agriculture, that have front-line enforcement authority with respect to our environmental laws.

The role that we play, in my office, largely is a general counsel role. We provide guidance and direction to those agencies. There are many cases we have initiated in conjunction with them, but -- but mainly, those agencies enforce actions at their level. Many of those agencies have dozens of attorneys on their staff, and a general counsel in their own right, bringing those enforcement actions.

You mentioned several of the cases, from MATS to clean -- cross-state air pollution and the rest. I believe the Cross-State Air Pollution Rule is a very important statute that EPA should enforce. I believe that if there's downwind states that are contributing to non-attainment in up -- or I'm sorry, upwind states that are contributing to non-attainment in downwind states, that there should be responsibility for those states.

We have that issue with Texas at times. And so, the lawsuit was not questioning the authority of the EPA to regulate under the Cross-State Air Pollution rule, it was more that they were trying to assess damages against certain states that were in excess of their allocated share.

So each of those cases, I would ask you to remember, I'm an advocate in behalf of the State of Oklahoma. There's a state's interest, as Senator Rounds indicated, that has to be in play. To say that any of those cases is about any one -- any one company, is just simply not right.

There's no parens patriae standing that I have as attorney general, to bring a case on behalf of a private citizen or a company. There has to be a standing, an injury to the state's interest, to bring those cases. And so I would ask you to consider that as we go through those cases you mentioned earlier.

Thank you, Senator Rounds.

ROUNDS:

Thank you. Thank -- thank you. And thank you, sir, for your response, your complete response. Also, as the chairman of the subcommittee on oversight of the Environmental Protection Agency, I've had the opportunity to look at their -- their basis for the way that they make their decisions known, and the logic the use in getting to those decisions.

We had a chance to talk about it in my office the other day, and one of the items that I brought up was the fact that we actually had received comments from the Small Business Administration Office, of advocacy, a copy of which I've gotten, Mr. Chairman, I'd like to have put into the record. Thank you.

And with this, this was a letter that was sent to the EPA in October of 2014, requesting that the EPA withdraw the proposed Waters of the U.S. rule, the WOTUS rule, and reevaluate the impacts the rule would have on American small business. Now this is a federal agency requesting the EPA take a second look at a proposed rule.

The EPA refused this request and issued the final rule that we have today. What are your thoughts on this? And would you, if you are approved, and -- and become the next administrator of EPA, would you take a second look at whether or not they had a valid reason for having the Waters of the U.S. rule considered again?

PRUITT:

I think, Senator, the response of the Sixth Circuit, and where we are presently, with the litigation, there are definitely need -- there's definitely a need to address that on a prospective basis. Historically, as you know, under the Clean Water Act, and even before the Clean Water was passed, the waters of the United States, equaled Navigable Waters, navigable-in-fact waters.

We know, from a couple of cases, that led up to the most recent case, Rapanos, that the Clean Water Act is simply more than navigable- in-fact, but what that more is has to be determined and assessed.

And so, as I indicated earlier, to another Senator's question, the most important thing is to provide certainty, to make sure that the Clean Water Act helps those at the state level know where the boundaries are, of where they have jurisdiction and where they don't, so that we can have regulations that are fair and equitable, and uncertainty is not created.

BOUNDS:

In the lawsuits that you have brought against the Environmental Protection Agency on behalf of the State of Oklahoma, would it be fair to say that a number of those are based upon the Environmental Protection Agency failing to follow its own rules, and the promulgation of those rules?

PRUITT:

Yes. Yes, Senator. I think, whether it's the MATS case, or the Clean Power Plan case, or the WOTUS case, or a multitude of cases, the courts have agreed that the EPA has exceeded its authority, that the EPA has not acted within the framework that Congress has established, in performing the role that it's supposed to perform.

That's the reason I mentioned, in my opening statement, that process matters, rule of law matters. Federalism matters. And I'm -- those issues matter because Congress has said so. It is Congress who gives authority to the EPA. The EPA is an administrative agency. It's not a legislative body.

And so it's important for that agency to act within framework, within the substantive authority that Congress has provided it, in doing its job. And in -- in leading the EPA, if confirmed, I think, if you -- if I do that effectively, it will provide confidence, certainty to those that are regulated, to know what's expected of them, and improve our air, improve our water because of that.

ROUNDS:

Thank you, Mr. Chairman.

BARRASSO:

Thank you, Senator Rounds.

Senator Markey.

MARKEY:

Thank you, Mr. Chairman. This morning, NOAA, NASA has declared 2016 the hottest year in the 137-year-old record that has been kept. Donald Trump has called global warming a hoax caused by the Chinese. Do you agree that global warming is a hoax?

PRUITT:

I do not, Senator.

MARKEY:

So Donald Trump is wrong?

PRUITT:

I do not believe that climate change is a hoax.

MARKEY:

OK. That's important for the president to hear. Mr. Pruitt, you've made a career working on behalf of the fossil fuel industry to eviscerate regulations designed to protect public health and the environment. You have sued the EPA 19 times to stop clean air and water protections.

Eight of those cases are still ongoing, including your litigation that challenges critical rules that reduce levels of hazardous smog, mercury and carbon pollution. As EPA administrator, you would be in a position to serve as plaintiff, defendant, judge and jury on these ongoing eight lawsuits, and that would be wrong.

In your ethics agreement, you have said that you would not participate in any matter that is ongoing litigation within one year. But Mr. Pruitt, isn't it correct that these lawsuits may very well continue for much longer than one year?

PRUITT:

Well Senator, I have the letter from the ethics counsel at the EPA, and the one-year time period is intended to address covered entities, entities that I serve in -- in chairmanship, or a officer capacity, the Southern Theological Seminary, the Windows Ministry. Those entities are covered entities.

So if there is a matter that arises before the EPA within a one- year period, a particular matter, a specific case that involves those entities, then a recusal would be in order. But that's really the -- the focus of the one-year timeline.

MARKEY:

But will you agree to recuse yourself from those lawsuits which you brought, as the attorney general of Oklahoma, against the EPA, not just for one year, but for the entirety of the time that you are the administrator of the EPA. Will you commit to doing that?

PRUITT:

Senator, I -- for clarity, I -- I -- I think that it's important to note that the one-year time period, again, is for those covered entities that were highlighted in the EPA letter. With respect to pending litigation -- with respect to pending litigation, the EPA ethics counsel has indicated, with respect to particular matters and specific parties, there will be an opportunity to get counsel from the EPA at that point, to determine what steps could be taken to avoid appearances of impropriety.

MARKEY:

So you will not -- are you saying that you will not recuse yourself from the actual matters which you are suing the EPA on right now, as attorney general of Oklahoma, for the time that you are the head of the EPA?

PRUITT:

I'm not saying that. I'm not -- I'm not saying that at all, Senator.

MARKEY:

You are saying that. Will you recuse yourself?

PRUITT:

I'm saying that -- that the EPA ethics counsel has indicated those cases will require a review by the EPA ethics counsel, and -- and if it involves a particular matter with a specific party, then recusal would potentially be in order. And I would follow the guidance and counsel of the EPA ethics...

MARKEY:

I just think this is a -- this is a clear line for the American public, given your record from Oklahoma of suing the EPA on all of these matters, that if you don't agree to recuse yourself, then again, you become plaintiff, defendant, judge and jury on the cases that you're bringing, that -- right now, as attorney general of Oklahoma, against the EPA.

And that -- the EPA is for all of the people of the United States, not just the fossil fuel industry of Oklahoma. So you're not committing -- and I think that's a big mistake, Mr. Pruitt, to recuse yourself from those cases. It is critical.

And moreover, you also are in a position to initiate regulations that could overturn smog protections, carbon pollution protections that are right now on the books, that you are suing, as attorney general of Oklahoma, to overturn. Would you commit to not regulating, promulgating new regulations in any of the areas where you, right now, are suing the EPA? Would you make a commitment that you would recuse yourself from doing that?

PRUITT:

Let me -- let me be clear, Senator, because we talked about this in your office. And I very much enjoyed the conversation we had there, in addition to this area that we talked about. I have every willingness and desire to -- to -- to recuse, as directed by EPA ethics counsel.

And if -- and if directed to do so, I will, in fact, do so, to recuse in those cases. There is a different -- difference, as you know, between pending litigation in a particular matter, with specific parties, and prospective rulemaking. Rulemaking goes through a process. Rulemaking...

MARKEY:

Look at -- you're the -- what the American people are expecting here, is that EPA doesn't turn into every polluter's ally. The only way to ensure that is for you to recuse yourself from the cases that you have brought, because most of them are to overturn the clean air, clean water, smog regulations.

So to create an appearance of independence, it's critical that you recuse yourself.

PRUITT:

And I will -- I will recuse...

MARKEY:

Otherwise -- otherwise, honestly, people are going to think that it's not just the fox guarding the henhouse, it's the fox destroying the henhouse.

PRUITT:

And that...

MARKEY:

Because you -- you haven't distanced yourself from the actual litigation that you have initiated on most of the key issues that you are now going to have responsibility for protecting, in terms of the public health of the entire country.

PRUITT:

And Senator, I can say to you, unequivocally, I will recuse as directed by EPA ethics counsel.

MARKEY:

And I'm saying to you, is that you should just start out saying, I'm going to recuse myself from anything that relates to any litigation that I have initiated, as the attorney general of Oklahoma, that questions the clean air, clean water, climate change, or smog, or mercury protections which are right now on the books, that the EPA is honored to -- to protect.

And if you don't do that, then we're going to have a fundamental conflict of interest that is presented by your presence as the administrator of the EPA. It just gets down to being a matter as simple as that.

BARRASSO:

The senator's time has expired. Thank you, Senator Markey.

For clarification, will you fully follow the advice of the EPA ethics counsel?

PRUITT:

Yes, Mr. Chairman.

BARRASSO:

Thank you. Just for additional clarification, regarding conflicts of interest, I note the letter to this committee, on January 4th, and I am submitting to the record, "We" -- this is the Office of Government Ethics, "believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest."

And then there was a letter yesterday from Water Shaub, director, Office of Government Ethics, responding to a letter from Senator Carper and other EPW Democrats, regarding Attorney General Pruitt and potential conflicts of interest, and they say, "If the Office of Government Ethics has transmitted a certified financial disclosure report, and an ethics agreement to the Senate" -- which they have, "it means the Office of Government Ethics is satisfied that all financial conflicts of interest have been identified and resolved."

Senator Ernst.

ERNST:

Thank you, Mr. Chair.

Thank you, Attorney General Pruitt, for appearing in front of us today. I enjoyed our -- our conversation, both one-on-one, and then in a group setting, as well. And I would like to go back and revisit our discussion on the RFS.

As you know, Iowa is home to 43 ethanol refineries. We are the largest producer of ethanol west or east of the Missouri River. President-elect Trump reiterated his support for biofuels while he was campaigning across Iowa and all across the Midwest. And those areas of the country overwhelmingly supported his candidacy, and led to his victory.

And thank you for stating, once again, that you would honor his commitment to biofuels by carrying out the RFS as intended by Congress. Policy certainty is key for economic growth, and this something that we discussed in my office.

Unfortunately, as a result of uncertainty surrounding the EPA's renewable fuel volume targets in 2014, 2015 and 2016, second-generation biofuel investment decreased, and proposed projects moved overseas. Fortunately, the EPA has recently changed its course and released updated volume targets for the RFS, that meet the levels proscribed by Congress.

If confirmed as administrator, what will you do to continue to provide certainty, so that investment can continue to happen, right here at home in the United States?

PRUITT:

You know, Senator, as you indicated in our meeting, the importance of the infrastructure investment that has occurred, and reliance upon, the law was passed in 2005 and updated in 2007. And as I indicated earlier to Senator Fischer's question, the latitude discretion that has been given to the EPA administrator, with respect to waiving those statutory targets, should be judiciously used.

It shouldn't be automatic. It should be something that the EPA administrator seeks to comply with and adhere to, because of the will of this body. And so I think those waivers, obviously, are in order, but with respect to market conditions, we have less consumption today, fuel efficient vehicles, market conditions have changed since 2005.

But despite that, the EPA administrator should not use that to undermine or to somehow put into question, the commitments made by this body in the Renewable Fuel Standards statute.

ERNST:

Thank you for your commitment to the RFS and the intention of Congress. I also want to touch on an issue you mentioned in your testimony, which is the level of fear and distrust many folks have of the EPA. When I'm home in Iowa, I host town halls all across the state, and just want to hear what's going on in their communities.

And what I hear, without fail, at these town halls, is that folks are frustrated with the EPA and the "gotcha" mentality that has stemmed from the agency. My constituents tell me the EPA is out to get them, rather than work with them, and there is a huge lack of trust between many of my constituents and the EPA.

And if we take a look specifically at the WOTUS rule, Iowans truly feel that the EPA ignored their comments and concerns, threw them under the rug, and then just moved forward. We know now that the EPA relied on gimmicky mass e-mails and social media events to prop up their message, and then they used those tactics to insinuate that anyone who had reasonable concerns about the WOTUS rule are somehow in favor of dirty water, which is absolutely ridiculous.

And this type of culture that was created under the Obama administration has no place, has no place here. So Mr. Pruitt, what do you plan to do in your first days as the administrator to improve the relationships EPA has with the hard-working folks across the country?

PRUITT:

Well Senator, as I indicated in my opening statement, this paradigm that we live within today, if you're pro-energy, you're anti-environment, if you're pro-environment, you're anti-energy, is something that I think is just a false narrative. We -- we can do better than that.

In fact, this country has shown for decades that we can grow our economy, and be a good steward of our air, land and water. Cooperative federalism is at the heart of many of the environmental statutes that have been passed by this body. And the reason for that is, it's the states, many times, that have the resources, the expertise, and understanding what the unique challenges are for the environment, in improving our water and our air.

It's not that they don't care about it. Senator Whitehouse indicated a devolution of authority to the states would create a problem. That's not what I'm advocating. And I think we hear in the marketplace, we need a partnership, a true partnership, between the EPA, in performing its role, along with the states, in performing theirs.

And if we have that partnership, as opposed to punishment, as opposed to uncertainty, and duress that we currently see in the marketplace, I think we'll have better air, better water quality as a result.

ERNST:

Thank you. I look forward to that partnership and transparency.

Thank you, Mr. Chair.

BARRASSO:

Thank you, Senator Ernst.

Senator Duckworth.

DUCKWORTH:

Thank you.

Mr. Pruitt, I'm -- I want to clarify your response to Senator Ernst on this whole congressional intent, when it comes to the RFS. What I want to know, and what the people of Illinois -- we are also a great producer of ethanol. And what we need to know is where exactly you stand on the RFS.

Are you the attorney general who, only three years ago, sided with big oil to slam the RFS? You -- and I quote, said that "RFS was unworkable," and also that it was a "flawed program."

So I'm a little confused on what you're saying today, because are you that -- are you that Mr. Pruitt, or are you the Scott Pruitt today, who is saying all the right things in this confirmation hearing and in these meetings to try to reassure pro-RFS states by repeating nice-sounding, but ultimately vague and hollow mantra, that if confirmed, you would enforce the RFS law as written by Congress.

As you and I are quite well aware of, such a statement essentially dodges the critical issue for biofuels producers and workers, because under the law, the EPA has considerable discretion to adjust the renewable volume obligation in a manner that you would argue is contrary to congressional intent, yet may be compliant with the explicit letter of the statute.

So as EPA administrator, you could still technically be in compliant with Congress, with the law, but actually be working against it. And your answers today have not clarified that. So my question to you, Mr. Pruitt, is this.

Which specific actions has EPA taken since 2007, while administering the RFS, that you, in your view, are not consistent with congressional intent? Can you name any?

PRUITT:

Thank you, Senator. The administrator and the EPA routinely misses the statutory targets, in publishing those each year, creating great uncertainty in the marketplace. In fact, some -- in some years, they've missed the -- they've missed the timeline, as far as submitting those targets, by over a year, in some cases, over two years.

DUCKWORTH:

OK. So let me -- let me ask you this, then. Yes or no, do you believe that Congress intended for the RFS to increase the amount of renewable fuel blended in our nation's liquid transportation fuel supply? Yes or no.

PRUITT:

Without question. Yes.

DUCKWORTH:

Without question?

PRUITT:

Yes.

DUCKWORTH:

All right. My second question then, is yes or no, do you believe Congress intended for the RFS to be a stable policy that drives private investment in the renewable energy industry?

PRUITT:

Yes.

DUCKWORTH:

And finally, if confirmed, will you commit to opposing any and all proposals to move the point of obligation under the RFS program from refiners to blenders?

PRUITT:

Senator, as you know, the EPA is actually involved in a comment period on that very issue. And to prejudge the outcome of that, I think, would be -- I would not be able to do -- to do that. There are many aspects of the program, from the trading program, the monitoring of fraud in the system, that need to be betterly -- better administrated by the EPA.

These have been administration issues. The EPA has created uncertainty. We talked about it minutes ago -- a minute ago, with the senator, about the amount of investment that's gone into the infrastructure because of the 2005 law.

Those individuals need to have certainty and confidence that the RFS is going -- is going to be enforced and administered pursuant to the desires of Congress. That...

DUCKWORTH:

Right. But if you were to do that, then you would actually have to answer -- you would have to answer yes, because to move the RFS program from refiners to blenders is actually one of those ways that you can actually undermine the RFS standards as intended by Congress, which you yourself just now said was intended to increase the amount of biofuels blended into the fuel supply of the United States.

This is my problem. You -- on the one hand, your entire track record shows you to be someone who opposes the RFS, and yet here, in front of Congress, and in meetings with senators, you are giving these vague answers that sound right when it comes to the RFS, but really opens all sorts of back doors for you to oppose the Renewable Fuel Standard.

And that is very troublesome, because all across the Midwest -- you know, for those of us who have fought to strengthen national security by lessening our country's dangerous dependence on foreign oil, I'm really incredibly concerned about the future of the RFS and American-produced biofuels under a Scott Pruitt-led EPA.

And I'm also incredibly concerned about what you're going to do in terms of protecting the environment. In your answer to one of my colleagues about what the role of the EPA is, what is the job of the EPA, one of the first questions you got, you spent five minutes talking before you actually said, protect the environment.

You talked all about reducing EPA's influence over states for a good five minutes before you actually got the environment. And then for my farmers, my corn and soybean producers for my biofuel industry, the RFS is critical in order to continue that.

And I would rather burn American made, American corn -- grown corn and soybean in my gas tank, than I would oil from the Middle East. I've already been to a war fought over oil in the Middle East, and I don't intend to allow us to continue to do that, which is why the RFS is so critical, not just for the jobs in Illinois, not just to support Illinois agriculture, but for our national security, when it comes to where we're going to get our energy supply.

I'm out of time. Thank you, Mr. Chairman.

BARRASSO:

Thank you, Senator Duckworth.

PRUITT:

If I may? Senator, let -- let me say to you, the role of the administrator of the EPA is to enforce and administer the RFS program to carry out the objectives of that statute. Those targets that have been put in that statute by this body need to be respected.

The discretion authority, the waiver authority of the administrator needs to be judiciously used to address those concerns that we've talked about. And so I don't want you to have any concern about the -- the intent, objective or will, if confirmed, of carrying out the RFS mandate or the statute in its whole.

DUCKWORTH:

That very answer concerns me, because you've not actually said that you're going to stick with it.

BARRASSO:

I'd like to submit for the record, two -- one, a letter from the American Farm Bureau Federation, which strongly supports the nomination of Scott Pruitt as administrator of the U.S. Environmental Protection Agency, and urges a vote in favor of his confirmation.

The second is a letter from the Democrat attorney general of the State of Arkansas, former Democrat Attorney General Dustin McDaniel, who has this to say about Attorney General Scott Pruitt's work on the stem phosphorous levels in the Illinois River watershed.

He said, "Recent press accounts regarding these efforts unfairly mischaracterize the work that was done by General Pruitt and his team. He was a staunch defender of sound science and good policy, as appropriate tools to protect the environment of his state. I saw firsthand how General Pruitt was able to bridge political divides, and manage multiple agency agendas, to reach an outcome that was heralded by most credible observers as both positive and historical."

Senator Boozman.

BOOZMAN:

Thank you, Mr. Chairman.

And thank you, Attorney General Pruitt, for your willingness to serve, and your family. I think everybody at the dais here realizes that these really are family affairs that truly affect everyone.

In recent years, the EPA has made it increasingly difficult for Arkansas to manage its delegated national pollutant discharge elimination system. The -- too often, the permits, rulemakings, or other actions sent to EPA for review, are returned with demands far more restrictive, additional expensive data collections required, and other costly onerous requirements.

New leadership at EPA has an opportunity to correct this coercive federalism, and instead, restore cooperative federalism, as intended. The states have the expertise and local knowledge necessary to administer environmental programs.

Mr. Pruitt, EPA has the opportunity to play a significant role in supporting a move back to cooperative federalism. Can you please explain how you plan to change the EPA-state dynamic? My experience with EPA -- and being on Transportation in the House, being ranking member on Water there, ranking member in the Senate is, the EPA is -- their attitude is, we're with you, unless you come out with a finding that is contrary, and then we're going to do it our way. So can you address that?

PRUITT:

I think, two things, Senator. One, as we indicated earlier, rule of law and making sure that the authority granted to the states, under state implementation plans, delegation under certain clean water provisions, that that's respected.

But also, I think the EPA needs to provide more assistance to the states, in working in partnership, and be proactive. Those regional administrators that we have across the country need to be seen as partners, and not adversaries.

And so I think, restoring that confidence, restoring that relationship, and seeking to do so, is very, very important in carrying out this partnership that we know that exists on the various environmental statutes.

BOOZMAN:

Very good. For the past eight years, EPA has acted as a political arm of the Obama administration time, and time again. We've seen rules developed not based on sound science, but on political ideology.

When rules have been released, states and private sector, and even Congress, have had trouble getting EPA to show the science that helped develop these rules. Under your leadership, can we expect EPA to be more transparent?

In other words, how the rules are being developed, the science behind them. And you've continually alluded to this, and I think it's so important, as administrator of the EPA, can we count on you to base all of your decisions on the rule of law, not on the administrator's or even your own political ideology?

PRUITT:

Absolutely, Senator. In response to the latter part of your question, that public participation is important. There's a reason why, in rulemaking, that you take comment. There's a reason, as I indicated earlier to Senator Ernst, that you involve those that are impacted by rulemaking, because you want to understand the impact, both economically and otherwise, and the benefit of the environment, as well as making sure that you craft rules and regulations that take all those things into consideration.

So hearing the voices of all Americans in that rulemaking process, responding to those comments in the record before rules are finalized, transparency, objectivity, a commitment to process, is very important, in my view, of restoring the confidence of the American people in the rulemaking processes that occur here in Washington, D.C.

BOOZMAN:

So again, releasing the -- the scientific data behind that would be something that you'd very much support?

PRUITT:

Yes, Senator.

BOOZMAN:

Very much. The problem that the EPA, EPW committee has faced with the current administration is a lack of communication. Time and time again, EPA either did not respond to questions from committee

members, or at the very least, took months to respond. Under your leadership, can we expect the EPA to get committee members answers in -- in a timely fashion?

PRUITT:

Yes, Senator. As indicated in my opening statement, listening is an important role of leadership, and listening to the voices of the folks here in Congress. As I went through and met with many of you, through this process, there were issues particular to your state, that you made me aware of.

And I, if confirmed as EPA administrator, seek to be very active in listening to the needs, with respect to your various states, and respond to this body with respect to questions.

BOOZMAN:

Let me just comment on the -- on the Arkansas-Oklahoma issue. I was the congressman in that district. And so I inherited that in 2001. I'd been working on this for 15 years. And I appreciate you and Attorney General McDaniel doing a very good job of getting things done.

On the other hand, the idea that somehow you were soft -- in fact, I would argue that you -- you know, that the agreement that was reached was way too restrictive, and is probably one of the most restrictive watersheds, as far as phosphorous requirements, of any place in the United States.

PRUITT:

Well, as you know, Senator, in that process, we actually selected a biologist from Baylor University to engage in a scientific study on what the phosphorous levels should be, the numeric quality of the water. And it was determined, at the end of that process, that 0.037 was the right standard, and is now enforceable on both sides of the border, for the first time in history. So it is a very important outcome.

BOOZMAN:

No, I understand. And I commend you on the process. I just -- you know, the implication here is somehow, you know, you were -- you came up with a deal that was -- was too soft. And if anything, I would

argue that it was perhaps a little bit too harsh. So -- but I do appreciate the process. I know that you and our -- our former attorney general were able to do something that had been going on for decades.

PRUITT:

Thank you, Senator.

BOOZMAN:

Really appreciate it.

BARRASSO:

Well you've been at it now for about two hours. If you can stay with us till we finish the first round of questioning, we have about five or six additional questions coming. Senator Harris is next, and then we'll break at about 12:30, if that's all right with everybody.

CARPER:

Ask the -- right -- unanimous consent, make a unanimous consent request, Mr. Chairman.

BARRASSO:

Yes, sir.

CARPER:

I'd like to ask unanimous consent to submit for the record the legal brief against the Mercury and Air Toxics Rule, which Mr. Pruitt supported, and stated in that brief, and I'll just quote, it says, "Human exposure to methyl mercury resulting from coal-fired electrogenerating utilities is exceedingly small," close quote. That's the quote.

I also ask unanimous consent to submit for the record a recent article that quotes, I think, the New York Times. It quotes a 40-year career employee of the Oklahoma Department of Environmental Quality, that has him saying these words, "He" -- Mr. Pruitt, "has advocated and stood up for the profits of businesses, be it poultry companies or the energy industry and other polluters, at the expense of people who have to drink the water or breathe the air."

Other -- other statements have been introduced for the record, saying quite a different thing about Mr. Pruitt. I think it's only fair to go to someone who's worked there for 40 years and has quite a different view than the one that he's -- he -- our witness has expressed. Thank you.

BARRASSO:

Without objection.

Senator Harris.

HARRIS:

Thank you, Chairman.

Mr. Pruitt, as an attorney general, I know, as a former attorney general of California, that we, as attorneys general, have several duties, which include representing our clients, state agencies, and also the discretion and power to initiate lawsuits in our independent capacity as attorneys general. Would you agree with that?

PRUITT:

Some states provide more latitude than others.

HARRIS:

Does your state?

PRUITT:

Our state has not provided, constitutionally, as much authority as other states, to...

(CROSSTALK)

HARRIS:

Have you never -- have you never exercised your independent capacity as attorney general to bring a legal action?

PRUITT:

Senator, I would have to know more specifics about what you're referring to. But in response to your question, it does vary considerably...

(CROSSTALK)

HARRIS:

Have you ever exercised your independent capacity as the attorney general of your state, to initiate a legal action?

PRUITT:

Our litigation...

HARRIS:

Yes or no?

PRUITT:

The litigations that we've engaged in, largely have been consultation with agencies that...

HARRIS:

Largely? So you have also exercised your independent capacity as the attorney general of your state. Is that correct, or not?

PRUITT:

I may have, Senator. I don't -- I don't...

HARRIS:

You don't know...

PRUITT:

Yes.

HARRIS:

... if you have or not? You have been attorney general for your state for almost seven years. Is that correct?

PRUITT:

Approaching that, yes. Six years, actually.

HARRIS:

And I've read that you have initiated, and it has been mentioned before, 14 lawsuits in your independent capacity as the attorney general of Oklahoma. And apparently, seven of those cases have been resolved, six of which you have lost.

My question is, I hear that you are a lover of baseball. What would your batting average then be?

PRUITT:

It was generally above 300, which is pretty good for a second baseman.

HARRIS:

Yeah. My calculation is, it's 142. Going -- moving on, would you agree that attorneys, who have the responsibility for doing the work of justice, and particularly as an attorney general, that we make decisions based on propriety and impropriety? We make decisions based on what is not only an actual conflict, but what is an appearance of conflict. Would you agree that's important?

PRUITT:

I believe that's important, Senator.

HARRIS:

OK. And so, on this issue of whether or not you would be recused if you are nominated and actually voted in as the administrator of the EPA, you have said that you will recuse yourself from the cases your office has been involved with if directed to do that. Do you agree that you also have the discretion to recuse yourself from those cases?

PRUITT:

I -- I believe, Senator, the rules of professional conduct, in addition to the review that OGE, ethics counsel and...

HARRIS:

Do you believe that you have the discretion to recuse yourself from the cases that you were involved with as attorney general?

PRUITT:

I think it's actually stronger than that, Senator. I actually have an obligation, in those instances, as directed by ethics counsel. And that's the reason I indicated earlier, that I will...

HARRIS:

Independent of any direction from ethics counsel, do you agree you have the discretion to recuse yourself from those cases?

PRUITT:

I believe that it's important to maintain...

HARRIS:

I'm asking about whether or not you actually have the discretion, the power, to recuse yourself.

PRUITT:

Part of -- part of the...

HARRIS:

Do you disagree or agree with that?

PRUITT:

Part of the discretion -- part of -- there's a discretion to recuse.

HARRIS:

Clearly. You're familiar with...

PRUITT:

I just want to...

HARRIS:

... the clean -- you're familiar with the Clean Air Act, yes?

PRUITT:

I'm sorry, Senator?

HARRIS:

You are familiar with the Clean Air Act?

PRUITT:

I am.

HARRIS:

And as you may know, Section 209, Subdivision B of the Clean Air Act recognizes California's authority to issue air pollution standards for new motor vehicles that go above and beyond federal standards.

The EPA has historically recognized California's authority to issue new motor vehicle pollution standards that go above and beyond federal standards. In your opening statement, you write, "It is not EPA's mission to be against sectors of industry, in general, or against particular states."

Will you commit, then, to upholding that same standard in recognizing California's authority to issue its own new motor vehicle air pollution standards?

PRUITT:

Now Senator, as you indicated, California was actually regulating those standards before the EPA was actually created, which is why the California waiver exists, under statute.

HARRIS:

Do you agree to uphold that same standard that has been held by your previous -- previous...

PRUITT:

I agree to review that as each...

HARRIS:

... administrators?

PRUITT:

... administrator before me has. It's been granted at times, and denied at times.

HARRIS:

Do you agree to uphold it? Reviewing and upholding are two different points.

PRUITT:

Senator, as you know, administrators in the past have not granted the waiver, and in fact, have granted the waiver. That's a review process that will be conducted...

(CROSSTALK)

HARRIS:

What is your intention, sir?

PRUITT:

I don't know without going through the process to determine that, Senator. And would -- one -- one would not want to presume the outcome.

HARRIS:

In the 14 cases that have been previously mentioned, in each of those cases, regulated companies were also a party to your suits. Is that correct?

PRUITT:

In some instances, yes.

HARRIS:

In most of them. Can you name a few instances in which you have filed a lawsuit, in your independent capacity as attorney general, against a corporate entity, for violating state or federal pollution laws?

PRUITT:

Senator, I have a list here that's been provided to...

HARRIS:

Can you name them, please?

PRUITT:

Sure. There's a list that -- that has been...

HARRIS:

Can you name one?

PRUITT:

Yes. The -- the first is the Mahard Egg Farm, involving a CATHO (ph) situation, and a cleanup of a large hen operation, that affected water quality. Celco Manufacturing...

(CROSSTALK)

HARRIS:

Did you file a lawsuit in that case, sir?

PRUITT:

I -- I did, Senator.

HARRIS:

OK. And what was the outcome of that case?

PRUITT:

We received a good outcome against them.

HARRIS:

And the name of that entity was what?

PRUITT:

Mahard Egg Farm.

HARRIS:

And can you name any other cases where you have actually filed a lawsuit against a corporate entity for violating federal pollution laws?

PRUITT:

In fact, that case was brought in conjunction with the EPA. And I want to address something, Senator. Earlier, when you say independent capacity, those cases that you referred to, the list of cases were as an extension of the DEQ in the State of Oklahoma, an extension of the agencies at the federal -- the state level, that had authority granted to them by this body that we were...

(CROSSTALK)

HARRIS:

And I understand -- I understand that role, as a former attorney general, but that is you representing your client. I'm asking about your independent capacity as the attorney general of your state. Let's move on.

On the issue of mercury...

BARRASSO:

I would -- I would -- I would suggest that the senator's time has expired.

HARRIS:

Thank you.

BARRASSO:

In terms of moving on. Thank you.

I would like to introduce, for the record, an independent -- a letter, by J.D. Strong, who is the director of the Oklahoma Department of Wildlife Conservation, who, in reference to the submission recently by the ranking member, makes reference to the -- that former employee, who is retired from the State of Oklahoma, and is currently serving as vice chairman of the Oklahoma chapter of the Sierra Club.

So that the references are from now, someone who is no longer a state employee, but the vice chairman of the Oklahoma chapter of the Sierra Club. But this letter from Mr. Strong goes to talk about the efforts by Attorney General Pruitt, who says, "For the past six years, General Pruitt has been instrumental in many of our successes, and has never asked me to compromise regulatory efforts to benefit industry."

He says, "On the contrary, all of our projects and cases that involved his office were given staff support at the highest level, and more often than not, resulted in more stringent environmental protection. He has been a strong ally in defending our ability to continue the great progress that we made in protecting Oklahoma's environment."

CARPER:

Mr. Chairman, may I ask in response, let me just ask for unanimous consent to, for the record -- and this is on behalf of Senator Whitehouse, rebuttal argument -- articles for Mr. Pruitt's claim on litigation against fossil companies.

Topline points from these articles are one, that they are fraud cases, first and foremost. Second, some were brought by his predecessor, Drew Edmondson. The case -- third point, case against BP was filed and left dormant, at least per E&E publication. And also that Mr. Pruitt fought against the participation of state whistleblowers in the litigation. That was a reference to a qui tam action. Thank you, Mr. Chairman.

BARRASSO:

Without objection.

Senator Sullivan.

SULLIVAN:

Thank you, Mr. Chairman.

And General Pruitt, it's good to see you again. Thank you for your willingness to serve.

PRUITT:

Thank you, Senator.

SULLIVAN:

And to your family. As you know, it's a team effort, so I want to thank them as well.

I appreciated your opening statement, particularly your -- your written statement. And I want to emphasize, we all want clean air. We all want clean water. My state of Alaska has some of the cleanest air, cleanest water, pristine environment, literally, in the world.

But your emphasis on the ability to do both, to grow an economy, to develop our resources responsibly, and protect the environment, I think, is very, very important, and I appreciate that focus. I believe the EPA needs a serious course correction. As Senator Ernst talked about, there's a lot of anger, even fear of this agency throughout many parts of the country.

And I believe you are the right person to provide that course correction, and do something that is very important, which is regain the trust of the American people, that I think has been lost, in a lot of places in America because of the over-reach, because of the lack of focusing on the law.

So there's been a lot of discussion this morning about cooperative federalism. And can you explain it in a little more detail? Is that your term, or is that a term that -- did you come up with that? Or is that something that was actually directed by Congress?

PRUITT:

Directed by Congress, Senator.

SULLIVAN:

And so, in the Clean Air Act and the Clean Water Act, who was given -- what entity, in our Republican form of government was -- government, was given the primary responsibility over clean air and clean water in the United States?

PRUITT:

Well as you know, Senator, under the Clean Air Act, there are some -- there's something called state implementation plans, that the EPA and the states review together. But the states have that responsibility...

SULLIVAN:

So is it an...

PRUITT:

... of adopting a plan.

SULLIVAN:

Isn't it correct, actually in the law, it says...

PRUITT:

It is.

SULLIVAN:

... the primary responsibility, under the Clean Air Act and clean water -- and who directed that?

PRUITT:

Congress.

SULLIVAN:

OK. So when you're talking about cooperative federalism, that's not some Scott Pruitt-invented -- you are focusing on the intent of the Congress?

PRUITT:

Probably more so than any statutes that have been adopted by Congress, historically, the environmental statutes that we know, from clean water to clean air, to Safe Drinking Water Act, in many pieces of legislation, Congress has been very explicit, very specific in saying, that cooperative federalism, the role of the states is important, should be respected, and should be emphasized.

SULLIVAN:

So let me -- let me show you a chart here. This is the Waters of the U.S., and the states and entities that sued to stop that rule, 32 Democrats and Republicans, and Independents. Do you think this is an example of cooperative federalism? And if not, if you're confirmed, what are you going to do to get back to what is not a Scott Pruitt idea, it's the direct direction of the Congress of the United States?

PRUITT:

Senator, when you -- when you think about the relationship between the EPA and the states, the states are not mere vessels of federal will. They don't exist simply to carry out federal dictates from Washington, D.C. There are substantive requirements, obligations, authority, jurisdiction granted to the states under environmental statutes.

That needs to be respected. When it's not respected, that is what spawned most of this litigation that has been referenced here today. And why does it spawn it? Because it matters. It matters that the states participate in the way that Congress has directed, and they've been unable to do so for a number of years.

SULLIVAN:

So again, cooperative federalism, you're carrying out the will of Congress when you're focused on that issue?

PRUITT:

That's exactly right. The expertise, the resources, the knowledge, the awareness of how to fix environmental issues at the local level, is something that's important for the entire country to know.

SULLIVAN:

So I am a former attorney general myself, who has sued the EPA. And some of my colleagues on the other side of the aisle, you know, judge Booker's comments -- I think he tried to equate a little bit, suing the EPA, not caring for Oklahoma's children. Do you care about Oklahoma's children?

PRUITT:

Without question. I've got a couple sitting behind me.

SULLIVAN:

Fourteen lawsuits -- and again, Senator Boozman mentioned this, what has been the primary focus of those lawsuits? It's not that you don't care about the environment, is it?

PRUITT:

Absolutely not. I mean, it's some -- I care very much about the environment. It's to restore the -- the relationship, and ensure the relationship that Congress has directed, the role of the states in improving our environment.

There's an idea in -- in Washington, that the states, those in Oklahoma, or in Alaska, or other parts of the country, don't care about the water we drink or the air we breathe. The farmers and ranchers, those in industry in the State of Oklahoma that I'm -- most of them are very committed to that. When they have not been, we have taken enforcement action against them.

SULLIVAN:

And -- and just one final question. And a lot of my colleagues on the other side of the aisle spend a lot of time -- and I think Senator Sanders is up next, vilifying the oil and gas industry, as somehow bad actors, polluters. According the America Petroleum Institute, 364,000 Oklahomans work in the oil and gas industry or related service sectors.

Are these people bad actors? Are they polluters? Could you describe -- you talk about the good people in your written statement. Who are these people? And are you representing them, when you're bringing these kind of actions? Are they evil people?

PRUITT:

No, Senator. They're -- they want to comply with the law. They want to know what's expected of them. They care about the air they breathe, and the water they drink, and they want to make sure that the EPA is partnering with state agencies and industry to ensure that that outcome occurs.

SULLIVAN:

And aren't these hundreds of thousands of people part of that industry?

PRUITT:

Absolutely. In fact, 25 percent of our entire state budget in Oklahoma is from that industry. This is a state concern. And more than that, we have significant regulation over this industry. Our Corporation Commission has oversight over many of these issues. And so we have regulatory bodies, from DEQ to the Corporation Commission, to others, that are involved in making sure that the air we breathe and the water we drink is -- is clear, in the State of Oklahoma.

SULLIVAN:

Thank you.

Thank you, Mr. Chairman.

BARRASSO:

Senator Gillibrand.

GILLIBRAND:

Thank you, Mr. Chairman.

Thank you, Mr. Pruitt, for being willing to serve this administration, for your interest in public service, and your past public service.

PRUITT:

Thank you, Senator.

GILLIBRAND:

I want to talk to you about some of the constituents in my state and the challenges, the very real challenges we face. First, we had millions of people's lives upended with super storm Sandy, I mean millions of people. We had parents who lost their children, who drowned, because of surges of water coming through their homes, through the streets.

The -- the devastation was literally unparalleled in my state. It was just something we had never seen before. And we are going to be looking to you to protect these families, and protect these communities, because we know, with global climate change, the incidence of super storms and violent weather impacts is changed. It's very, very different.

And you've already told folks that you do believe that global climate change is real. It has been cost by -- caused by human activity. Do you believe also that sea levels are rising?

PRUITT:

Senator, I believe that the EPA, addressing this issue because of the Mass v. EPA case, and the endangerment finding, has obligations to address the CO2 issue. The -- in doing so, they need to involve the processes as set up by Congress. And -- and -- and so I think it's very important to do both.

GILLIBRAND:

But -- but you've studied this issue of sea levels. You do realize they are rising. And it's one of the reason why these storm surges were so high, and devastating communities all across New York City. So I need you to be vigilant, because lives are at stake. And I think you have the purview to do that. Will you be vigilant?

PRUITT:

Senator, we will obviously address those issues that we talked about in your office. And I appreciate your passion on this issue.

GILLIBRAND:

One of the other issues that we talked about, that I think is equally as concerning, is issues of mercury that have been raised, about asthma rates that have been raised, about ground water polluted. I've looked at your record. Most of the lawsuits you filed as attorney general were related to businesses, specifically what was important for your state in terms of employers and businesses.

And the few lawsuits you did file about human safety were few and far between. But this role as the head of the EPA, you're going to have a much more important role to play. And I want to talk specifically about mercury. If you believe that mercury is a threat to public health, but oppose the remedy of reducing mercury air pollution from power plants because it's too costly, what then do you think you should do, or what should be done to address the mercury pollution?

PRUITT:

Let me say, Senator, mercury is something -- it is a hazardous air pollutant under Section 112. It is something that the EPA has authority to regulate and should regulate. It should do so, though, within the -- the framework established by this body. And the Supreme Court said that the EPA did not follow the cost-benefit obligations.

It's not that the -- the benefits have to outweigh the cost. It's just that they simply didn't engage in a proper record-based support for their rule. And so that's -- that goes back to earlier questions with other senators about the process mattering, being committed to the rule of law and the rulemaking authority that Congress has given the EPA, in making sure that, as rules are passed, that they can be upheld in court.

GILLIBRAND:

But I need you also to be worried about human health. I -- I understand there's a cost. But when you're talking about lives, and you're talking about children who can't breathe -- I've been to the emergency room at 2 in the morning with a child who can't breathe. It's a horrible thing.

We've had children die in New York City, because none of their teachers, no administrators in the schools knew what to do when a child has an asthma attack. It's a huge problem. So I need you to care about

human health, and -- and really believe that the cost, when human health is at risk, when people are dying, is far higher than it is the cost to that polluter to clean up the air, and change their processes.

I need you to feel it, as if your children, sitting behind you, are the ones in the emergency room. I need you to know it.

PRUITT:

And Senator, I would say to you, there are certain instances where cost can't even be considered, as you know. Those criteria pollutants, under an act, program, cost is not even a factor, because human health is the focus.

GILLIBRAND:

So let's talk about that. So you and I previewed this in my office. We have a horrible problem in New York State, with Superfund sites, and with ground water that is polluted. We have PFOA in our water. We have the largest PCB Superfund site in the United States in the Hudson River.

When families who don't have money fish in the Hudson River, they eat those fish. They get ill. It is horrible. The contaminants are real. They are pervasive, and they are destroying lives. They're also destroying the economy, because when you have contaminants all over the place, you can't sell your house. You can't put in industries that are relying on tourism.

It's a huge problem. So PFOA is an example of a -- of a chemical that needs to be tested. I need you to put it number one on your list, to test it. And if it is the carcinogen that many scientists have said it is, it needs to be banned.

PRUITT:

The TSCA authority that's been granted by this body -- you and I talked about that in your office, PFOA needs to be addressed quickly, even under the Safe Drinking Water Act as well.

GILLIBRAND:

Will you commit to doing that work?

PRUITT:

Yes.

GILLIBRAND:

Thank you.

Thank you, Mr. Chairman.

BARRASSO:

Thank you, Senator.

Senator Harper.

HARPER:

Mr. Chairman, I have a unanimous consent request I'd like to submit for the record. One -- and this is sort of in response to a question raised by Senator Harris. And Mr. Pruitt, in his response to a question on whether he had ever filed a lawsuit against a corporate entity for violating state or federal pollution, apparently was not correct.

I want to just submit for the record, a list of cases that have been active under Mr. Pruitt's leadership. And notice which ones were started by his predecessor. And it shows that the case in which he mentioned in his exchange with Senator Harris, I think it was the egg case, was it Mahard -- Mahard egg case, actually was initiated, not by Mr. Pruitt, but by -- by his predecessor. Thank you.

BARRASSO:

Without objection.

And I'd like to submit to the record, as well, having heard that some of my Democratic colleagues have expressed their concerns that Attorney General Pruitt is not open to the finding of science, especially as it relates to climate change, this is not so. I'd like to call the committee's attention to a letter by the -- the Cornwall Alliance for the Stewardship of Creation.

The letter is signed by 130 scientists, economists, legal scholars, policy experts, religious leaders, and over 230 other citizens, urging Attorney General Pruitt's confirmation. The group includes David Legates who's a Ph.D. in climatology, professor of climatology and geography at the University of Delaware.

The author praises Pruitt, stating, "Mr. Pruitt has also demonstrated understanding of, and open-mindedness toward scientific insights crucial to the formulation and implementation of environmental regulation."

The organization's founder and national spokesman, Calvin Beisner, is quoted in the press release announcing the letter as saying the following, "Some environmental activists are determined to prevent Mr. Pruitt's confirmation, painting him as a science denier or a climate change denier."

Mr. Beisner continues, "He is neither. He's a solid, common- sense attorney general who will bring much needed reform to the EPA." Without objection, the letter will be submitted for the record.

Senator Wicker.

WICKER:

Thank you, Mr. Chairman and Mr. Ranking Member. I think it's been a good hearing so far, that we have a lot of information that will, that'll be reassuring to the American people.

One thing I -- I do object to, though, it's something that's happened for years since I've been a member of this committee, and that's somehow to -- to list political contributions and -- and suggest that somehow they make an individual suspect or -- or not qualified.

My dear friend from Rhode Island showed a poster, and showed some contributions, and suggested that based on those contributions, from companies like Southern Company, for example, who's contributed to my campaign, that his appropriateness for the job should be -- should be challenged.

And so I'm glad that the chairman had added to the record, this article from September 6, from the Wall Street Journal, September 6 of last year, pointing out the Democratic presidential candidate, Hillary Clinton,

raised significantly more money than Donald Trump, from the oil and gas industry. Individuals who worked for oil and gas companies donated \$149,000 to Mr. Trump's GOP campaign, as of the date of -- of July 30, compared with \$525,000 to Mrs. Clinton.

Mr. Chairman, I'm glad you put this in the record. And presumably, based on that argument, Hillary Clinton would be suspect, were she to have been nominated for the position of heading the EPA.

Now Mr. Attorney General, let's talk about states as partners. And I enjoyed your exchange with Senator Cardin about the Chesapeake Bay Program. As I understand, you actually applaud the Chesapeake Bay Program, and particularly the way the EPA worked with states as partners. Is that correct? And could you enlarge on that?

PRUITT:

Senator, I -- I absolutely applaud the effort by the states to join together in a six-state coalition to address the quality of the Chesapeake's Bay's water quality. That's what we did in Arkansas, Oklahoma and Arkansas did with the scenic Illinois River, that's already been talked about with Senator Boozman and others.

And so I think the effort that they engaged in was something that other states ought to model. And the EPA came alongside, and took that TMDL, and is providing assistance to those six states, with respect to that agreement.

WICKER:

Now with regard to the Clean Power Plan, and the waters of the United States rules, where did those regulations go wrong in this respect?

PRUITT:

Well, with respect to the Clean Power Plan, in the case, as the Supreme Court has actually said -- it was an unprecedented step that the Supreme Court took. Never in history had the Supreme Court issued a stay against a rule like the Clean Power Plan. And they did so because of the likelihood of success on the merits, in the sense that the Clean Power Plan didn't -- did not reflect the authority of Congress given to the EPA to regulate CO2.

As an example, with respect to power generation, there has to be a significant finding that it poses risk to public health and welfare. They did not do that. They did not go through the proper processes of inside the fence and regulations of facilities, power generation facilities. So those matters, Senator, are about rule of law. And the same is true with the waters of the United States rule.

WICKER:

Now, you know, and I have not delved into this as an attorney, as you have, but I can tell you that the Department of Environmental Quality in my state told me very emphatically, that the Clean Power Plan would put us out of business, because we -- we would not have had an alternative to the coal that we use. And -- and -- and so I hope we can continue to make progress on this issue.

Let me ask you about wood products. Federal government buys a lot of lumber, uses a lot of wood in construction, and procures a lot of wood. There are standards certifying that the forests are appropriate. One is the American Tree Farm System. Another is the Sustainable Forestry Initiative.

EPA seems to like a certification program called the FSC, the Forest Stewardship Council. Problem is, with -- with this -- this certification program, it excludes 90 percent of the lumber grown in the United States of America.

We have had a lot of activity on both sides of the aisle, in challenging this. And -- and I object, also, to a so-called interim recommendation, made by EPA in this regard. As far as I'm concerned, it is discrimination against domestic wood. And now they -- they have come back and told us that this interim recommendation is under review.

Could you comment about both of these, the idea of an interim recommendation being imposed on an entire industry, and also give us any thoughts you have about using the Forest Stewardship Council certification model as opposed to these other perfectly good Sustainable Forestry Initiative and American Tree Farm System?

BARRASSO:

And if I could ask you to it briefly, as the senator's time is about up.

PRUITT:

Senator, as you and I discussed in our meeting, I'm very concerned about the latter issue, and -- and making sure that all voices, all options are considered is something the EPA administrator should do, and I would seek to do, if confirmed.

With respect to the interim step, I think that there is a concern that many have offered, throughout the -- throughout the last several years, that regulators in Washington, not just the EPA, are seeking to use guidance or other steps to avoid what would be called formal rulemaking, that Congress has obligated those agencies to perform, to ensure exactly what you just described, that all voices are heard.

And -- and that's unfortunate when agencies do that, because that's an abuse of the process.

BARRASSO:

Thank you, sir.

WICKER:

Thank you, Mr. Chairman.

BARRASSO:

Senator Sanders.

SANDERS:

Thank you, Mr. Chairman. And I apologize for being late, but we were at a hearing with Congressman Price, who is the nominee for HHS, and perhaps not a great idea to have important nominating hearings at exactly the same time. So I apologize for not being here earlier.

My office has received a great deal of comments from people in the State of Vermont, which takes environmental protection very seriously, as well as from all over the country. And the fear is that the nomination of Mr. Pruitt is a nomination designed to protect the fossil fuel industry and not the environment.

I would like to ask Mr. Pruitt a question. I -- as I understand it, earlier in this hearing, you said that Mr. Trump was wrong in suggesting -- in stating over and over again, that climate change was a quote/unquote "hoax." Is that, in fact, the case?

PRUITT:

That is correct, Senator.

SANDERS:

OK. Let me ask you this. As you may know, some 97 percent of scientists, who have written articles for peer reviewed journals, have concluded that climate change is real. It is caused by human activity. And it is already causing devastating problems in our country and around the world. Do you believe that climate change is caused by the emission, by carbon emissions, by human activity?

PRUITT:

Senator, as I indicated -- you weren't in here during my opening statement, but as I indicated in my opening statement, climate -- the climate is changing, and that there -- human activity contributes to that in some manner.

SANDERS:

In some manner?

PRUITT:

Yes, sir.

SANDERS:

Ninety-seven percent of the scientists who wrote articles in peer reviewed journals believe that human activity is the fundamental reason we are seeing climate change. You disagree with that?

PRUITT:

I believe the ability to measure with precision, the degree of human activity's impact on the climate is subject to more debate on whether the climate is changing or whether human activity contributes to it.

SANDERS:

While you are not certain, the vast majority of scientists are telling us that if we do not get our act together, and transform our energy system away from fossil fuel, there is a real question as to the quality of the planet that we are going to be leaving our children and our grandchildren.

So you are applying for a job as administrator for the EPA, to protect our environment. Overwhelming majority of scientists say we have act -- got to act boldly, and you're telling me that there needs to be more debate on this issue, and that we should not be acting boldly?

PRUITT:

No, Senator. I -- as I've indicated, climate -- the climate is changing. And human activity impacts that.

SANDERS:

But you haven't told me why -- why you think the climate is changing.

PRUITT:

Well Senator, the job of the administrator is to carry out the statutes as passed by this body, and to comply with the...

SANDERS:

Why is the climate changing?

PRUITT:

Senator, in response to the CO2 issue, the EPA administrator is constrained by statutes...

SANDERS:

I'm not -- I'm asking you a personal opinion.

PRUITT:

My -- my personal opinion is -- is immaterial...

SANDERS:

Really?

PRUITT:

... to the job of -- to the job of carrying out...

SANDERS:

You are going to be the head of the agency to protect the environment, and your personal feelings about whether climate change is caused by human activity and carbon emissions is immaterial?

PRUITT:

Senator, I've acknowledged to you that the human activity impacts the...

SANDERS:

Impacts?

PRUITT:

Yes.

SANDERS:

Scientific community doesn't tell us it impacts. They say it is the cause of climate change. We have to transform our energy system. Do you believe we have to transform our energy system in order to protect the planet for future generations?

PRUITT:

I believe the EPA has a very important role in regulating the emission...

SANDERS:

You didn't answer my question.

PRUITT:
... of CO2.

SANDERS:
Do you believe we have to transform our energy system away from fossil fuel, to do what the scientific community is telling us, in order to make sure that this planet is healthy for our children and grandchildren?

PRUITT:
Senator, I believe that the administrator has a very important role to perform in regulating CO2.

SANDERS:
Can you tell me, as I think all of us know, Oklahoma has been subjected to a record-breaking number of earthquakes. Scientists in Oklahoma -- or scientists say that Oklahoma's almost certain to have more earthquakes, with heightened risk of a large quake, probable, to endure for a decade, and that the cause of this is fracking.

Can you point me -- picking up on Senator Harris' discussion with you, can you point me to any opinion that you wrote, any enforcement actions you took against the companies that were injecting waste fracking water?

PRUITT:
Senator, let me say, I'm very concerned about the connection between activity in Oklahoma and...

SANDERS:
And therefore you must have taken action, I guess. Can you tell me who you fined for doing this, if you're very concerned?

PRUITT:
The Corporation Commission in Oklahoma is vested with the jurisdiction. And they have actually acted on that.

SANDERS:

And you have made public statements expressing your deep concern about this?

PRUITT:

We have worked with -- there are two...

SANDERS:

You have made public statements -- you're in a state which is seeing a record-breaking number of earthquakes. You're the attorney general. Obviously, you have stood up and said you will do everything you can to stop future earthquakes as a result of fracking?

PRUITT:

Senator, I've acknowledged that I'm concerned about...

SANDERS:

You acknowledged that you are concerned?

PRUITT:

Yes.

SANDERS:

Your state is having a record number of -- well, if that's the kind of administrator for the EPA -- your state's having a record-breaking number of earthquakes. You acknowledge you are concerned. If that's the kind of EPA administrator you will be, you're not going to get my vote.

BARRASSO:

Senator Inhofe.

INHOFE:

Mr. Chairman, you see a request. I ask, at this point in the record -- at this point in the record, that we reprint the Wall Street Journal op-ed piece that was written by two outstanding scientists, called "The Myth of the Climate Change 97 Percent."

BARRASSO:

Without objection.

I have a little bit time left in my questioning from the first round. I just, I wanted to talk about some of the concerns of over- regulation and let me ask, do you have the same concerns of the over- regulation of U.S. manufacturing over the last eight years? I believe it's exported manufacturing jobs overseas, jobs that go with them, in terms of the manufacturing of those goods, to places like China and India, that are going to produce those products in a less environmentally friendly way.

And you'd agree with -- agree with this notion that this approach harms not just our -- the environment, but also our own U.S. economy?

PRUITT:

I believe, Senator, that it puts us at an economic disadvantage, when we don't hear all voices in the rulemaking process with respect to these issues. Absolutely.

BARRASSO:

I'd also like to submit for the record, one, an -- a op-ed on CNN by Jeb Bush, saying, "Scott Pruitt is ready to turn around the EPA, that I cannot think of a person more suited to lead the Environmental Protection Agency than Oklahoma Attorney General Scott Pruitt. He has acknowledged human impact on the climate, and supports a robust discussion about its effects and what the government should and shouldn't do to address it."

And then also submitting for the record, a -- a report that -- that I did as a ranking member of the Subcommittee on Clean Air and Nuclear Safety, of this committee -- this was a couple of years ago, called, "Red Tape Making Americans Sick."

I put this together as a physician, where we talk about unemployment, long-term unemployment increases the likelihood of hospital visits, illnesses, premature deaths in communities, due to joblessness. It hurts children's health, hurts family well-being, and quote scientists who point that the unemployment rate is well- established as a risk factor for elevated illness and mortality rates in epidemiological studies performed since the 80s.

And additionally, there is influencing on mental disorders, on suicide, alcohol abuse, alcoholism. We also see it with spouse abuse, drug abuse, so that the regulations that come out of the EPA, that do cut into employment of hard-working Americans, actually contributes to a deterioration of their health. I don't know if you have any comments on that, or what you may have seen in Oklahoma at times of unemployment.

PRUITT:

Senator, we have seen similar issues in Oklahoma. We have prescription drug abuse that occurs at rates that are unprecedented, as in other parts of the country. And so there is a similar concern that we have in Oklahoma.

BARRASSO:

It is -- I appreciate your -- your patience, your honesty, your forthright presentation this morning. We are going to go to a second round. I now have a 12 -- about 12:45.

If it's all right with you, Ranking Member Carper, we'll come back in an hour. We'll take an hour break and come back and resume in the second round of questioning at 1:45. The committee is in recess.

PRUITT:

Thank you, Senator.

(RECESS)

BARRASSO:

We'll resume the confirmation hearing for Scott Pruitt EPA Administrator. And, Attorney General Pruitt, let me just start by saying, sometimes you get a chance to sit down over lunch, and you say, "I've been answering questions for two and a half hours. You know, I wish I had said something differently about something or other." Anything that you'd like to clarify?

PRUITT:

Just one point of clarification, in response to Senator Whitehouse's questions this morning about different environmental enforcement steps we've taken. With respect to the leaky underground storage and double-dipping in our state, I've initiated, officially, three cases there with respect to Valero, BP, and Conoco.

Exxon and a number of other cases are still in settlement discussions, and so those cases have not materialized in actual litigation just yet.

BARRASSO:

Thank you for that clarification. Anyway, a couple of quick questions. In the city of Cheyenne, Wyoming, it was discovered that trichloroethylene, that's a chemical that's been used by the military to degrease the engines of rocket motors, was seeping into the cities drinking water supply.

The Army Corps of Engineers, which was in charge of a nearby former Atlas nuclear missile site, refused to even admit that the site was the cause of the pollution. I fought the Corps on this to do testing needed, to prove what was obvious to everyone who looked at it. The test results showed a large plume coming from the Atlas site directly into the city's wells.

The court is now addressing the pollution of the city's water supply. It's now protected through a state-of-the-art water treatment facility that's installed by the corps. But, can you give me a -- perhaps an example when you served as Oklahoma State Attorney General where you went after polluters, and you held them accountable in that same way?

PRUITT:

Yes, Senator. As I indicated earlier -- and I think this was indicated in -- in -- in this morning's testimony, I mentioned the case with the (inaudible) producing (inaudible), and that was something that we actually initiated. I know there was some question that Senator Carper raised in that regard.

That was both in respect to federal and state violations and we actually joined the state of Texas and the EPA in that enforcement action. But, I've submitted for the record, as you know, a list of cases where we've worked with the Wildlife Commission in Oklahoma, the DEQ, around (inaudible) matters and enforcement of our state laws.

BARRASSO:

The -- it's interesting. What was troubling to many of us in the previous administration was when officials within the Obama administration went to extraordinary lengths to avoid disclosing their official written communications under the Freedom of Information Act. This is the law that allows public access to government records.

For example EPA administrator Lisa Jackson, at the time, used an EPA email account under the name of Richard Windsor -- Richard Windsor, as opposed to her own email account. And so, if confirmed, will you refrain from taking any such action that makes it difficult or impossible for the public to access your official written communications under the Freedom of Information Act? PRUITT: Yes, Mr. Chairman. And as I indicated in my opening statement, I really believe that (inaudible) participation, transparency, and rulemaking is very important, and I think that extends to this matter as well. BARRASSO: I will reserve the reminder -- remainder of my time. Senator Carper.

CARPER:

Thanks. Thanks, Mr. Chairman. We -- as -- as we discussed before, you're part of -- I think -- at least three lawsuits, Mr. Pruitt. I think one is pending on the -- the EPA's efforts to reduce mercury emissions from power plants.

And we know that 50 percent of our nation's mercury emissions come from -- from power plants. Not nuclear plants, but generally fossil fuel plants, largely coal fire plants. We know that there are more fish consumption advisories in the U.S. for mercury than I think all other contaminants combined, including in your home state of Oklahoma.

If you believe that the EPA should not move forward on the -- the Mercury and Air Toxics rule, how do states clean up mercury? What do you think are the health impacts of mercury emissions?

PRUITT:

Senator, I actually have not stated that I believe the EPA should not move forward on regulating mercury or -- or adopting rulemaking in that regard. Our - our challenge was with regard to the process that was used in that case, and how it was not complicit with the statutes as defined by Congress.

So, there is not a statement, nor a belief that I have, that mercury is something that shouldn't be regulated under section 112 as a hazardous air pollutant. I have, as you know -- that is a -- that section deals with directly health concerns of our citizens.

That's the reason why there is controlled technology that is very heightened in that statute, Maximum Achievable Control Technology, that - that is required. And so, I believe that mercury should be dealt with, and dealt with in a meaningful way by the EPA, but subject to the processes that this body has outlined.

CARPER:

Senator (inaudible) and I worked together for a number of years on Clear Skies legislation. The George Bush Administration had proposed Clear Skies dealing with sulfur dioxide, nitrous oxide, and mercury. And several colleagues of my own, including Senator Alexander worked on legislation similar.

One of the differences between what we proposed and the Bush Administration proposed, was with respect to reducing the emissions of mercury. I don't recall exactly what the Bush proposal called for in terms of emission reductions from -- from power plants, and others from mercury but it wasn't very aggressive.

I proposed a -- a reduction of 80 percent over a certain number of years. Senator Alexander said he thought that folks could do better than 80 percent, and he proposed 90 percent reduction schedule.

We had literally here at this table, witnesses from utilities, and one witness from a trade association, representing technology companies that focused on reducing emissions of harmful substances into our air and to our water. Every utility representatives said, "We cannot meet an 80 percent reduction in mercury."

The witness from the trade association representing the - the industry, in which -- and this is just to try to reduce emissions like mercury -- said not only can we meet -- industry can we meet those reductions over the stipulated period of time, they can exceed them. As it turns out, they exceeded them.

They actually did better than 80 percent. She did better than 90 percent. They did it more quickly than I think was anticipated. Is that instructive to you in any way on this question?

PRUITT:

Is that what? I'm sorry.

CARPER:

Instructive to you. Is there any lesson there for you or for us from that experience?

PRUITT:

Well, as I've indicated Senator, I really believe that it's important that it's a partnership between the EPA and the states. I made reference to the phrase earlier, "national standards and neighborhood solutions."

I -- I think that that shows that the EPA can be involved, and should be involved, in setting standards, setting objective, science-based standards, to improve air quality and protecting the health of our citizens, but also be a meaningful partner with the states in implementing those laws.

CARPER:

Let me just stop you there, please. The -- I like to say, "In adversity lies opportunity." That's not me. That's Albert Einstein. But the -- there is economic advantage to be gained from cleaning up pollution. We've seen it.

There's companies that worked on the mercury emissions, they made money doing that -- installing that technology around the world. Similarly there has been money made from Diesel Emission Reduction Act. The American technology reducing emissions from -- from old diesel -- diesel engines.

Have you -- do you ever give any thought to that, the economic gain, the economic advantage that can flow from developing that technology to reduce emissions? I actually think that some regulations, clear regulation -- and I'll never forget a conversation we had with -- when we were working on our Clear Skies legislation, addressing foreign pollutants, meeting with a bunch of utility CEOs, and we're talking about how to go forward on this -- that issue.

And at the end of the conversation, one of the utility CEOs, I think it was (inaudible), older fellow, and I don't remember where he's from, but he said -- at the end of the day, he said, "Here's what you need to do." -- you, us, Congress, CPA -- "You need to tell us what the rules are gonna be. You need to give us some time, some flexibility. And you need to get out of the way." That's what he said.

Tell us what the rules are going to be, give us some flexibility, and get out of the way. Do you believe that actually setting standards -- whatever it happens to be, with mercury reductions with (inaudible) standards, with fuel efficiency requirements, that actually setting those standards, making it clear, that we actually provide certainty and actually open the door for economic -- economic productivity -- production?

PRUITT:

I do, Senator, actually.

CARPER:

Can you give us an example where you actually saw that happen -- were helpful in making that happen?

PRUITT:

In Oklahoma-- this is not widely known because we are known as an oil and gas state, but -- but in the generation of electricity in our state, 17 percent of our electricity is generated through wind. And so, we've had a heavy emphasis on renewables. And that puts us in top three of the country.

And so, our corporation commission -- I actually have obligations to appear before the Corporation Commission, in the setting of rates. So, as utility companies are looking at modifying their facilities to comply with environmental statutes, there is great discussion about how to do that more economically, and to achieve the -- the air quality objectives we have, under EPA mandates and state mandates.

And so, I've been very involved in that process, through that part of my office.

CARPER:

Thanks. Thanks, Mr. Chairman.

BARRASSO:

Thank you, Senator Carper. Senator Capito.

CAPITO:

Thank you, Mr. Chairman. Thank you again before being before us and congratulations on your nomination.

PRUITT:

Thank you, Senator.

CAPITO:

You know, I think that as you can tell from this committee and really the country, is divided on a lot of the issues in and around involving what you're endeavoring to headline here at the EPA. But I think that understanding one another is extremely important no matter how many times I might say the same thing and somebody else on the other side might say the same thing.

It gives me a greater understanding of where they live and how they -- how they think the best way to pursue environmental issues are. So, in the crowd that joined us here after lunch, are several coal miners, who traveled all morning -- have been waiting in the hall and made some new friends in the audience there and I want to thank them for coming.

Because those are the faces of the issues that I try to address when we're talking about the different facets of the regulatory environment that we see that's been put forth over the last several years.

So this question's for you all. In my very first hearing as a United States Senator on this committee we had the Assistant Administrator, Janet, McCabe, she came to testify about EPA CO2 rules.

When I pressed her about why in the public meetings on the existing plant rules EPA had not bothered to come to West Virginia or for that matter any of the other states that most heavily rely on coal for electricity generation, this is what she said. And I quote, "We tried to when we were scheduling national level meetings we wanted to have those in locations where people were comfortable coming."

Well, Mr. Attorney General, I want you to be comfortable coming anywhere in this country to talk about -- whether it's Rhode Island or whether it's West Virginia, Alaska -- people need to know that you're listening and you care, and that you're understanding the ramifications for the decisions that you make.

So this didn't sit very well for me. We had a meeting after that in Beckley, West Virginia, which is the birthplace of the ranking member and we had Bo Copley there, who was a laid off coal miner. He talked about all the hardships of his friends and neighbors.

We had the county commissioner who talked about the loss of revenue to the county and how it's impacting the school systems, and the real estate values, and the bankruptcies of all of the difficult coal companies, and people who have been out of work.

So I would implore you to commit today to visit West Virginia, both sides of West Virginia and to talk to our coal miners and their families. To talk about what the job and economic impacts, and how we can work together with both sides to try to get to the intended goal of cleaner air, and cleaner water.

PRUITT:

Senator, I really appreciate you sharing that, and that's the reason I mention in my opening statement the importance of listening and leading. This process that I've been a part of obviously is very new, but I spent time with each of you, many of you, in individual meetings and Senator Gillibrand talked about issues that were important to her, around CERCLA.

You cited concerns and issues that are important to you in West Virginia. I think it's a very important if confirmed as administrator that I spend time responding, learning, and listening to you and your respective states and trying to be helpful with regard to the environmental issues that you face.

CAPITO:

Thank you. Thank you, that means a lot. Thank you. I would like to get some clarification on a topic that kind of has been coming up and coming up about how many times you as the Attorney General have sued the EPA. And you began your statement by saying that, "The rule of law is very important to you."

And then you talked about several of the cases, and probably most of the cases that you brought forward, is not challenging the regulations so much as the process or whether the rule of law has been overstepped in the boundaries of the EPA has been the -- intent of Congress by legislating to the EPA has been overstepped.

And the courts have agreed in some cases, that this is the case. Could you kind of restate that position on the -- on the different actions?

PRUITT:

Well, Senator, as I've indicated, I think in response to Senator Sullivan, probably more so than most statutes that are passed by Congress, this body has recognized the very important and vibrant role the states play in partnership with the EPA at implementing and enforcing our environmental statutes.

And many of you have talked about that in your offices. How your DEQ works at the Regional Administrator. And -- and -- so when we talk about rule of law as you deal with mercury, as you deal with CO2, as you deal

with water issues around what is the definition and in those cases it's important that you do so consistent with the framework that's been established by this body, and it's respected.

Because that gives confidence to the people are regulating. You know, when you have an administrative agency of any type that acts inconsistent or tries to enlarge its authority, it really doesn't inspire confidence, in those that are regulated.

You're seeing a matter of picking winners and losers, and being against certain things, as opposed to protecting people and so that rule of law is not something that's academic in my view. It's not something that's just legal. I think it's important to ensuring good outcomes as far as improving our air and protecting our waters.

CAPITO:
Thank you.

BARRASSO:
Senator Whitehouse.

WHITEHOUSE:
Thank you, Chairman. Mr. Pruitt, when we left off we were talking about things that, to quote the Chairman, "might place to you in a conflict of interest, but have not been disclosed" and we were talking about the dark money operation that supports the Republican Attorney General's Association.

Before we get back into that, let me ask you this as a hypothetical, if you had raised significant amounts of money for the Rule of Law Defense Fund from corporations who will be subject to EPA's regulation, before EPA, with matters before EPA, might that place you in a conflict of interest?

PRUITT:

The -- the EPA ethics council has said -- and by the way these are career individuals as you know, Senator. Adjusting a few is a career person at EPA ethics and so as they've reviewed these potential conflicts they -- they have -- I've disclosed all entities that I've been affiliated with --

WHITEHOUSE:

I understand that, but I'm asking you if you think it might place you in a conflict of interest because we both understand that the ethics rules that the EPA is enforcing pre-dates Citizens United, pre-date dark money and they've said in the letter they aren't even looking at that because they don't have the authority to.

That doesn't mean it's not a conflict of interest. It means that the regulatory authority on government ethics hasn't caught up with this post Citizens United dark money world. My question is, you're a lawyer, you know conflicts of interest, you've been an Attorney General.

Might it be a conflict of interest within your definition of the term if you had raised significant amounts of money for this Rule of Law Defense Fund and they had business before -- and they'll have business before EPA with you? Is that a potential conflict of interest?

PRUITT:

I think just in -- if you actually did address those entities to the degree that I was never an officer of the super fund that you -- the super pack that you referred to earlier, the Liberty 2.0, and so they looked at those --

WHITEHOUSE:

The question was fund-raising

PRUITT:

They looked at those entities --

WHITEHOUSE:

That's the question we don't have any answers on, is what you raised.

PRUITT:

They looked at those entities to determine what the nature of my relationship was, and then indicated that those would have to be evaluated in the future, as cases arose. And --

WHITEHOUSE:

Right now, the Chairman asked you a question, which is are there matters that might place you in a conflict of interest that you have not disclosed. You answered, "No." Might not having raised significant money, let's say a million dollars.

Let's say you made a call to Devon Energy, and said, "I did your letter for you, (inaudible) needs a lot of money, we've got this dark money thing where we can launder your identity clean off it, and the money will go into (inaudible). I need a million bucks out of you. Might that not create a conflict of interest for you if that were the facts?"

PRUITT:

Ms. Few (ph) has indicated, in her letter to me, -- again these are career individuals at EPA ethics -- that if a particular matter involving specific parties arise in the future it will be evaluated at that point --

WHITEHOUSE:

How will they know if you are not willing to disclose that you raised the hypothetical million dollars from Devon Energy?

PRUITT:

Well, those are not even covered entities under her letter at this --

WHITEHOUSE:

That's my point, but that may very well create a conflict of interest, mightn't it?

PRUITT:

Senator, I did not serve in an officer capacity at that entity. In fact --

WHITEHOUSE:

You've said that already too. But that's -- that also not the question. The question is a very simple one, did you raise money for the Rule of Law Defense Fund from entities that will appear before EPA as potential defendants and subject to regulation and if so, how much, and what did you tell them? And what did you ask? It seems to me that's not an unusual or --

PRUITT:

The Rule of Law Defense Fund, according to Ms. Few, would need to be a party in the future for that to be an issue. That's what she's indicated in her letter to me. At the time, if issues arise in the future I will seek the counsel of EPA ethics, involve the advice of those career folks, and make a decision, and recuse if necessary. That is something I commit to doing.

WHITEHOUSE:

But, at this point -- at this point, what I deduce from your statement is that if that set of hypothetical facts were true, if you had raised a million dollars from a big energy corporation to go through the Rule of Law Defense Fund, to support your efforts at (inaudible) that that is not something anybody should care about even if that corporation is before you at EPA and subject to your regulation --

PRUITT:

Oh, I think it's something that if presented in the future, that would -- (inaudible) a few, myself -- EPA ethics would evaluate that and I would take the appropriate steps to recuse if --

WHITEHOUSE:

But, how would it be presented in the future if you are not willing to present it now? Why would it matter in the future and not now?

PRUITT:

If there is a matter -- a case that comes before the EPA's authority. That would be something -- there's ongoing, as you know, Senator, Ms. Few indicated this in her letter -- there's ongoing obligations that I will have if confirmed as administrator to bring those kinds of matters to the attention of EPA ethics.

WHITEHOUSE:

Well, for what it's worth I think that the Senate has a role in policing this as well. That the whole purpose of advice and consent, and the reason there are these government ethics filings, is so that we can look at this exact question.

And the fact they haven't been updated to take into account dark money and all of these big political organizations that have been created with dark money, doesn't take away our Senate obligation to find out what conflicts of interest you will bring to the position of Administrator. And it gives me very little comfort that you're not willing to answer those questions here.

My time has expired. I'll continue in other rounds.

BARRASSO:

Thank you very much, Senator Whitehouse. I would like to introduce, for the record, an article, the Associate Press in the Seattle Times headlined, "Ethics Officials Clear Trump EPA Nominee."

It says, "The Office of Government Ethics on Monday, released the personal financial disclosure report for Scott Pruitt, currently Oklahoma's Attorney General. The -- the Ethics Office affirmed that Pruitt's disclosures comply with applicable federal laws and rules.

His finances, it says, are among the least complicated of Trump's cabinet nominees." Senator Boozman.

BOOZMAN:

Thank you, Mr. Chairman. I -- I really do find it ironic -- ironic and hypocritical that we're in a situation that my friends on the other side of the aisle of this committee using their definition of dark money as elected officials have literally raised millions of dollars of so-called dark money.

The -- I'd like to talk a little bit about some of the over regulatory burden that the states are facing. Air quality in Arkansas, is among some of the cleanest in the nation despite the progress that that the state has made, looking forward try to do the right thing. The Regional Haze federal plan is going to produce a tremendous economic burden on 'em.

I think it's a prime example of the haphazard regulatory atmosphere we that we've had in the past, with little input from the states and stakeholders. For years the regulatory certainty has prevented businesses from hiring new employees, stunting economic growth.

In fact the National Small Business Association that was just released, found that more than half of small businesses have held off on hiring because they don't know what the rules are gonna be.

Can you -- you've mentioned several times -- can you talk a little bit more about the impact that you've seen in regard to regulatory uncertainty in the state of Oklahoma? The experiences you've had.

PRUITT:

Senator, the visibility program, we've had similar challenges in Oklahoma. The Regional Aids Program under the Clean Air Act, that section of the Clean Air Act is really quite a bit different than other provisions of the Clean Air Act. It gives promise to the states in adopting plans to increase or improve visibility.

That particular section of the law says that by the year 2064, that we should have natural visibility in some key areas across the country. Oklahoma several years ago -- actually in 2010, under a different administration, both Governor and Attorney General submitted a state implementation plan that beat that deadline by decades.

But despite that, the EPA came in and rejected that state implementation plan and forced a federal implementation plan on the state, costing consumers quite a bit of money. One thing that I would add that I didn't talk about earlier, we talked about -- we talked about cooperative federalism and the importance of partnership.

I talked about that. You've talked about that. Under this past administration the use of federal implementation plans, if you combine President Bush, President Clinton and President George W. Bush, those three administrations combined, they issued five federal implementation plans under the Clean Air Act, in three administrations.

This administration has issued 56. So it shows an attitude of indifference. An attitude of trying to be dictatorial in some respects toward the state's role or manipulative of the state's role in a way that's, I think, counterproductive for air quality.

BOOZMAN:

So, when you and fellow Attorney Generals, other stakeholders sue the Federal Government whether its Regional Haze or Waters of the U.S. or whatever, your goal is not to do away with regulation, your goal is to make it such that the EPA follow their regulatory authority. Is that correct?

PRUITT:

Yes, Senator. And in an example I provided to you, where the state implementation plan of Oklahoma that was rejected we actually satisfied the statutory mandate, it was under the regionalized program.

We reached natural visibility a couple decades ahead of schedule. The methodology that was used, the EPA just simply disagreed with it. And so, they used their authority to displace that state plan, costing consumers in the state hundreds of millions of dollars in increased utility costs.

BOOZMAN:

One of the things that -- that I think we've seen also in the last eight years is tremendous mission creep on the part of the EPA where they have gotten into areas where they don't have the expertise.

They don't have the -- the, you know, the well expertise I think would be the best word, in regards to coming out with some of the things they've done where they lack jurisdiction and haven't really been in the past.

Can we count on you to work with the other agencies to take their expertise into careful consideration as we come out with the rules and regulations?

PRUITT:

I think interagency cooperation is very, very important. Obviously with rulemaking that's something that occurs, and should occur, I think, in a very collaborative way. And so yes, Senator, I believe it's very important as the EPA conducts its business, that it works with the core -- works with other agencies at the federal level to ensure that it's doing all it can to advance and protect water quality and air quality. But, do so in the framework established by Congress.

BOOZMAN:

And, does it feel like it's the ultimate decider, again, when they sometimes do not have the expertise of the other agencies?

PRUITT:

Yes, Senator. I agree.

BOOZMAN:

Thank you.

PRUITT:

Thank you.

BOOZMAN:

Thank you, Mr. Chairman.

BARRASSO:

Thank you, Senator Boozman. Senator Merkley.

MERKLEY:

Thank you, Mr. Chairman. Mr. Pruitt, are you -- are you familiar with this piece of medical equipment?

PRUITT:

Yes, an inhaler it looks like?

MERKLEY:

Yes, an asthma inhaler. The -- are you familiar with how many Americans have asthma?

PRUITT:

No, Senator, I'm not.

MERKLEY:

Well, it's about 1 out of 10 Americans including over 7 million children, so it's a pretty significant health problem across the country and I know I have been fortunate not to have asthma, but some folks I know who have and have asthma attacks feel like they're suffocating and sometimes they go into crisis.

People go into crisis with asthma, sometimes they -- they die from it, so it's a terrifying condition. And, the EPA in October 2015 strengthened the national ambient air quality standards for ground-level ozone.

They strengthened it to 70 parts per billion adjusting it from 75 parts per billion, because they argued it was an attainable standard that would save 3 to 6 billion dollars, and in addition of course, greatly improves the quality of life by diminishing the amount of -- of asthma attacks and -- and deaths. And, you challenge this.

You -- you launched a lawsuit against this -- this standard. And, was the basis of your lawsuit cost-benefit analysis, that they didn't follow their process?

PRUITT:

It was not, Senator. As you know, under the Nash (ph) Program, the Whitman (ph) Decision says cost cannot be considered in a criteria pollutant.

MERKLEY:

And what was the standard that you were challenging?

PRUITT:

It was a records based challenge that the need to -- to -- to ratchet down from 75 parts per billion to 70 parts per billion -- as you know the 70 parts per billion had only been in the operation for two years. And I think, Senator, it's important from a priority perspective. A resource perspective of the EPA when 40 percent of the country is in nonattainment for one of those criteria pollutants perhaps there should be focus on how to meet the level already in statute, or already in rule --

MERKLEY:

You challenge this based on the attainability standard? I already know that --

PRUITT:

It was a records based challenge, yes.

MERKLEY:

It's attainability standard. And there were numerous groups that -- that weighed in and said, "No, this is totally attainable." And, I'll submit a list for the record, of that, Mr. Chairman.

BARRASSO:

Without objection.

MERKLEY:

And, the key to this is that by implementing that -- by the time it's implemented -- it would save annually 230,000 -- an estimate of course -- asthma attacks among children, 160,000 missed school days, a tremendous number of missed workdays, 630 emergency room visits and 340 cases of acute bronchitis.

But, it also would save -- best estimate -- 320 to 660 premature deaths. So here is something that profoundly affects the health of folks in Oklahoma and folks across the country, folks in my home state of Oregon.

Something that expert after expert said is fully attainable, and you challenge it not on a process issue that is not on whether or not there was a cost-benefit analysis, because as you rightly pointed out, cost is not allowed to be a factor, but whether it was attainable.

So, why fight so hard on the side of the oil industry? Rather than fighting on the side of the health of the people of Oklahoma? PRUITT: Senator, let me say to you with respect to the NASH program, when you look at the nonattainment we have in this country, it's presently around 40 percent. I think increasing the nonattainment percentage, as opposed to focusing resources to get nonattainment into attainment, is a very important role of the EPA.

We should taking those marginal and moderate areas in our map, that are nonattainment, and work with local officials, those counties, through monitoring and assistance to help move from nonattainment to attainment. That is a very important goal of the EPA. In each of these --

MERKLEY:

Thank you. Thank you. You've made your point clear. I just simply disagree with you. None of these standards when they are set are attained. That is the point. It is an objective to be worked at over time. There was a strategy that this might take until 2025 to be fully implemented.

But, in the course of laying out that vision and having folks across the country work towards that vision, you end up saving a tremendous amount of money and a tremendous amount of lives.

And I, as a Senator from Oregon, fighting for the quality of life of Oregonians, deeply resent folks fighting for oil industry, that are trying to damage the health of my constituents, and Americans across this country. It is a question of values.

And valuing profits of companies over the health of our citizens is a character issue and that is what these hearings are all about. We are charged with Hamilton, to determine whether or not an individual is of fit character. To me this is a character issue -- valuing profits over people's health. Thank you, Mr. Chair.

BARRASSO:

Thank you, Senator Merkley. I'm submitting for the record a report by the National Black Chamber of Commerce entitled "Potential Impact of Proposed EPA Regulations on Low Income Groups and Minority."

The report goes from 2015, goes on to say that, EPA regulations including its regulation on carbon dioxide emissions would result in the year 2020, nearly 200,000 black jobs would be lost and more than 300,000 Hispanic jobs would be lost and additionally there would be commencement with this a medium household income significant decreases throughout the communities listed in the report. Senator Fischer.

FISCHER:

Thank you, Mr. Chairman. And we're -- here we go again on round two, so I am happy that we have an opportunity to continue questioning with you General Pruitt. Nebraska, much like Oklahoma is a rural state and with many cases the closest town or the neighbor can be located miles and sometimes hours away.

In Nebraska one of four jobs is directly tied to production agriculture. Under this administration farmers and ranchers felt especially targeted by the EPA. For example, in 2011 and 2012, EPA region seven conducted aerial surveillance or flyovers of feed yards in my state. While flying over my state the EPA documented these facilities with photographs.

This was very disconcerting to me given that many livestock producers in Nebraska also live and raise their families on these properties. Not only were these producers not informed beforehand, but the EPA has already delegated the authority to carry out the Clean Water Act in Nebraska to the State Department of Economic -- or Environmental Quality.

What will you do to ensure that the EPA sticks to its core mission and furthermore, how will you work with the regulated community including agriculture to build trust among constituencies that have been I would say the subject of bullying tactics by this EPA that we have now?

PRUITT: Senator, as I indicated in my opening statement some core themes if confirmed as administrator that I would seek to comply with.

One is public participation, full participation to ensure that all voices are heard as the EPA conducts its activities with respect to rulemaking particularly.

And I think that perhaps what you are referring to is a lack of that voice, or opportunity in the last several years. And so, I would work to build a collaborative relationship with those states as I've indicated.

I think the Departments of Environmental Quality at the state level are valuable partners that we need to restore their confidence in the partnership with the EPA and then seek to listen to the community concerns in addressing and responding to environmental issues

FISCHER:

Thank you. In one of her exit interviews EPA Administrator Gina McCarthy has admitted that she has had a bad relationship with agriculture and with the agricultural community and she listed it as one of her regrets.

I think a bad relationship is an understatement in this case. This administration's EPA philosophy is diametrically opposed to the idea that farmers can be good stewards of our land, our water, our environment and instead it seemed that this administration's EPA wanted to regulate and in some cases it looked like they wanted to prevent farming.

The agricultural community is looking forward to a new leadership with the EPA and working with you. And Mr. Chairman, I have here some statements from agriculture officials and groups that I would like inserted into the record.

BARRASSO:

Without objection.

FISCHER:

And, if I may, I would close by quoting a few of those. Jim Reese, the Oklahoma Secretary of Agriculture says that, "Scott Pruitt will continued EPAs effort to protect our environment, but with respect towards land owners, taxpayers, municipalities, businesses and Congress."

That is nice to hear, sir. Troy Stillwater, Nebraska Cattleman President stated, "Simply put, Mr. Pruitt sees clearly that agriculture and environment are not opposing terms, but rather, they are complementary.

He will work to cultivate the relationships, which will lead to the United States leading in food and fiber production, while improving the environment in which it is accomplished." Again, I am happy to -- to look forward to that relationship being established again, so that all parts of our society here in this country can participate and receive the recognition that we are good stewards of the land.

If confirmed, what -- what will be your relationship with the agricultural community? Are you going to enforce current laws, and will you also respect the limits that we have on those laws?

PRUITT:

Yes, on both accounts, Senator. And also the theme that I mentioned in my opening statement that I would highlight again, is that we -- we need to reject this paradigm that if you're pro- energy you're anti-environment, if you're pro-environment, you're anti- energy.

I believe that we as a country have demonstrated, we've made great progress since the 1970s improving our air quality and protecting our waters. We can grow an economy and also protect and be a good steward of our environment. And we need to restore that proper balance and commitment to both, as we seek to do our job.

FISCHER:

Thank you. As I -- as I said earlier, every member of this committee believes in clean air, clean water. We want an environment that is -- that is respected where we can manage our natural resources in a responsible manner, so thank you, sir.

PRUITT:

Yes, Ma'am.

BARRASSO:

Thank you, Senator Fischer. Senator Cardin.

CARDIN:

Thank you, Mr. Chairman. Mr. Pruitt, I want to try to get your understanding, I heard you say that you wanted to see the regulations and laws predictable, so that the stakeholders know exactly what is required, so there's lack of -- there's no confusion. So I want to concentrate on the waters of the U.S.

Because, ever since the Supreme Court decisions, there has been an uncertainty as to what waters are in fact subject to regulation by the federal government and what waters are not. Do you believe that, that clarity should be set by statute, or should it be set by regulations from the EPA?

PRUITT:

Senator, I think it's a great -- a great question, and you look at the series of cases going back to Bayview, all the way back to Rapanos. I think that you're exactly right. The definition in the Clean Water Act says that navigable waters, are waters of the United States. That doesn't provide a great deal of clarity to those that administer the law.

And I think the EPA taking steps to provide clarity is important, absent Congress responding. So I -- I think that perhaps there is a time and place for Article I response, Congressional response to what this body means when it says navigable waters, or waters of the United States.

CARDIN:

And, of course, the Congress, for whatever reasons, for a long period of time, has not been able to respond as to what we think the definition of the waters of the U.S. should be. The Administration did come forward with proposed regulations, which were resisted by many of the stakeholders that you are aware of.

How would you -- what did -- what would -- how would you define the waters of the U.S.? What was wrong in the regulation? I don't want to go through all the details, but tell me, you know, where do you think we should regulate?

You already said more than just navigable, so what -- what -- how do we define it? How do you do it? Where did the Administration go wrong?

PRUITT:

The challenge, up until now, with respect to the current rule, this involves actually an error case, the U.R. case where Justice Scalia talked about the counterbalance to Massachusetts EPA where the steps taken by the EPA to take the endangerment finding in 2009 that dealt with mobile -- Title II mobile sources.

And then link that over to the PSD program was something that Justice Scalia said, transformed the statute and was not lawful or constitutional. I think the same thing perhaps is going on with the current rule, that there really isn't -- when you, when you are classifying dry creek beds in Southeast Oklahoma that are dry 90 percent of the year, as a water of the United States, that clear is something that is ...

CARDIN:

Sir, the administration in its regulation had certain exceptions that tried to deal with that. You obviously didn't think those exceptions were clear enough?

PRUITT:

Well, actually the Sixth Circuit said that, that those clarifications were not sufficient. I would agree with you Senator Cardin that I believe the clarity around this definition, the jurisdiction of the EPA is essential to get right and to address.

And as I indicated earlier to some questions, the Supreme Court is actually taken up a matter from last Friday, it's more jurisdictional and not merit based, but the response by Congress, the response to provide clarity perhaps is a very important step to take.

CARDIN:

Well, I want to pursue this and I think maybe ask questions for the record as to specific provisions that you believe should be in that rule that would be than the proposed rule and I appreciate response to that so we can try to see where we're heading in your thought process as to how you define the regulated waters of the U.S. That would be helpful to us.

PRUITT:

And -- and I think Senator, the reason that's difficult, as you know is because in that process, whatever process that would take -- take place, that would be rule making, which means that there'd be comments and ...

CARDIN:

Well, I understand that. I'm not trying to get every I dotted, ever T -- just want to get your philosophy as to where the waters of the U.S. lines would be drawn and where you took exception to the regulatory efforts of the Obama administration.

Let me get to the second point, if I might on fracking. Fracking's an interesting area because it's state regulated principally. There's very few federal regulations. There's been -- and my state has gas deposits that could be subject to fracking and Pennsylvania, our neighboring state has done that.

There's been some problems with polluting -- pollution in water. We know about the gas releases, it's already been talked about. There's some concern particularly with deep well drilling that when you inject the fluids back into the cavities that it may cause instability.

In your state, I know there were a lot of earthquakes. There've been talking about how, whether these earthquakes were motivated by the fracking activities or not. How well have the states regulated fracking and where do you see the federal role should be in protecting our environment from fracking?

PRUITT:

Well, I think -- I'm glad you've mentioned the state role because we've actually been regulating hydraulic fracking in Oklahoma since the late 1940s, early 1950s. It's -- it's not a new process. Horizontal drilling is, but the hydraulic fracturing process is not and many states have been very aggressive at regulating for a number of decades.

With response to -- response to the seismic issue that you're talking about, the earthquakes in Oklahoma, the Corporation Commission has actually declared off limits certain drilling activity in hot spots already. They've taken a very aggressive approach.

And I too share their concern. I've been in conversation with the commissioners at the Corporation Commission. That's who has jurisdiction in this matter. And they have taken, again, very meaningful steps to declare off limits certain drilling activity to try to see if it will help reduce the number of earthquakes happening in Oklahoma, and it has helped.

CARDIN:

Thank you. Thanks Mr. ...

BARRASSO:

Thank you. Thanks Mr. -- thank you Senator Cardin. Senator Inhofe?

INHOFE:

Thank you Mr. Chairman. I have two unique Senate requests, so don't start my clock yet. One is, I really believe and perhaps I'm a little bit sensitive to this but that, Mr. Pruitt's integrity has been put into question with the accusations of contributions to his campaign.

I'd like to keep in mind that although the oil industry is a huge industry in the United State of Oklahoma. They have things called PACs where the middle income people will say, yes, we are -- you know, they supported me also.

But I would -- I think that we need to have in the record that there are somethings that are going on that should not be going on, and this affects the Democrats and not the Republicans. There's a guy named, Tom Styer (ph), and I'm going to put this in the record, who actually said he was going to put \$100 million into campaigns of the individuals talking about the global warming and what they expected. I -- in 2016, he didn't do that.

He only put in -- I'm sorry, '14 -- \$75 million of his own money. In 2016, he was the largest contributor putting in \$86 million of his own money. I'm not going to read this because it does reflect the names of people who are at this dais. I ask that this, you know, to consent to this being entered into the record.

BARRASSO:

Without objection.

INHOFE:

Another thing --

CARPER:

I'd really like to object -- I need to ask for a clarification from my friend from Oklahoma. The -- the monies that you're referring to, were those donations that were disclosed, fully disclosed?

INHOFE:

Oh yes, I believe they were.

CARPER:

Then that does not sound like dark money to me.

INHOFE:

Well, all right. Anyway on the last question that -- that Mr. Pruitt had concerning the earthquakes, I'd like to make this a part of the record, because I'm surprised, you guys that the Oklahoma Corporation Commission has really focused in on this thing and talked -- and talked about this is waste water and disposal wells that we're concerned with.

They clamped down on it and you're exactly right in your response to the question, except you didn't go far enough. In 2016, they actually reduced the earthquakes by 31 percent. And so we are doing, in the state of Oklahoma something that is -- is -- we've been complemented about, the fact that we are taking the -- taking these -- these actions. So I'd like to make this as a part ...

BARRASSO:

Without objection.

INHOFE:

... of the record. Now, the other thing I want to bring out, and I've done this before but I wasn't going to do it until people kept talking about the scientist and all the sciences, and all the scientists -- and I know that people want to believe that.

But I remember so well, you know -- go ahead and start the clock, that's fine -- I remember so well --

(UNKNOWN)

We just want to make sure that the clock doesn't just get stopped for the Republicans and runs for us.

INHOFE:

You're -- you're...

(UNKNOWN)

Welcome former chair ...

INHOFE:

Yeah, you're a -- you are alert, I would say that to my friend.

(LAUGHTER)

INHOFE:

Anyway, I can remember when I was going to go over to -- with every year the U.N. has a big party, they invite everyone to come -- come in and, I was going to go to Copenhagen to be the one man truth squad, which I did and I went over there.

But during that time, right before I left, I asked the administrator of the EPA, the job that you're I believe going to have, Lisa Jackson, I said, I have a feeling once I leave town you're going to come up with an endangerment finding and you're going to give you justification for getting involved in this -- in this issue.

And she smiled, so I could tell it was true. And I said that when you do this, it has to be based on science. Tell me the science that you are going to use for this. And she said, with the IPCC, Intergovernmental Panel on Climate Change.

Now, as luck would have it, in my luck, not theirs, right after that is when Climate-gate came, and that's when it was disclosed that the individuals, the scientists in IPCC rigged the numbers and came up with such an outrageous lie in terms of what causes global warming, all of that and I'll just read a couple of them here.

One of the physicists in the IPCC said, "Climate-gate was a fraud on a scale I've never seen before." Clive Cook with the Financial Times said, "The closedmindedness of these supposed men of science is surprising even to me, the stink of intellectual corruption is overpowering."

And the U.N. -- the U.K. Telegraph, that's one of the largest in the U.K., the publications, it said, "It's the worst scientific scandal of our generation." Now, nobody talks about that. But that's the science that they are talking about, and I really believe it's necessary to have that as a part of this record of this meeting.

Now, General Pruitt, the -- in 2012, the EPA and the National Highway Traffic Safety Administration issued update -- updated fuel economy standards that were the result of a compromise and that compromise was between the Obama administration, the automakers in the state of California. Right?

And the part of this deal required a review of these regulations in 2018 before -- these are their words, not mine -- before any new standards were put in place. After losing the election however, the Obama administration broke the deal by prematurely issuing new regulations.

This decision was made unexpectedly and well over a year before the EPA said that they'd make the determination. This shortened a time frame and process is concerning. So, Mr. Chairman, I do ask unanimous consent that the previous EPA timeline for the expected action on the mid-term review be included in the record.

BARRASSO:

Without objection.

INHOFE:

And Attorney General Pruitt, as administrator, will you look into this matter to see whether this extreme action was appropriate or a hasty political decision?

PRUITT:

Senator, as you indicated, the obligation was to meet the November 2008 mid-term review -- 2018 mid-term review, and I think the study that was completed, it was finished December 30th and they issued their findings within 14 days.

That time period is something, I'm not sure that, that normally happens as far as the time, the velocity of 14 days, but it merits review and I would review that, yes.

INHOFE:

Well, the follow up question would be, would you commit to sitting down with the Transportation Secretary Elaine Chao, and -- I've already talked to her about this incidentally, both of them will be confirmed, I'm convinced and you're working to address the impacts of the EPA decision on automobile manufacturers and consumers ...

PRUITT:

Yes.

INHOFE:

... and worked with her on that -- in that issue.

PRUITT:

Absolutely.

INHOFE:

All right. Very good. Thank you, Mr. Chairman.

BARRASSO:

Thank you, Senator. Senator Booker?

BOOKER:

Thank you very much. Thank you Mr. Pruitt. I just want to jump into one of the areas that you've said is a principle part of one of your achievements. In your opening statement, you said, that as attorney

general you confronted with an important water quality issue on the scenic Illinois River about the high phosphorous levels that were causing a range of problem that come from the manure principally farm animals.

And you go on to state that this was an historic agreement to clean up the river. It was in your opening statement and a number of the documents that you provided. You also described the agreement with Arkansas as an important agreement to reduce the pollution.

Again that was a result from poultry growers, and I'm quoting you actually directly, "That was occurring as a result of pollution from poultry growers." Are you familiar with this?

PRUITT:

Yes, also discharge from municipalities in Northwest Arkansas as well, that ...

BOOKER:

I think that's an important point, yes.

PRUITT:

Yeah.

BOOKER:

I would like to ask you just some question about this, but I think it's important. I really dug into this and did some research. Can you hold -- hold this up. I just want to go through with my colleague what the fact pattern is that lead to what -- this moment where you intervened.

And it really starts with a Supreme Court decision way back in 1992, Arkansas v. Oklahoma. I imagine you're familiar with the Supreme Court decision, that the result between those two states that held that basically up river states, such in Arkansas must comply with the water quality standards that are adopted by downriver states and then approved by the EPA.

You're familiar with that?

PRUITT:

I'm familiar with the litigation, yes.

BOOKER:

So -- so after that Supreme Court decision effective July 1, 2002, Oklahoma actually did adopt a .037 water quality standard for phosphorous and importantly they gave a decade, ten year phase in period before full compliance was required. And then in 2003, your predecessor Drew Edmondson negotiated agreement with Arkansas, which I've read called the Statement of Joint Principles and Actions.

Mr. Chair, I'd like to enter that for the record.

BARRASSO:

Without objection.

BOOKER:

And then in 2003, to give more teeth to this -- this goes to what you were saying about municipalities, it created phosphorous limits for municipal discharges. And that 2003 agreement also that I've read through, also states that Oklahoma will reevaluate the .037 criteria for total phosphorous in Oklahoma's rivers by 2012.

And then, this is a big part in accordance with the -- with the instruction, the mandates of the Supreme Court, the EPA gave its approval to Oklahoma's .037 phosphorous standard. This was critical because under the Supreme Court decision, now Oklahoma had to -- had a water quality standard approved by the EPA that was now enforceable against up states like Arkansas.

Now, let's fast forward to April 2012. Oklahoma's Water Resources Board reviewed the best scientific information available in 2012. It reevaluated and reaffirmed the .037 phosphorous standard. Mr. Chair, I want to put in an executive summary of that review.

BARRASSO:

Without objection.

BOOKER:

And then on June 30, 2012, the ten year phase in going back to the Supreme Court decision, the actions by Oklahoma, the ten year phase in period was completed in full compliance with the .037 became required. It became now what was required by -- by the states.

So just to recap all of this because it's a lot, 20 years, Oklahoma's EPA approved a .037 phosphorous standard, more than two decades in the making. It has just been reaffirmed by the Oklahoma Water Resources Board, and then the ten year compliance period phase in had expired.

And so when you said that you had entered into a second agreement with Arkansas that in your words, "Was a historic agreement to clean up the river, that would reduce pollution from poultry growers."

And this is the question that I have sincerely, I pulled that 2000 agreement and read it -- excuse me -- the 2013 agreement and read it and it was stunning to see that it actually didn't take any steps to reduce pollution but actually only proposes another unnecessary study and attempts to suspend compliance that was two decades in the making with the .037 standard.

It suspended compliance for yet another three years of pollution. Isn't that true that, that's what the agreement did?

PRUITT:

It isn't, Senator. There was actually no enforcement of the .037 standard taking place on Arkansas's side of the border. The reason -- you refer to the memorandum of understanding. I actually have a second statement of principles here before me, as well.

That expired in 2012, '13 time frame and that's what presented my office with the opportunity to go to Arkansas to ensure that the .037 standard would actually be enforced from a state law perspective on that side of the border.

That had never taken place in history. You mentioned the EPA. There was no enforcement authority that had taken place on that phosphorous level by the EPA. Oklahoma had it as you -- as you've indicated as a standard but it was not being enforced upstream in Arkansas and that's what the agreement addresses.

BOOKER:

Mr. Pruitt, so I don't have the seniority or the stature or the grandchildren of Senator Inhofe, so I can't go over my time. But I will say this, in my next round, I will go back into this because the documents don't seem consistent at all with what you saying and I'd like in my next round of questioning to go into a little bit deeper into this historic settlement. Thank you, Mr. Chair.

BARRASSO:

Thank you Senator Booker. I would introduce for the record an article that appeared in the Tulsa World, this past January 12, 2017, going way beyond the 20 years of that panel, but of the slide.

But 33 years, and it's by Ed Fite, who served as the agency administrator of the Oklahoma Scenic Rivers Commission from September 1983 until June 2016, 33 years. And his statement in this op-ed that he wrote is "I have found that Pruitt has always done right by our scenic rivers.

He has, for the first time ever, he has gotten the state of Arkansas, which happens to have parts of the streams we've designated as scenic rivers, originating in and flowing through their state to agree to Oklahoma's Scenic Rivers Phosphorous Standard, an incredible environmental accomplishment, the effect of which cannot be understated." Senator Rounds?

ROUNDS:

Thank you, Mr. Chairman. Attorney General Pruitt, in August of 2016, the EPA Inspector General found that the EPA had failed to follow through with its commitment to update its 2010 Lifecycle Analysis for corn ethanol and has also failed to perform its legally required comprehensive study on the environmental effects of the RFS, the Renewable Fuel Standard. EPA's information on ethanol's life cycle emissions is inaccurate and it's outdated.

Today's best available science shows that blending ethanol into gasoline can significantly reduce greenhouse gases. However, the EPA has failed to update its own science with most recent best science that is available and continues to rely on outdated, inaccurate science when setting national policy regulatory biofuel's policy.

What are your thoughts on the EPA relying on outdated, inaccurate science to set federal regulatory policy?

PRUITT:

Senator, I think it's the obligation of the EPA in taking steps, rulemaking and otherwise, to ensure that it has the most up-to-date, objective scientific data possible.

ROUNDS:

Let me follow up a little bit. The current EPA process for considering of the scientific information underpinning major regulations, I believe, is flawed and it's unbalanced. For example, the Scientific Advisory Board, or the SAB is to provide scientific advice to the EPA administrator and Congress.

But there is a significant lack of geographic diversity in state and local and tribal representation on the SAB. Can you explain to us what your views are on the agency science and what you envision as the role of agency science at the EPA?

PRUITT:

Senator, as you and I talked about in our meeting, I think it's important to have that geographical representation better represented, and -- and that there's some conflicts of interest application with the Science Advisory Board that need to be addressed, as well.

And also, it's the Clean Air Science Advisory Committee, which is a standing committee of the Science Advisory Board.

ROUNDS:

I've got a chart that shows the geographic makeup of the 2015 chartered SAB. Of the 54 members, the majority of them come from East or West Coast states. Can you get that chart for me, please? I've also got a chart that shows the number of states that have government representatives on the SAB.

How would you broaden the geographic scope of SAB members to make certain that states and various governmental entities are represented? The one on the left shows the black diversity with regard to the actual members on the board, and the one on the right actually shows that we have a grand total of two states with representation for state and local units of government on those boards

PRUITT:

Senator, if confirmed, it is an issue, as I've indicated, and we talked about in your office, that is important to address to ensure that there's confidence that, as science is driving rulemaking that its objective and that it's tethered to the rules that are adopted by the EPA.

So this is a very important issue that needs to be evaluated and discussed and to ensure the efficacy of the science that occurs at the EPA.

ROUNDS:

Would you commit to us that you would make it an effort to see that the Science Advisory Board actually reflects some fairness with regard to geographic diversity, as well as recognizing the important role that local and regional governments, state and local governments have in determining or at least participating in these boards and commissions?

PRUITT:

If confirmed, I look forward to working with you on that issue.

ROUNDS:

Thank you. Let me just finish real quickly with just one other item, and I -- I believe listened a lot to and I -- whether you're working on behalf of industries, whether you're working on behalf of the folks from Oklahoma, your role as an administrator with regard to clean air, water and so forth.

As the attorney general, you represented the interest of your state, both your state's economy and your state's environment. But just because you are pro-economic development and pro-economic development growth does not mean that you have to be anti-environment.

Preserving the environment and preserving the economy, I don't believe are mutually exclusive. I don't think you've got to choose between the two. How would you balance economic growth with making certain that we have clean air and clean water?

PRUITT:

I think part of it's inherent in the statutes and the process that the EPA is supposed to conduct. I know that sometimes rulemaking is seen as something that's not terribly important or -- or something laborious.

But the reason rulemaking, the reason Congress has said that you take -- you offer notice on a proposed rule and you take comment, is it's needed to make sure all voices are heard and that there is an informed decision that regulators are making before they finalize rules, because of the impact it has on the economy and on the environment in this instance.

So, rulemaking is something that we should take seriously and that we should do so consistent with the framework outlined by Congress so that all those voices are heard that you're referring to, Senator, in -- in the rulemaking process.

ROUNDS:

Thank you. Thank you, Mr. Chairman.

BARRASSO:

Thank you very much, Senator Rounds. Senator Markey?

MARKEY:

Thank you, Mr. Chairman. Mr. Pruitt, earlier today you said that the EPA has an important role in regulating carbon dioxide because of the 2007 landmark Supreme Court ruling in Massachusetts v. EPA.

The EPA administrators for both President Bush and President Obama made a decision that carbon pollution poses a danger to America, otherwise known as the Endangerment Finding. Will you promise to keep on the books the scientific finding that carbon pollution poses a danger to the American public health and welfare?

PRUITT:

Two things, Senator. First, with respect to *Mass. v. the EPA*, the Supreme Court said to the EPA that they had to make a decision --

MARKEY:

That's right.

PRUITT:

... to determine whether CO2 posed a risk. And, as you indicated, in 2009 they did so. That is the law of the land, those two cases. There's an obligation of the EPA administrator to do his or her job in fulfilling *Mass. v. EPA* in that Endangerment Finding from 2009.

MARKEY:

So you will keep that scientific finding on the books?

PRUITT:

The Endangerment Finding is there and needs to be enforced and respected.

MARKEY:

OK. And you will not review that scientific finding?

PRUITT:

There's nothing that I know that would cause a review at this point.

MARKEY:

That's very good. Massachusetts v. EPA made it possible for states like California and Massachusetts to set higher standards for the fuel economy of vehicles using their authority under the Clean Air Act. This is a powerful tool for states to reduce emissions and address global warming.

As a direct result of the Clean Air Act authority combined with my 2007 Fuel Economy Law, the Obama Administration reached an historic agreement with the auto industry's support to increase fuel economy standards to 54.5 miles per gallon by 2025.

Those standards are projected to reduce our dependence on foreign oil by more than 2 million barrels a day, prevent 6 billion tons of carbon pollution, and save consumers more than \$1.7 trillion at the gas pump because their cars will be so much more efficient.

Those standards are also unleashing a Tesla revolution, clean energy vehicles all across the country. Ten thousand people are going to be employed, for example, in Nevada, in this technology area.

You've said that you want states to play a larger role in environmental regulation. In your 2015 testimony before the House Science Committee, you wrote quote, "The EPA was never intended to be our nation's frontline environmental regulator. The states were to have regulatory primacy."

But earlier today, you wouldn't commit to maintaining California and Massachusetts and other state's ability to be regulatory (sic) primacy as the leaders of the effort to protect their own states to do what is best for global warming in their own states.

So I'm going to ask you again. Will you support the statutory right of states to do more to reduce dependence on foreign oil, reduce global warming pollution, save money at the gas pumps, and create tens of thousands, hundreds of thousands of jobs in the clean car job business?

PRUITT:

I think, Senator, generally the answer to that would be yes. But, in application with the California waiver that was discussed earlier, that's an adjudicatory process that I can't prejudge what would occur there. As you know, previous administrators have either granted or denied that based upon a record that was made.

I do respect and do believe that states have a very important role. We've acknowledged that or I've acknowledged that today with respect to the Chesapeake Bay situation, as an example. And so, I will look at that issue like others, to make sure that it's respected but also is consistent with the statutory framework that you've outlined.

MARKEY:

Do you support the law that says that California has a right to ask for a waiver?

PRUITT:

It's statutory and something the administrator has an obligation to do. So, yes, I do respect it.

MARKEY:

Do you support the current California waiver for greenhouse gas standards?

PRUITT:

Senator, that's what would be evaluated and I think it's very difficult and we shouldn't prejudge the outcome in that regard if confirmed as administrator.

MARKEY:

So, you're questioning the current waiver? You don't think they're entitled to the current waiver.

PRUITT:

Well, the waiver is something that's granted on an annual basis and the administrator would be responsible for making that decision.

MARKEY:

Yep. And so, you say you're going to review it?

PRUITT:

Yes, Senator.

MARKEY:

Yeah. And when you say review, I hear undo, you know, the rights of the states. And I think to a certain extent that's -- it's troublesome, because obviously what we've heard all day is how much you support state's rights when it comes to these issues.

But now when it comes to the right of California or Massachusetts and other states to be able to reduce carbon pollution, you're saying you're going to review that. So, my problem really goes to this double standard that is created that when you sue from the Oklahoma perspective, from the oil and gas industry perspective and you represent Oklahoma, you say they have a right to do what they want to do in the state of Oklahoma.

But when it comes to Massachusetts or it comes to California and it comes to the question of those states wanting to increase their protection for the environment, protect their -- their victimization from carbon pollution, you say there, you're going to review.

And I think that the history of the agency in granting reviews that have been necessary for Massachusetts, for California and other states to improve the environment, are still valid. The science hasn't changed.

The new clean energy technologies have not changed. The danger to the public from environmental exposure to carbon pollution has not changed. And so from our perspective, you know, we -- we are fearful of what a review would actually result in. And from my perspective, I think it's going to lead to you undoing that --

BARRASSO:

The Senator's time has expired.

MARKEY:

-- right of the states to be able to provide that protection.

BARRASSO:

Thank you, Senator Markey. I'm going to introduce, for the record, a report from the National Energy Assistant Directors Association. These are the state officials who oversee the financial assistance programs for people to heat their homes.

The report says that when energy prices go up, the higher energy prices result in 24 percent of the recipients who go without food for at least a day, 37 percent go without medical or dental care, 34 percent didn't fill a prescription and 19 percent had someone in their home become sick because the house was cold due to increased energy costs. Senator Ernst?

ERNST:

Thank you, Mr. Chairman. Again, Attorney General Pruitt, thank you for being here today. I would like to go back to something that a colleague, Senator Duckworth, mentioned earlier today and that's the Point of Obligation.

The proposal to change the Point of Obligation under the RFS is an example of a regulatory change that would destabilize the policy environment if adopted. And, what's interesting with the Point of Obligation, we have two sides that normally oppose each other that have actually come together.

So, both biofuel producers and the American Petroleum Institute oppose this change, both groups. And I would like to submit a letter for the record showing the united opposition to moving the Point of Obligation. Mr. Chair, if we could have that entered into the record.

BARRASSO:

Without objection.

ERNST:

And, I'd like to revisit this, if you can, yes or no, as administrator, will you

oppose changes to the Point of Obligation?

PRUITT:

Senator, as you and I indicated -- as I indicated in my meeting with you and I think in response to Senator Duckworth earlier, there's a comment period in process now at the EPA about the Point of Obligation. I think prejudging, you know, the outcome of that process at this point is unwise.

I can say to you as I said to you in the office, any steps that I would take as EPA administrator with respect to any issues as far as the RIN program, the monitoring of that program, Point of Obligation, all these various issues that we discuss, the job of the EPA administrator is to make sure that the statute is upheld and enforced and not undermined.

The vitality of the RFS program has been defined by Congress dating back to 2005. Any steps that the EPA administrator takes needs to be done in such a way to further the objectives of Congress in that statute, not undermine the objectives of Congress in that statute.

ERNST:

Well, I do appreciate you being objective and I'm sure that Senator Duckworth and I will look forward to continuing to educate you on those issues. So, thank you, very much.

I would like to show a chart of the state of Iowa and I would like to go back to some of Senator Cardin's comments about who should define what the expanded definition of Waters of the U.S. is.

So, this is a chart of the State of Iowa and, as you can see, with the expanded definition as provided by the EPA, 97 percent of the State of Iowa is now considered Waters of the U.S. So, if you were in an area like mine, Southwest Iowa here, right down here, I live in a Water of the U.S. Most of the state is covered by the Waters of the U.S.

And I bring that up because in a moment I'm going to show you another picture of the consequences of the EPA defining what a Water of the U.S. is. Last Congress, this committee examined the scope of the Federal Clean Water Act jurisdiction, EPA and the Corps of Engineers claim today, even without the new WOTUS rule.

The committee found that EPA and the Corps are already expanding their jurisdiction using the concepts that they codified in WOTUS, they are just doing it by a case-by-case basis. The jurisdictional claims that are already being made are very troubling.

For example, the Obama EPA told the public that they will not regulate puddles. They will not regulate puddles. However, we learned that the Corps is already regulating puddles by claiming that a puddle in a gravel parking lot is in quotes, "a degraded wetland, a degraded wetland", a degraded wetland.

The Obama EPA also told farmers not to worry about being regulated because ordinary farming activities have a statutory exemption. We learned that the Corps of Engineers and the Department of Justice have decided that plowing is not an ordinary farming activity. Explain that to my dear deceased grandfather and my father, who's activities in farming include plowing.

According to the Obama administration, any plowing that pushes soil into furrows is not an exempt farming activity because the tops of plowed furrows can dry out. According to a brief filed by the United States in quotes, "The furrow tops now serve as small mountain ranges."

Right there folks, "small mountain ranges." "These furrow tops now provide conditions that are not conducive to growth and development of wetland plant species. They are many uplands," end quote.

This is a picture of these small mountain ranges from the government's expert report. Mr. Pruitt, will you commit to me that if confirmed, EPA will work with the Corps and DOJ to make sure that federal agencies stop trying to regulate ordinary farming practices.

PRUITT:

Yes, Senator.

ERNST:

Thank you for that very concise answer. Thank you, Mr. Chair.

BARRASSO:

Thank you, Senator Ernst. Senator Duckworth?

DUCKWORTH:

Thank you, Mr. Chairman. Mr. Pruitt, I just want to ...

PRUITT:

Yes, Senator.

DUCKWORTH:

I want to come back to this question again. And let me just tell you, I played second base, as well. This is, you know, this is a hanging curve ball. You can knock this out of a park with a yes, all right?

Will you commit, yes or no, to reversing the EPA's current interpretation that available infrastructure should limit the requirements to blend biofuels into our fuel supply given that it runs counter to congressional intent?

PRUITT:

I will not take any steps to undermine the objectives and the statute of the RFS as administrator, as EPA.

DUCKWORTH:

So, are you committing -- will you commit to opposing any attempts to move the Point of Obligation from the farmer, the soybean producers, the corn producers, and biofuel manufacturers, away from them and towards the blenders, because that would be counter to congressional intent?

PRUITT:

Senator, that is something as I've indicated. There is an open comment period on that very issue. And, if confirmed, I would be dealing with that issue and need to respond to the comments that have been made as part of the record.

It would be unwise to prejudge that outcome. I can say to you that any steps that I would take as administrator would be in furtherance of the RFS and not to undermine the RFS.

DUCKWORTH:

But the comment period has nothing to do with congressional intent. Earlier today, you said that you would abide by congressional intent. Now, the congressional intent is to keep that Point of Obligation with the soybean and corn producers and the biofuel manufacturers, not to move away from it regardless of what the open comment period says.

So, you're saying that you're willing -- that your answer is no, because you would be open to moving it away from the soybean and corn growers, the farmers, towards the blenders, if that's what the comment period -- if that is what comes out of the comment period? Is that what you're saying? And that would be against congressional intent, though.

PRUITT:

Senator, I think maybe we're -- with respect to congressional intent and the statute, the intent, as far as the Point of Obligation, is not addressed in the statute itself. That is a decision and the administrator has been involved in that process historically. It's been subject to much discussion. In fact, the EPA has dealt with this issue before.

What I'm saying to you is, it's the job of the administrator to enforce the program, to administer the program, to ensure that the intent of Congress as far as the RFS is upheld. I will do that.

To prejudge the outcome of that particular comment period is something that I can't do and shouldn't do at this point. I would need to respond to that only after being confirmed and going through the rest of the process.

DUCKWORTH:

So, you're saying that you would be open to moving the Point of Obligation away from the corn and soybean producers and ethanol manufacturers?

PRUITT:

I'm saying ...

DUCKWORTH:

If that is what the -- if that is what the open comment period says, if that's the result, then you would be open to moving it away from the farmers?

PRUITT:

No, I'm saying, Senator, that any actions taken as administrator that would jeopardize and endanger the RFS as intended by Congress, I would not take. That is different from prejudging an outcome in that particular matter.

DUCKWORTH:

But the intent of Congress is to keep the Point of Obligation with the producers.

PRUITT:

That's something I'm not aware of, Senator.

DUCKWORTH:

OK. Well, let's move on to -- I'm very concerned and we'll follow up with this in the future. Let's go to safe drinking water. I sit on oversight government -- I sat on Government Oversight committee in the House where, in a bipartisan manner, we explored what happened in Flint, Michigan.

And I was actually flabbergasted earlier today when, in response to my colleague, Senator Cardin, whether you believe there's any safe level of lead that children can consume. You responded by saying, and I quote, "Senator, that is not something I've reviewed or know about. I believe there's some concern but I have not looked into the scientific research on that."

You're about to become the EPA administrator. You're seeking to be the EPA administrator and you've not looked into the issue of lead in our drinking -- in our drinking water supply? I think that that is something, especially in the aftermath of Flint, is -- is a serious oversight on your part.

Have you even studied the Flint water crisis in preparing for this hearing? And do the names Mary Gade and Susan Hedman ring a bell to you?

PRUITT:

The situation in point as I indicated earlier, the EPA should've acted more expeditiously in responding to Flint and did not. There was indication at the regional level that there were concerns and there was not a response.

And I think that the EPA bears responsibility for what happened in Flint and would seek to, in the future, avoid those kind of situations by being more proactive through the regional administrators and the states and municipalities in ensuring the quality of our drinking water.

DUCKWORTH:

As EPA administrator, will you commit to appointing a permanent regional administrator to the Midwest region that will be based out of Chicago but they cover Michigan?

We have issues with lead in Galesburg, Illinois, for example. And will you give them the responsibility and the ability to act proactively so that they can step in when they see that the state is not doing its job in protecting the safe water drinking supply for its citizens?

PRUITT:

As you know, Senator, the EPA -- and the answer is yes. The EPA has emergency order authority to respond to situations like you described. And I think the EPA should step in, in those situations in a very meaningful way.

DUCKWORTH:

That's good news because they did not do it in the case of Flint. Thank you. I'm out of time, Mr. Chairman.

BARRASSO:

Thank you very much. I would like to introduce for the record an article from the Oklahoman by Rick Green.

And to read, it says, J.D. Strong, Director of the State Wildlife Conservation Department says of Attorney General Pruitt, quote "Attorney General Pruitt has been a really good partner and ally in making sure we have adequate protections in place for the quality and quantity of water, said Strong", who previously lead the Oklahoma Water Resources Board and was State Secretary of the Environment.

I have never seen him put us in a position where we had to compromise anything to protect the waters of Oklahoma." Senator Boozman?

BOOZMAN:

Thank, Mr. Chairman. And I want to go through -- again, obviously, Congressman in the district with the Arkansas, Oklahoma, Illinois river situation. I was elected in a special election in 2001 and inherited this. This has been going on for about ten years. In 2001, from that time on until recently we've probably worked on this, it seems like every week.

But what happened was, in 2003, the EPA came out and said that the standard was such that by 2013, the river needed to be -- have attainment of .037 standard of phosphorous. Arkansas worked very, very hard, changed out all of its treatment plants in that area. That's one of the fastest growing areas in the country.

Again, you know, the ratepayers pay for all that, hauled out chicken litter and all those kind of things, and made a dramatic improvement in the attainment. The problem was, though, Arkansas, and you mentioned again, my good friend, Senator Booker, and he is a good friend, mentioned a lot about Oklahoma, this and that. Arkansas never agreed to any of that.

So they were going forward but they felt like they could not obtain the .037 standard because the first national river is in Arkansas, the Buffalo River, and it was not at .037. And it's pristine. So, went with good faith.

In 2010 -- in 2005, I believe, the attorney general in Oklahoma sued -- sued Arkansas. That was -- and you can correct me if I'm wrong on some of these things -- but in 2010, that case was -- was, all of this stuff was put in place but the federal judges never ruled on it. So it was open.

We fast forward, 2013 is arriving. Arkansas does still not agree that the .037 standard is the appropriate one, so they were squaring off getting ready to sue each other again. And Attorney General Pruitt, Attorney General McDaniel, a Democrat in my state, got together and said, hey, you know, let's not waste a ton of money with lawyers.

Let's, you know, use science and things like this to figure this out. So they chose a neutral site, Baylor University, which has an excellent water department. They came in, did a study and then came back and said .037 is standard and right now the states are living with that.

So, it really was -- it was a tremendous effort, took a long time, and it was a very, very difficult situation. So, you know, I applaud you. I want to put in the record a letter from our former Attorney General McDaniel that again outlines this and was very, very complimentary of the Attorney General.

BARRASSO:

Without objection.

BOOZMAN:

Thank you. Let me just quote one of the final paragraphs, "Recent press accounts regarding these efforts unfairly mischaracterize the work that was done by General Pruitt and his team.

He was a staunch defender of sound science and good policy as appropriate tools to protect the environment of this state. I saw firsthand how General Pruitt was able to bridge political divides and manage multiple agency agendas to reach an outcome that was heralded by most credible observers as both positive and historic."

And I think, again, as somebody that was intimately involved in that, more involved than I wanted to be in things, that it really was a heroic effort by yourself and the people in Arkansas trying to resolve, you know, a difficult situation.

PRUITT:

Thank you, Senator.

BOOZMAN:

Thank you. That's really all I have, Mr. Chair.

BARRASSO:

Thank you very much, Senator. Senator Sullivan?

SULLIVAN:

Thank you, Mr. Chairman, and General Pruitt. I wanted to focus on -- you know, I talked earlier, a number of us talked earlier about the frustrations that the American people have with the EPA. We talked about anger. Senator Ernst talked about fear. I believe it extends to a couple of reasons underlying that.

One is the agency currently feels that it's empowered to regulate literally every nook and cranny of American life. And related to that, they seem to have very little respect for the rule of law. So, let me touch on those.

Senator Ernst talked about the WOTUS rule and the -- literally, the EPA's claimed the ability to regulate puddles. As a state with -- pre-WOTUS by the way -- 65 percent of America's wetlands in Alaska, we have very significant concerns about this.

But I wanted to actually address an earlier comment by Senator Whitehouse, where he said that there's nothing in your record that shows that you have the background to help America's fishing industry.

Well, I couldn't disagree more with Senator Whitehouse, who's a friend and colleague. My state has a fishing industry, like Rhode Island's. It's a little bigger. Sixty percent of all the sea life, that's considerably bigger. Thank you. Mr. Chairman, would you please acknowledge that for the record.

(LAUGHTER)

BARRASSO:

With no objection.

SULLIVAN:

Almost 60 percent of all seafood harvested in the United States comes from the waters of Alaska and it's considered the best, most sustainable, best managed from an environmental standpoint, fishery in the world. And you know what the number one issue, the top issue of the fishermen of Alaska is? EPA overreach.

So let me give you a specific example. This is a regulation. It's 200 pages on America's fisherman, the ultimate small businessmen and women. This actually requires -- every fisherman in Alaska, commercial fisherman, requires a discharge permit to literally hose off the deck of a ship.

Think about that. If you're gutting a fish and fish guts or pieces of a fish fall on the deck of your ship and you hose it down, fish back into the water of the oceans, you need a permit, 200 pages. This is the kind of thing where the trust between Americans and the EPA has eroded so much because of these kind of issues.

If confirmed, will you work with me and others on this committee to make sure that these kind of regulations are balancing environmental needs with jobs that are so important? You've mentioned it as a cost. Will you work with us on that and would you care to comment on a regulation like this? Fish back into the ocean requiring a permit.

Congress, by the way, has extended this twice, meaning tried to -- the implementation of this. So there's bipartisan agreement that we need to do something about this overreach. Would you care to comment on this?

PRUITT:

Senator, I think it's exemplary of a lack of priority. I mean, we have many -- like I indicated earlier, 40 percent of our country is in non-attainment under the NAAQS program. We have over 1300 circle sites in this country that need attention to move those areas into remediation and restore those areas for environmental- related issues.

And so, I think in some respects what you cite there is just missed priorities, of trying to focus on something like that as opposed to focusing on these other areas that will really improve tangibly the environmental protections for our people across the country.

SULLIVAN:

Let me talk next about the rule of law, and I'm glad you emphasized it as a priority. I believe it's really one of the principle reasons why, again, there's such a lack of trust between the American people and the EPA. But, it's not just a Republican issue.

As a matter of fact, there's a number of examples where this is viewed as a bipartisan issue that we need to address. You may have seen with regard to the Clean Power Plan, Laurence Tribe, not known as a strong staunch Republican, Harvard Law professor, stated, "The EPA is attempting to exercise lawmaking that belongs to the Congress and judicial power that belongs to the federal courts.

EPA is attempting an unconstitutional trifecta, usurping the prerogatives of the states, Congress and the federal courts all at once with its Clean Power Plan." Then he stated, "Burning the constitution should not become part of our National Energy Policy."

You've been involved in some of these cases, the Clean Power Plan, the Waters of the U.S. In both of these cases, courts have stayed the EPA's rule. Why do you think that the courts have done that and do you think the rule of law, that has been ignored by the EPA, is something that you need to -- that you if -- if confirmed, that you will work on to regain the trust between the EPA and the American people.

PRUITT:

You know, as I indicated, Senator, earlier, I think at times, perhaps those in law and the courts, they look at rule of law as something that's academic and technical. But it's real, and it affects people in very real ways.

When you have agencies of any type that act inconsistent with the statutory authority given to them by Congress. It creates the kind of uncertainty that you're talking about. People don't know what's expected of them and paralysis happens.

And, so, rule of law is important to economic development. It's important to send messages of certainty. It's important so that people can plan and allocate resources. There are many laws that people look at and say, well, I don't really like that.

But, so long as they know it's expected of them, they can plan and allocate resources to comply. And I think that's what's important about rule of law.

SULLIVAN:

And as -- and as one of the lead litigators on the WOTUS rule and the Clean Power Plan and the fact that the Supreme Court and the Sixth Circuit had put stays on those rules, what do you think that indicates the Court's view is of those two rules issued by the EPA, at this moment?

PRUITT:

Well, it's unprecedented for the Supreme Court to have done what they did in the Clean Power Plan.

SULLIVAN:

Never happened in the history.

PRUITT:

Never happened in the history of jurisprudence before the U.S. Supreme Court. That says a lot.

SULLIVAN:

Thank you, Mr. Chairman.

BARRASSO:

Thank you very much. Senator Moran?

MORAN:

Mr. Chairman, I'd yield to somebody ahead of me if I can have -- if they'd yield back to me for the next question.

BARRASSO:

That would -- that would be fine. I have some time that I haven't gotten to yet, in this second round and we will go shortly to a third round. I wanted to talk a little about the Mercury Rule that the Supreme Court overturned. They overturned the EPA's Mercury Rule, finding that the EPA did not appropriately consider the costs of the rule.

Noting that by -- between the time that the rule was issued and the Supreme Court decision three years past, the EPA Administrator, Gina McCarthy, was on a television show a couple of days before the Supreme Court made its ruling. And they said, "Well, what if the Supreme Court says you were wrong?"

And, essentially, she said, "Well, the majority of the power plants have already decided and invested in a path ..." -- because it's been three years -- "... to achieve compliance with the Mercury Air Toxic Standards.

In other words, she had already gotten her result even though what she had done was found by the courts to be illegal. So, I'd ask your thoughts on her statement and do you believe that her statement shows respect for the rule of law?

PRUITT:

Well, Senator, this is speculation to a certain degree and one of my favorite philosophers is Yogi Berra and he says that predictions are pretty tough, particularly about the future.

And so I don't want to be too speculative here, but when you look at the response of the Supreme Court and the Clean Power Plan, I think largely the reason they acted in an unprecedented way is because of what you just addressed, Mr. Chairman, that in response to the Michigan v. EPA case, there was some comments made that they had achieved the outcome, despite the fact that it acted inconsistent with the framework under the law.

So, I think rule of law is something, as I indicated to Senator Sullivan, is not something that we -- that's academic. I think it's meaningful. It inspires confidence in those that are regulated.

It gives them assurance that regulators are acting consistent with their authority and allows them to plan and allocate resources to meet the standards and meet the objectives that Congress and regulators establish.

BARRASSO:

Senator Moran?

MORAN:

Mr. Chairman, thank you very much. General, you can see by where I sit on the dais that I haven't been in the Senate a terribly long time, but one of my causes upon my arrival and discovery of how the Senate works is to try to work with my colleagues to reassert congressional authority.

And, in my view, there's a number of ways we can do that. One, Congress could quit passing huge pieces of legislation and delegating authorities to agencies and departments. Another one that we could pursue, and I hope we will this year, is an appropriations process, by which we have the opportunity to influence decisions made at the Environmental Protection Agency and every other agency and department.

And one of the things -- and we do that by developing a relationship with an agency head, knowing that -- and I guess part of that is that members of Congress need to become greater -- have greater levels of expertise on the subject matter of their jurisdiction.

One of the subcommittees I chair is in the Commerce Committee, and it has jurisdiction over the National Highway Safety -- Traffic Safety Administration. The Environmental Protection Agency, just last week, finalized its greenhouse gas standards for light duty cars and trucks for 2022 to '25.

Now, the law says that it's to coordinate that effort with the National Highway Traffic Safety Administration, and that agency is still developing its own process to determine appropriate fuel standards.

I raise this as an example of where, once again, two agencies instructed by Congress to work together to find a solution or the right answer to an issue, ignored the law. I assume you would assure me or members of this committee that the Environmental Protection Agency, to the best of your ability, will obey the law.

But I also assume that you are willing to assure me that when directed by the law to cooperate with other agencies to have the input of an agency that our subcommittee has jurisdiction over, as a person in the Senate responsible for these issues, I go to the agency that I have the most influence over and they say, well, the EPA has already done its thing.

I assume we can bring those kind of practices to an end?

PRUITT:

Absolutely, Senator. I think that interagency discussion, that collaboration to ensure that there is meaningful discussion, review of action takes place. I want to speak generally to your delegation reference, because I do think that that is a very important issue that you raise.

I think a lot of times what has happened is that Congress has spoken in very general ways --, I'll not say vague but approaching vagueness, and giving carte blanche or substantial authority to agencies without providing the kind of framework that's necessary for them to make their decision. From a separation of powers issue, it think that's very important.

I think it's very important for Congress, Article 1, to exercise its authority to give the direction to these agencies how they should conduct their business. Senator Cardin in his comments and questions earlier about the waters of the United States rule, I think that is a problem presently, largely because the definition of waters of the United States in the statute is so big and so general, it creates uncertainty.

And so I think making sure that Congress performs its role and the executive branch performs its role in enforcing laws and we try to do less delegation and respect separate of powers is very, very important.

MORAN:

I appreciate your reassurance of how you would conduct, if confirmed, the agency. It also is a reflection upon the need for Congress to do its job better and perhaps, I guessed you'd have nothing to do with that.

But for me and my colleagues, we need to be much more precise and clear in legislation and much more likely to deal in smaller bit sized pieces so that the -- too often I think Congress is interested -- I don't want to be derogatory to any -- any of my colleagues.

But too often we look for the headline that we've solved a problem and yet we've -- we complain about what an agency's decisions are and we've given them so much authority, they have the ability to make, what I would consider, and some of us may consider a bad decision.

PRUITT:

And there are important steps that have been taken. We've mentioned TASKA this morning, where you had done just that during this past year. And so I think that, that's a very important item that you raise, Senator.

MORAN:

Thank you. Thank you, Mr. Chairman.

BARRASSO:

Thank you very, Senator Moran. We'll now move to a third round of questions and Attorney General Pruitt, you've just mentioned TASKA. You sent a letter to this committee in April 2015 supporting the Frank Lautenberg's Chemical Safety Act.

In fact the timing of your letter was less than a month after the bill was introduced, and you were the first attorney general in the United States to support the bill. The bill ultimately received overwhelming bipartisan support in Congress.

It will be your job to implement the bipartisan reforms and ensure we have consistent regulation throughout the country. Would you discuss the plans that you might have to implement this legislation and will you commit to implementing the legislation in a timely matter?

PRUITT:

Senator and Mr. Chairman, yes, I think in response to obligations of the EPA, this body has put timelines before the EPA to carry out certain rulemaking, the Prioritization Rule, the Risk Evaluation Rule, fees that need to be established, all those are mid- term in 2017.

And I think the matter of the EPA administrator should -- making that a priority at the agency. I also think that in response to Senator Gillibrand earlier and others have raised this, too, there are certain (inaudible) that need to be addressed in evaluating that listing under TSCA or perhaps the Safe Drinking Water Act as well.

And so I think there's specific actions that need to be taken but also the rulemaking process and the deadlines being adhered to.

BARRASSO:

The -- you made reference to -- and I did in my opening statements, as well, to Flint and there was some give and take on Flint a little earlier. The other thing I brought up was the Gold King Mine spill in Colorado, an environmental disaster caused by the EPA.

Last Friday, the EPA announced that it has denied all claims for the \$1.2 billion in lost income, loss of use of property and damages to the businesses and the property suffered by 73 tribes, by land owners, local businesses, local governments as a result of the spill.

The EPA's excuse was its legal interpretation of the Federal Tort Claims Act. According to the EPA, if a federal agency hurts someone through a discretionary action, then the Federal Tort Claims Act does not apply.

Now this doesn't even sound right to me. So if confirmed, will you commit that you'll review that decision and use whatever authority is available to you under the law to help the people that have been harmed by the EPAs negligence.

PRUITT:

Yes, Mr. Chairman.

BARRASSO:

Thank you. Senator Carper?

CARPER:

Thanks very much. A question. Mr. Chairman, I know you did not use when you -- have you -- when you started this round of the question, you did not use like 2 minutes and 30 seconds of your time. And when you -- when you comment like you've just commented, are you drawing down on that 2 minutes and 20 seconds?

BARRASSO:

I think I just -- yes, that was -- that was -- I now in the third round of questioning. Yes, sir.

CARPER:

All right.

BARRASSO:

And then I would reflect the fact that looking back at EPA nomination hearing processes, when Gina McCarthy was nominated and came to this committee, Chairman Barbara Boxer, two rounds, first round five minutes, second round two minutes. We're now in the third round of five minutes.

So I think that the Chairman has tried to listen to our -- in for our discussions and with other members to make sure that all the Democrats and every member had a chance to ask as many questions...

CARDIN:

Thank you for that clarification.

BARRASSO:

... as they had.

CARDIN:

Thank you. I want to go back to something that was said by one of our colleagues with respect to EPA and actually visiting states and participating in meetings in those states, with respect to the combined power plan.

And I think it was said that it wasn't West Virginia, my native state, native state of my friend from West Virginia was, that was not visited. We've heard since then from Joe Goffman, who is the counsel to Janet McCain. Janet is the EPA assistant administrator for air, as you may know, that he said he personally participated in meetings.

On a Clean Power Plan in West Virginia also in Kentucky, Florida, Texas, Pennsylvania, Nevada, Washington, Oregon, California, Wyoming, North Dakota, Colorado, Illinois, and I think Nebraska. I wrote a letter to Gina McCarthy on January 11.

You may recall, Mr. Pruitt, I wrote a letter to you, I think on December 28 and posed a series of questions to you and asked for your responses by January 9, and I have yet to receive those -- those responses. And I wrote a letter to her on January 11, to again to Gina McCarthy and to Assistant Secretary Darcy of the -- the Department of the Army.

And I -- I wrote because we're getting our hearing in -- on our office a whole list of -- of ascertains about the waters of the U.S. And I think this is maybe an instructive forum for all of us. Here's the things that we were hearing and all these people just calling in -- in Delaware and led us to ask these questions.

One of the questions was, are the EPA and the Corps currently implementing new Clean Water Rule? And the ascertain was that indeed that's been happening. So we ask, is that really the case. And two days later, two days later we received a response, "No, the agencies are not now implementing the new Clean Water Rule.

Implementation of the new rule was temporary stayed by the Sixth Circuit Court of Appeals. And September 2015, the agencies immediately directed their field offices to stop using the new rule and instead resume implementing regulations in interpreting the guidance prior to the new rule. That was one of the questions we asked.

We also asked, because we're hearing ascertains otherwise by the EPA and Corps currently pursuing enforcement actions pursuant to the new Clean Water Rule. And we got on the same date, January 13 this response, they said, "No, the agencies are not pursuing any enforcement actions pursuant to the new Clean Water Rule, and will not enforce this rule unless and until the Sixth Circuit Court Appeals stays is lifted.

The next question we asked because we're hearing ascertains otherwise, does anything in the Clean Water Rule revoke or otherwise modify the Clean Water Act's statutory and regulatory exceptions for farming and ranching. Response, two days later, January 13, was, "No, the Clean Water Rule makes absolutely no changes to normal farming, ranching and forestry exemptions established under the Clean Water Act in implementing regulations.

So, question number four. Some have claimed that landowners will no longer be able to rely on the Clean Water Act statutory and regulatory exemptions for farming and ranching should the Clean Water Rule go into effect because while the statute and regulations remain unchanged, the agency has narrowed the -- those exemptions in practice through the actions in the field.

Is that true? And the answer is surprisingly, "The ascertain of the agencies have narrowed application of the statutory and regulatory exemptions for farming, ranching and forestry is untrue.

The agencies have taken no steps intended to reduce the scope of the exemptions and we have not observed changes by field offices in the way they interpret or implement these exceptions. In fact, the Corps has reemphasized publicly that these exemptions are self- implementing.

Farmers, ranchers and foresters are not required to get approval from the agency prior to using the exemptions." I raise this because sometimes what people assert to be true, sometimes it's over the Internet, sometimes it's on television, sometimes it's in -- on the radio, newspapers. Ascertain are made and in this case there's a whole long list of ascertain that are made, none of them are true.

They are distortions, untrue is about what the EPA is doing with respect to a regulation that was stayed. And I would ask to, for the record, Mr. Chairman to be able to submit for the record the questions that we posed to EPA on January 11 and also the responses that we have received.

BARRASSO:

Without objection.

CARPER:

Thank you.

BARRASSO:
Senator Inhofe?

CARPER:
I'm not through.

BARRASSO:
Oh, I'm sorry. Thank you and go right ahead.

CARPER:
I was thanking you for entering it for record.

BARRASSO:
You have 20 -- let's go back for the 23 seconds remaining.

CARPER:
Oh, thanks. I'd like to look at a chart, if you don't mind. This is a report -- this is a report card. Can you raise it up? Yeah, thank you. This is a report card that lists 17 counties. How many counties do you have in Oklahoma?

PRUITT:
Seven --

CARPER:
Seventy-seven.

(LAUGHTER)

PRUITT:
Mr. Chairman, can I refer to Senator Inhofe on these questions?

BARRASSO:

Yeah, yeah, yeah.

CARPER:

I was watching -- his lips are apparently moving when you speak, so.

(UNKNOWN)

It's right here.

CARPER:

All right, thank you. At the same time you've been suing EPA on its ozone standards, all the counties in Oklahoma, for its data is collecting earned an F from the American Lung Association for not meeting ozone health standard.

You have 60 counties that they will have, the American Lung Association doesn't have data on progress made or not made with respect to ozone. These are the ones we have information on, 17 -- one, 17 counties from Madeira to Tulsa. You live in Tulsa, I suspect, you're in Tulsa county?

PRUITT:

Yes, sir.

CARPER:

Yeah, they all got Fs. They got Fs. This is last year, 2016. My question to you is, what did you do about it? What did you do about before or since?

PRUITT:

Senator, two things, one --

CARPER:

Sometimes people will believe what we say. They want to -- they may not believe what we say, but they'll believe what we do. What have you done about this?

PRUITT:

Yes, so Senator, two things. I really believe there needs to be a tremendous effort made by counties across this country to move non-attainment into attainment. Over 40 percent of the country -- or presently, 40 percent of the country approximately is in non-attainment and there needs to be great prioritization with the EPA and local officials in achieving attainment. Secondly, the EPA ...

CARPER:

But that wasn't my question. My question, Mr. Pruitt, was, what did you do about that. You've got 17 counties in which they have the data from last year. What did you do about it, before or since. That's what I'm asking you.

PRUITT:

As I've indicated, you know, as indicated in our meeting, individually, the primary enforcement responsibility in Oklahoma with respect to air quality permits and the rest is the Department of Environmental Quality.

And there have been actions taken by DEQ and they continually work with those counties to reach attainment. And we provide general counsel advise to that agency in the performance of their role.

CARPER:

I'm -- I'm not the attorney general of Delaware and I have no intention to be but if 17 of our states -- 17 of our counties in Delaware -- we only have three, but if 17 of them or if all three of them got F's, I probably -- I would do something about it. Thank you.

BARRASSO:

Senator Inhofe?

INHOFE:

Thank you, Mr. Chairman. Congress recently passed a bipartisan bill, many of us up here supported it. I know I did. As part of the Water Infrastructure Bill to allow states to lead implementation and enforcement of EPA's coal ash rule through the state-based permit program.

That rule is already in effect and it's important that the EPA move quickly on this. If you are confirmed, are you get right on this thing?

PRUITT:

Yes, Senator Inhofe.

INHOFE:

All right. Sue and settle, we all know what that is. We know that the groups, maybe some of the environmentalist, extremist groups will file lawsuits and against the EPA. The EPA, instead of defending against the lawsuits will enter into a -- a resolution behind closed doors without any public input or participation.

These settlements result in new sets of legally binding priorities and duties for the EPA that achieve the demands of special interest. Can you share your thoughts on sue and settle?

PRUITT:

Senator, this issue came up earlier, and it's a concern because it's regulation through litigation and any time that you -- there's a place for consent decrees in our litigation system.

But to use a consent decree to bypass Congress, bypass the regulatory requirements being placed upon those agencies to engage in rulemaking though litigation is something I think should not occur.

INHOFE:

And that's the part that did not come up earlier, and I appreciate that very much. And then lastly, the cost of regulations. As you know, the Supreme Court overturned EPA's mercury and air toxicities that met the rule in 2015 because the EPA failed to ignore the fact that the cost was \$9.6 billion annually of the rule.

Now in fact, the EPA's regularly issued rules over the past eight years that are very costly for our industries and our job creators. According to the CRS -- now the CRS, when they make an evaluation are much more conservative. They figure it's always a very conservative figure.

But they said, the Clean Power Plan, it would be at least \$5 billion to \$8 billion a year. The figures I've heard on that are far greater because it wouldn't be that much difference than the old systems that they tried to do through legislation.

The methane standards on oil and gas facilities, \$350 million a year. The new ozone standards, \$1.4 billion. The 2015 coal ash standards, \$587 million a year. And the 2011 sulfur dioxide standards, \$1.5 billion a year.

Now when you hear this, all this money's being spent for compliance costs by our job creators, people out there are working for a living and they're hiring people. What are thoughts and what do you believe should be role of the cost of EPA's decision making?

PRUITT:

I think it's very important in the rulemaking process, Senator. And the Supreme Court and courts have recognized that very important factor. I mentioned earlier the case that we were involved in Oklahoma involving the Regional Haze Program.

That was an example where Oklahoma actually complied and met and satisfied the requirements under the -- under the statute and the rule but their steps that were taken were displaced by the EPA, adding hundreds of millions of cost -- dollars of cost to consumers in the generation of electricity.

And so, cost are very important and we need to make sure that -- that they're considered in certain areas of the statute, as I indicated earlier, they can't be under Title 1, the Next program. But -- but -- but in that case, that you're referring to is an obligation of the EPA to actually engage in a cost benefit analysis and make a record before it made its decision.

INHOFE:

Do you think that the laws that are on the books right now adequately

handle this situation?

PRUITT:

I do think -- I do largely, Senator. I think it's mostly an application issue that the agency and the regulator doing its job under the statute as provided by Congress.

INHOFE:

Mm-hmm. Thank you very much.

BARRASSO:

Senator Whitehouse.

WHITEHOUSE:

And presumably Mr. Pruitt, it goes without saying that if the EPA's going to consider cost to the industry of conforming to pollution guidelines, it should also consider benefits to the public from cleaner air, cleaner water and the results of that compliance, right?

PRUITT:

It should. It should, Senator.

WHITEHOUSE:

So we have been talking about fund raising done by you for the Rule of Law Defense Fund during the time when you were both a board member and for a full year, the chairman of the rule of law defense fund and the fact that we have exactly zero information in this committee about that fund raising.

We also have zero -- and let me ask unanimous consent for the page from ...

BARRASSO:

Without objection.

WHITEHOUSE:

... your filing that discloses that he was in fact a member of the board of directors and chairman of the Rule of Law Defense Fund. We also have a meeting agenda from the Republican Attorney Generals Association during a time that you were an executive committee member of the Attorney Generals Association meeting at the Greenbrier, which I will stipulate for my friend from West Virginia, is a lovely place to go.

And the agenda which I'd like to take this page of and put into the record, mentions a private meeting with Murray Energy. It mentions a private meeting with Southern Company. It mentions a private meeting with the American Fuel Petrochemical Manufacturers.

If you'll show the graphic, these are all the same groups that I've been asking about in terms of your fund raising for the Rule of Law Defense Fund, and you know, there's Murray Energy, and there's Southern Company, and I'm sure the American Fuel Petrochemical Manufacturers represent a lot of the others.

As I understand it, we know nothing, no minutes, no statements, no reports about what took place in those meetings that are described as private meetings on a sheet that is stamped, confidential. Correct? We know nothing about the content of those meetings, so ...

PRUITT:

Senator, I didn't generate the document. I know nothing about the -- how that document got generated or what ...

WHITEHOUSE:

Are you denying that those private meetings took place?

PRUITT:

No, Senator. I just didn't generate the document. And don't know about the content of them, which you've represented.

WHITEHOUSE:

OK, and we don't know and because you were on the executive committee of RAGA, that's information that we could get. Right? I mean, it's available if there were minutes or reports out of those meetings, notes taken, but we don't have them. Correct?

PRUITT:

Senator, that would be a request made to the Republican Attorney General Association. I might add, the Republican Attorney General Association, there's a Democrat Attorney General Association, as well.

WHITEHOUSE:

I'm -- I'm not faulting that...

PRUITT:

And they have the same kind of thing ...

WHITEHOUSE:

I'm talking about private meetings that ...

PRUITT:

So these meetings -- these meetings take place all of the time ...

WHITEHOUSE:

... at a time that you were on the executive committee with some of the really, really big polluters with whom you've been very closely politically associated.

PRUITT:

There's a -- there's a conference, I may Senator of Westerns Attorney General ...

WHITEHOUSE:

I know.

PRUITT:

... that goes by the National Association ...

WHITEHOUSE:

They talk about water. Drives that's what they ...

PRUITT:

And there are meetings that take place at each of those events, as well.

WHITEHOUSE:

The rest of the attorney generals avoid that, so we don't want to talk about water. Let's talk about FOIA. You've had a conversation with the Chairman about FOIA. As I understand it, there is a FOIA request to the Oklahoma Attorney General's office, to your office for emails between your office and Devan Energy and Koch Industries and Americans for Prosperity, the Koch front group and Murray Energy and the American Petroleum Institute.

And the information that I have is, is that, that opened records act request was filed more than 740 days ago, more than two years ago, that in response to it, your office has conceded that there are 3,000 responsive documents, 3,000 emails and other documents between your office and these companies.

And that in 740 days exactly zero of those documents have been produced. Is that acceptable turnaround on a FOIA request? And should we not be concerned that your office is not complying with the FOIA request that relates to specifically to so many of these companies that are going to be before you as EPA administrator if you're confirmed?

PRUITT:

Senator, we actually have -- I actually have a general counsel and an administrator in my office that are dedicated to performing or providing responses to open records request ...

WHITEHOUSE:

Not very dedicated. If it takes 740 days, and it's still zero.

PRUITT:

And -- I'm not -- I'm not involved in that process. That is handled independently by that administrator and that general counsel in responding. So I can't speak to the timeline and why it's taken that length of time.

But I can tell you that our office works -- we actually go across the state of Oklahoma through -- in training with officials locally in compliance with FOIA and open records law, so ...

(CROSSTALK)

WHITEHOUSE:

Well, maybe you ought to send your people to your own training because it doesn't seem to be sticking very well.

PRUITT:

I'm not sure what the -- the representation you made about the timeline, I'm not -- I don't know and that ...

WHITEHOUSE:

Given how many of these groups have important financial interests before the EPA, do you not think that 3,000 emails back and forth between you and your office and them are relevant to potential conflict of interest as an administrator and should be before us as we consider this?

PRUITT:

Again, I think the EPA of this counsel has laid a very clear process with respect to covered entities, as we described it earlier and on particular matters and specific cases, I will follow the advice of that EPA career person ethics to make sure that there are...

WHITEHOUSE:

You keep saying that and ...

BARRASSO:

The Senator's time has expired.

WHITEHOUSE:

Want me to finish my sentence?

BARRASSO:

Please do.

WHITEHOUSE:

The problem with that is that if you haven't disclosed any of this information, then the EP ethics counsel would have no idea to even look. They would have no idea what the risks are. You can't say, nobody can look at whether I did this, but by the way, they're going to look at it. It just doesn't add up. Sorry, about the -- going over my time.

BARRASSO:

Thank you. Thank you Senator. I would like to point out, we had a report card that was just brought up and I'd like to introduce for the record a letter to -- from each of the five members of Congress from the state of Oklahoma with their steadfast report for Scott Pruitt, in saying, "We are proud of his service to our state and are very confident that he will do a superb job serving our nation and our citizens in this new role."

Also as follow up for the first round of questions, there was some dispute about a lawsuit against Mahard Egg Farm and who it was filed by. I have here the complaint in the case and it was filed May 18, 2011. Can you read it?

It says, "And the state of Oklahoma, by and through Attorney General Scott Pruitt." So you are the one that filed the suit along with the attorney general of Texas against Mahard Egg Farm and this will be submitted for the record as well. Senator Capito?

CAPITO:

Thank you, Mr. Chairman. Since the Ranking Member mentioned that Mr. Joe Goffman had visited, I called to the attention in beseeching you that when you're successfully the administrator at the EPA that you will listen to everybody and come to states that are most directly affected.

He mentioned that the associated assistant administrator had made the long list that he had said. But I would like to point out clarification. The EPA announced on September 30, a day I'll remember because that's the birthday of my youngest child, and they announced where they were going for their listening sessions.

They went to Boston. They went to New York City. They went to Philadelphia. They went to Atlanta. They went to Denver. They went to Lenexa, Kansas, and I wish our Kansas Senator was here, which I've looked up as a part of the Kansas City metropolitan area. They went to San Francisco. They went to Washington D.C. They went to Dallas and they went to Seattle, they went to Chicago.

Why states in the last five years has lost 10,000 jobs, not wholly because of this but some of this has -- plays a large part. And so I'll go back to my original request that the people that are affected by this environmentally and health wise are just as -- are just as important as the people who stand to lose their jobs over this.

Who then are plunged into poverty. Who then have a hopelessness around and in their communities. Who then become addicted to drugs and other opioids? I mean, it's just a cascading issues. Their lives are just as important. So that's my -- that's my plea on that.

Now, last question from me.

CARPER:

Mr. Chairman, could I ask unanimous consent request. If I -- sorry for interrupting. But the docket with respect to the outreach that the EPA did in conjunction with the Clean Power Plan, shows from October -- I think October 16, 2014, something like this ...

CAPITO:

I was there through the listening sessions.

CARPER:

The docket requires nearly 1,000 meetings, calls, presentations, conferences, consultations, 1,000 in other outreach with stakeholders. The docket shows this post-proposal interactions concluded more than 300 meetings with state and local stakeholders who had 30 discussions with products.

Four hundred and fifty meetings with industry stakeholders, 150 discussions with environmental -- environmental justice and scientific stakeholders, dozens of more discussions with conveners and this goes on and on and on.

The -- in total the agency received almost 4.3 million comments about all aspects of the propose rule, more than any rule in EPA history, and thousands of people participated in the agency's public hearings, Webinars, listening sessions and so forth, all across the country. The agency made many revisions in the final rule and in response to those comments. Thank you.

BARRASSO:

Senator, then I'd ask that the -- once a questioner starts, they be allowed to continue because we could get into a lengthy discussion. The EPA was found guilty of covert propaganda for soliciting information through a number of environmental groups.

It was a -- continues to be a blot on the record of the EPA and a question of this -- the entire Administration and their approach toward abilities of the -- for the rule of law versus and EPA out of control. So, we're going to allow the questioner to continue. And I revert back to you, Senator Capito.

CAPITO:

Thank you, not to beat a dead horse, but to try, I'll say that the Assistant Administrator McKay, when she was telling me that the only one to go where places were comfortable, she looked at me and said, "Senator, we're going into Pittsburgh."

Gee, thanks a lot. In any event, which is not in West Virginia, I'll make that point, my question is, you've said a lot about states, and I agree. The states should have the primacy, it's in the law, and that's something that part of why you brought suit, and part of the reason you've been successful with other Attorney's General.

Let me ask you a question, let's say you have a state where you're the administrator of the EPA, and you deem that that state's Office of Environmental Quality or DEP, which is what it is in West Virginia, just doesn't measure up. They're not protecting their people's health. They're not enforcing the law.

They are, in your judgment, and folks that you're working with, are not up to the task, and are letting their people down. What avenues of correction would you have at the EPA, do you have, and what would you exercise in that kind of category? And what kind of judgments would have to be made for those things to occur?

PRUITT:

Senator, I really appreciate the question. Because, I think there are times where states are (inaudible). You know, that they don't perform the obligations that they have, let's say, under the Clean Air Act in adopting state implementation plan. Or as they adopt the state implementation plan, they don't take into consideration all the factors that Congress have put in the statute and the EPA requires.

In those instances, it's very appropriate for the EPA to use its authority, like a federal implementation plan, to take over that jurisdiction, and to insure that the safety and health of our citizen's is protected, and air quality is maintained and water quality is maintained. So, there is a time and place for that.

I think in many instance, however, the last several years, it's been the first response, as opposed to, you know, cooperation and a federal implementation plan is absolutely in order at times. BARRASSO:

Senator Merkley. MERKLEY: Mr. Chairman, before you start my clock, I'd like to follow- up on Senator Inhofe's strategy here of submitting certain facts back for the record. And I'd ask unanimous consent to submit for the record, an article from the Union of Concerned Scientists related to the so-called Climate Gate. That the Senator referred to earlier.

And that notes that the manufactured controversy over emails stolen from the University has generated a lot of heat, but not light. Email content being quoted, does not indicate climate data research has been compromised.

Most importantly, nothing in the content of these stolen emails has any impact on our overall understanding of human activities driving dangerous levels of global warming. Media reports and contrary claims that they do are inaccurate. So I submit that --

BARRASSO:

Without objection.

MERKLEY:

-- for the record. Thank you. I'd also like --

BARRASSO:

This Chairman, since my name is involved, let me respond. Were you listening when I talked about the various publications that have come out, and talked about how fraudulent it was, these are publications, science publications, have gone in, made their own evaluations, and for the U.K. Telegraph to say it's the worst scientific scandal for our generation, then that's pretty extreme?

MERKLEY:

My colleague, we could have an entire day dedicated to the review of the scientific literature on this, and I -- it would weigh very heavily on the scales in the direction I've indicated, in support of the information presented by the Union of Concerned Scientists. We may just have to agree to disagree. That's why I submitted it for the record. We'll let the public decide.

(UNKNOWN)

That's why the statement is repeated over and over again about the science is settled, is not an accurate statement.

BARRASSO:

I'd invite the Senator to question the witness.

MERKLEY:

The beauty of the Senate, is we get to have our own opinions. Meanwhile, I'd also like to submit for the record in response to when I was speaking about asthma, Mr. Chairman, you noted a study from the National Black Chamber of Commerce.

And it's important to note that that organization has been funded by the American Petroleum Institute by a Koch Brothers front group, and by Exxon. And that there is a series of responses that invoke the opposite side of that and the NAACP, which certainly speaks for a broad swathe of African Americans, takes a very, very different stance, and it has endorsed the Clean --

BARRASSO:

Without objection.

MERKLEY:

Thank you. I'd also like to submit for the record, two articles -- or two statements from the National Congress of American Indians, and from Latino organizations -- a whole group of Latino Organizations, that are very concerned about this nomination.

BARRASSO:

Without objection.

MERKLEY:

Thank you very much, Mr. Chairman. And then I'd like to turn to a question that has puzzled me over time, and it's in the context of how one evaluates how one views the world.

And I heard one of my colleagues once present it this way, if you go to a doctor and they say you have cancer, you decided you better get a second opinion, and then you go to 100 doctors and 97 of them say you have cancer and you better act, most people feel like, hmmm, 97 doctors told me I should act.

Three told me I should go take some healthcare supplement. Maybe I better have the operation. And that's really the place where we are in climate science now, where the overwhelming weight of the scientific community weighs in and says, "Yes, it's very logical." You can do it in a laboratory, as Senator Whitehouse noted, that carbon dioxide traps heat.

You can do it in a laboratory that methane traps heat. You can track the change in the environment of the concentration of those gasses. You can see the impact on the ground now. My home state you have an impact on the oysters because the Pacific Ocean is 30 percent more acidic than it was before we started burning coal.

That is a scary thing when shellfish have trouble forming shells. It has an economic impact. Our pine beetles are thriving because the winter's not cold enough to kill them, and so it's having a huge impact on our forest. That's an economic impact on rural America. The southern part of my state has had three worst ever droughts in the last 15 years.

It is a huge impact on agriculture community. The streams in Oregon coming from the snow packs, have been declining in size and raising in temperature -- very bad for trout, very bad for salmon -- that's an impact on our fishing community.

So the global warming that is taking place and being driven by the burning of fossil fuels is having a huge economic impact on the citizens of my state. My rural citizens. My citizens who depend on timber, who depend on fishing, who depend on farming. Should the citizens seek to address this problem? Because we're just on the front end of this happening.

Ten years ago we were talking about models that led to the conversation Senator Inhofe had about Climate Gate, about pressing with assumptions and models, we don't need models now. We have facts on the ground. The moose are dying because the ticks aren't being killed by the winter being cold enough.

The fish are migrating on the Atlantic coast and Maine's losing its lobsters to Canada. These facts on the ground are extraordinarily real, they have a huge economic impact. And shouldn't we take a very serious approach to the urgency of this problem as we see it descending upon us?

PRUITT:

Senator, I think the EPA, and if confirmed as the Administrator, there's currently an obligation to deal with the issue. The Massachusetts VEPA case says that CO₂ is a pollutant under the Clean Air Act, and as such, that's what generated the 2009 Endangerment Finding.

So, I think there is a legal obligation presently for the EPA Administrator to respond to the CO2 issue through proper regulations.

MERKLEY:

I believe you're acknowledging that, which I'm glad to hear, that it is a serious problem and that the EPA, that carbon dioxide is a pollutant, and we have a legal obligation to take it on.

PRUITT:

I think Massachusetts VEPA say that, counter-balanced by the UR decision that came out a few years later, that you can't transform a statute as the EPA sought to do with the PSD program. So, I think the court has spoken emphatically about this issue, and the EPA has a legal obligation to respond.

MERKLEY:

And as you kind of rank the urgency with which you bring to this, do you see it as something you wake up every day -- the next generation will weigh whether or not we acted promptly, or is it more, I have a legal obligation because of this court decision, so I'll have to have some folks pay some attention to it?

PRUITT:

I think the importance, Senator, it's very difficult to prioritize, you know, Senator Jill LeBryan's (ph) not here, but when she talked to me about (inaudible) and the threat that she's facing in New York, is that any less important than the CO2 issue?

It's not. And so, the EPA deals with very weighty issues, as you know, water and air quality, it's a matter of prioritizing the resources to achieve better outcomes in each, and I think it's very important to do so as an Administrator.

MERKLEY:

I do feel like perhaps you don't understand the gravity of the situation, from your response. Because there are feedback mechanisms that are starting to occur with the open blue water, and the Arctic feedback from methane bubbling up from the permafrost bubbling up from the peat bogs.

Bubbling up from what was previously frozen methane on the bottom of the ocean that has incredibly accelerating impact on global warming. Our rate of carbon dioxide pollution is not decreasing globally, it has doubled in rate from one part per million per year, to two parts per million per year.

So, we are on an accelerating curve as a human civilization. If human civilization doesn't get it together very quickly, we are in very deep trouble, and I would hope that at some point, perhaps the urgency of the situation would be something you'll grab a hold of. Thank you.

BARRASSO:

Senator Rounds?

ROUNDS:

Thank you, Mr. Chairman. Attorney General Pruitt, last year at an oversight hearing, we heard reports of the EPA regional offices who were sending companies information collection requests, or ICRs. Pursuant to Section 114 of the Clean Air Act, regarding their operations with no explanation as to the reasons for the ICRs.

These ICRs, which companies are legally obligated to respond to can cost the companies millions of dollars to collect the information to respond to the requests. They often hear no follow-up from the EPA regarding whether their response was adequate, or what the information would be used for.

Last year I requested from the EPA, a record of the ICRs that had been sent to U.S. companies throughout the various regions. I was told by the EPA staff, that there was no way to get this information because they didn't have it.

Second, in 2015, I wrote a letter to the EPA Administrator Gina McCarthy, requesting the economic information that forms the basis of the Clean Power Plan and the Ozone Nox Standards.

These are the major regulations that were being quickly imposed on American taxpayers. The response which I received took two-and-a-half months to get the response, but I'm -- understand that I'm one of the few recipients with an actually letter back from the EPA.

And I would ask that it be included as part of the record of the meeting today, Mr. Chairman, and the letter was basically nothing -- nothing short of referring me to an Internet link that directed me to Webpage, the same Webpage which generated the questions in the first place.

Essentially, they just simply suggested that I Google it. Not hardly a response that you would expect back from any federal agency, at least one that was trying to be responsive with regard to major proposed rules.

Working at a United States senator, I've found it nearly impossible to easily access the information that I'm looking for. I can't imagine the difficulty of a small business, a farmer or a rancher when they are seeking to get information from the Environmental Protection Agency.

As the EPA administrator, the role which you are seeking, do you believe that this is an adequate way to communicate with the public and elected officials, and what are your views on making agency communication and recordkeeping more transparent and accessible?

PRUITT:

Senator, this is actually a common theme, as I met with many of you on this committee, both Democrats and Republicans, it was expressed to me that a concern about the lack of response by the EPA at all in response to inquiries, let alone the time response.

And so I believe it's very important, as I indicated in my opening statement to listen, not only the voice of the American people, but listen to members of Congress, listen to members of this body with respect to the issues that are concern to them in their respective states.

And that's something I take very seriously and would seek to respond expeditiously to you and to others of this body with responses.

ROUNDS:

The Ranking Member had asked and was following up with the questions in terms of your role as the attorney general with regard to fracking issues in the Oklahoma, but also with regard to clean air attainment levels and so forth.

And it seemed to me that what you were trying to portray at the time, and I'd like you to expand on this because I think this is important, is it -- you have a different role as an attorney general than you would be if you were responsible as the agency within the state who had the direct and statutory authority to respond to those issues.

It seems to me that, that's one of the roles the EPA administrator has which would be different than that of an attorney general, which is the execution of the laws that we've passed. Could you expand a little bit? Because I think this is really important in terms of your -- the way you perceive your duties with regard to executing the laws that this Congress has passed.

PRUITT:

Yes, Senator, and I appreciate the question. The role of an administrator is to perform an executive role, an executive policy making role, and in carrying out the functions and the statutes that Congress has passed. That's much different than my current role as attorney general.

And as I tried to indicate to Senator Carper that in respect to enforcement actions in the state of Oklahoma, that's vested specifically in the Department of Environmental Quality. They're the ones that bring enforcement actions against companies who do not comply with air permits, et cetera.

We provide general counsel to them in that process but it is not our responsibility, but more, it's not our jurisdiction. And that's important to me because it goes back to rule of law, it goes back to process.

I think often times what we see in this country is that those kind of disregard the authority or jurisdiction that's been given to them by the statute of the constitution and they act anyway. That's what creates, I think a lack -- a lack of confidence in the American people. And so I've tried to respect those boundaries.

I've tried to respect my role as attorney general as attorney general, stay in my lane, if you will and provide the counsel and perform the job that we're supposed to perform to that agency, but then allow that agency to enforce, as required by law.

ROUNDS:

And then very quickly, that also means that with regard to determining the science behind the laws that we create, as the administrator, you're not going to make the determination yourself. You expect that sound science and that scientists with that background would be making the recommendations that you would then base a decision on?

PRUITT:

Yes, and we're objective and transparent in that process.

ROUNDS:

Thank you. Thank you Mr. Chairman.

BARRASSO:

Thank you Senator Rounds. Senator Booker?

BOOKER:

Mr. Chairman, if you would gracefully hold the clock for a second, because I want to respond very succinctly to something that Mr. -- Senator Boozman and you said. First of all to you, sir, I just want to say, it's my first time going through nomination hearings. You have been very generous with the way you've been conducting these hearings.

I think it's important that we know that, and I appreciate the number of rounds that you are doing. And then to Senator Boozman, I really do appreciate him adding to the line of inquiry on having you to me as a friend, which means a lot to me.

People around here, your colleagues know that you have a deep respect for the kind of kindness and -- and just decency that you represent to a level to which I aspire to but have not attained. So I thank you for that. Thank you for indulging me.

BARRASSO:

Thank you.

BOOKER:

And again, with -- with respect to my colleague who is a really good man, if this was between Delaware and New Jersey, I'm the up state, I would be very happy with the agreement that it seems that you -- that you did.

But you were the down state, and -- and so that's what I don't understand. Now, you said earlier in your testimony in regards to this matter that you have a copy of the 2003 agreement. Do you have that?

PRUITT:

I have the second agreement Senator, the one ...

BOOKER:

OK, well, let's just look at a 2000 agreement and I know you claimed in your testimony earlier that the 2003 agreement had an expiration on it.

PRUITT:

It was a ten year period that, that needed to be reevaluated. This is the second statement I have here, Senator. I don't have ...

BOOKER:

Yes, sir. I just want to clarify that it seems that it's a contradiction. There's no expiration on the 2003 agreement. It had a reevaluation, a period in which it would be reevaluated and it was reevaluated by your state with involvement of the EPA and the involvement of Arkansas and they came up with the same .037 standard.

And if you look at the provisions of what you do have in front of you, the 2013 agreement, and I have a blow up of Page 4 of that agreement, it states that, starting here, it states that, "Oklahoma, through the Water Resources Board will propose a rule amendment that removes the date

to achieve full compliance with the numeric phosphorous criterion set forth in Oklahoma administrative code." And then it lists these two codes.

And if you look at those two codes, what those two codes do -- you know what they are. They set the sections of phosphorous concentrations shall not exceed .037 by June 30. It's removing the June 30 deadline in these two statutes.

And so that -- that's what is frustrating to me is that this is what you're heralding as agreement, but you already had in your 2013 agreement, it's clear that you're doing to me, and I don't know of another way reading in the facts, is you take a binding rule of law and you suspend it for another three years allowing the more pollution to take place.

PRUITT:

Senator, that -- that is not -- the issue here was not whether Oklahoma could enforce it's .037 standard, it was whether Arkansas was going to adopt that standard on that side of the border. That had never take place in history. That was the concern of Oklahomans. That was the concern of Mr. Fite at the scenic Illinois River.

BOOKER:

And so I respect that. I'm going to stipulate to what you said. If you -- I'm running out of time, sir -- because I agree with you, whether Arkansas was going to be able to live up to that standard, but you're the Oklahoma attorney general, and this is what I want to say.

As soon as you did this so called, historic agreement that set it back, you basically turned to the EPA with the rule -- with the power of the law of the Supreme Court and say, OK, back off of my corporations. Why do I say that so confidently? Because I pull a letter from Tyson Foods that literally six days after your so called, historic agreement of suspending this rule for three years, they're delighted.

They write to the EPA and say, hey, you -- they have now already heard of the February 20th agreement by Arkansas and Oklahoma officials to jointly conduct an comprehensive study of concentrations and impacts in the Illinois River Shed. They're excited.

They literally say, compliance however, with the now .037 milligram has been suspended, so lay off us, EPA, under this agreement until the study process is completed. They say, "In conclusion, the by-state agreement has suspended implementation date of .037 during the term of the agreement."

Industry is really happy about this and believes, and of course this letter, unless you're saying Tyson's was wrong, they believe that what you did is give them the EPA with the power of the Supreme Court and the 20 years of work that predecessors of yours had done, the power to -- to -- to suspend that power of them to comply with the law.

And so that's really what I'm struggling with. On one hand you say that you filed lawsuits against 14 people against the EPA. It's this idea of federalism. Of Oklahoma sovereignty, Oklahoma state's rights, you're fiercely fighting for Oklahoma, and on the side of the polluters.

And you say, the EPA is attempting to do things but, then on the other hand in this case that you're talking about, you switch suddenly to say, "Well, Oklahoma's water quality standard for phosphorous that has been worked on for 25 years, armed with an EPA approval, armed with a Supreme Court decision on point saying that up river states are bound, industries believe that they're bound, but suddenly you're no longer fighting for Oklahoma.

You're fighting to protect industry and on the side of industry again.

PRUIT:

I can assure you, Senator, that industry didn't think they were bound. And I can ...

BOOKER:

Then why did Tyson's write the letter, sir?

PRUITT:

I don't -- I don't know. I don't know why they said that, because as Senator Boozman indicated earlier, the phosphorous level at .037 was unenforceable on the Arkansas side of the border and that's where the contribution was -- that was the concern. And until this agreement that we had here, was negotiated and signed by Arkansas.

That had never occurred in the history of Oklahoma.

BOOKER:

But sir, Arkansas was party to the 2012 scientific investigation. They're bound by a Supreme Court justice case, which I've pointed out to you already and I could read you the binding paragraphs, bought in by the EPA and obviously understood by industry that they were bound by that standard.

Your agreement didn't extend -- didn't -- didn't stop it. It extended the -- the -- the period in which people could pollute. I don't understand how that could be historic.

PRUITT:

Senator, I just -- I think as you look at what was achieved between Arkansas and Oklahoma, you have the Arkansas attorney general, Ed Fite, who was the old -- who had been involved in these issues, as indicated earlier since 1983, trying to enforce and obtain water quality to -- that improved the Illinois -- the Scenic Illinois River, he cited the historic results in this -- in this matter.

So I'm unaware of the letter that you're referring to, but I can assure you that industry was not, not at all excited about .037 being enforced on the Arkansas side of the border.

BOOKER:

And I'll conclude just by saying, sir, it's clear that industry was excited about the three-year delay that you bought them to continue to pollute. It's written there in a letter. And it seems to me the theme in your is not federalism and states' rights, but deregulation and siding with polluters against the environment and the public health standards.

And it's unfortunate to me that, that -- that -- unless you can show me something different in the way that this actually helped to clean up the river quicker, but I just don't see that at all in the evidence and the facts that I have before me.

BARRASSO:

Thank you very much Senator Booker. Our next questioner is actually Senator Boozman. Since we have Oklahoma and Arkansas both here, I don't know if you have a question Senator Boozman, or if you just want to make a comment about this agreement that -- since both of the states are here, I think you did represent the congressional district directly adjacent.

BOOZMAN:

No, I want to make a quick comment and then after that I think all of my questions have been answered and yield back if, you know, if we can have agreement. But, I think the thing, Senator Booker, to understand is, is that first of all the water was not being polluted at that point.

Arkansas had made tremendous improvement over the years and had just -- the discharge in Springdale, Fayetteville, Rogers, Bentonville, the major communities there, that have grown tremendously during that time frame, their discharges were down to, you know, very admirable levels. So all of that was being done. The question was, was .037 fair versus .04 or .05?

As I mentioned earlier, our most pristine river in Arkansas was not at .037. So we didn't feel like we could -- we could do that. So Arkansas -- Oklahoma was happy with all this stuff. Arkansas was not. And because of that in 2013, as the agreement ran out, they were prepared to sue -- or to go back to court again.

This thing had been litigated since the Supreme Court finding back in the '90s all along the line. But that's -- and to be honest, I'm not happy with the .037. I think it's too stringent. I would challenge, you know, to find a river in New Jersey that meets that standard, and you can't do it. It's a very, very stringent standard.

So it was -- it wasn't continuing to pollute and things like that. Tremendous progress made on the Arkansas side. Everyone agrees with that. It was where do you draw the limit. And so often with the EPA, this is so important. We've had on the committee, we've had the gentleman that represents the water district, you know, for this -- this huge area.

They spent \$1 billion, you know, doing a great job of cleaning things up, raising everybody's rates. EPA has come back and wants them to spend another \$1 billion for -- for a tiny fraction that everybody agrees would not have any impact on the water quality in the river. Those are the kind of things that you get into.

So, again, I'm not -- I'm really not happy at all about the .037. I think that Tyson's and the industry were happy in the sense that you would have a situation where you would have some finality, you would have some resolution so that everybody could go forward.

BARRASSO:

Senator Ernst, any final comments, or thoughts or questions?

ERNST:

I -- thank you Mr. Chairman. I don't have any further questions. Whatever additional questions I have, I will submit for the record. But I do have some closing comments. I do want to push back a little bit on the -- on the ranking member's comments earlier.

I had gone through a series of examples of overreach by the government with the expanded definition of waters of the U.S., and the ranking member had stated that he had a letter that he'd received from the Administrator Gina McCarthy.

And I have no doubt that she was answering those questions honestly, because she wasn't the one making the statements. The statements that I presented came from the Corps of Engineers and the Department of Justice. Now I know this to be true. These are not as implied from some obscure Website off the Internet done by some blogger in a basement somewhere.

The comments actually came from this committee, case studies from this committee September 2016. These are examples of case studies from all across the United States, and I will cite just one that I -- I opened up to.

"A land owner in California received an investigation letter from the Corps informing him that disking performed by a tenant farmer on his land may have resulted in an unauthorized discharge into WOTUS." And that regulators had opened a case against the land owner. They are being implemented case by case.

This letter came as a surprise to the land owner who had been disking this particular site periodically over the past 15 years to sustain grazing conditions for his cattle, a practice he believed was normal until he received this notice.

The Corps told the land owner's consultant that all disking for any purpose and at any depth with any potential WOTUS is a discharge into WOTUS and in the absence of a permit represents an unauthorized discharge in violation of the Clean Water Act. This is an actual letter from the Corps that was submitted to this committee, the EPW committee last year.

So this is not made up. This is a very real impact to all Americans. And so I appreciate your stance, Attorney General Pruitt that if you are confirmed, you will work with those that wish to continue farming normal practices. But this is not made up folks. And we just need everyone to understand that the Corps, the DOJ and the EPA have gone beyond what we consider to be reasonable application of the law. Thank you very much.

(UNKNOWN)

Mr. Chairman, if I could just respond very briefly. The letter that I sent on January 11, was not just to the EPA. It was the head of the EPA and also, that of the assistant secretary of the Army, the Department of the Army, who's in charge of the Army Corps of Engineers. So it was really to both, both EPA and the Army Corps of Engineers.

I gave them a 1/2 dozen or more questions, and said, this is -- these are the assertions that we're hearing. What is the truth? And they responded jointly. So, I would just leave it.

ERNST:

And if -- if I can respond to that. I -- I apologize because I was going to use Senator Rounds letter as a prop. I had not seen a letter from the EPA. I had written Administrator Gina McCarthy nearly two years ago on some issues that I was wanting addressed for Iowa.

And I invited her to come to Iowa and visit. She never ever responded to me or my staff. So thank you, Mr. Chair.

BARRASSO:

Senator Markey?

MARKEY:

Thank you, Mr. Chairman. Mr. Pruitt, you have criticized the Obama Administration on a number of occasions for allegedly quote "colluding with environmental groups to engage in sue and settle tactics." You just reiterated your concern to Senator Inhofe.

But in December, many of your co-plaintiff attorneys general who are suing the EPA over the Clean Power Plan sent a letter to President-elect Trump urging him to settle their lawsuits related to the Clean Power Plan. That sure sounds like an invitation to engage in sue and settle to me.

To avoid the appearance of entering into sweetheart settlements on the Clean Power Plan in cases, will you commit to recusing yourself from all ongoing litigation that you are involved in?

PRUITT:

Senator, I would say to you that the sue and settle practice, whether by this administration or future administrations is a practice that should not be followed. I believe that regulations through litigation is wrong.

I believe that the rule making process that Congress has established should be respected by agencies, not only the EPA but across the board. I would mentioned one case to you. That case is ...

MARKEY:

But this is what the -- it looks like that's what the attorneys general are doing who are suing and you're a co-plaintiff in this case on the Clean Power Plan. Will you recuse your -- will you recuse yourself from any role in the settling of these cases, in the negotiation on the settling of these cases?

PRUITT:

The sue and settle practice should not be used by any administration to regulate. We've experienced in Oklahoma a case involving the Fish and Wildlife and Endangered Species Act and the relisting of lesser prairie chicken that impacted our state. So sue and settle is wrong.

MARKEY:

So that is again ...

PRUITT:

That sue and settle is wrong.

MARKEY:

Are you giving me a yes, that you will not settle with these attorneys general?

PRUITT:

I will not engage in a sue and settle practice if confirmed as the EPA Administrator.

MARKEY:

OK, but ...

PRUITT:

Any time.

MARKEY:

So, will you negotiate with them to -- to reach a settlement, such as that has been recommended by the -- by the attorneys general who are the plaintiffs in this case against the Clean Power Plan?

PRUITT:

Senator, it is a belief of mine that the use of sue and settle is a practice that ...

MARKEY:

Right.

PRUITT:

... should not be done by ...

MARKEY:

I hear you.

PRUITT:

... any agency of the U.S. government.

MARKEY:

So you'll -- will you recuse yourself from any involvement in this litigation as it is being decided?

PRUITT:

As I've indicated to you Senator, the EPA at this counsel, career staff at the EPA has said that a particular matter in specific case, that those -- those will be evaluated at the time. I'll seek their counsel and comply with their counsel.

MARKEY:

Honestly, Mr. Pruitt, there is no bigger case than the Clean Power Plan. It goes to the promise that the United States is making to the world that we are going to reduce significantly our greenhouse gases. So this just goes to you, as an individual saying that since you brought the case with these other attorneys general that you will now recuse yourself.

PRUITT:

I would that ...

MARKEY:

Since you are in fact the plaintiff and defendant in this case, if you are confirmed as the EPA administrator.

PRUITT:

Senator, as I indicated to you earlier, and I'm sorry to interrupt you, but as I indicated to you earlier, I will recuse if directed by the EPA at this counsel, the career staff at EPA ethics. You know these individuals. They are -- they are -- they've been there and they -- I will follow their counsel and guidance.

MARKEY:

Well all right. I know I'm not going to get you to recuse yourself from any of these cases but I'm just telling you, it's going to wind up being a huge conflict of interest if these attorneys general get to settle on their terms with the Trump administration, and you're sitting there in the middle of the room as that occurs.

Now let me -- let me go to another subject and that is this bottle of Trump water. Trump water, natural spring water, on the label it says, quote "Pure, fresh and free from contaminants. This is water the way it was meant to be." Trump hotel guests have the luxury of drinking this water, if they don't trust what comes out of the tap.

Low income communities across our country do not have the same luxury. Do you agree that the EPA plays a critical role in ensuring that all Americans regardless of racial, ethnic or economic backgrounds have a right to clean water, free from contaminants?

PRUITT:

Absolutely, in fact, Senator Booker and I already talked about environmental justice in our meeting.

MARKEY:

And that is great. As the wide spread lead contamination in Flint, Michigan water supply tragically reminds us, low income and minority communities often bear far greater environmental burdens. Yet you told Senator Cardin earlier today that you didn't know if there is any safe level of lead.

But scientific experts, including the CDC and World Health Organization have concluded that there is no safe level of lead exposure. Will you commit to making environmental justice for poor and minority communities an immediate priority of the EPA, if you are confirmed as administrator?

PRUITT:

I believe it's a very important role of the EPA administrator.

MARKEY:

Well, minority communities often don't have the monies ...

BARRASSO:

The Senator's time has expired in the third round.

MARKEY:

OK, thank you Mr. Chairman.

BARRASSO:

Thank you. The -- and now Senator Sullivan.

SULLIVAN:

Senator (sic) Pruitt, I just had one final question. We talked about some of the challenges that we have. You know, this committee's been working on the infrastructure issues. There's a lot of discussions over last year about Flint, Michigan and aging infrastructure, which I think is a concern at the state and local and federal levels.

There's also a challenge in certain parts of the country on no infrastructure, none, on clean water and sewer. And my state has over 30 communities that don't have any clean water and sewer in terms of the diseases and the living conditions in communities like that as you can imagine, it can be very difficult.

So in a bipartisan way this committee acted last year, established a new program for disadvantaged communities, small communities to work on those kind of issues for different communities, whether in Alaska or other part of the country that literally live in third-world conditions in some communities.

So that would be administered by the EPA, this new program. And I just want to get your commitment to work with us to fully fund that new program to work on those kind of issues.

PRUITT:

As we talked about in our meeting, Senator, I believe sometimes when infrastructure is referenced, we think roads and bridges and we don't think water infrastructure.

SULLIVAN:

Yeah.

PRUITT:

And I think all those are important. And I would make that a priority interfacing with Congress if confirmed as EPA administrator.

SULLIVAN:

Great, thank you. Thanks.

BARRASSO:

Thank you Senator Sullivan. I want to thank all the members for the respectful way in which the business was conducted today. Members may also submit follow up written questions, but it seems that everyone had plenty of opportunity to ask oral questions. Scheduled for the close -- the recording for the close of business, Thursday, January 19.
Senator Carper?

CARPER:

I thought we were going to do one more round.

BARRASSO:

I thought three rounds was the longest in the history of this. The last -- the only other time there were three rounds was Christy Todd Whitman in 2001. And those were three rounds of five minutes each and the reason that she, as a Republican nominee was given three rounds is that the chairman of the committee was Harry Reid.

So the three rounds. The witness has been here since 10:00. It is now 4:30, so he's been six-and-a-half hours, and I think three rounds by any criteria that one would use each of five minutes, when -- when Gina McCarthy was nominated and I had significant numbers of questions, Barbara Boxer limited me to five minute round, one five minute round and one two minute round.

We have more than doubled today that amount of time for questioning.

CARPER:

Mr. Chairman?

BARRASSO:

Senator?

CARPER:

I'm certainly not saying that you've been unfair with us, but until this very minute, I don't think it has been clear to anyone that there was a three round limit, and I believe you opened the hearing by saying that we'd go on until people's questions were answered.

So this is a bit of a novelty, but again please don't take it as a criticism of your fairness. I think that you have been fair. This is just news and I do have a bunch of questions right here that I'd hoped to ask as -- as what I expected to be a final fourth round.

BARRASSO:

Well, then I would already invite you to please submit those follow up

written questions by tomorrow at close of business.

CARPER:

Mr. Chairman. Mr. Chairman, could I be recognized? Yeah, I ...

BARRASSO:

Senator Carper and then Senator Booker.

CARPER:

I appreciate the way you've conducted this -- this hearing today. Appreciate all the members coming again -- coming back again and again. When -- when we were talking a week or two ago about where to have the hearing, whether to have one day of hearings or two days of hearings, we were interested -- our side was interested in having two days of hearings.

We were interested in having an outside panel and it was explained to us that the -- that's not really the tradition of the committee to have an outside panel. But -- and you said, I'd prefer to do it in one day and we'll stay as long as people have questions. I think that was almost exactly your words. And that's hard to argue with.

We can stay as long as people have questions. Some of the folks have some more questions. I know I do. And we're not running out the clock. They're honest questions. And I would just ask that you think back on our earlier conversation and you see your way clear to have one more round and we'll call it a day.

BARRASSO:

Yeah, well, I would say a couple of things. One, is I offered to start the committee meeting earlier today because there are many of us who have commitments into the evening. People from our home states who are here for the inauguration activities. We have commitments for our home states. And the idea of starting at 9:00 was rejected.

The -- wanted to go along, I think right before the third round, I said, now, if there's going to be an ongoing, maybe we should take a break, give the witness an opportunity to take a break. You said, no, let's plow on. The witness has been sitting there now for just about three hours.

And depending on the wishes of the committee, my preference is to say we have done more than ever done in the last 16 years or 17 years for nominees. I mean if people have one or two questions, I would want to give the witness an opportunity to stretch his legs. I'll be happy to stay and we can come back with a three minute round.

But I just don't -- I think there -- people have obligations and commitments and we thought we would be completed by now, and it does seem that many of the end, you know, not as -- and for people that are here now, they could go a -- you know.

So we have two members, three members, if you want to go two to three minutes, or one or two questions, I think we would be able to accommodate but to bring back the entire committee and go into the night --

CARPER:

No, I'm not -- I'm not suggesting we bring back the entire -- I'm going to just suggest that, if we can, maybe we can agree here. Those that are here today, right this moment, if they have question, give them five minutes. And then when they're done, then we're done, we're done. Yeah.

BARRASSO:

Any objection from our side? Any with these other ...

CARPER:

You have to go with ...

BARRASSO:

Senator Inhofe?

INHOFE:

Although we would be able to yield back any time that ...

BARRASSO:

Sure.

INHOFE:

... we have if we didn't want to use it.

CARPER:

Or you could yield to us.

INHOFE:

OK, I can only say that ...

(Laughter)

INHOFE:

I can only say that I've chaired this committee for quite a number of years. I've been through this once before and there is always an effort by those who are perhaps not really satisfied as some of the others might be to try to make it continue on and on and on. I would prefer to go -- go ahead.

I think we've all had adequate time and -- and be prepared to vote.

BARRASSO:

Well, we don't have a vote scheduled for today on this. We don't have an agreement on that. So there wouldn't be -- wouldn't be a vote. I would -- I would say if -- if the -- if the ...

INHOFE:

Well, if that's the case then we can confine it to, for the record.

(UNKNOWN)

(Inaudible).

BARRASSO:

Any other suggestions from the ...

SULLIVAN:

Mr. Chairman, I think you've been exceedingly fair, particularly relative to the confirmation of Gina McCarthy and I think it's purely within your call to have the additional questions be submitted for the record. Still the opportunity for the witness to answer the questions.

He'll still have to do it before his confirmation, but relative to any other EPA administrator hearing, you've been very generous, very fair and I think that from that perspective ...

CARPER:

Could I -- could I just ...

SULLIVAN:

... I think that, that's a very fair outcome, to still ask the questions. Just submit the questions for the record.

CARPER:

Yeah, could I respond to our colleague from Alaska? I don't know if you remember, a year or two ago, there was a joint session of the House and Senate committees and other (sic) committees, and the witness was Gina McCarthy and I arrived four hours into the hearing and after a while I was recognized to -- to ask a question.

And my question of Gina McCarthy was, "You've been here for four hours, haven't you?" She said, "Yes." And I said, "Is there question you haven't been asked that you wish you had been asked?" And she said, "Yes." I said, "What is it?" She said, "I wish I'd been asked if I needed a bathroom break."

I don't -- I don't know if the witness needs a bathroom break, but if you need one for a couple minutes, we can arrange that. And I can say, here's what we're asking for. Five minutes, Cory Booker, Sheldon Whitehouse, Tom Carper. We ask him a question and we're done. That's it. Can you handle that?

BARRASSO:

I asked before ...

CARPER:

Why don't you say, yes? We're wasting a lot of time here, otherwise we'll just ...

BARRASSO:

How about the ...

CARPER:

... keep talking around it.

BARRASSO:

As you said, you have a couple of questions, you have a couple -- let's go three minutes each and then we'll call it good.

CARPER:

All right.

BARRASSO:

You're -- you're up.

BOOKER:

Mr. Chairman?

BARRASSO:

Senator Booker?

BOOKER:

I'd asked to be recognized earlier. I do want to ...

BARRASSO:

Yes, oh, I'm -- I apologize. Yes, sir?

BOOKER:

No, I just want to repeat, I do think what Senator Sullivan said, you have been very, very generous. It's true. I appreciate what seems like an accord right now of a few minutes each, I'd appreciate that.

One thing you didn't mark, which I think should be really important is I have no sympathy for the nominee and his endurance. I do have for his family behind him who has sat through all this, and I just want to mark for the record that they are true champs and I think that's important to know. And I thank them for their indulgence, not the nominee, but ...

BARRASSO:

Well, I would just say ...

BOOKER:

... I think that's more evidence that he cares for the children of Oklahoma.

(Laughter)

BARRASSO:

I would just say, many people -- more people vote for me because of my wife than vote for me, and I would suggest for you as well, in the case of this nominee. So ...

BOOKER:

Let me yield to Senator Whitehouse.

BARRASSO:

OK.

WHITEHOUSE:

I just wanted to touch on two things and then we'll wrap up. The first is that on your questionnaire, you listed an email address with a me.com domain, as your business email.

You also have an oag.ok.gov address. Are there other email address that you have and are there other email addresses that you use for business, other than your me.com and your oag.ok.gov email addresses?

PRUITT:

The -- I'm sorry, Senator. The -- the me address is not a business email address. It's a -- it's a -- and I'm not sure why it was designated as such. I'm on my first visit ...

WHITEHOUSE:

OK, maybe we can prescribe the filing on that...

PRUITT:

Yeah, but there are no ...

WHITEHOUSE:

... so there's no other ...

PRUITT:

... there are no other email addresses, if that's your question, Senator.

WHITEHOUSE:

We have gone through the cases that you list as your environmental cases and when we take out the cases that were started by your predecessor, Drew Edmondson, and when you take out the cases that are fish kill cases, which as I understand is a form you lake matter (ph) that is resolved by letter at the staff level, you count the fish, you pay the fee.

And when you take out the qui tam cases, which are a, for those who aren't lawyers, a private individual who brings an action and then attorney general can step in and take the action over if they want, but it's brought in the first instance by a private individual. And then if you take out the cases in which you sued EPA, there is virtually nothing left.

And in addition to that, we have that you closed the Environmental Protection Unit in Oklahoma as a free standing unit. You told me when we met that you had rolled it into your Federalism unit, but I was just on the Federalism's unit's Website and the word "environmental" doesn't even appear on that.

And it appears to be run by the solicitor general and it says over and over again that it's involved in appellate litigation. And of course, if you're bringing an action, you're not starting at the appellate level. Finally, the --

PRUITT:

Senator, if I may -- the Deputy Solicitor General Clayton Banks was actually employed by the previous attorney general. He has been designated a deputy solicitor general and is responsible for environmental related advise and consent to ...

WHITEHOUSE:

Yep.

PRUITT:

... those agencies.

WHITEHOUSE:

Yeah, that's a different function, though. That's a different function than to bring an action. I've been an attorney general, too. I know the difference. The attorney general has an obligation to provide lawyers to give advice to agencies, but you also have the authority to bring criminal actions, if you wish, and you have the authority to bring civil actions, if you wish.

And it's those authorities that I believe have not gotten much attention. And the last piece of that, because you will have a chance to respond, but I'm on a short clock, thanks, is that there was an Oklahoma Environmental Crimes Taskforce that your predecessor led and it describes.

And I'd ask to have these documents put into the -- the record, from 1997 to 2010, the OECTS, the Environmental Crimes Taskforce of the Environmental Protection Unit in conduction with the EPA and other entities conducted 142 criminal investigations resulting in 56 prosecutions.

Criminal cases resulted individual convictions on 110 felony and 21 misdemeanor counts, \$8 million in fines, 28 years of jail time. We can put it in the record. Is there even -- do you even participate in the Oklahoma Environmental Crimes Taskforce still?

BARRASSO:

Without objection.

PRUITT:

Senator, as I've indicated, we each day with our Department of Environmental Quality on enforcement along with other agencies. I guess it's a matter of quote/unquote "who takes the credit for that type of enforcement." But those individuals have offered statements to this body. They are a matter of the record.

You've heard statements that the Chairman has referred to that -- that we have worked diligently with those agencies to enforce appropriately, and I would refer to their statements in response.

BARRASSO:

Thank you -- Senator Booker.

BOOKER:

Thank you very much. So first of all, I appreciate you talking about environmental justice and mentioned that we did talk about that and I felt good about your personal commitments to at least me that you were pursue that. I just want to just go through this last point. I want to put together a fact pattern here, then let you have that and dispute it.

I know there's at least one point in here you dispute, but I really want to get to the -- what I draw from the facts, and you can again, have the last word. So, what I'm seeing, when I put together all the facts, and just a pattern.

You know, there was a litigation from your predecessor that you declined to conclude when you got in against a polluting poultry producers who were dumping hundreds of thousands of tons of chicken waste into the Illinois River shed. You shut down the Environmental Enforcement Unit in your office.

This is the one I know you -- you do not agree with me on, but I see it as that you also attempted to suspend Oklahoma's Water Quality Standard for three years. But the last fact, and again, you have the last word here, sir, is that you also supported a constitutional amendment State Question 777, the so called, Right to Farm amendment that would have made it more difficult for the Oklahoma State Legislature.

Again, you talk about federalism, now you're trying to take the teeth out of the Oklahoma State Legislature and local government to enact their own environmental laws in the future. And -- and this kind of support, and I looked all throughout magazines, you're going in support of this is clear. Here you are in the Pro and Con about supporting 777.

Here is, mostly is world boards who are against you on this in your state. Here's one from Tulsa World Endorsement, that said, "The measure would prevent future state and local regulation on farming and livestock activities, unless the state has a compelling state interest." A very high legal standards, as I know, not the lawyer that you are, sir, but I know that, that is a very hard one, standard to meet.

And so this is the challenge is that, this idea that you're supporting federalism versus, it seems to me a pattern of you being on the side of the polluters, and even trying to take the teeth out of the state legislature's ability to regulate these harmful environmental toxins. I'm happy that this -- this ballot initiative was overwhelming defeated by Oklahoma voters.

But as I see you ascending potentially to this very important position, sir, I just worry about whose side you're going to be on, given the fact pattern that I have about big industry, about big pollution, especially as I know the billions of animals that we have in K-foes (?) that are poisoning rivers all over this country.

I really just want you to respond that, sir. And I'll say, because this will be my last word, you will have it, I want to thank you for your indulgence. I know this has been a long day and I want to thank your family as well.

PRUITT:

Thank you, Senator. And let me -- let me respond. There's been some confusion about the litigation. You made references to several things there and if I may respond to a couple. The litigation to which you refer, Senator Boozman actually refer to it as well.

My predecessor did bring an action approximately 2007 time frame against the poultry industry and many other defendants in the northern district of Oklahoma. That case had been fully litigated, submitted to the court for decision before I ever came into office.

It was an example of potentially regulation through litigation, and I've talked about that earlier in response to questions. I had every authority to dismiss that case when I came into office. I did not. That case is still pending today, awaiting a federal judge's decision. I've taken no action to undermine that case.

I've done nothing but file briefs in support of the court making a decision. So I -- that's a point of clarity on the litigation. With respect to our -- our office, I submitted this in response to Senator Whitehouse's request. We met earlier, or excuse me, last week and he asked about FTEs and budget. I've submitted responses to him.

We have almost a \$700,000 budget that the administrator of our office has attributed to environmental related activities and seven FTEs that are associated with that as well. So, I want to make sure that those two -- those two items were shared with you in response to your -- your comments.

BOOKER:

You have nothing to respond to on -- on the State Question 777?

PRUITT:

The State Question 777, we're actually involved in a ballot drafting of those things and so, though -- though you represented that I was actively involved in endorsement or involved in the -- I -- I really was not as far as the actual vote and -- now, there was some op-ed and some decisions, but I've tried to -- to make sure that I didn't get involved in that because of our other obligations in the office.

BARRASSO:
Senator Carper?

BOOKER:
And I can submit this for the record, sir, the -- the ...

BARRASSO:
Yes, without objection.

BOOKER:
Thank you, sir.

CARPER:
Mr. Pruitt, earlier today I mentioned that I'd submitted a list of about 50 questions to you shortly after Christmas. I asked for a response by January 9, and got none, and I asked my staff earlier this morning if we'd gotten the written responses on those questions as of today, and I understand that we have not.

You're going to receive a number of question for the record from us, Democrat and Republicans, and I'm anxious what your response are to those -- those questions. But we need your answers. And we need good answers. And the idea of waiting two or three weeks and not providing anything is just unacceptable. So just -- just to put on -- put that out there.

PRUITT:
Well, if I could, Senator ...

CARPER:

Secondly, I would like to ask you a question, if I may.

PRUITT:

... if -- if I may offer this. I tried to, and I talked to the Chairman about this, with respect to your -- your questions you submitted, I was respecting the protocol of the Chair in responding to those questions and committed that those questions would be answered for the record post the hearing, and that's what I was directed to do by the Chairman.

CARPER:

All right. Second, based on your earlier statements, I just want to clarify something. If confirmed, can we have your assurances that the EPA will continue to regulate mercury emissions from power plants under Section 112 of the Clean Air Act, and you will not defer to the states?

PRUITT:

Mercury, under the Section 112 is -- is something that the EPA should deal with and regulate.

CARPER:

Thank you. I -- I came across a quote from you that said -- I think you stated the following about an EPA rule involving cross-state smog pollution and the EPA rule. I think you were quoted as saying, "Threatened the competitive edge Oklahoma has enjoyed for years with low cost and reliable electric generation.

This low cost energy not only benefits Oklahoma manufacturers, but gives our state a considerable edge in recruiting new jobs." And the question I would ask, as at the peril of those of us who live in states that are downwind from where Oklahoma might be, as you lower your energy cost to benefit Oklahomans, I just want to ask you, in the spirit of the Golden Rule, keep in mind what that means for us.

Keep in mind what that means for -- for us, because in my state, as I said earlier on, I can shut down my state's economy and we still would have been out of compliance from any number of clean air requirements, and that was not because of anything we put up in the air.

It's because of what folks out to the west put up in the air and it eventually came down to end of America's tail pipe. I would just ask that you do that. The last, we have a chart, this quickly chart, may we see this chart? This is an interesting chart. This is what we call a busy chart. It's a busy chart.

And it looks at the issue of cross-border air pollution. As you can see with this chart, smog pollution in our country moves all over the place, I mean all over the place. As I mentioned, as Delaware's governor, they shut down my state in order to come into compliance with the clean air challenges.

Under your vision for EPA, it sounds like states will be left on their own to deal with this very complex problem that we see demonstrated right here. And I would just ask, how do states address this pollution, this kind of pollution you see demonstrated here without the assistance of the EPA?

PRUITT:

Well, Senator, as I indicated earlier today, I believe that, as an example the Cross-State Air Pollution Rule to which you just referred is a very important authority that the EPA needs to exercise. It needs to do so within the processes that have been provided by the statute. But it -- it's something that's very important for the EPA to perform and execute.

CARPER:

All right. Mr. -- I was going to submit a request to submit for the records, Mr. Chairman to a number of letters of concerns that about, and many letters in opposition to, in some cases for, other cases opposition to Mr. Pruitt's nomination, about 14 in all. I would just ask to consent to put it into the record.

BARRASSO:

Without objection.

CARPER:

Thank you so much.

BARRASSO:

Thank you.

CARPER:

And again to Mr. Pruitt, your family, thank you all for -- for joining us today. I just want to say I peek at KD (ph) your son right, sitting right behind you. I could barely see KD's lips moving when you spoke. And so, I suspect he has a future in law, I'm not sure, but ...

PRUITT:

We'll see. Thank you, Senator.

BARRASSO:

And, Attorney General Pruitt, I do want to follow up with what you said, the -- you were instructed by the committee. I have a copy for the record of the January 9th letter, which was the day that you were asked to submit the 52 answers to the responses.

It's a letter from me to the Ranking Member saying, "Please note, the EPW Committee does not require nominees to responded to questions in advance of a hearing." And I know you'll be responding to the written questions that will be submitted by tomorrow night.

CARPER:

Mr. Chairman, could I just add -- add a short thing?

That -- that's -- that's a conversation between you and the Chairman, I understand that. But again, I just reiterate, you'll receive a lot of questions, including some that have been unanswered from the 50 or so I submitted two or three weeks ago. We need your responses. We need your responses. And hope the Chairman will give you a reasonable amount of time to respond to those question, because there'll be quite a few of them, and they're not going to be like multiple choice answers. It'll -- they won't be true and false. They'll be more complex. Thank you.

BARRASSO:

Additionally, I'm going to introduce for the record an article from the Economist about mercury and the Mercury Rule, and it's interesting because it says, "Rule making is being made to look more beneficial under Barak Obama." But it goes to say, "A casual listener would have assumed that all these benefits came from reduced mercury.

In fact, reduce mercury explained none of the purported future reduction in deaths, heart attacks and asthma and less than 0.01 percent of the monetary benefits. Instead, almost all of the benefits came from concomitant reductions in a pollutant that was not the principle target of the Mercury Rule, namely fine particles.

And I'll submit that for the record as we look at the issues going into the -- in the future. So I want to thank all of the members of the Committee for your patience. I certainly want to thank the nominee for his time and his testimony today. The hearing is adjourned.

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WITNESSES:

STATE ATTORNEY GENERAL SCOTT PRUITT, R-OKLA.,
NOMINATED TO BE ADMINISTRATOR OF THE ENVIRONMENTAL
PROTECTION AGENCY

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