

STATEMENT

"Public Health and Natural Resources: A Review of the Implementation of Our Environmental Laws"

Senate Governmental Affairs Committee Hearing
Chairman Joe Lieberman

Wednesday, March 13, 2002

I want to welcome everybody to the second hearing by the Senate Governmental Affairs Committee to review the Bush Administration's enforcement of environmental and public health protections.

In our first hearing last week, we heard from EPA Administrator Whitman, from the recently resigned head of EPA civil enforcement Eric Schaeffer, from the director of advocacy programs at the National Resources Defense Council, and from two lawyers with significant experience in environmental law, in an attempt to get the experts' view of the Bush Administration's policies and enforcement strategies. Today, our purpose is to get a citizen's eye view of these same policies.

I want these hearings to be fair. That's part of the reason we began last week with Administrator Whitman and why we wanted to start with administration witnesses today but unfortunately, because of scheduling, we were unable to. But, looking fairly at the Administration's record does not require checking our judgment or our values at the door. To me, safeguarding our air, water and land is a critical American value. To me, consistently enforcing the law is another important American value. Environmental laws, like any others, are passed by the Congress and signed by the President, and the executive branch of government has a responsibility to enforce them with the same rigor with which it enforces other laws. If it does not agree with the laws as written, it should come to Congress and seek a change in the law.

My own assessment is that, just a year into the Bush Administration, we are seeing some very troubling policies in environmental enforcement, interpretation and implementation—tendencies that have real consequences for the air we breathe, the water we drink, the water we recreate in, and the land we stand upon. I want to highlight three of the patterns that I see emerging, based on last week's hearing and a review of the first year of the Bush Administration, which lead me to conclude our existing environmental laws are not being adequately enforced.

First, there has been highly selective implementation of our environmental laws. It appears that when the administration does not agree with a particular protection, it finds ways to delay or take the teeth out of it. That might be accomplished through changing guidance documents, postponing decisions indefinitely, seeking settlement agreements that weaken existing rules, or using a variety of other administrative tactics.

In last week's hearing, we saw one such administrative tool at work, when Administrator Whitman suggested that power plants being sued by the federal government for violating pollution laws might want to hold off on negotiations, rather than working to settle their cases with the EPA before court decisions that are pending. Unfortunately, that statement was indicative of the fact that, through winks and nods and sometimes more explicit signals to industry, the Bush Administration seems intent on separating environmental laws into two

piles, required and optional—and the optional pile is beginning to cast a large shadow.

Second, I see the Bush Administration sending an inconsistent message on the authority of states and localities. As a general rule, the Administration wants to give state and local governments more latitude in determining environmental policy. However, at the same time, the federal government is frustrating states' efforts to solve their air pollution problems, as we will hear from Attorney General Blumenthal here today.

In fact, the Administration seems to consult more carefully with industry than with anyone else. It is, of course, appropriate to consult with industries that are regulated by environmental laws. But the voice of industry does not tell the whole story. The views, voices, and values of others must be given equal weight if our environmental laws are to be fairly enforced.

The third, related pattern I see in the Administration's first year of environmental policy is a lack of truth in advertising. I said at last week's hearing that I am troubled by the false promise of innovation in many of the Administration's new environmental proposals, specifically the vague and inadequate clean air and climate change blueprint. I am equally troubled by what I see as the Administration's inaccurate packaging of its environmental enforcement actions which tend to put bright green ribbons around packages that don't deserve them.

Let me give you two brief examples. A document delivered at last week's hearing by Administrator Whitman—entitled "The Bush Administration's Environmental Record: A Year of Accomplishments"—gives the Administration's view of what it has achieved. The report says that, "The Bureau of Land Management is focused on increasing domestic energy production of both renewable and non-renewable energy resources through sound environmental management and maintaining its commitment to protect the resources of the public lands." In fact, the Bureau of Land Management has clearly communicated to its staff that priority is to be given to non-renewable sources, such as oil and gas—and the Bureau seems willing to open even sensitive public lands to such energy exploration. On February 21 of this year, *The New York Times* reported that BLM employees were instructed that the processing of oil and gas leases for exploration are the first priority for action by local offices.

The administration's "Year of Accomplishments" report also says that on May 4, 2001, "Secretary [of Agriculture] Veneman announced that she would implement the Clinton Administration's Roadless Area Conservation Rule," and further reports that a federal judge enjoined USDA from implementing the rule. In fact, the Administration failed to defend the rule, and then implemented administrative policies that undercut it.

So, what is therefore crucial, is that we focus not just on what the Administration says, but on what it does. That is the purpose of today's hearing. We will hear from people from throughout the country who can tell us what is happening to the air, land, and water above, around, and beneath them: from a former commercial fisherman who was forced to retire because of pollution in the Neuse River and has since become the river-keeper of that body of water... from a citizen from Arizona who is fighting hard against hard-rock mining on federal land because he believes it will do irreparable harm to the environment and to his community... and from others, including a great state attorney general from a great state with great men's and women's college basketball teams. I look forward to their testimony. Thank you.

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