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NOMINATIONS OF JOHNNY HAYES, JUDITH M. ESPINOSA, D. MICHAEL RAPPOPORT, AND MAJOR GENERAL ROBERT BERNARD FLOWERS

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

ON

THE NOMINATIONS OF JOHNNY HAYES, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY; JUDITH M. ESPINOSA AND D. MICHAEL RAPPAPORT, TO BE MEMBERS OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION; AND MAJ. GEN. ROBERT B. FLOWERS, TO BE A MEMBER AND PRESIDENT OF THE MISSISSIPPI RIVER COMMISSION

MARCH 14, 1997

Printed for the use of the Committee on Environment and Public Works

U.S. GOVERNMENT PRINTING OFFICE

40–683 CC WASHINGTON : 1997

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

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MARCH 14, 1997

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NOMINATIONS OF JOHNNY HAYES, JUDITH M. ESPINOSA, D. MICHAEL RAPPOPORT, AND MAJOR GENERAL ROBERT BERNARD FLOWERS

FRIDAY, MARCH 14, 1997

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 9:31 a.m. in room 406, Senate Dirksen Building, Hon. John H. Chafee (chairman of the committee) presiding.

Present: Senators Chafee, Baucus, and Sessions.

OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. Will the committee please come to order?

Today we're going to have a hearing on several nominees. The first nominee will be Mr. Johnny H. Hayes who has been nominated by the President to be a member of the Board of Directors of the Tennessee Valley Authority. He's currently serving there now.

The second panel is Ms. Judith M. Espinosa, nominated by the President to be a member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation and Mr. Rappoport, likewise.

[The prepared statement of Senator Chafee follows:]

STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Good morning. The purpose of this today's hearing is to consider the following Presidential nominations: Johnny Hayes, to be a Member of the Tennessee Valley Authority Board of Directors; and for the Board of Trustees for the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, Judith Espinosa and Mike Rappoport.

I would like to welcome everyone, especially Mr. Hayes, who is joined by his wife, Mary Howard Hayes, and daughter Amy Hayes; Mr. Rappoport, who is joined by his wife, Suzi Rappoport, and son Sloan Rappoport; and Ms. Espinosa, whose daughter was unable to attend because tonight is opening night of her high school play. Before we proceed, Senator Frist is here, and he would like to make a brief statement on behalf of Mr. Hayes. Also, I understand that Senator Bingaman would like to introduce Ms. Espinosa.

All of our witnesses were nominated by the President on January 9 of this year, and we have received their paperwork in the interim. It is my intention that the Committee act expeditiously on these nominations.

Understandably, Gen. Flowers, the President's nominee for President and Member of the Mississippi River Commission, cannot join us today. In his current post as the Army Corps of Engineers District Commander of the Lower Mississippi Valley,

he is having to make critical decisions with respect to the terrible flooding in that area.

The record will be left open for 1 week ending March 21 to accommodate written questions from members, which will in turn, be answered by Gen. Flowers within the following 2 weeks ending April 4 before any action is taken on his nomination.

I am pleased to report that all of the nominees have impressive and diverse backgrounds and are well-suited to the positions before them.

Johnny Hayes has served as a TVA Director since 1993. Some of you may recall when Mr. Hayes appeared before this Committee in 1993, as the President's nominee to fill the term of outgoing Director Marvin Runyon.

Over the last 3½ years, Mr. Hayes has used his extensive experience in economic development to help modernize and streamline TVA's programs. TVA is undergoing some major changes right now, with the phaseout of its appropriated programs, as well as the larger restructuring of the electric utility industry. It is my hope that TVA will make a successful transition from a Federal agency to a power business. Mr. Hayes, the demands before you are great, but I am confident in your ability to face the challenges ahead.

The President's nominees to be trustees of the Mo Udall Foundation also have impressive backgrounds. The Foundation was established by Congress in 1992 to honor Congressman Mo Udall for his service to the Nation as an environmental leader and a defender of Native American rights. The Foundation operates scholarship and fellowship programs for outstanding U.S. students who are interested in pursuing careers in environmental policy, conflict resolution, health care, and Native American public policy.

Judith Espinosa is the current President of the "Alliance for Transportation Research Institute" at the University of New Mexico. She has served as both Secretary of Transportation and Secretary of the Environment for the state of New Mexico. She has also given a substantial amount of her limited free time as a mentor to students living within disadvantaged communities in New Mexico and California.

Mr. Rappoport, who has served on the Udall Board for the past 2 years, has a great deal of experience with water and other natural resource issues. For the past 23 years, he has served in a variety of leadership capacities for the Salt River Project, a mammoth water and electricity utility in Phoenix. I might add that Mr. Rappoport is a veteran of Capitol Hill, having worked as a House legislative assistant in the early seventies.

I look forward to hearing what today's witnesses have to say about their backgrounds and what they hope to accomplish. Thank you.

Senator CHAFEE. I note that Senator Frist is here and if you'd like to introduce Mr. Hayes, that would be fine.

STATEMENT OF HON. BILL FRIST, U.S. SENATOR FROM THE STATE OF TENNESSEE

Senator FRIST. Thank you, Mr. Chairman.

Chairman Chafee, Ranking Member Baucus, thank you for the opportunity to introduce Mr. Johnny Hayes today, a fellow Tennessean and not a newcomer to this committee.

Johnny Hayes was first appointed to the post of Director of the Tennessee Valley Authority by the President in 1993. He came to TVA at a very critical time in its history and will serve through another critical time in the history of this agency and its evolution.

Mr. Hayes has proven himself to be a capable member of the Board of TVA and the President and Vice President clearly have a great deal of confidence in his ability to meet the coming challenges posed to TVA by utility deregulation and the increasing challenges of management of the precious land and water resources of seven States in TVA.

Before his appointment to the board, Mr. Hayes served in our State, the great State of Tennessee, as commissioner of Employment and Security and as commissioner of Economic and Community Development for our home State.

Before entering public service, he was a successful, independent businessman and is still active in the community in a number of initiatives, both through public service organizations as well as his church.

He continues to be active in economic development in our State, especially in smaller communities all across the State of Tennessee. In this capacity, he has become highly respected within the Tennessee Valley Authority.

He has overseen countless economic development projects which have provided critical know-how as well as capital for a myriad of small- and medium-sized business ventures which really are the life blood of many communities in Tennessee and throughout the valley.

He's overseen the advent of something we can all appreciate as we again approach our yearly appropriations cycle as TVA will soon move all of their community and small business development, financing from the responsibility of the taxpayer into the fully self-financed power accounts.

Mr. Chairman, I trust that the committee members will see fit to accept the President's high recommendation and reconfirm Mr. Hayes to the Board of the Tennessee Valley Authority. His expertise and experience will serve the agency and the State of Tennessee well in the coming years as he has since 1993.

Thank you.

Senator CHAFEE. Thank you very much for that high recommendation, Senator Frist.

Senator Baker also called me in connection with Mr. Hayes, heartily endorsing Mr. Hayes for this position.

The Senators are busy and you're certainly excused Senator Frist unless you have any questions.

Senator Baucus.

OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Senator BAUCUS. Thank you. I have a statement for the record.

[The prepared statement of Senator Baucus follows:]

STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Good morning, and welcome to all of our nominees.

Mr. Hayes, I look forward to hearing how the TVA has succeeded in keeping rates stable for 10 consecutive years while at the same time downsizing, saving more than $100 million annually and reducing green house emissions. Sounds like quite an accomplishment, and you've just been there for 3 years!

Ms. Espinosa, I look forward to hearing what ideas you have for the Udall Scholarship and Foundation as a new appointee and Mr. Rappoport, as one of the first trustees of the Udall Scholarship and Foundation, I look forward to hearing what you've accomplished in your first 2½ years and what new initiatives you think the Foundation should undertake in the next century.

You two have a great responsibility. The contributions that Mo Udall has made not only to the environment of this country but to the environmental consciousness of America are unsurpassed. Fostering that consciousness through scholarship awards and environmental policy awareness is not only a tribute to him, but a great way to preserve his legacy.

I look forward to hearing your testimony.

Senator CHAFEE. Senator Bingaman, why don't you come forward and your folks can come up, Mr. Rappoport and Ms. Espinosa, and

we'll have Senator Bingaman first because he has other obligations, I'm sure.

STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM THE STATE OF NEW MEXICO

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

I appreciate the chance to say just a few words in support of Judith Espinosa for this position as Trustee for the Morris K. Udall Foundation.

She's a person who I've worked with over many years, particularly on the difficult job, which all of us face of trying to reconcile and accommodate the need for economic growth, which we all recognize, and the need to protect our environment. She has been in very key positions in our State where those two concerns come together.

She has twice served in the New Mexico State Cabinet under Governors in our State, once as Secretary of Transportation and she was also the chairwoman of the National Governors Association Committee on Hazardous Materials Transportation, which I know this committee spends a lot of time on. Also she served as New Mexico's first Secretary for the Environment. She has distinguished herself in both those positions.

She is now serving as the acting president for the Alliance for Transportation Research at the Transportation Research Institute at the University of New Mexico.

She will bring to this position great experience and good judgment and I think the Morris K. Udall Foundation will be well served by her being on the board. I recommend her heartily to this committee and I hope she will be confirmed for the position.

[The prepared statement of Senator Bingaman follows:]

STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM THE STATE OF NEW MEXICO

Thank you Mr. Chairman. I would like to give you and the committee a brief introduction to a truly outstanding candidate as trustee for the Morris K. Udall Foundation. My good friend, Judith Espinosa. In New Mexico, Judy has been an inspiration to all of us who have to wrestle with the very difficult, and often thankless, task of reconciling our needs for economic growth and jobs with our need for a healthy sustainable environment. Because of her boundless energy in the pursuit of solutions on these issues, her string of accomplishments is too long for me to list here. So let me just give you some highlights of Judy's background that illustrate why I think she will be a great trustee for the Foundation.

As we all know, finding real solutions to provide an environmentally sound and sustainable economy requires building a consensus between industry, government, the environmental community, science and education. The pursuit of consensus is the legacy that Mo Udall left us and the goal of the Foundation, and Judith Espinosa covers all of these bases:

She has served twice in the New Mexico State Cabinet, once as Secretary of Transportation when she was also Chairwoman of the National Governors' Association Committee on Hazardous Materials Transportation, and also as New Mexico's first Secretary for the Environment, where she chaired both the state commission on mining and the state commission on water quality. She also headed the Government Advisory Committee to EPA on the supplemental environmental agreement for NAFTA.

Judy, a registered nurse with a Masters in public health administration, also has experience in the private sector, running her own consulting business for industry and government agencies on health services and administration. Her non-profit experience includes serving on the boards of the Surface Transportation Policy Project, and the National Wildlife Federation. Currently, she is acting president for the Alliance for Transportation Research Institute at the University of New Mexico.

In short, I can think of no one better qualified to oversee the Foundation's missions to expand consensus on environmentally sustainable development, and to promote education in environmental science. She has worked in, and with, industry, government, environmental groups, and the education and science communities. It is rare to find someone who has worked in all of these areas and excelled in each receiving a U.S. Fellowship in Public Health Service and Health Science, and recognition from the New Mexico State Legislature in a memorial passed to honor her distinguished public service.

I commend her for your consideration as Trustee. Thank you.

Senator CHAFEE. Senator, we appreciate your taking the time and trouble to come here. I must say Ms. Espinosa is off to a fine start. Here's a strong letter of recommendation from Senator Domenici likewise. So you've got both your Senators from two different parties endorsing your nomination for this position.

I'll just read the final paragraph of Senator Domenici's letter. "For all these reasons, I'm pleased you've scheduled a hearing on Ms. Espinosa's nomination for March 14. I highly recommend that the committee approve her confirmation as quickly as possible so that her extensive experience and unique talents can be utilized as a trustee of the Morris K. Udall Foundation. Very truly yours, Pete V. Domenici."

Senator do you have any questions or comments?

Senator BAUCUS. About any of the nominees?

Senator CHAFEE. No, in connection with Senator Bingaman?

Senator BAUCUS. No, thank you.

Senator CHAFEE. Thank you very much, Senator, for coming.

Senator BINGAMAN. Thank you.

Senator CHAFEE. I will put these letters in the record. There are also two other letters from Senator McCain and from Senator Kyl.

Senator McCain's letter says, "I'm delighted to endorse the President's nomination of Mr. Rappoport and urge the Committee on Environment and Public Works to favorably recommend the nomination of Mr. D. Michael Rappoport at its earliest opportunity."

Senator Kyl says, "I'm certain that Mr. Rappoport's nomination to and service on the Board of Trustees will ensure the continuation of the successful activities of the Udall Foundation."

You're all batting two for two as regards to your Senators, so that is very nice. We'll put these letters in the record.

[The letters from Senators Domenici, McCain, and Kyl follow:]

MAR 7 1997

PETE V. DOMENICI
NEW MEXICO

COMMITTEES:
BUDGET
APPROPRIATIONS
ENERGY AND NATURAL RESOURCES
INDIAN AFFAIRS
GOVERNMENTAL AFFAIRS

United States Senate
WASHINGTON, DC 20510-3101

March 6, 1997

The Honorable John H. Chafee
Chairman
Committee on Environment and Public Works
410 Dirksen Senate Office Bldg..
Washington, DC 20510-6175

Dear Mr. Chairman

I have learned that Ms. Judith M. Espinosa, a very fine citizen of my home state of New Mexico, has been nominated by President Clinton as a Trustee for "The Morris K. Udall Foundation." This foundation was established by the Congress in 1993 for the promotion of scholarship and excellence in national environmental policy, a purpose that will be advanced by Ms. Espinosa's service as a Trustee.

Ms. Espinosa served as the first Secretary of Environment for the State of New Mexico from 1991 to 1994. During her tenure as New Mexico's first Secretary of Environment, she was appointed by President Clinton to the President's Council on Sustainable Development, on which she currently retains the position of Emeritus Member. She has served on numerous other organizations dealing with complex and difficult policy issues that always attach to environmental matters.

Ms. Espinosa's educational background is equally impressive. She has received a Bachelor of Science in Nursing from the University of New Mexico, a Masters in Public Health Administration from UCLA, and a Doctor of Jurisprudence from the University of New Mexico. She is a member of the New Mexico State Bar and several national environmental organizations. She was also the President of the New Mexico Hispanic Culture Foundation in 1996-97, and still serves as a Trustee of that worthy organization.

For all these reasons, I am pleased that you have scheduled a hearing on Ms. Espinosa's nomination for March 14, 1997. I heartily recommend that the Committee approve her confirmation as quickly as possible, so that her extensive experience and unique talents can be utilized as a Trustee of the Morris K. Udall Foundation.

Very truly yours,

Pete V. Domenici
United States Senator

cc: Ms. Judith M. Espinosa

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March 14, 1997

Senator John Chafee
United States Senate
Washington, DC 20510

Dear John:

I am sorry I could not be here today to introduce my friend Mike Rappoport. Please know that Mr. Rappoport has my highest recommendation and I urge your favorable consideration of his nomination.

I have been acquainted with Mr. Rappoport for more than two decades, and know him to be an honorable and valuable member of his community. He has served on the Foundation's Board of Trustees since its inception and has shown considerable commitment in carrying out his duties. During Mr. Rappoport's tenure, the Foundation became an effective and efficient organization, providing opportunities for U.S. students interested in pursuing careers in environmental policy, conflict resolution, health care and Native American public policy. Only three years after the Foundation began operation, 55 undergraduate students from 38 states and Puerto Rico are reaping benefits from Mo Udall's inspiring legacy.

I am certain that Mr. Rappoport's nomination to, and service on, the Board of Trustees will ensure the continuation of the successful activities of the Udall Foundation.

Sincerely,

JON KYL
United States Senator

JK:cd

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JOHN McCAIN
ARIZONA
CHAIRMAN, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
COMMITTEE ON ARMED SERVICES
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March 13, 1997

The Honorable John Chafee
Chairman
Environment and Public Works Committee
505 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Chafee:

I am writing to express my strong support for the nomination of Mr. Michael Rappoport to continue to serve as a trustee of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation.

I have known Mr. Rappoport professionally and personally for many years and have worked with him on several natural resources issues. He is an able and effective community leader whose insights and management skills have benefitted the Foundation where he has served as Chairman of the Management Committee. Moreover, his extensive involvement in and knowledge of environmental, educational and Native American issues and his long association with Mo Udall have made him a particular asset to the Foundation and make him especially well qualified to continue to serve on the Foundation's board.

Again, I am delighted to endorse the President's nomination, and I urge the Committee on Environment and Public Works to favorably recommend the nomination of Mr. D. Michael Rappoport at its earliest opportunity.

Sincerely,

John McCain

John McCain
United States Senator

JM/bsl
cc: The Honorable Max Baucus

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Senator CHAFEE. Before we start, I'd like to ask if there are any family members? Mr. Hayes, do you have any of your family members here?

Mr. HAYES. My wife, Mary Howard, and my daughter, Amy.

Senator CHAFEE. Will they rise just so we have an opportunity to see them?

We're delighted you're here.

Ms. Espinosa, do you have any family here?

Ms. ESPINOSA. I don't, sir, but I have a good friend of mine who is here, Mr. Hank Dittman from the Surface Transportation Policy Project.

Senator CHAFEE. Fine. Glad you're here.

Mr. Rappoport.

Mr. RAPPOPORT. Senator, thank you. I have my wife, Susie, and our son, Sloane, here with us.

Senator CHAFEE. Fine. We welcome you all here and are very pleased you took the trouble to come.

Gen. Flowers is the President's nominee for president and member of the Mississippi River Commission. Gen. Flowers is extremely busy with matters dealing with the floods in the Mississippi River area right now, so I made the following arrangement.

We excused Gen. Flowers from appearing here. We will leave the record open for 1 week ending March 21 to accommodate any written questions from members to Gen. Flowers. In other words, they will have a week from today, the 14th, until the 21 of this month to submit questions to Gen. Flowers.

Gen. Flowers will then have 2 weeks ending April 4 to answer and no action will take place before then on his nomination. Following that, we will take up his nomination.

Before I start, Senator Sessions, do you have any comments you wish to make?

OPENING STATEMENT OF HON. JEFF SESSIONS, U.S. SENATOR FROM THE STATE OF ALABAMA

Senator SESSIONS. I would, Mr. Chairman.

I appreciate the opportunity to be here and I thank you for holding this hearing to consider the nomination of Johnny Hayes, an individual that I've gotten to know on several occasions and talked in some depth about before the Tennessee Valley Authority, and Ms. Judith Espinosa and Michael Rappoport to be members of the Board of Trustees for the Morris K. Udall Scholarship Foundation.

Over 70 years ago Congress, along with President Franklin Delano Roosevelt, passed the Tennessee Valley Act as part of the New Deal to help bring the Tennessee Valley out of the Depression.

The preamble of the original Act states:

> TVA's purpose is to improve navigability and to provide for flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; and to provide for the national defense by creation of a corporation for the operation of government property at or near Muscle Shoals in the State of Alabama.

The need, justification and intent of the original Act is important still even today.

I'm concerned by recent reports that many of those activities might be abandoned and we need to discuss what might take their place and how some of those absolutely essential duties would be developed.

Tennessee Valley Authority does much more than just produce efficient, commercial power for the residents of the Tennessee Valley; it is responsible for flood control and in charge of managing its economic and development programs in that region.

The Tennessee Valley Authority has successfully managed the rivers and government lands in the Valley since 1933. Someone would need to continue those activities if the TVA does not do them.

I think there is a concern in Alabama and in the region concerning what is going to happen if we make major changes in that. Those are some things that I would want to talk with Mr. Hayes about today. Flood control is basic and that is something we'll need to talk about.

The Environmental Research Center in Muscle Shoals is a remarkable institution. I think it's on the road to perhaps proving that it can stand on its own. It's been cut every year in its budget and it has 230 employees, but because of the quality of their work and contracting out activities, it appears they may very well be able to stand on their own.

I met with the leadership of that Center and they have a positive attitude about the challenges they are facing. I believe they are going to be very successful and we want to be sure that we don't hamper or undermine their ability to succeed. We want to be sure that they continue in the Muscle Shoals area and not be transferred somewhere else.

I understand TVA has established a 19-member task force to examine some of these issues and I look forward to working with them. I look forward to working with you, Mr. Hayes, as we go forward today.

Thank you, Mr. Chairman.

Senator CHAFEE. Thank you very much, Senator.

Mr. Hayes, I'm sure this isn't anything new to you, there is a belief that I share that we want to get TVA to the greatest extent possible away from having to receive annual appropriations from here. Since you've been on the Authority, you've worked to achieve that.

What do you receive now, $106 million a year?

STATEMENT OF JOHNNY H. HAYES, NOMINATED BY THE PRESIDENT TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY

Mr. HAYES. Yes, sir.

Senator CHAFEE. Has that come down over the years?

Mr. HAYES. It has come down.

Senator CHAFEE. At least it hasn't grown with inflation?

Mr. HAYES. No, sir, it hasn't. It's come down every year. At one time we were getting, when I first began serving, approximately $140 million and it's down to $106 million.

Senator CHAFEE. Do you see possibilities of further reductions as we go along?

Mr. HAYES. Over the past 3 years, as Senator Sessions said, the Environmental Research Center has been on a path to self-financing. It only receives about $15 to $16 million dollars in appropriations at the present time and about $17 to $18 million comes from self-perpetuating projects. That was to be phased out in next year's budget as a plan that was started 3 years ago, instituted by us and Congress.

The economic development program which we're very proud of in the Valley, we've restructured it, worked at it hard. It is down to where we're only asking for $4 million and to be phased out the following year. We've developed the economic development program and moved it entirely over to funding from the power sources. We've moved those two projects out of the appropriated funding into private funding.

Senator CHAFEE. Well, no question, the economic program has been successful. You presented to me this document from TVA about the automobile industry. If I have it correctly, I believe there is a greater production of Japanese automobile companies in the State of Tennessee than in any State in the Nation, is that true?

Mr. HAYES. I think there's probably more employees, other than possibly California. We're very proud of that. We have a great work force in the Valley, not only the manufacturing plants, but also support industries.

Senator CHAFEE. I believe that when President Roosevelt conceived the idea of the TVA that he took George Norris of Nebraska down there, didn't he?

Mr. HAYES. I think so, yes.

Senator CHAFEE. That got the legislation through?

Mr. HAYES. Right.

Senator CHAFEE. Another bit of trivia. When I was growing up, there was a song they used to sing, "She's so dumb, it really is a shame. She thinks Muscle Shoals is a boxer's name."

[Laughter.]

Mr. HAYES. I'm glad Senator Sessions was out of the room.

[Laughter.]

Senator CHAFEE. Senator Baucus.

Senator BAUCUS. Thank you, Mr. Chairman.

Mr. Hayes, just following a bit the same line of questioning of the Chairman, did I hear you say TVA you think will phase out its need for Federal appropriations by the year 1999?

Mr. HAYES. We're phasing out Economic Development and the Environmental Research Center from appropriated programs.

We have a proposal that you've probably heard of that was presented within the past couple of weeks that would phaseout all of TVA's appropriated programs, but this is a proposal and we've got a task force of 19 people from across the Valley, TVA employees, that are looking at this proposal, studying ways to either do TVA programs more efficiently with other agencies, or to possibly leave them as they are. Who knows what the task force will come back with.

TVA has always been an agency of change. Since I've been at TVA, we've realigned the Environmental Research Center, realigned Economic Development. We've preached productivity for

the nuclear program and fossil and hydro and the transmission system.

This portion that we're looking at, the flood control and navigation and the land, stewardship, are the only programs that we haven't taken a look at and the proposal is to look at those areas. The proposal would have to have the cooperation of Congress, it would have to have the cooperation of the State, if it works, but we don't know what it's going to be because we have the task force looking at it.

Senator BAUCUS. What is the role of TVA when this country moves to the degree that it does to deregulate power?

Mr. HAYES. Deregulation, as you're aware, is an extremely complex issue. TVA right now serves power to 160 wholesale distributors, and approximately 67 direct-serve customers throughout the Valley. Those are large power loads, aluminum companies, paper companies, et cetera.

We have, by legislation, a fence around TVA territory that borders several States and we can only sell power to 14 companies that bordered us, that we bought and sold power from in 1959. So we have an opportunity to sell to those.

Senator BAUCUS. Do you think it's a good idea to completely deregulate power in a way where TVA is part of that and treated the same way, that is TVA can buy and sell nationwide, but without the Federal subsidy?

Mr. HAYES. If they're going to allow private companies to come inside the fence and take our customers, then we're going to have to be able to sell outside.

Senator BAUCUS. And you think you're prepared to do that by the turn of the century?

Mr. HAYES. I think we're prepared to do it today.

Senator BAUCUS. Today, you're prepared to do that?

Mr. HAYES. Yes. We're very competitive.

Senator BAUCUS. Without subsidy?

Mr. HAYES. Yes.

Senator BAUCUS. Good. Thank you.

Senator CHAFEE. For instance, Duke Power, they must sell in your area, don't they?

Mr. HAYES. No, sir, not inside the fence.

Senator CHAFEE. So you have a certain area that you say is inside the fence, wherever it is?

Mr. HAYES. Yes.

Senator CHAFEE. And that is solely TVA's?

Mr. HAYES. That's solely TVA territory. We have 10-year contracts with our customers, with our wholesale customers, and these are rolling contracts every day, so they could come in and pick off a customer that's on that border. They can't come inside the fence, but Duke could pick off Murphy, NC, that borders Duke, but if the contract held, it would be 10 years before they could begin serving.

We just lost Bristol, VA because although it was one of our 160 customers, it was outside that fence and they did not have a 10-year contract with us. Their contract expires next January.

Senator CHAFEE. It would be my hope, obviously, that you'd be able to end the subsidies totally and I encourage you to continue your work in that direction.

Mr. HAYES. Thank you.

Senator CHAFEE. Senator Sessions.

Senator SESSIONS. Thank you, Mr. Chairman.

Let me ask a few questions, Mr. Hayes. I think it would be an opportunity now to clear up concerns and we hear about people who have jobs they've held for a long time who are getting nervous and rightly so. They'd like for us to speak clearly and effectively and sometimes we have to repeat ourselves to make sure the message gets out.

With regard to the Environmental Research Center, the Federal funding for that is being reduced substantially and will be zeroed out in how many years, 2 more?

Mr. HAYES. One more.

Senator SESSIONS. One more year, it will be zeroed out, Mr. Chairman, and that agency will be standing on its own.

Mr. HAYES. Yes.

Senator SESSIONS. There is no plan, to your knowledge, and you have no plans to support, an effort to move that center from the Muscle Shoals area to anyplace else, is that right?

Mr. HAYES. Let me just say to you and for the record, I'm committed and I think the other two board members are committed, to make the Environmental Research Center a success and we will make it a success. We don't have plans at all to move the Environmental Research Center from Muscle Shoals, AL.

Senator SESSIONS. I've toured it and they are doing some remarkable research, Mr. Chairman, on how to convert waste to energy, to some of the best in the Nation; they have programs for very small towns, how they can convert waste and utilize it. They really are in the forefront, don't you think, Mr. Hayes, of environmental technology in America?

Mr. HAYES. Absolutely. Especially in water areas, et cetera, yes.

Senator SESSIONS. By the way, we talk here about clean air, I happened to be on an airplane a few weeks ago with the chief scientist at TVA who does their clean air work at this Center and talked to the chairman of the board at TVA. What is your best estimate now of the cost of the Tennessee Valley electric users of the new requirements of the Clean Air Act on TVA alone?

Mr. HAYES. Our best estimate right now is about $2 billion.

Senator SESSIONS. Mr. Chairman, Ms. Browner was here and I believe she estimated nationally this would be a $6 to $8 billion cost to America. TVA alone is saying it may be $2 billion for them, so obviously those costs will be passed on to the consumers and that will happen all over America.

I think it points out your concerns that we need to be real careful about these clean air proposals.

Next, on flood control, you have about 900 employees involved in resource management, flood control, maintaining the waterways and that sort of thing?

Mr. HAYES. The resource group is about 900 and they cover all facets.

Senator SESSIONS. I think what concerns a lot of people is that flood control and resource management are a part of every governmental resource development and if TVA doesn't do it, who will, and are we going to go through some situation in which all TVA

employees are laid off and some other agency would bring in new people to do this work?

Can you tell us what you are doing to make sure that if a transition from TVA occurs, that the people who are doing that now and doing a good job would have an opportunity to be retained?

Mr. HAYES. I can give you my commitment that whatever the task force brings back, if they were to bring back a change, I certainly would not want to displace employees or hurt families in any way, I don't know what the task force is going to bring to us, I can certainly tell you that my commitment would be to work with these people to make sure they are not displaced.

Senator SESSIONS. I had to step out for 1 minute. Did you explain the task force?

Mr. HAYES. I did.

Senator SESSIONS. That task force's mandate is to determine whether or not a transition is feasible and how to do it in such a way that would be least detrimental to the people, many of whom have given their lives to this effort.

Mr. HAYES. At the least cost to the Federal Government and how it could be done most effectively.

Senator SESSIONS. I would just like your commitment that you will do what you can as leader of this agency to make sure that no unnecessary displacements of the good and decent employees occurs?

Mr. HAYES. I will give you that commitment.

Senator SESSIONS. The Economic Development Program is something you took a lead in when you first came with the agency, did you not?

Mr. HAYES. Yes, sir.

Senator SESSIONS. Would you share with the chairman what kind of personnel reductions have occurred in just that agency in the last several years?

Mr. HAYES. We had 264 people when I came 3 years ago and we'll be down to 60 by the time this phases out but we're still doing things more effectively. We're on the right path. We've gone from grants to loans and leveraging money, creating jobs.

Senator SESSIONS. I think that's a real record of achievement to go from 200 and some employees to 60, Mr. Chairman, and Mr. Hayes has personally been the leader in that effort.

With regard to economic development, you are committed, whether it's federally appropriated funds or not to continuing the Economic Development Program for the Tennessee Valley area?

Mr. HAYES. You have my commitment and certainly it's not only an interest of mine but it's an interest of the rest of the board. They've been very supportive in all the economic development measures we've done throughout the Valley.

Senator SESSIONS. Can you tell me and really speak to the employees of the Tennessee Valley Authority with regard to what they can expect when this committee reports, what kind of opportunities they will have during the process of this committee and afterwards to express themselves, and officials of Congress, what opportunities we'll have to be involved in that process?

Mr. HAYES. From the first day when we announced this, we said we would have input from Valley stakeholders. Certainly that in-

cludes employees and Congress. We couldn't have a report that would be meaningful unless you had this input, so we'll have it.

We want to work with Congress. We will work with Congress. We will work with all the stakeholders in the valley. So if you're talking about stakeholders, you're certainly talking about employees. TVA' employees are on this task force. They are employees of the Valley from Alabama to Kentucky, Memphis to east Tennessee.

Senator SESSIONS. I think that's important because we do not need to get in a rush and get so busy and have some governmental regulation develop so that we end up going out and finding new people to do jobs that could be done better by the experienced people that are in those positions.

I know you've got an efficiency burden and the whole Authority has done a remarkable job of improving efficiency. Did you state how much employee reduction has occurred in the last decade in the Tennessee Valley?

Mr. HAYES. We're down to about 16,200 people from about 35,000.

Senator CHAFEE. In how many years, 10 years?

Mr. HAYES. I think it's 10 years, yes, sir.

Senator CHAFEE. That's extraordinary.

Mr. HAYES. It's since the 1980's, the mid-1980's.

Senator CHAFEE. From 32,000——

Mr. HAYES. Thirty-five thousand to sixteen thousand.

Senator CHAFEE. To 16,000?

Mr. HAYES. Yes. Since I was here before you the last time, through voluntary outs and retirement programs, we've cut about 3,000 people.

Senator SESSIONS. It is a remarkable effort on Tennessee Valley Authority's part to reduce unnecessary expenditures and to increase productivity. As I told them, if they had not done that, I think this whole agency would be in jeopardy but they have responded aggressively to the request of Congress, the taxpayers who want more for their dollar, and you have a leaner and more healthy TVA, don't you, Mr. Hayes?

Mr. HAYES. Yes, sir.

Senator CHAFEE. I suppose some of that reduction in force has come about through operations that you previously were engaged in that now you've spun off in some fashion?

Mr. HAYES. A lot of those jobs were in the Construction Program, but a lot of it has been in operations. We're very lean in operations, but in being lean, we certainly haven't forgotten safety.

Senator SESSIONS. I just want to say there is a feeling sometimes by some of us on the Hill and people in the Valley that TVA is somewhat insensitive at times. It may not be fair but it is a perception out there. You're an open person and a person that's easy to talk to. I just want you to know that we want to be supportive; we think you've made some real progress and we want to make the Tennessee Valley Authority a productive, valuable part of the American economy.

There was another question. Tell me about the Belafonte Facility.

Mr. Chairman, there is a nuclear facility in Belafonte in Jackson County, AL that I believe nearly $4 billion was spent on it. One

of the units is about 80 percent complete but because of regulations or other problems, it has been stopped and remains idle.

It's remarkable. You go in it and it looks like it's ready to turn a switch and operate. It's that nearly complete. It's an investment that we simply cannot allow to go to waste.

Can you tell us, Mr. Hayes, what thoughts you have about how to get that facility into production and not waste the investment that we have in it?

Mr. HAYES. As you said, we stopped construction on that facility, active construction, in 1994. We now have, and have had for the past several months, a task team looking at the best way TVA can make that a productive asset. We're looking at coal, we're looking at coal/gas, we're looking at natural gas, and we've certainly not ruled out nuclear, with the right financial partners, but we would have to have the right partners to do that.

We should have the report back by the end of November or the fall and we will be making a decision there, but it is an asset that we will turn into a productive asset.

Senator SESSIONS. Is it your commitment that you're going to be working to turn that into a productive facility and not leave it idle?

Mr. HAYES. It is my commitment.

Senator SESSIONS. I would say this. I would not discount nuclear. It's so close to being a facility ready to operate that it's remarkable to me that whatever has happened, we've not been able to complete that.

When we talk about particulate and ozone, I think our air would be better in that area if we did not use fossil fuels.

Mr. HAYES. We're certainly looking at all aspects and looking hard, and working with people around the country looking at partners.

Senator SESSIONS. Just a question of study and care and I hope you will give it that. We've simply got to get that facility into production and I would encourage you to do everything you can to do that.

Thank you.

Senator CHAFEE. Thank you, Senator.

I must say it is dazzling to me these tremendous expenditures put into these plants and then they stop the construction. That happened in Long Island, then Seabrook had a terrible battle and finally Seabrook sent it away.

What happens? Why did you stop? Senator Sessions indicated you put some $2 billion into that place?

Mr. HAYES. I think it's closer to $4 billion.

Senator CHAFEE. Even for somebody from Washington, that's a considerable sum of money.

Mr. HAYES. It's a lot of money.

Senator CHAFEE. So what went wrong, what happened?

Mr. HAYES. When I came on the TVA board, the construction had phased down and it was a financial decision. We were looking at a $30 billion debt, a cap on the debt, we were looking at stiff regulations. We had two facilities, Watts Bar and Belafonte. Watts Bar, if I recall correctly had been under construction for some 20 years.

Senator CHAFEE. Is that a nuclear plant too?

Mr. HAYES. Yes, sir, and it was 98 percent complete and the board made a commitment to complete that plant. We completed it and we got it on-line last year. We brought that plant on-line and Browns Ferry III back on-line, two in 1 year.

Now we're looking to see what we can do at Belafonte. When you talk about 80 percent, certainly my people tell me, Senator Sessions, it's one of the top facilities around but it's 80 percent of an unknown number. It's very difficult to tie that figure down on what it will cost to complete.

Senator CHAFEE. Fine. Do you have any other questions, Senator?

Senator SESSIONS. I think not, Mr. Chairman. I just think the Tennessee Valley Authority has grown out of the people, it was created by the people and the taxpayers, and it must be responsive, it must be sensitive to the thousands of people who have given their lives to it.

You've made cuts, you've demonstrated that you're not going to pay people to do work that's not productive, but there's work that has to be done in keeping the channel operating, the safety there, the environment secure in that great region. We need to be sure that we are sensitive to the needs of the employees who have supported it so long.

Mr. HAYES. You have my commitment.

Senator SESSIONS. Thank you.

Senator CHAFEE. Thank you very much, Mr. Hayes. You're excused if you wish.

Now we will consider the trustees nominated for the Mo Udall Foundation. Both have impressive backgrounds.

The Foundation was established by Congress in 1992 to honor Congressman Mo Udall for his service to the Nation. Mo Udall was a famous wit amongst other things and sought the Democratic nomination for President. He was a very strong environmental leader, a defender of rights of Native Americans.

The Foundation operations scholarship and fellowship programs for outstanding U.S. students who are interested in pursuing careers in environmental policy and as I understand it, conflict resolution, health care, and Native American public policy.

Ms. Espinosa is the current president of The Alliance for Transportation Research Institute at the University of New Mexico. You have served as both secretary of Transportation and secretary of the Environment for the State of New Mexico, and given a substantial amount of your free time as a mentor to students living within disadvantaged communities in New Mexico and California.

Mr. Rappoport served with the Udall Board for the past 2 years and has a great deal of experience with water and other natural resources for the past 23 years. He's served in a variety of leadership capacities for the Salt River Project, a mammoth water and electricity project in Phoenix.

I might add Mr. Rappoport is a veteran of Capitol Hill having worked as a House Legislative Assistant in the early 1970's.

Are there any comments either of you want to make? Ms. Espinosa?

STATEMENT OF JUDITH M. ESPINOSA, NOMINATED BY THE PRESIDENT TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Ms. ESPINOSA. Thank you, Mr. Chairman and Senator Sessions.

It's an honor for me to be here and to have been nominated for the Board of Trustees of the Morris K. Udall Foundation.

I was very pleased when that occurred and when I was able to see that I might be able to lend some of my background to the Foundation and to the work that it did.

I have talked to a lot of students over the years. I hate to say how long it's been that I've been working in the area of recruiting students into the health sciences and public health and environmental arenas, but it has been a long time.

I find that students don't think about the issues of community and public health and environmental health and the environment too much when they're first going to school, so I always try and talk to them about the importance of that.

I've worked a lot in disadvantaged communities. I've also worked with nontraditional students, women who have gone back to school after many, many years of being at home.

Senator CHAFEE. You do all of this through your University of New Mexico job?

Ms. ESPINOSA. Not at this time, but I have in the past. I've worked at the College of Nursing as an instructor back in the early 1970's. While I was nursing there, I was also doing recruitment for the College of Nursing with minority studies and nontraditional students. We were looking at recruiting more minority students into the College of Nursing as well as older students who wanted to go back to school.

I also have done that in California. I worked in the Los Angeles area for many years while I was out there, both when I was getting my Master's degree as well as after that and working with students in Los Angeles to have them look at the health sciences and the environmental sciences if they were thinking about going to school, so I've done this off and on in my career.

We have embarked on a program at the Alliance for Transportation Research Institute looking at recruitment of students into the technology and transportation and environmental sciences, and we will be starting that hopefully sometime this summer.

We hope to be working with the Department of Energy which I've had conversations with recently on the work they would like to do to get students looking at technology applications and the sciences that will advance technology and transportation systems in this country.

Senator CHAFEE. Mr. Hayes, before all of you leave, I have a couple of standard questions that we ask of all nominees, so I'll address this to all three of you.

Are you willing, at the request of any duly constituted committee of the Congress, to appear in front of it as a witness?

Mr. HAYES. Yes.

Senator CHAFEE. Yes?

Ms. ESPINOSA. Yes, sir.

Mr. RAPPOPORT. Yes.

Senator CHAFEE. OK. Do you know of any matters which you may or may not have thus far disclosed which might place you in any conflict of interest if you're confirmed in this position? Do you know of anything?

Ms. ESPINOSA. No, sir.

Mr. HAYES. Not at all.

Mr. RAPPOPORT. None whatsoever.

Senator CHAFEE. All right, fine. Mr. Hayes, that's fine for you.

Senator CHAFEE. Mr. Rappoport, do you have anything you want to say?

Mr. RAPPOPORT. I do.

STATEMENT OF D. MICHAEL RAPPOPORT, NOMINATED BY THE PRESIDENT TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Mr. RAPPOPORT. Thank you, Mr. Chairman, particularly for those kind words of introduction.

I also would like to express my appreciation to Senator Kyl and Senator McCain for their letters of recommendation as well.

Senator Sessions, thank you for adjusting your schedule to be here.

With your permission, Mr. Chairman, I would request that my prepared statement be placed in the record.

Senator CHAFEE. Definitely. You can give us a summary of it.

Mr. RAPPOPORT. I very much appreciate the committee scheduling this opportunity for me to present myself as a nominee for a second term on the Udall Foundation Board of Trustees.

If I may, I would like the record to show that Terry Bracey, who is the hardworking chairman of the Udall Foundation, is in the audience. In large measure, much of the success, I will summarize today, is due to Terry's leadership and commitment to the Udall Foundation.

We welcome Judith Espinosa and her unique background coming on the Foundation and would certainly urge you and your colleagues to favorably report her nomination to serve as trustee.

My association with Mo Udall extends back 30 years to a time when he was instrumental in building support for the Central Arizona Project, which as you may recall is a large water and energy facility in the State of Arizona.

In the early years of our association, the interests that I represented were not always in total agreement with those so effectively advocated by Mo Udall, but throughout the remainder of our association, I had the good fortune to serve either as chair or a member of one of Mo's business advisory committees, on several of his energy and water task forces, as well as on a number of his reelection committees.

Like so many others over the years, I came to admire Mo Udall's sense of civility, his ability to fashion consensus, and above all, his integrity and commitment to public service.

When Congress established the Udall Foundation, it gave special recognition to those qualities. Specifically in 1992, Congress authorized to be appropriated $40 million for the Udall Foundation.

About half of that amount has been appropriated to date. The Foundation administers those funds and in my prepared remarks, several of the purposes for which those funds are expended are identified.

I am privileged to serve as the chairman of the Foundation's Management Committee and in that capacity, I have a variety of responsibilities including supervising the Foundation's investment portfolio and budget.

I am extremely pleased to say today that as in our 1996 annual report, we have thus far awarded 55 outstanding college juniors and seniors scholarships. They represent colleges and universities from 38 States and Puerto Rico. This next year in 1997, we anticipate awarding 70 undergraduate scholarships and 2 graduate fellowships.

Also in 1996, we implemented the first summer internship program for Native American students. They had the opportunity to serve in both House and Senate offices, as well as in the White House. I particularly wanted to express appreciation to Senator Baucus for placing one of our interns last year and hope that you will all have an opportunity to visit some of our interns this summer.

The Foundation works very closely with the Udall Center which is located at the University of Arizona. In 1996, we co-sponsored an environmental health issues seminar of some note, and in 1997, we will host in April the Environmental Conflict Resolution in the West Conference, again in conjunction with the Center.

In sum, the Foundation's purpose and plan is best captured by Mo's own words of a few years ago, "America is never done like a poem or a painting." I am sure Mo Udall believes, as we at the Foundation do, that we are well on our way to helping future generations care enough to change things.

I would very much appreciate the opportunity to serve a second term as a Udall Foundation Trustee to continue to help meet that challenge.

I am prepared to answer any questions the committee may have at this time.

Thank you.

Senator CHAFEE. Thank you very much, Mr. Rappoport.

I briefly looked over your annual report here and tell me this. Is there an annual appropriation of some modest sum? What do you get annually?

Mr. RAPPOPORT. Mr. Chairman, originally $40 million was authorized. During the early years, 1992 and 1993, a total of $19.6 million was actually appropriated.

Senator CHAFEE. I see.

Mr. RAPPOPORT. We understand, however, that the President's budget this year includes I believe $2 million per year for the next 5 years to be added to the Foundation corpus.

Senator CHAFEE. Do you raise private money also?

Mr. RAPPOPORT. We are authorized to do so. We have not yet commenced a solicitation program, but it is our intention in the next several years to be far more aggressive in that area, yes, sir.

Senator CHAFEE. How long are the terms? How long is each term?

Mr. RAPPOPORT. When Congress established the Foundation, it staggered the initial terms of three members at 2 years, three at 4 years, and three at 6 years. After the initial rollover, we are now appointed and would serve for a period of 6-year terms.

Senator CHAFEE. I see. Do you get paid? Do the trustees get paid?

Mr. RAPPOPORT. No. We are authorized to be reimbursed for expenses and those funds come directly out of the Foundation's operating budget.

Senator CHAFEE. But you don't get anything in addition to the expenses?

Mr. RAPPOPORT. No, sir.

Senator CHAFEE. So it's a labor of love.

Mr. RAPPOPORT. Indeed in many ways.

Senator CHAFEE. I think it's very impressive and I was interested that apparently one of your students was an intern with Senator Baucus?

Mr. RAPPOPORT. Yes, sir, last summer. I'm not sure which tribe but it was quite an experience for the intern.

Senator CHAFEE. I think that's a great experience and maybe we ought to look into that and see if we can't do something likewise. I don't want to make any commitments because I just don't know what the situation is, but I'll have my staff get in touch with your folks.

Mr. RAPPOPORT. Thank you, Mr. Chairman.

Senator CHAFEE. Fine.

Senator Sessions.

Senator SESSIONS. I just want to congratulate you, Ms. Espinosa and Mr. Rappoport for being nominated to this prestigious position. I think it is indeed an honor to serve on the Morris K. Udall Foundation. That's the kind of thing that those who have been interested in the environment over the years certainly would be honored to do.

I'll also note that they play a pretty fair game of basketball in Arizona. My hometown team was leading them 10 points last night with 5 minutes to go and it evaporated.

[Laughter.]

Senator SESSIONS. I didn't get much sleep last night, I had a little bit of ingestion, but it was a great game and a great team.

I just want to say on behalf of the Senate, I know you will do an outstanding job and we're pleased to have you in Washington.

Senator CHAFEE. Let me just say it's my intention to report these nominations out as soon as we can and get them moving to the floor, so unless there is something unsuspected which arises, I would expect we could get all these nominations to the floor by next week and hopefully get the whole process completed before recess. We go on recess a week from today and that would be my objective.

Thank you all very much for coming.

That completes the hearing.

[Whereupon, at 10:24 a.m., the committee was adjourned, to reconvene at the call of the Chair.]

PREPARED STATEMENT OF JOHNNY H. HAYES, DIRECTOR, TENNESSEE VALLEY AUTHORITY

Mr. Chairman, and members of the committee. I appreciate this opportunity to come before you today. I am grateful to President Clinton for the privilege of serving on the TVA Board for the past 3½ years. and I'm honored by his confidence in nominating me for a full term.

I want to thank Senator (Bill) Frist for his introduction, and all the members of the Tennessee Valley delegation who have supported me and my Board colleagues in our work to make TVA a more valuable asset for our nation. I also want to thank the members of this committee for your guidance and support, and with your approval I will continue working to ensure that TVA remains a productive national asset.

My experience on the Board reaffirms my belief in the value of TVA as an effective force for supporting and promoting quality economic growth. TVA continues to develop and explore new approaches for producing and delivering electricity more reliably, efficiently, and with less impact on the environment. One example is the installation of a state-of-the-art electricity transmission device that maintains a constant voltage to our customers.

Today, the pending deregulation of the electric utility industry presents an opportunity to make TVA's operations even more efficient and to use our extensive experience in meeting reliability and environmental challenges that affect the utility industry. For example, we have compiled an excellent record of meeting more stringent clean air standards, while keeping our rates stable for the past 10 years. TVA intends to be successful in a deregulated utility market, and I am proud of the steps we have taken during my tenure to prepare for success in the future.

Our preparations include improving the performance of our power system and taking steps to phaseout appropriated funding for the Environmental Research Center and our economic development programs. We recently created a task team to examine the operations of our other tax-supported non-power programs. The team's mission is to explore funding and operational alternatives and determine the most efficient approach for continuing these programs, whether it is under TVA or another agency. The team is scheduled to report its findings and make recommendations to the Board in September.

I have been fortunate to serve with fellow Board members who share my desire to build a forward-thinking, well-managed organization. The record is one of progress through initiatives that challenge the innovative potential of the people at TVA. As always, our most valuable resource is the dedicated force of professionals and skilled people who continue to build on TVA's legacy of service.

Their work has earned TVA national awards and recognition for quality improvements and innovative approaches to reduce costs. Since joining the Board in July 1993, one of my top priorities has been to ensure that TVA is effectively supporting economic growth by producing a competitive and reliable supply of power for the Tennessee Valley.

Briefly, here are some of the steps that we have taken:

We adopted TVA's first integrated resource plan that analyzes TVA's options for meeting the energy needs of the Tennessee Valley for the next 25 years.

We completed our nuclear construction program by bringing two units into service and making a decision to cancel completion of three other nuclear units. These actions brought to a close 28 years of nuclear construction.

We adopted an aggressive fiscal management plan that has allowed us to cap TVA's debt below the limit authorized by Congress. As a result, TVA will not increase its debt this year for the first time in 35 years. The next step is the adoption of a plan now being formulated that will enable TVA to begin reducing its debt.

We have kept power rates stable for the eighth, ninth and tenth consecutive years by maintaining a strong emphasis on controlling costs and improving efficiency. Keeping power rates steady has contributed to the growth of our region and the nation's economy.

POWER SYSTEM PERFORMANCE

Last year, TVA ranked second lowest in production costs among the 50 largest electric utilities in the nation. While keeping costs under control, our power system has continued to set new performance and efficiency records and maintain the reliability that our customers expect. In January, TVA met its highest demand ever for electricity on a single day, providing our customers with 26,670 megawatts. This past year, the TVA power system generated a record of almost 149 million megawatt-hours of electricity.

Mr. Chairman, when I and TVA Chairman Crowell were here 3 years ago, this committee expressed concern about the performance of our nuclear program. I want to take this opportunity to report that our nuclear program is now performing at a high level, in both safety and productivity.

Last year, TVA became the first utility to bring two nuclear units into service at the same time. This included the start of commercial operation for Unit I at Watts Bar. The unit's performance ranks among the best-ever for a first-year plant. A recent assessment by the Nuclear Regulatory Commission places it in the top 25 percent of all nuclear units in the United States. Overall, in the past 2 years, nuclear production costs are down 40 percent and nuclear generation is up 50 percent. I also want to point out that when I joined the Board, two nuclear units were on the Nuclear Regulatory Commission's watch list for increased attention. Today, no TVA units are on the list.

The power system is able to set new performance records and hold rates steady because we have an excellent management team that emphasizes safety, quality, and efficiency. In the past 3 years, we also focused on keeping TVA's staffing levels competitive. In 1994 we completed a major voluntary downsizing that reduced the workforce by 2,600 positions and saved more than $100 million annually.

Despite major workforce reductions, there has been no significant change in minority representation, which remains at almost 12 percent. In 1995, we set a goal of 40 percent women and minorities among new hires, and we exceeded that goal by reaching 54 percent. Collectively, our emphasis on improving performance is keeping TVA at the forefront of efficiency in government and the utility industry.

Equally important to the success of TVA's power system are the relationships we maintain with our customers. During my first 18 months on the Board, I visited with each of the 160 local utilities served by TVA, and I have worked to address their concerns as the Board moves forward to meet the challenges of deregulation.

ENVIRONMENTAL RECORD

Mr. Chairman, earlier I said that TVA has compiled a progressive environmental record. We are conducting an aggressive Clean Water Initiative that includes work to increase the amount of dissolved oxygen in the tailwaters below our dams, and a comprehensive effort to reduce the amount of ground pollution that reaches our streams through runoff. The record includes TVA becoming the first utility to join the Department of Energy's Climate Challenge program. This is a voluntary program to reduce greenhouse gas emissions. Under TVA's commitment, we will avoid producing 22.7 million tons of greenhouse emissions, which is the largest voluntary reduction by a U.S. utility. Overall, TVA has spent more than $2 billion on air pollution controls and spends more than $350 million per year to meet clean air standards.

In the coming era of deregulation, I am confident that TVA can provide leadership in meeting environmental quality and reliability commitments while keeping the price of electricity as an economic advantage for the nation. I look forward to playing a role in achieving this vital mission.

ECONOMIC DEVELOPMENT

When I joined TVA, one of the major areas that needed attention was economic development. Over the years, it had become a fragmented effort with no clear internal lines of responsibility and no clear accountability for results. Using my experience as the State Commissioner of Economic and Community Development for Tennessee, I made economic development my personal priority.

In the past 3 years, I am proud to report that economic development at TVA has been transformed from a collection of random grants into a system of loans focused on creating jobs and new growth. Overall, four major branches of economic development work were consolidated into one organization that works to create jobs and to earn a return-on-investment for TVA. By creating a revolving loan fund for economic development rather than issuing grants TVA is making economic-development investments that make business sense. Since 1994, the loan funds have been used to help leverage more than $1 billion in new capital investments and have directly supported the growth of 300 companies that will employ more than 12,000 people.

I would like to conclude by emphasizing that I am committed to seeing TVA operate as a business and as an effective public agency that is working to strengthen the economy of the region and the nation. I have spent my life in the Tennessee Valley, first as a private citizen who owned a successful business, and now as a public servant who believes that government can also be operated as a successful business. With your approval, I will continue working to operate TVA as a business that

generates value for its customers and earns a return-on-investment for the United States of America.

RESPONSES BY JOHNNY HAYES TO ADDITIONAL QUESTIONS FROM SENATOR INHOFE

Question 1. As you mentioned in your prepared testimony, the Tennessee Valley Authority currently receives appropriated funding for both the Environmental Research Center and the economic development programs. What percentage of these program funds are derived from sources other than direct Congressional appropriations? In addition to these appropriated funds, what other funding (both Federal and otherwise) does the TVA receive for environmental programs?

Response. Sixty-four percent of Economic Development's annual funding comes from power program funds. Fifty-two percent of the Environmental Research Center's funding in FY97 is projected to come from sources other than direct Congressional appropriations.

In addition to the $106 million that TVA receives from direct Federal appropriations, additional funding is received for particular environmental programs including:

- Natural Resource Stewardship—$35,000 cost share from the Tennessee Wildlife Resources Agency, the state of Alabama, and the U.S. Fish and Wildlife Service for operation of dewatering area pumping stations.
- River Action Teams—TVA partners with other agencies, local governments, and individuals to achieve environmental successes in its Clean Water Initiative. Often times agency funds are pooled to evaluate, develop, and implement action plans to address water quality problems in the Valley. As an example, TVA is leading an effort to improve water resource conditions in the Hiwassee basin that includes five other Federal agencies, three state agencies, and several local governments. Other examples include funding from the U.S. Geological Survey to perform environmental evaluations in the upper-Tennessee basin, from the Environmental Protection Agency (EPA) to conduct environmental evaluations, and from state agencies for habitat enhancement efforts. Total annual funding received for these activities is less than $200,000.

Question 2. In addition to these appropriated funds, what other Federal subsidies benefit the TVA?

Response. TVA does not receive any Federal subsidies. The Federal appropriations that TVA receives each year are used solely for its nonpower programs. TVA's electric operations are totally financed from ratepayer revenues.

Question 3. As you mentioned in your testimony, the TVA is studying ways to phase out its "tax-supported-non-power programs." If these programs are phased out, is the TVA considering the disposition of physical assets purchased or supported with Federal taxpayer dollars?

Response. TVA's proposal recommends that the Appropriations Task Force study ways in which Federal appropriations could be discontinued to TVA after FY98. The proposal suggests that the study will look at transferring responsibilities for essential programs to other agencies. It also directs the Task Force to review programs that could be discontinued after FY98. The proposal does NOT recommend the elimination of essential public services or the discontinuation of programs that Congress and/or the public deem desirable.

The Task Force may in the report of its study describe transfer of lands and facilities to other local, state or Federal agencies. Decisions for the ultimate use of TVA physical assets purchased or supported with Federal taxpayer dollars requires NEPA review and Congressional approval.

Question 4. I understand a task force has been created to study elimination of these non-power programs. What are some of the preliminary proposals as to what to do with these programs? In your testimony, you mention shifting their responsibilities to other agencies. Does this simply shift the Federal financial burden to another agency rather than the TVA?

Response. The Appropriations Task Force has had two meetings and is currently framing the issues that will be presented for public consultation. There are no preliminary proposals although the public consultation workshops may discuss the tradeoffs in efficiencies among potential alternative public service providers. We currently don't have any estimates of what it would cost other agencies to perform essential integrated resource management services. If other Federal agencies become the service provider, there would be a financial burden for the cost of providing those services.

Question 5. Critics of the TVA have argued that Federal appropriations indirectly subsidize the power programs. Private producers, for example, may have to absorb more costs as a precondition to their FERC license. Other utilities provide economic development and environmental services without Federal assistance. Does this place the TVA at a unique competitive advantage in the event of utility deregulation?

Response. Federal appropriations are not used, directly or indirectly, to subsidize TVA's power program. The responsibilities and costs incurred by TVA in conducting its hydropower and environmental activities are comparable to investor-owned utilities and are funded by power revenues. TVA, in accordance with the provisions of the TVA Act, allocates the costs of operating its hydro facilities based on the benefits received by the power and nonpower programs. TVA's power program also conducts economic development activities and TVA has proposed to end all appropriations funding for economic development. TVA has no competitive advantage relative to other utilities.

RESPONSES BY JOHNNY HAYES TO ADDITIONAL QUESTIONS FROM SENATOR CHAFEE

Question 1. Mr. Hayes, we met a few weeks ago and discussed the strong role that the TVA has played in the Tennessee Valley boosting the economy of the TVA region. Times are changing and it appears that the agency is making a big push to streamline and to operate more like a business than a Federal agency. While I think the proposal to eliminate Federal funds for TVA programs is a good start, there is still the larger problem of the $28 billion dollar debt. Can I get a commitment that if confirmed, you will pursue a substantial and expeditious reduction of this debt?

Response. Yes. We are confident that TVA will be able to make substantial reductions in its debt over the next several years. In fact, for the first time in 35 years, TVA will not increase its debt in fiscal year 1997. This is now possible because we have completed the major nuclear construction work required to bring two nuclear units into service in fiscal year 1996, and taken actions to control costs in all areas of TVA. TVA plans to meet its future power needs by entering into arrangements such as partnerships, and purchase agreements with others, which will reduce capital requirements for new capacity.

Question 2. Please describe TVA's major environmental accomplishments over the last 3½ years. If confirmed, what additional environmental accomplishments do you hope to advance during your next term?

Response. Highlights of Accomplishments:

> In 1996, TVA celebrated the completion of our ambitious river system aeration program that significantly increases the dissolved oxygen content in tailwaters below TVA's hydropower dams. This ambitious and totally voluntary program to improve aquatic habitat was paid for with power funds as an act of environmental responsibility for the impacts of TVA's dams on fisheries, water quality and aquatic vegetation.
>
> Our business management system developed over the last 3 years has benefited the environment by incentivizing measurable improvements and increases in activities that improve environmental standards at plants across the Valley. To name a few: we voluntarily removed all underground storage tanks; we've increased the recycling of coal byproducts and are transferring those technologies to the private sector for environmental improvements in surrounding industries; we've invested in low polluting burners around the Smoky Mountains; we've initiated pilot programs for burning coals more efficiently; and we have a very successful environmental training program that has consistently decreased the cumulative impacts of small, polluting events that would require remedial action.

Next Term Accomplishments

In my next term I would continue to serve as a steward of the Tennessee Valley by ensuring continued integration of resource management activities and the current balance of outputs and environmental protection. Any disaggregation of the resource management system would negatively impact the whole of the River basin.

I will ensure the continued, voluntary initiation of activities that improve the efficiency with which we use fuel resources, and will support continuation of the successful Clean Water Initiative and the River Action Teams that promote watershed health. I would also lead the Shoreline Management Initiative to a successful conclusion by implementing the first comprehensive shoreline management policy on any major American river. The development standards outlined in this policy will chart a course for balanced river front development for the foreseeable future. In addition, I would like to see the environmental research and technology develop-

ment at the Environmental Research Center transferred as widely as possible through partnerships and sales of unique environmental and resource management services.*

*The Committee may not be aware that TVA was the lead contractor in the wholly successful decontamination and decommissioning of the Rocky Mountain Arsenal nerve gas plant in Colorado.

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ROOM 410 DIRKSEN BUILDING WASHINGTON, DC 20510

INFORMATION

REQUESTED OF PRESIDENTIAL NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to Honorable John H. Chafee, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC (Attn: Staff Director) as soon as possible.

Name of Nominee: Johnny E. Hayes

Business Address: 400 W. Summit Hill Drive, East Tower 12A
Knoxville, Tennessee 37902

Business Phone: (423) 632-3871

Home Address: 530 Rock Bridge Road
Gallatin, Tennessee 37066

Home Phone: (615) 452-4698

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Hayes (Last) Johnny (First) Harold (Middle)

Position to which nominated: TVA Board of Directors Date of Nomination: 1/9/97

Date of birth: 12/14/40 (Day) (Month) (Year) Place of birth: Alcoa, Tennessee

Marital status: Married Full name of spouse: Mary Howard Hayes

Name and ages of children:

William Craig Hayes	32
Amy Elizabeth Hayes	30
Mary Kate Campbell	23

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Maryville College	9/58 - 6/59	—	—
Tennessee Tech University	9/59 - 6/62	B.S.	1962

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

6/62 - 9/64 - Travelers Insurance Co., Field Representative, Surety Division

9/64 - 1/91 - Newman, Hayes, & Dixon Insurance - President

1/91 - 1/92 - Tennessee Department of Employment Security - Commissione

Employment record—Continued

1/92 - 7/93 - Tennessee Department of Economic & Community Development - Commissioner

7/93 - 5/18/96 - Board Director, Tennessee Valley Authority

5/31/96 - present - Board Director, Tennessee Valley Authority

Honors and awards: List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Tennessee Tech University - Outstanding Business Leader Award - 1993

Tennessee Minority Purchasing Council Outstanding Leadership and Support of the Minority Business Opportunity Fair - 1995

YMCA Of Knoxville for Support and Co-Establisher of the Black Achievers Program as Corporate Chairman - 1995

The Maryville Daily Times Wall of Fame - 1996

YMCA of Knoxville for Outstanding Leadership of The Black Achievers Program - 1996

Memberships: List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

(Present memberships)

Organization	Office held (if any)	Dates
East Tennessee Community Relations Council	Co-Chairperson	3/94 to present
Black Achievers Program of Knoxville		1994 to present
Economic Development Partnership of AL	Board	1994 to present
Tennessee Resource Valley	Board Director	1996 to present
Bethpage United Methodist Church	Sunday School Superintendent	1978 to present

Qualifications: State fully your qualifications to serve in the position to which you have been named.

During the past three and one-half years, I have served as Director of the Tennessee Valley Authority. I have played a leadership role in evaluating and setting annual budgets that exceed $5 billion dollars, and in selecting senior management to lead a workforce of nearly 16,000. During this period, TVA has ranked 2nd lowest among the nation's 50 largest utilities in production costs, and the agency was chosen as a National Laboratory for Reinventing Government because of its innovative approaches to cutting costs and improving efficiency. My experience as owner and operator of a successful private business and in public service as Tennessee State Commissioner of Economic & Development and Community Development supported my leadership in modernizing TVA's economic development strategy from a system of grants into targeted investments for creating jobs and economic growth. As a native of the Tennessee Valley, I am familiar with the benefit the agency has brought to the Tennessee Valley Region.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

N/A

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

None foreseen

3. Has anybody made a commitment to you for a job after you leave government?

No.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Yes.

(b) If you have been appointed for an indefinite term, do you have any kno limitations on your willingness or ability to serve for the foreseeable future?

No.

(c) If you have previously held any Schedule C or other appointive position in Executive branch, irrespective of whether the position required Congressic confirmation, please state the circumstances of your departure and its timin

Present position required congressional confirmation.

Financial Statement

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278)

2. List sources, amounts and dates of all anticipated receipts from deferred inc arrangements, stock options, uncompleted contracts and other future ben which you expect to derive from previous business relationships, professi services and firm memberships or from former employers, clients, and custom Amounts should be indicated by the categories established for reporting incom Form SF 278, Schedule A.

None.

3. Are any assets pledged? (Add schedule).

No.

4. Are you currently a party to any legal action?

As a member of TVA's Board of Directors, I along with the other Board members, have been named in our official capacity in certain civil litigation against TVA where by statute the Head of the Agency is required to be the named defendant.

5. Have you filed a Federal income tax return for each of the last 10 years? If please explain the circumstances.

Yes.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

Yes. I do not remember what year, but the results were of payment of less than $100.00.

Potential conflicts of interest:

1. Describe any financial or deferred compensation agreements or other commitments, dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None.

2. List any investments, obligations, liabilities, or other relationships which may involve potential conflicts of interest, or the appearance of conflicts of interest, in the position to which you have been nominated.

None.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent that might in any way constitute or result in a possible conflict of interest, or appearance of conflict of interest, with the position to which you have been nominated.

None.

4. Explain how you will resolve any potential conflict of interest, or appearance of conflict of interest, that may be disclosed by your responses to the above items.

N/A

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

Please see attached March 5, 1997, letter from William L. Osteen, TVA's Designated Agency Ethics Official.

Political affiliation and activities: List all memberships and offices held in, or financial contributions (in excess of $1,000), and services rendered to any political party or election committee during the last 10 years.

1. Tennessee Democratic Party - Finance Council Donations - $2,000.00
2. Friends of Albert Gore - Finance Chairman - Donations - $3,977.51
3. Friends of Ned McWherter - FinanceCommittee - Donations - $1,500.00
4. Friends of Jim Sasser - Donations - $3,100.00
5. Friends of Jim Cooper - Donations - $1,750.00
6. Democratic National Committee - Finance Council - Donations - $1,50
7. Independent Insurance Agent of America (INSURPAK) - Donations $1,500.00

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

Economic Development Year-End Review - 1997

A New Plan for the Valley - 1996

A New Strategy for the Valley - 1995

Any other items have been made in the course as Board Director for TVA.

Additional Matters:

1. **If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.**

None.

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes.

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

No.

AFFIDAVIT

_____) ss. being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 5th day of March, 1997.

Colleen A. Temoleter
Notary Public
My Commission Expires July 14, 2001

TESTIMONY BY JUDITH M. ESPINOSA PRESIDENTIAL NOMINEE TO THE MORRIS K. UDALL FOUNDATION BOARD OF TRUSTEES

Mr. Chairman and Members of the Committee, I am honored to appear before you as a nominee for a position on the board of trustees of the Morris K. Udall Foundation. I am Judith M. Espinosa, from Albuquerque, New Mexico where I serve as the Acting President of the Alliance for Transportation Research Institute at the University of New Mexico.

The Morris K. Udall Foundation was established by the Congress in 1992, in honor of Congressman Udall and his lifelong work in the beneficial use, enjoyment, and exploration of our nation's natural resources. The trustees are appointed to set the priorities of the programs outlined by Congress when Public Thaw 102–259 was passed creating the Foundation. Congress charged the Foundation and its trustees with increasing awareness and understanding amongst our citizens of the "* * * role of the environment, public lands and resources in the development of the United States." Truly, this was a recognition by our legislative leadership of the importance of our environmental and natural resources to the sustainability of our national assets and the responsible use of them by those who follow us.

It is significant to me that you are considering my nomination today, because I have dedicated most of my professional activities to work in the health sciences, environmental/public health sectors, natural resources conservation, and environmental protection program administration. I now serve on the Board of the National Wildlife Federation, the largest grassroots conservation organization in the United States founded in 1936. NWF stands for a balanced approach between the need to use our natural resources for the benefit of our people and the need to conserve them for future generations. I believe that Congressman Udall took this same approach in his public work in environmental policy; I will be proud to sit as a trustee on the Foundation to carry on this message.

Of importance in carrying forth the purposes of the Foundation as enumerated by Congress is the scholarship and fellowship awards given to graduate and undergraduate students in our colleges and universities. Utilizing our student population to "* * * identify critical environmental issues * * * " and provide educational outreach through their work is the legacy which we leave for the sustainability of our environmental assets.

Throughout my career, a good deal of my volunteer time has been spent in the recruitment of students into environmental health, policy and science fields. Most of my mentoring with students has been within disadvantaged and ethnically diverse communities in New Mexico and California. So, I was particularly pleased to see that Native American and Alaska Native health care issues were a strong part of the Foundation's work. To sit as a trustee on the Udall Foundation, which rewards excellence for students with interests in environmental policy and sciences, will allow the foundation to utilize my skills and knowledge in promoting future environmental stewards. My experience in working with ethnically diverse and nontraditional students will serve to provide a distinct view on the scholarship and academic awards provided through the Foundation.

One of the most exciting activities which the Foundation promotes is environmental conflict resolution. Federal, state, and tribal agencies have been increasingly involved in lawsuits challenging their regulatory actions. How much better to resolve the differences out of the courtroom where only one party is the winner and move to a mediation process built around recognizing the needs and values of all parties involved. Congressman Udall was a consensus builder, and the Foundation will carry on this approach to environmental disputes and issue resolution. I endorsed this approach of reaching a mediated consensus during my tenure as New Mexico's Environment Secretary. As Chair of both the Water Quality Commission and the Hardrock Mining Commission, regulations were adopted only after several months of negotiations between over six different state agencies and most of the large industries and businesses in the state. I used public comment and participation as a tool to direct both the state's policy framework and compliance criteria for the regulated industry. My experience with conflict resolution processes will be a compliment to the Foundation Board of Trustees future plans to develop forums for resolving issues critical to our country's use of its natural resources.

Mr. Chairman, I thank you for this wonderful opportunity to present my testimony before the Committee. I will be pleased to answer any questions you may have.

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ROOM 410 DIRKSEN BUILDING WASHINGTON, DC 20510

INFORMATION

REQUESTED OF PRESIDENTIAL NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to Honorable John H. Chafee, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC (Attn: Staff Director) as soon as possible.

Name of Nominee: Judith M. Espinosa

Business Address: Alliance for Transportation Research
1001 University Boulevard, SE, Suite 103
Albuquerque, New Mexico 87106

Business Phone: (505) 246-6410

Home Address: 3417 Pickard Avenue, NE
Albuquerque, New Mexico 87110

Home Phone: (505) 888-3370

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: ESPINOSA (Last) Judith (First) Marie (Middle)

Position to which nominated: Trustee, Morris K. Udall Foundation Date of Nomination: November 1996

Date of birth: Nov. 21, 1948 (Day) (Month) (Year) Place of birth: Albuquerque, NM

Marital status D Full name of spouse: n/a

Name and ages of children: Madalena C. Salazar 15 years old

Education:

Institution	Dates attended	Degrees received	Dates of degrees
University of New Mexico	1966-1972	BSN	May, 1972
UCLA	1973-1975	MPH	Dec. 1975
UNM	1977-1980	JD	May, 1980

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

SEE ATTACHMENT #1

Employment record—Continued

Honors and awards: List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement

1) US Public Health Service, Health Science Fellowship 1973-1975

2) NM State Legislature Memorial, Honoring Distinguished Public Service, 1990

3) US EPA Regional Administrator Award, Region VI, Outstanding Service, 1991

Memberships: List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
National Wildlife Federation	Board Member	3/95 - present
Surface Trans. Policy Project	Board Member	4/96 - present
Environment and Energy Study Institute	Board Member	1994 - present
New Mexico Hispanic Culture Foundation	President Trustee	1996-1997 1993 - present
The Energy Foundation	Board Member	1993 - present

Qualifications

State fully your qualifications to serve in the position to which you have been named.

See attachment #2

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

NO

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

N/A (NOT APPLICABLE)

3. Has anybody made a commitment to you for a job after you leave government?

NO (NOT APPLICABLE)

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

YES

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

N/A (NOT APPLICABLE)

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

N/A (NOT APPLICABLE)

Financial Statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278)

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers Amounts should be indicated by the categories established for reporting income on Form SF 278. Schedule A.

Ø

3. Are any assets pledged? (Add schedule).

NO. N/A (NOT APPLICABLE)

4. Are you currently a party to any legal action?
Yes. (Personal Injury Motor Vehicle Insurance Coverage - action for less than $5000)

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes.

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No.

Potential conflicts of interest:

1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None to my knowledge.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None to my knowledge.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

Not Applicable.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

To my knowledge I have no conflict. If a change in my professional or business status occurs, I will notify the relevant agency Ethics Officer.

SEE ATTACHED LETTER (attachment #4)

Political affiliation and activities: List all memberships and offices held in, or financial contributions (in excess of $1,000), and services rendered to any political party or election committee during the last 10 years.

Ø

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

I have given many speeches that involve environment or related matters over the last 15-25 years. Most were done in my professional capacity. Testimony to Congressional Sub Committees include:

(see attachment #3)

Additional Matters:

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

AFFIDAVIT

) ss. being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 5th day of March, 1997.

Notary Public

OFFICIAL SEAL
CHERYL WEYN
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 6/21/97

Attachment #1
Employment Record
Judith M. Espinosa

1. Acting President, Alliance for Transpiration Research Institute, University of New Mexico, Albuquerque, current.

2. Judith M. Espinosa & Associates (self employed), Albuquerque, NM, 1/95 - 2/96.

3. Secretary of Environment, State of New Mexico, Santa Fe, NM, 3/91- 12/94.

4. Manager, Environmental Health Department, City of Albuquerque, Albuquerque, NM, 1/88 - 2/91.

3. Institutional Intergovernmental Specialist, Westinghouse, Waste Isolation Div., Joint Integration Office, Albuquerque, NM, 12/87 - 12/88.

4. Judith M. Espinosa, Attorney/Consultant (self employed), Albuquerque, NM, 9/85 - 11/87.

5. Secretary of Transportation, State of New Mexico, Santa Fe, NM, 1/83 - 9/85.

6. Attorney, Bruce Keith, PA, Albuquerque, NM, 1/81 - 12/82.

7. Attorney, Legal Aid Society of Albuquerque, Albuquerque, NM, 1/81 - 12/81.

8. Attorney (self employed), Albuquerque, NM, 9/80 - 1/83.

9. Law Clerk/paralegal, Ortega & Snead, PA, Albuquerque, NM, 1/79 - 6/80.

10. Law Clerk, Institute for Public Law, University of New Mexico, Albuquerque, NM, 1/78 - 12/78.

11. Research Associate, Health Services Research & Associates, Inc., Los Angeles, California, 9/74 - 12/77.

12. Research Consultant, East Los Angeles Health Task Force, Los Angeles, CA, 1976.

Attachment #1, page 2
Employment Record
Judith M. Espinosa

13. Research Analyst, University of California, Survey Research Center, Los Angeles, CA, 9/73 - 9/74.

14. Registered Nurse, Lovelace Medical Center (formerly Bataan Memorial Hospital, Albuquerque, NM, 5/72 - 9/73.

15. Clinical Instructor, University of New Mexico School of Nursing, 8/72 - 7/73.

16. Student Nurse/Ward Secretary, Lovelace Medcial Center, Albuquerque, NM, 9/71 - 5/72.

17. Sales person, W.J. Sloan, Arlington, VA, 8/70 - 9/71.

18. Student clerk, Southwest Education Research Institute, Inc., Albuquerque, NM, 9/67 - 6/70.

Odd jobs while first in college and during high school years.

Attachment #2
Qualifications
Judith M. Espinosa

Most of my career has been spent in the public service and non-profit arenas. I have dedicated my professional activities to work in the health sciences, environmental/public health areas, and environmental protection program administration for people and our natural resources. Within each career path I have taken, a good deal of my volunteer time has been spent in the recruitment of students into environmental health and environmental sciences fields. Most of my mentoring and recruitment efforts were with minority and disadvantaged young people. To sit as a Trustee on The Udall Foundation, which rewards excellence for students who have interests in environmental policy and sciences, will allow the Foundation to utilize my skills and knowledge in promoting future generations of environmental stewards. My background in working with minority and non-traditional students will serve to provide a diverse view point on the scholarship and academic achievements of all those that the Foundation serves.

Attachment #3
Testimony, speeches
publications
Judith Espinosa

Testimony Before Congressional Subcommittees:

At the Request of Congressman Bill Richardson, Hearing Before the Subcommittee on Mining and Natural Resources, 102nd Congress, Field Hearing Santa Fe, NM Mineral Exploration and Development Act of 1991.

At the request of Senator Pete Dominici, Hearing Before the Subcommittee on Public Works, 1984 Field Hearing Roswell, NM, Infrastructure Financing Act.

At the request of Senator Jeff Bingaman, Hearing Before the Senate Committee on Environment and Public Works, 1994, Washington, DC, Small Communities Infrastructure Financing.

Other general speeches (examples):

Graduation Convocation Speaker, The University of New Mexico, College of Engineering, May 15, 1993.

Graduation Convocation Speaker, The University of New Mexico, Political Science Department, May 13, 1994.

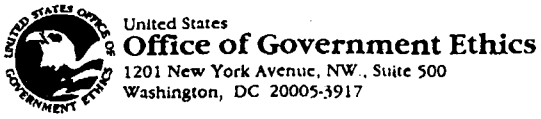
Publications:

Surface Transportation Policy Project, "Progress" Monthly Newsletter, June 1996, November 1996.

Alliance for Transportation Research, Choices for our Future: Finding Transportation Alternatives for an Aging Population. November 1995.

Alliance for Transportation Research, Our National Laboratories & Transportation Research. January 1997

Attachment #4 - page 1



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

February 7, 1997

The Honorable John H. Chafee
Chairman
Committee on Environment and Public Works
United States Senate
Washington, DC 20510-6175

Dear Mr. Chairman:

Under the Ethics in Government Act of 1978, Presidential nominees requiring Senate confirmation who are not expected to serve in their Government positions for more than 60 days in a calendar year are not required to file public financial disclosure reports. The Act, as amended, however, contains a provision in section 101(b) which allows the committee holding the confirmation hearing to request any financial information it deems appropriate from the nominee.

We understand that your committee desires to receive the financial disclosure report (SF 278) from any Presidential nominee for whom your committee holds a confirmation hearing, along with a written opinion from this Office regarding any possible conflicts of interest.

Therefore, I am forwarding a copy of the financial disclosure report of Judith M. Espinosa, who has been nominated by President Clinton to serve as a Trustee on the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation (Udall Foundation). Because Ms. Espinosa is not expected to serve more than 60 days in any calendar year, the enclosed report and this letter are submitted to you in accordance with your committee's confirmation procedures and will be available for public inspection only to the extent provided by your practices. There is no authority under the Act for public release of this material by the executive branch.

We have reviewed the report and have obtained advice from the Udall Foundation concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter from the Director of the Udall Foundation, dated February 5, 1997, outlining the steps which Ms. Espinosa will take to avoid conflicts of interest.

The Honorable John H. Chafee
Page 2

Based thereon, we believe that Ms. Espinosa is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Stephen D. Potts
Director

Enclosures

bcc: Morris K. Udall Scholarship

JUDITH M. ESPINOSA

Judith M. Espinosa is Acting President for the Alliance for Transportation Research Institute (ATRI) at the University of New Mexico. Her work with ATRI includes liaison with state and local government officials, serves as project manager for the South Valley Transportation Mobility Project, a grant project funded by the Surdna Foundation, and is Principal Investigator for a number of other studies. She has primary responsibility for policy initiation and development at ATRI and oversees the public participation phases of projects implemented. Just prior to her work at ATRI, Ms. Espinosa was the principal owner of Judith M. Espinosa & Associates, a government affairs and environmental consulting business.

Ms. Espinosa was appointed by President Clinton as a member of the President's Council on Sustainable Development in 1993, and now serves the Council in an emeritus status. She was appointed to serve as the first Secretary of the New Mexico Environment Department for the term 1991-1994. In that position, she was the Chair of both the New Mexico Water Quality Commission and the New Mexico Mining Commission. She was also appointed by EPA Administrator Carol Browner in 1994 to Chair the US EPA Government Advisory Committee, advising the Administrator in implementation of the environmental supplemental agreement to NAFTA. Ms. Espinosa was the Manager of the Albuquerque/Bernalillo County mobile source air pollution program from 1988-1990. For her work, she was awarded the New Mexico Conservation Voters Alliance "Friend of the Environment Award" (1989), honored with a New Mexico State Legislature Senate Memorial (1990), and received the EPA's Regional Administrator's "Award for Leadership" (1991). Ms. Espinosa also served as New Mexico's Secretary of Transportation in 1983-1985, serving as Chair of the Hazardous Materials Transportation Committee under the National Governor's Association, and the Chair of the New Mexico Hazardous Materials Emergency Response Management Council.

Ms. Espinosa's private sector experience includes work with Westinghouse Corporation as a consultant and government institutional specialist, and sits on the Board of Directors of the Clean Air Action Corporation. Ms. Espinosa serves on a number of national Boards including: The Energy Foundation, the National Wildlife Federation, the North American Institute, the Surface Transportation Policy Project, and the Energy and Environment Study Committee. She is the President of the New Mexico Hispanic Culture Foundation and sits on the Executive Committee of the New Mexico Conservation Voters Alliance.

Ms. Espinosa received a Bachelor of Science in Nursing from the University of New Mexico, a Masters in Public Health Administration from UCLA, and a Doctor of Jurisprudence from the University of New Mexico, and is a member of the New Mexico State Bar. She is the mother of one daughter and a native New Mexican.

3/97

Judith M. Espinosa
1001 University Blvd. SE, Suite 103
Albuquerque, New Mexico 87106-4342
(505) 246-6410 (voice)
(505) 246-6001 (FAX)
E-MAIL: jmespino@unm.edu

Academic Background

Doctor of Jurisprudence, University of New Mexico
Member, State Bar of New Mexico
Masters, Public Health Administration, University of California, Los Angeles
Bachelor of Science, Nursing, University of New Mexico

Professional Experience

Management

Currently serves as Acting President of the Alliance for Transportation Research Institute (ATRI) at the University of New Mexico. Work with ATRI includes liaison with state and local government officials, project manager for the South Valley Transportation Mobility Project (a grant from the Surdna Foundation), and as principal investigator on other transportation and environmental studies. Has primary responsibility for policy initiation and development and oversees the public participation phases of projects implemented. Just prior to joining ATR was principal owner of Judith M. Espinosa and Associates, a government affairs and environmental consulting business.

Served as the first Secretary of Environment for the State of New Mexico, 1991-1994. Appointed by President Clinton to the President's Council on Sustainable Development, June 1993 (currently sits as Emeritus Member). Appointed to the US Environmental Protection Agency (US EPA) State Capacity Task Force, July 1993. Appointed by EPA Administrator Carol Browner to Chair the US EPA Governmental Advisory Committee to assist the Administrator in implementation of the environmental supplemental agreement to NAFTA, July 1994. Appointed member of the National Advisory Council on Environmental Policy and Technology (NACEPT), Subcommittee on Waste Isolation Pilot Plant. Special assignments as Environment Secretary included positions as Chairperson of the NM Water Quality Control Commission, Chairperson of the New Mexico Mining Commission, membership on the NM Radioactive Waste Task Force and the NM Finance Authority, and Chairperson of the Policy Advisory Board of the National Center for Transportation and Air Quality. Responsible for managing an annual budget of over $45 Million and approximately 600 personnel located throughout the state. Environmental oversight of all Department of Energy and Department of Defense facilities within New Mexico, including two national laboratories. The New Mexico Environment Department encompasses functions that include all significant environmental and related natural resource concerns. These include, among others, air quality, water quality, waste management and industrial permitting.

Prior to the Environment Department appointment, worked as Director, Vehicle Pollution Management Division, Environmental Health Department, City of Albuquerque. In this position, held prime responsibility for design and implementation of the US EPA mandated clean air program for vehicles. Developed regulations and program systems for the Bernalillo County Oxygenated Fuels Program. Other management functions included legislative lobbying, selection and supervision of staff, drafting of regulations and policies, liaison with news media, budgetary management, and development of positive public information strategies.

Served as Secretary of Transportation, State of New Mexico (1983-1985). This was a policy and executive administrative appointed position in the Governor's Cabinet. Administrative duties included regulatory responsibilities over various modes of transportation with an annual tax and user fee collection of approximately $150 million. Policy functions included Congressional and Legislative testimony, transportation planning, program development, drafting and lobbying legislation, and federal agency and news media liaison. Appointments held included Chair, New Mexico Emergency Response Task Force; Chair, Governor's Task Force on Coal Transportation; Governor's Representative to the National Association of Highway Safety Administrators; and, Governor's Representative on the Western Interstate Energy Board High Level Waste Committee.

Worked as the transportation institutional/intergovernmental program lead for Westinghouse Electric Corporation, Waste Isolation Division (prime contractor to the US Department of Energy on WIPP). The program maintained cooperative activities between federal/state/tribal governments throughout the nation to plan for safe transportation of nuclear waste to the Waste Isolation Pilot Plant in southeastern New Mexico. Developed cooperative contractual arrangements with state and tribal government associations throughout the US; served as liaison with state agency officials and Governor's representatives in over twenty states; provided transportation program analysis and policy recommendations to the US Department of Energy on a wide range of nuclear waste transportation matters.

Former co-owner of a health and consulting business in California and New Mexico. Provided consulting in health services, health administration, and demographic/survey research to federal, state and local health service agencies. Major responsibilities included personnel services and research and program administration. Business was national in scope and required services were performed for various health care organizations in a number of states.

Legal

Member of the State Bar of New Mexico since September 1980. Sole practitioner in the area of general civil law. Worked as head of the Domestic Relations Division, Legal Aid Society of New Mexico, and did volunteer work for the Albuquerque Shelter for Domestic Violence. Ongoing involvement with the legal profession includes presentations at continuing legal education classes sponsored by the State Bar of New Mexico; instructor for CLE International, the American Bar Association, and Government Institutes, Inc.

Environmental Health and Public Health Programs

Public health experience has been varied and includes direct health care services delivery as a registered nurse at Bataan (Lovelace) Hospital and community health care clinics in New Mexico. Taught at the University of New Mexico School of Nursing as an instructor for second year nursing students (1972/1973 academic year). As a public health administrative consultant, assisted in development of direct health care service clinics in East Los Angeles California and a study of access to health care for elderly clients. Developed board training for the El Paso Community Health Center. Community development projects involved serving as board member during development of the Albuquerque Primary Health Care Clinics (Centro Familiar de Salud).

Other Professional and Community Activities

Board Member, National Wildlife Federation
Washington, DC (March 1995 to current)

Board Member, Surface Transportation Policy Project
Washington, DC (April 1996 to current)

Board Member, Environment & Energy Study Institute
Washington, DC, (1994 to current)

President, New Mexico Hispanic Culture Foundation (1996-1997)
Albuquerque, New Mexico (Trustee since 1993-present)

Board Member, The Energy Foundation
San Francisco, California (1993-present)

Board Member, Clean Air Action Corporation
Tulsa, Oklahoma (1993-present)

Board Member, Waste Management Research Consortium
New Mexico State University (1991- 1994)

Consultant, Battelle Memorial Institute
Columbus, Ohio, 1988-1989. Provided background report in the area of transportation of nuclear waste materials and federal/state relations.

Consultant, Westinghouse Electric Corporation
Albuquerque, New Mexico (1986)

Board Member, New Mexico Conservation Voters Alliance, Executive Committee, (1995 to present) (past member Steering Committee, 1988-1991)

Board Member, The North American Institute
Santa Fe, New Mexico (1995 - present)

Producer, "Cambio" Program, KOAT TV, Albuquerque, NM, 1990. A community exchange television program.

Charter Member, New Mexico First. Discussion Leader, Third New Mexico Town Hall, "Higher Education in New Mexico."

Past President and Board Member, Hispanic Women's Council, Inc. of New Mexico. A non-profit, non-partisan corporation founded to promote and advance the development of Hispanic women in social, educational, business and professional areas.

Awards and Fellowships

Outstanding Young Women of America, 1980

US Public Health Service Health Science Fellowship, 1973-1975

Friend of the Environment, 1989

YWCA Women on the Move, 1990

New Mexico State Legislature Memorial Honoring Distinguished Public Service, 1990

Environmental Protection Agency Regional Administration Award, Region VI, Outstanding Service, 1991

Speaking, Writing, & Legislative Testimony

Has testified on several occasions before Congressional Sub-Committees and Executive Hearings on issues and legislation involving transportation, environmental quality, and community needs. Extensive experience in testimony before Committees of the New Mexico State Legislature.

Public speaking experience and writing is extensive. (Specifics are available on request.)

3/97

RESPONSE BY JUDITH M. ESPINOSA TO ADDITIONAL QUESTION FROM SENATOR CHAFEE

Question. One of the missions of the Udall Foundation is environmental conflict resolution. If confirmed, how do you plan to utilize your experience and interests to contribute to this important mission?

Response. I believe that one of the most important functions of the Udall Foundation is the promotion of environmental conflict resolution. Increasingly we have seen federal, state and tribal governments challenged on their environmental or natural resources regulatory actions in courts of law. While these challenges may have a legitimate basis to bring a legal action, we must begin to provide a forum whereby the parties can resolve their differences out of the court room and into a resolution process built around recognizing the values and needs of all parties.

I have held several professional public service positions that were primarily regulatory in nature. As Secretary of Transportation for New Mexico, my Department had primary authority for collection of fees/taxes from the highway and aviation user communities. Enforcement of regulations on heavy vehicles and trucks was a major duty. Flexibility in the operation of our agency's regulatory structure was a strong policy of mine as Transportation Secretary. I negotiated a new scheme of vehicle permitting and operation with the oil and gas industry, mining industry and other owners of heavy vehicles. A simpler and more efficient scheme of permitting and user fees was devised which is currently in use today.

I also have endorsed a conflict resolution approach as the Manager of the inspection/maintenance program in Bernalillo County. When I took the position, the City of Albuquerque and the County were under US EPA sanctions for non-compliance with Clean Air Act standards. I negotiated and designed a new vehicle emission program between the City of Albuquerque, the County of Bernalillo and several hundred businesses which would be doing the inspections under the regulatory scheme. It was accepted by EPA as a very progressive program in this region.

As New Mexico's Environment Secretary and chair of both the NM Water Quality Control Commission and the NM Hardrock Mining Commission, regulations were adopted only after several months of negotiations between several state agencies and most of the large industries and businesses in the state. The NM Hardrock Mining Law, when being adopted by the Legislature, has been an extremely contentious process. The use of a mediated regulatory scheme left all the parties with a hand in setting the compliance framework.

I have often used public comments and participation as a tool to direct the state's policy framework and set compliance criteria for the regulated industry. I am a big believer in the need of a public agency to allow for meaningful public input into a process which directly affects them—including the resolution of conflicts.

My direct experiences with conflict resolution and negotiated solutions will be a compliment to the Udall Foundation Board as they plan for the possibilities of developing an institute for environmental conflict resolution which could be utilized by federal agencies. I know that the Chairman of the Board has called upon the strengths of several of the Trustees to forward the activities of the Foundation which Congress set forth. I would offer my considerations for development of the policies underlying the way conflict resolution should be approached with diverse parties. Over the years I have experienced what has worked and what has failed in a mediated framework. I believe that "lessons learned" from others who have used certain techniques and methods is usually a good evaluation setting for developing conflict resolution policies. I look forward to being able to utilize my background and my personal "lessons learned" for the benefit of the Foundation's activities.

Throughout my career I have taken, what I believe to be, a nonpartisan approach to the solution of problems and issues encountered by the agencies which I managed. And, although I have been a political appointee, those affiliations did not play a part in the work I was entrusted to do for the protection of the environment and the sustainable use of our natural resources. I believe that the endorsements I received from both of my Senators will attest to my objective resolutions of regulatory conflicts which I have encountered. I thank both Senator Dominici and Senator Bingaman for their kind words of support for my nomination, and thank them also for recognizing my ability to provide a nonpartisan approach to environmental issues.

Thank you for this opportunity to discuss this question.

PREPARED STATEMENT OF D. MICHAEL RAPPOPORT, ASSOCIATE GENERAL MANAGER FOR PUBLIC & COMMUNICATIONS SERVICES OF THE SALT RIVER PROJECT (SRP)

Mr. Chairman, Members of the Committee, my name is David Michael Rappoport of Paradise Valley, Arizona and I am Associate General Manager for Public & Communications Services of the Salt River Project (SRP), a public utility providing electricity and water to much of the Metropolitan Phoenix area. In that capacity I am responsible for community, corporate and government relations as well as communication, consumer and education services.

Prior to joining SRP in 1973, I was employed by The National Association of Electric Companies in Washington, DC and before that served as a Legislative Assistant to former California Representative, Craig Hosmer and the late Congressman Rogers C.B. Morton of Maryland.

Thank you for this opportunity to present myself as a Presidential nominee for the position of Trustee of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation and to share a few observations with you about the Foundation's achievements today.

I would also like to express my appreciation to Senator John McCain and Senator Jon Kyl for their letters on my behalf to the Committee. If appropriate, I request that they be included in the record.

My association with Mo Udall extends back nearly thirty years to a time when he was instrumental in building support for the Central Arizona Project, a major water supply system of energy, pumping and canal facilities. It continued through public policy activities involving land use planning, surface mining and reclamation, Indian water rights, the safety of Federal dams and several wilderness proposals.

In the early years, the interests I represented were not always in total agreement with the positions so effectively advocated by Mo. But for most of our association, I was among the many who supported his leadership on a variety of issues of national import. In later years, I had the good fortune to either chair or serve on one of Mo's Business Advisory Committees, Energy and Water Task Forces as well as several of his re-election committees. And, like so many others, I came to admire his sense of civility, his ability to fashion consensus and above all, his integrity and commitment to public service.

Mr. Chairman, when Congress established the Udall Foundation, it gave special tribute to these qualities. Specifically, in 1992 Congress authorized to be appropriated $40 million to the Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund. About half of that amount has been appropriated to date. The funds are administered by the Foundation to, among other things:

- Increase awareness of the importance of the Nation's natural resources;
- Establish a Program for Environmental Policy Research and Environmental Conflict Resolution in the Udall Center located at the University of Arizona;
- Develop resources to train professionals in the fields of environmental, Native American and Alaska Native health care and tribal public policy; and
- Award scholarships, fellowships, internships and grants for study in fields related to the environment, Native American and Alaska Native policy.

Mr. Chairman, it was a particular privilege to be appointed by President Clinton in 1994 as one of the first Foundation Trustees. As Chair of the Management Committee, I can assure you that the Udall Fund and Foundation are committed to educating a new generation of young Americans.

The Foundation's 1996 Annual Report, submitted with my testimony, notes that some $19 million appropriated by Congress has been invested in public debt securities to produce a revenue stream of nearly $1.5 million. These earnings—and I would respectfully point out that only the interest on this investment and such other funds and services as may be received in accordance with the law—are used to carry out Foundation purposes.

On behalf of the Foundation's Board of Trustees, it is a pleasure for me to report that to date the Udall Foundation:

- Awarded scholarships in 1996 to 55 outstanding college juniors and seniors from 38 states and Puerto Rico. These scholars were selected from among 300 students nominated by the faculties of colleges and universities nationwide. Each received up to $5,000 for 1 year to cover tuition, fees, books and room and board. The Foundation anticipates awarding 70 undergraduate scholarships and 2 graduate fellowships in 1997.
- Implemented the first summer internship program for Native American students who served in U.S. House and Senate offices as well as in the White House. We are hopeful of expanding that program this summer as well.
- Sponsored a major seminar at the University of Arizona on *Environmental Health issues in the U.S.—Mexico Boarder Region* and will fund the 1997 *Environ-*

mental Conflict Resolution in the West Conference, again in conjunction with the Udall Center.

In sum, the Foundation's purpose and plan is best captured by Mo's own words of a few years ago:

> "America is never done like a poem or a painting * * *"

I am sure he believes, as do we, that the Foundation is well on the way to helping future generations care enough to change things. I would welcome the opportunity to serve a second term as a Udall Foundation Trustee to continue to help meet that challenge.

Mr. Chairman, that concludes my statement. I am prepared to answer any questions the Committee may have at this time.

Thank you.

SALT RIVER PROJECT
POST OFFICE BOX 52025
PHOENIX, ARIZONA
85072-2025

D. MICHAEL RAPPOPORT
ASSOCIATE GENERAL MANAGER
PUBLIC & COMMUNICATIONS SERVICES

March 18, 1997

Senator John H. Chafee, Chairman
Committee on Environmental and Public Works
United States Senate
Washington, DC 20510-6175

Dear Senator Chafee:

Thank you for scheduling the March 14th Hearing on my nomination by President Clinton to serve a second term as a Trustee of the Udall Foundation and for this opportunity to respond to the additional questions asked by members of the Committee.

Re: How does the foundation select the recipients of scholarships and fellowships authorized and funded by the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act (PL102-259)?

In 1995 and again in 1996, the Foundation negotiated a contract in the amount of approximately $120,000 per year with American College Testing of Iowa City, Iowa (ACT), a recognized provider of academic services. Working with the Foundation Board of Trustees, ACT developed a series of assistance descriptions, application forms, selection criteria, and announcement materials which were distributed in the form of *The Bulletin* on behalf of the Foundation to the Presidents of some 2,600 colleges and universities in the United States. Each was asked to assign an appropriate faculty representative to coordinate recruitment activities.

The Bulletin is also distributed to members of the United States Senate and House of Representatives, the governors of the 50 states, all Cabinet officers, and a variety of Alaska Native and Native American organizations.

Generally, *The Bulletin* is distributed in August; the ACT receives and reviews the applications through February and, in the spring, convenes a panel of college and university deans, and faculty and admission officials to evaluate and select applicants in accordance with guidelines established by the Foundation.

The guidelines emphasize academic excellence, geographic diversity and an interest in those areas prescribed by PL102-259. Shortly thereafter, the Foundation announces the recipients.

In 1996, 55 undergraduate scholarships of approximately $5,000 each were awarded; in April 1997, the Foundation will announce 70 undergraduate scholarships also of approximately $5,000 each and 2 graduate fellowships of up to $24,000 each to outstanding doctoral candidates in the final year of writing their dissertations in the field of natural resource public policy and environmental conflict resolution. The fellowship selection process is similar to that administered by the ACT but announcements are limited to approximately 600 graduate schools throughout the United States.

Re: Principal accomplishments and biggest challenge during the foundation's first two and a half years of operations?

I believe the Foundation Trustees would agree with me that our principal accomplishment to date has been to successfully translate into action the mandate and mission established by Congress. Among other things, during the Foundation's first two and a half years, we organized a diverse group of 10 Presidential appointees into a collegial and focused governing board, recruited an executive director with a demonstrable record of achievement in non-profit institutional administration, established a prudent strategy for investing in public debt securities the $19.8 million appropriated by Congress and expended the interest earned thereon in accordance with PL102-259.

Put another way, the Foundation began operating at full speed within a relatively short time and can point with pride to the award of the first 55 scholarships and the first 10 Native American Congressional and White House internships. These activities have earned the Foundation a well deserved reputation in both academia and in Washington, DC.

Perhaps, the single most significant challenge ahead is fashioning an appropriate balance between the funding available for Foundation purposes and supporting the many young people who can carry on the work and spirit of Mo Udall. On behalf of the Trustees, we welcome that challenge.

I trust this information is responsive to the Committee's questions. Thank you again for the many courtesies extended to me.

Sincerely yours,

D. Michael Rappoport

D. Michael Rappoport

ROOM 410 DIRKSEN BUILDING WASHINGTON, DC 20510

INFORMATION

REQUESTED OF PRESIDENTIAL NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to Honorable John H. Chafee, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC (Atm: Staff Director) as soon as possible.

Name of Nominee: David Michael Rappoport

Business Address: P.O. Box 52025

Phoenix, Arizona 85072-2025

Business Phone: (602) 236-2645

Home Address: 6538 E. Hummingbird Lane

Paradise Valley, Arizona 85253

Home Phone: (602) 948-3106

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Rappoport (Last) David (First) Michael (Middle)

Position to which nominated: Trustee, Morris K. Udall Scholarship & Excellence in National Environmental Policy Foundation

Date of Nomination: 1-9-97

Date of birth: 6-14-39 (Day) (Month) (Year) Place of birth: Atlantic City, NJ

Marital status: Married Full name of spouse: Sue D. Rappoport

Name and ages of children:

Sloan Wilson Rappoport	27
Rebekkah Zoe Rappoport	25

Education:

Institution	Dates attended	Degrees received	Dates of degrees
The American University	9/66-5/71	Graduate Courses	--
The University of Hawaii	9/61-9/63	MPA	1/63
The American University	9/57-6/61	BA	6/61

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

Associate General Manager, Public & Communications Services 12/73 to present
Salt River Project, 1521 Project Drive
Tempe, AZ 85281

Analyst/Representative, National Association Electric Co.'s 7/67 to 12/73
1140 Connecticut Ave., NW
Washington, D.C. 20036

Employment record—Continued

Legislative Assistant, Rep. Craig Hosmer — 12/66 to 6/67
Rayburn House Office Building
Washington, D.C. 20510

Special Representative, Pacific Gas & Electric Co. — 12/64 to 11/66
1725 K St., NW
Washington, D.C. 20036

Legislative Assistant, Rep. Rogers C. B. Morton — 1/64 to 11/64
Cannon House Office Building
Washington, D.C. 20510

Whitaker & Baxter Advertising — 1/62 to 11/62
1040 Fort Street
Honolulu, HI

Honors and awards: List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Recipient, 1994 Communicator of the Year Award, International Association of Business Communicators (Salt River Project)
Recipient, 1984 SRP General Manager's Award of Excellence

Recipient, Republican Party of Hawaii Internship, 1962

Recipient, Fletcher Citizenship Award, American University, 1961

Member, Omicron Delta Kappa, American University, 1961

Memberships: List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
National Water Resources Assn.	Board of Directors	1993 to present
Conference Board Public Affairs Council	Member	1993 to present
Electric Power Research Institute Communications Committee	Member	1993 to present
Arizona Commission on the Arts	Commissioner	1986 to 1992
Combined Metropolitan Phoenix Arts & Sciences Board	Member	1986 to 1990
Governor's Urban Air Quality Task Force	Member	1983 to 1984
Western Energy Systems Transmission Associates Public Affairs Task Force	Chairman	1976 to 1982

Qualifications: State fully your qualifications to serve in the position to which you have been named.

As an associate of Congressman Morris K. Udall for some 25 years, I share his commitment to balancing environmental and economic considerations in public policy. I also share his commitment to advancing the value of higher education particularly through public and private partnerships.

Since being appointed as a Udall Foundation Trustee by President Clinton in October, 1994, I have had the privilege of serving as the Management Committee Chair and am responsible for investing the Foundation corpus of $19,894,500 in public debt securities. That amount has grown to $21,269,000 of which the interest, $1,512,000, has been prudently expended in pursuit of the goals and commitments of the Foundation. It also has been my pleasure to supervise the Foundation professional staff located at the University of Arizona and to represent the Foundation on the University of Arizona Udall Center Executive Director Search Committee.

Collectively, the Udall Foundation Trustees have established a noteworthy record of achievement during our first two years of operation, and I take great pride in having contributed to that success.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Not applicable

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

Not applicable

3. Has anybody made a commitment to you for a job after you leave government?

Not applicable

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Yes

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

Not applicable

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

Not applicable

Financial Statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

None

3. Are any assets pledged? (Add schedule).

No

4. Are you currently a party to any legal action?

No

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No

Potential conflicts of interest:

1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

Not applicable

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

In Part I of Schedule D of SF-278 and as noted herein under memberships, I list past and present affiliations with a number of professional organizations. While it is unlikely that any of these organizations will have an interest in the activities of the Udall Foundation, should such occasion occur, I would recuse myself from any activity or decision having a direct or predictable effect on any of the organizations listed.

Political affiliation and activities: List all memberships and offices held in, or financial contributions (in excess of $1,000), and services rendered to any political party or election committee during the last 10 years.

Member, McCain for U.S. Senate '98 Committee

Member, Kolbe for Congress Committee

Member, Stump for Congress Finance Committee

Member, Udall Re-election Committee

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

"Branding Your Utility", The Energy Daily, 1/97

"Foundation's Scholarship Carries on Udall Legacy", Arizona Republic, 7/96

"Clinton's Business Agenda So Ambitious It Overwhelms", The Business Journal 11/94

"Environmental Protection and Economic Balance: An Elusive Balance", Leadership America, 10/94

"State's Water Future Relies On Innovative Ideas, Cooperation", Arizona Republic 12/93

"Visibility: The Issue That Won't Disappear", Public Utilities Fortnightly, by D. Michael Rappoport & John F. Cooney, 4/93

"Visibility at the Grand Canyon: Regulatory Negotiations Under the Clean Air Act", Arizona State Law Journal, by D. Michael Rappoport & John F. Cooney, Summer 1992

"What Does Cost Sharing Mean to Arizona?", Arizona Farmer Ranchman, 7/83

"Perspectives On the Clean Air Act: The Responsibilities of Utilities", The Phoenix Gazette, 1/80

Additional Matters:

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

   No

2. Do you agree to appear before all Congressional Committees which seek your testimony?

   Yes

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

   None

AFFIDAVIT

David Michael Rappoport) ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

David Michael Rappoport

Subscribed and sworn before me this 4th day of March, 1997

Victor Cummiskey
Notary Public

My Commission Expires 12-25-97

STATEMENT OF MAJ. GEN. ROBERT B. FLOWERS, COMMANDER AND DIVISION ENGINEER, LOWER MISSISSIPPI VALLEY DIVISION, U.S. ARMY CORPS OF ENGINEERS

Mr. Chairman and Members of the Committee, I am honored to appear before you as the nominee for president and member of the Mississippi River Commission.

Mr. Chairman, I would like to make a brief statement about the Mississippi River Commission, the Mississippi River and Tributaries (MR&T) project, and my qualifications for the position for which I have been nominated.

The Mississippi River Commission, established by an Act of Congress on June 28, 1879, consists of seven members, all of whom are appointed by the President of the United States subject to confirmation by the Senate. Three members are Corps of Engineers officers, one of whom serves as president; one member is from the National Oceanic and Atmospheric Administration; and three members are from the civilian sector, two of whom must be civil engineers. The geographic area addressed by the Commission is generally described as the Mississippi River and its tributaries below the confluence of the Ohio River near Cairo, Illinois.

From its inception in 1879, the Commission has been charged with the vital task of planning and implementing a program of flood damage reduction projects and navigation improvements on the Mississippi River. More recently, project purposes have been expanded to include environmental restoration. This task continues to be conducted in concert with the myriad of political institutions, individuals, and public entities which have major interests in seeing that the water resources needs and opportunities of the Mississippi Alluvial Valley are evaluated, planned, designed, constructed, and maintained.

The Mississippi River Commission also is responsible for the oversight and management of the Mississippi River and Tributaries project, which was authorized by the Flood Control Act of May 15, 1928. While the MR&T project covers portions of seven states, it receives water from all or part of 31 states and part of two Canadian provinces, or roughly 41 percent of the contiguous United States. Effective planning, design, construction, and operation of the widespread and complex MR&T project have been assisted greatly by the Commission's active consultation with the public, particularly on its semiannual lower Mississippi River inspection trips, and by the high degree of professionalism that has been developed in its staff.

The MR&T project is truly of national significance. For example, a major flood on the lower Mississippi River would have catastrophic effects on the inhabitants of the Mississippi Valley and the economy of the Nation were it not for the protection provided by the levees and other flood control works throughout the project area. Many have noted that the comprehensive project on the lower river provided for passage of major floods in 1973, 1983, and other years without the extensive damage suffered in the upper river area during the 1993 flood event.

In addition, the navigation features of the project are essential to maintaining the river for shipping import and export commodities between inland ports and world markets. In short, the navigation features of the MR&T project are essential in peace time and vital to our national defense in times of emergency.

In regards to my personal qualifications, I am a 1969 graduate of Virginia Military Institute with a Bachelor's Degree in Civil Engineering, while also earning a Master's Degree in Civil Engineering in 1976 from the University of Virginia. In addition, I am a graduate of the Command and General Staff College and the National War College.

I have served more than 27 years in the uniformed service as an Army Engineer. My experiences in the civil works function of the Corps of Engineers date back to 1976 when I served as a field engineer and research project manager in the Portland District in Portland, Oregon. Since August 1995, I have served as Commander of the Lower Mississippi Valley Division and also as chairman of the Mississippi River Commission.

As Commander of the Lower Mississippi Valley Division and while working with the Mississippi River Commission, I have had command and oversight of the largest civil works mission in the U. S. Army Corps of Engineers. The civil works mission of the lower valley includes management of the Mississippi River from Hannibal, Missouri, to the Gulf, and tributaries to the Mississippi through that reach of the river. I provide command and control of Army Engineer Districts at St. Louis, Memphis, Vicksburg, and New Orleans. Management of the lower Mississippi River has required close coordination and understanding of the civil works functions of the Corps in divisions upstream, including the Missouri River Division, the North Central Division, and the Ohio River Division.

I have also served in several military assignments. Most recently I served in a temporary assignment to Bosnia from January 3 through March 17, 1996, as the

deputy chief of staff for Engineering (Forward), U.S. Army Europe, and was responsible for the U.S. Forces construction in the Theater of Operations.

Some of my other major past assignments include Assistant Division Commander, 2nd Infantry Division, Eighth U.S. Army, South Korea; Deputy Commanding General and Deputy Assistant Commandant, U.S. Army Engineer Center; Assistant Commandant and Director of Training, U.S. Army Engineer School; and Commander of the 20th Engineer Brigade (Combat) (Airborne Corps) in Fort Bragg, North Carolina, where I served during Operation Desert Shield and Desert Storm.

If confirmed to the position, Mr. Chairman, I would look forward to playing a key role in the continual improvement of the MR&T project and applying the best of modern practices in water resources engineering. I would also look forward to being president of a Commission that focuses not only on the traditional roles of safely passing the Mississippi River Basin floodwaters to the Gulf of Mexico, plus providing a safe and dependable navigable waterway, but also recognizes the nation's environmental awareness and incorporates environmental restoration as a function of the MR&T project.

Mr. Chairman, for your information, I have attached a complete biography on myself and a current list of members of the Mississippi River Commission.

Mr. Chairman, that completes my prepared statement, and I would be pleased to respond to any questions.

US Army Corps of Engineers
Lower Mississippi Valley Division
Mississippi River Commission

BIOGRAPHY

Major General Robert B. Flowers

Commander, Lower Mississippi Valley Division
President Designee, Mississippi River Commission

As LMVD Commander, Major General Flowers plays a vital role in managing the Corps water resources program in a 156,000-square-mile area of the Mississippi River Valley. This area includes parts of seven states from near Hannibal, Missouri, to the Gulf of Mexico. The division has four districts headquartered in St. Louis, Memphis, Vicksburg, and New Orleans.

The chief of engineers has nominated Gen. Flowers to be president of the Mississippi River Commission. The appointment, made by the President of the United States, is subject to confirmation by the U.S. Senate.

Following graduation from the Virginia Military Institute and his commissioning as a second lieutenant in 1969, Gen. Flowers completed ranger and airborne training. His civilian and military education includes a master's degree in civil engineering from the University of Virginia, the Engineer Basic and Advanced courses, Command and General Staff College, and the National War College. Additionally, Gen. Flowers is a registered professional engineer in the state of Virginia.

In addition to his duties as LMVD commander, Flowers was deployed to Bosnia from January 3 through March 17, 1996, as the deputy chief of staff for Engineering (Forward), U.S. Army Europe. He was responsible for U.S. forces construction in the Theater of Operations.

Prior to his coming to LMVD, Gen. Flowers served in South Korea as assistant division commander, 2nd Infantry Division (Mechanized), Eighth U.S. Army. Other assignments included deputy commanding general, U.S. Army Engineer Center, and assistant commandant, U.S. Army Engineer School, Fort Leonard Wood, Missouri, from 1993-95; director of training, Fort Leonard Wood, Missouri, until October 1993; deputy assistant commandant of the U. S. Army Engineer Center, during which time he was named the Joint Task Force Engineer for the Joint Task Force in Somalia, 1992-93; commander of the 20th Engineer Brigade (Combat) (Airborne Corps), Fort Bragg, North Carolina, 1990-92. He led the brigade during Operation Desert Shield and Desert Storm as an expanded force of ten battalions (7,700 soldiers); served with the Joint Staff in the National Military Command Center and the Countermarcotics Operations Division, Washington, D.C., 1987-90; assigned to Fort Bragg, North Carolina, from 1980-87 and served as commander of the 307th Engineer Battalion from 1985-1987; served as adjutant for the 20th Engineer Brigade for one year, and then moved to the 82nd Airborne Division, where he served as the operations and executive officer for the 307th Engineer Battalion; worked in combat development at the Combined Arms Center, Fort Leavenworth, Kansas, 1983-85; served as a field engineer and a research project manager for the Portland, Oregon, Engineer District, 1976-80; served in Thailand as the engineer for the Udorn Detachment and Northern Thailand, 1973-74; first troop assignment was with the 94th Engineer Battalion in Germany, 1970-73, where he served as a platoon leader, company commander, and battalion operations officer.

Gen. Flowers was born in Pennsylvania and resided in several areas of the world as his family moved during his father's military career. He and his wife Lynda have four sons: Rob, David, Billy, and Matthew.

March 1997

MISSISSIPPI RIVER COMMISSION MEMBERS

*MG Robert B. Flowers, President
Mississippi River Commission
P. O. Box 80
Vicksburg, MS 39181-0080
(601) 634-5750/FAX 634-5666

Mr. Sam E. Angel
Epstein Gin
P. O. Box 748
Lake Village, AR 71653
(501) 265-5382/5383/FAX 265-5690

Date of Appointment: 25 Sep 79
Date of Reappointment: 28 Oct 88
Term Expires: 28 Oct 97

Mr. R. D. James
Riley Cotton Company
810 Maple Street
New Madrid, MO 63869
(573) 748-5574/5345/FAX 748-2041

Date of Appointment: 1 Dec 81
Date of Reappointment: 18 Apr 91
Term Expires: 18 Apr 00

MG Albert J. Genetti, Jr.
Deputy Commander
U.S. Army Corps of Engineers
20 Massachusetts Avenue, NW
Washington, DC 20314-1000
(202) 761-0002/FAX 761-1683

Date of Appointment: 9 Oct 92

RADM John C. Albright, Director
Atlantic and Pacific Marine Centers
National Oceanic and Atmospheric
Administration
1801 Fairview Avenue East
Seattle, WA 98102-3767
(206) 553-7656/FAX 553-2246

Date of Appointment: 26 Dec 95

(NON-VOTING POSITION)
COL J. F. Castonguay, Secretary
Mississippi River Commission
P. O. Box 80
Vicksburg, MS 39181-0080
(601) 634-5752/FAX 634-5666

(This position of Secretary is an additional assignment for the Deputy Commander of the Lower Mississippi Valley Division and is <u>not</u> Presidentially appointed)

* Designated member (not yet confirmed).

NOTE: There is one civilian vacancy; the term of Mr. Frank Walk, member from Louisiana, ended in October 1996 and this position has not yet been filled. There is also one military vacancy; BG Gerald E. Galloway, Jr., retired from the U.S. Army and this position has not been filled.

RESPONSES BY MAJ. GEN. FLOWERS TO ADDITIONAL QUESTIONS FROM SENATOR CHAFEE

Question 1. Please discuss in a little more detail the primary functions of the Mississippi River Commission (MRC) and outline the major ongoing projects and objectives of the Commission for this fiscal year and Fiscal Year 1998.

Answer. Sir, the Commission, since it was established in 1879, has been responsible for navigation, flood control, and other resource development on the Mississippi River. In the Flood Control Act approved 15 May 1928, the Congress authorized a comprehensive project for control of floods and other purposes on the Mississippi River and its tributaries, extending from Cape Girardeau, Missouri, to the Head of Passes below New Orleans, Louisiana. The Act provided that the Mississippi River and Tributaries (MR&T) project be implemented by the Mississippi River Commission. A primary function of the Commission is to oversee implementation of the authorized project. The 1928 Act directed the Commission to make inspection trips of such frequency and duration as will enable it to acquire firsthand information as to conditions and problems germane to flood control and navigation and on such inspections trips conduct public hearings for persons affected by or interested in such problems. The Commission is charged in law to "recommend policy for development of details and carrying out the work of the adopted project." The Commission considers and recommends the general character and types of work to be used in construction of the project, advises on operation and maintenance of completed project features, and recommends annually the program of work to be undertaken during the following fiscal year.

Although the MR&T project is currently 85 percent completed, there is much work remaining to be done to stabilize the Mississippi River Channel, complete the main stem flood control system, and complete work on tributary flood control and environmental projects. Of 2,059 miles of levee on the Mississippi and Atchafalaya Rivers, 346 miles are too low to carry the project design flood and 147 miles are in need of measures to eliminate the risk of levee failure from underseepage.

In Fiscal Years 1997 and 1998, we will continue construction on the main line Mississippi River and Atchafalaya Rivers. This entails bringing levees up to grade and working to stabilize riverbanks for the purposes of flood control and navigation. We also are continuing with flood control and environmental improvements on tributary basins. We are continuing to purchase lands and easements in the Atchafalaya Basin to preserve natural environmental values of this vast and unique area and to provide some public access. Operation and maintenance of completed work are now costing about $130 million per year. For Fiscal Year 1997 Congress appropriated $310 million for the project including operation, maintenance, and construction. The President's budget for Fiscal Year 1998 includes $266 million for the MR&T project. Based on funding levels proposed by the administration, construction of the project is now projected to extend into year 2031.

Question 2. Under the Army's proposal for restructuring the Corps of Engineers, the entire Mississippi River Valley would come under the jurisdiction of one division with its headquarters located in Vicksburg, Mississippi. What advantage do you see from this restructuring and what impact will it have on the work and responsibilities of the Commission?

Answer. Sir, the Division Restructuring Plan, approved by the Secretary of the Army to be implemented beginning 1 April 1997, will place the upper Mississippi under command and control of the Lower Mississippi Valley Division—to be renamed the Mississippi Valley Division. The Division will include the engineer districts at St. Paul, Minnesota, and Rock Island, Illinois, in addition to the districts at St. Louis, Memphis, Vicksburg, and New Orleans. The realignment will allow improved coordination of work throughout the length of the Mississippi River and will provide for improvement in management of flood flows as well as planning, improvement, and operation of the inland navigation system.

The reorganization will not directly affect the responsibilities of the Commission. The Commission, when formed in 1879, was authorized to function on the Mississippi River "between the Head of Passes near its mouth to its headwaters." From the beginning of the Commission in 1879, the Commission has been authorized to make and review surveys and examinations, including topographical, hydrographical, and hydrometrical investigations, and serve as advisors on improvements to provide navigation and prevent destructive floods over the entire length of the river.

The restructuring will allow for more effective involvement of the Commission as advisors on Corps work in the upper Mississippi Basin should their involvement be considered beneficial. From time to time prior to 1928, the Congress authorized and

funded specific projects to be implemented under direction of the Commission on both the upper and lower reaches of the Mississippi River.

In 1928 when the Congress authorized the massive Mississippi River and Tributaries project, which is still under construction, that project became the primary focus of the Commission. In recent years, the Congress has not directed that any projects in the upper Mississippi Basin be implemented under the oversight of the Commission. Ongoing and future projects in the Rock Island and St. Paul Districts will continue to be under the construction general program of the Corps, just as the current construction general work is now conducted, unless the Congress and the Administration authorizes work to be accomplished under direction of the Mississippi River Commission.

Question 3. As we approach the 21st century, is there a continuing need for the MRC? Do you see an advantage for the Commission to have jurisdiction over the entire Mississippi River Valley?

Answer. Sir, the primary focus of the Commission over the past several years has been implementation and operation of the MR&T project which extends from Cape Girardeau, Missouri, to the Head of Passes below New Orleans, Louisiana. The MR&T project is a multi-billion dollar project which has been under development since 1928 with construction scheduled to extend into the 21st century, to 2031, at proposed funding levels.

This extremely complex project requires many difficult and often controversial decisions on sequencing and prioritizing the various elements, taking into account technical engineering considerations as well as resource constraints and environmental, social, and political considerations.

The Commission, with the public meetings and other coordination activities, provides a valuable service in promoting understanding of problems and concerns of the affected public and conveying to the public an understanding of the project and its operation.

Given the budgetary and manpower constraints now faced by the Federal Government and the added complexity to the projects by environmental and other concerns, the value of the Commission is even greater today than it has been in the past.

Perhaps the greatest value of the Mississippi River Commission in the lower river area has been to facilitate cooperation between the Federal and local interests in the river basin in consideration of all the needs and opportunities for flood control, navigation, and environmental preservation. I believe that the Commission, with its unique mix of military and civilian membership, could contribute significantly in addressing the various interests in the upper Mississippi River Basin and certainly could improve coordination of issues affecting the entire Mississippi River Valley.

Question 4. Traditionally, the MRC has been involved in flood control and navigation but it recently expanded its project purposes to include environmental restoration. Please highlight for me what environmental restoration efforts you have under way as part of the Mississippi River and Tributaries project. What impediments exist to conduct additional and necessary environmental restoration?

Answer. Sir, the Commission has increased emphasis on maintaining and restoring the environment as the MR&T project is implemented. During the past several years, the Commission has implemented a number of environmental initiatives into the planning, construction, and operation of the Mississippi River and Tributaries project. Although the Commission considers flood control and navigation as high-priority initiatives, I am sure the Commission will take every available opportunity to maintain and restore environmental values as well.

Over the past several years, the Commission has recommended to the Congress a number of modifications of the project, specifically for the purpose of preserving and enhancing environmental resources in the lower Mississippi Valley and is in the process of implementing a number of the authorized modifications. Among the more significant environmental features are the purchase of lands and easements and the development of water management units in the vast and unique wetland areas in the Atchafalaya Basin and construction of freshwater diversion structures to improve fisheries and reduce wetland loss due to subsidence along coastal Louisiana. Water control structures to benefit waterfowl and fisheries have been and are being developed in several tributary projects, including the Yazoo and St. Francis Basin in Mississippi and Arkansas, and construction of erosion control facilities in the Yazoo Basin.

Channel stabilization works such as dikes and revetments have been specifically designed to improve fisheries in the Mississippi River and protect the Interior Least Tern, an endangered species of bird found on the lower river. Borrow pits, where material is taken to construct earth levees, have for several years been designed for use as fisheries and waterfowl habitat. Over the past several months, we have initi-

ated efforts to redesign borrow areas and employ construction techniques to avoid and minimize the use of wetlands and the taking of bottom land hardwoods for borrow areas.

The primary impediment to additional environmental work is generally the same impediment as for other works, the availability of funds. With additional funding, purchase of lands and easement and other environmental development in the Atchafalaya Basin could be accelerated as well as environmental preservation and restoration work throughout the valley.

Authorization of an Environmental Management Program on the lower Mississippi River as currently exists on the upper Mississippi would provide greater opportunity for environmental work on the lower Mississippi River.

Question 5. The Water Resources Development Act (WRDA) of 1996 included some important environmental provisions. What efforts do you have underway to implement these provisions in the Mississippi River Valley?

Answer. Sir, WRDA 1996 contains several important environmental provisions we are implementing. The following is a summary of several provisions and our efforts to implement them.

Subpart c of Section 202 requires that before construction is initiated for a local flood control project that involves Federal assistance, the non-Federal interest shall agree to participate in and comply with Federal flood plain management and flood insurance programs. The requirement for a Flood Plain Management Plan will reduce damages from recurring flood events and in many instances will assist in preserving environmental values of natural flood plains.

Section 202 also contains provisions related to vegetation management of levees. We are utilizing methods to enhance the wildlife value of vegetative plantings as part of levee maintenance.

Section 204 expands the scope of Section 1135 of WRDA 1986 by extending the limits of action from the immediate project site to other locations that may have been affected by the construction or operation. The Lower Mississippi Valley Division is aggressively pursuing the Section 1135 Authority, and we expect to request funding using the provisions of Section 204 this year.

Section 206 authorizes small aquatic ecosystems restoration projects up to $5 million Federal cost each, with an annual limitation of $25 million for the program. The Section 206 projects are to be accomplished generally as the Section 1135 process is outlined. At the field level, we would welcome an expansion of small restoration projects; however, initial program implementation is subject to appropriation of $2 million in Fiscal Year 1998.

Section 207 allows the use of a disposal method that is not the least-cost option if the non-Federal sponsor consents and if the incremental costs are reasonable in relation to environmental benefits, including creation of wetlands and shoreline. The Division has supported beneficial use of dredged material and seeks opportunities to create new wetlands or enhance their value using this natural resource. This legislation would allow the Corps to select disposal methods beneficial to the environment rather than the least-cost option and provides us with a new tool to evaluate dredge and disposal projects.

Section 212 authorizes the Secretary of the Army to undertake investigations of innovative technologies that may lead to work under existing authorities or to recommendations for additional authorities. Fiscal Year 1998 funding of $1 million has been requested at the Washington level to initiate this provision. Initial focus of work will be in the development of cost-effective technologies and protocols for contaminated bottom sediment remediation associated with Corps navigation projects; development and demonstration of a state-of-the-art Watershed Management Support System, including advanced data acquisition and management systems, geoecophysical models, and decision support technologies; and development of technologies and guidance to support the. Environmental Protection Agency (EPA) Brownfields economic revitalization initiatives associated with Corps civil works projects. We welcome the development of these technologies which will assist us in accomplishing our planning, construction, and operational requirements.

Section 221 amends Section 22 of WRDA 1974 to expand the area in which the Corps is authorized to assist states and bring the full expertise of the Corps to bear on local problems. The section allows the Corps to include watershed and ecosystem planning. We look forward to assisting states with increased efforts and to use the talents of our environmental planners to solve local problems. Each District Engineer will see that the states for which he is responsible receive prompt and professional planning services. We have and will continue to place responsibility and encourage our Districts to contact and work with states to make this program more successful.

Section 232 requires that the Corps consider measures to preserve and enhance scenic and aesthetic qualities in the vicinity of civil works projects. Planning and policy guidance dealing with scenic and aesthetic resources has been in force for many years. Our engineers and planners are trained in analyzing and incorporating scenic and aesthetic values into our constructed landscapes. Incorporating environmental quality in project design is an important goal of the civil works program. Besides the numerous recreation areas at our lakes, perhaps our most well-known aesthetic feature is the flood wall in New Orleans which was designed such that many people wander in and out of the wall and do not even realize its function. Landscape architects on our District staffs assure the latest techniques are incorporated into our projects to achieve positive contributions to scenic and aesthetic quality.

Section 234 is a general authority and allows the Corps to accept and expend funds from other Federal agencies or international organizations to carry out interagency and international support. Although we have not yet received specific budget guidance on Section 234, the Division is very active in supporting interagency efforts. The Division staffs a full-time person with the Gulf of Mexico Program Office at the Stennis Space Center; is currently the Chair of Coastal America, Gulf Regional Implementation Team; and is executing the Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA) in coastal Louisiana with multiple Federal and state interests. We fully support and participate in the Upper Mississippi River Navigation Study and are developing information to begin to address the hypoxia issue, a mission we view as consistent with our new responsibility for the Mississippi River. We are active in supporting the Department of State and other international environmental efforts. We have hosted guests from the Near and Far East and have sent key staff to South America, China, and Japan to assist those countries in their water resource problems.

Section 532 modifies the CWPPRA to provide for a reduced non-Federal share of restoration projects to 10 percent in calendar years 1996 and 1997. This provision will not increase the Federal share of the CWPPRA projects as the Federal share is dependent on a fixed amount from the small-engine tax. The decreased cost share will apply to CWPPRA Priority Lists 5 and 6. To date, 68 projects have been authorized on five project priority lists. As the Federal agency with lead responsibility, we have and will continue to assure that this vital restoration program is given top priority.

Question 6. What impact do you expect the flooding in the Ohio River Valley to have on the Lower Mississippi River Valley? What measures are you taking/have been taken to prepare for possible future flooding?

Answer. Sir, runoff from the Ohio River flooding into the lower Mississippi River has resulted in record flood stages on the lower Mississippi River for this time of the year. Flood stages are higher than they were at this time of the year in 1927 when the record flood occurred which resulted in authorization of the MR&T project. The MR&T project is operating as designed. In March, we began initial preparation in case we might need to operate the floodway at New Madrid, Missouri. Fortunately, the stages began to recede so that operation of the floodway has not been necessary and unless we have additional heavy rainfall, will not be necessary. The Bonnet Carre Floodway above New Orleans was opened on 17 March to relive possible flooding and avoid levee failure in the vicinity of New Orleans. It has been necessary to do some emergency work to raise levees in some areas where grades are deficient and to control underseepage at many locations.

Although the project is functioning as designed to protect against flood levels experienced so far this year, there is extensive flooding in unprotected areas, and several areas protected by private levees which are not a part of the Federal systems are requiring extensive flood fighting.

The 1997 flood experience points to the necessity of continuing construction on the project as rapidly as resources permit as it is obvious that the project at the current stage of completion cannot safely pass the project design flood or even the record flood experienced in 1937.

We are hopeful that the river will continue to recede over the next few weeks prior to the normal period of higher floods in mid-April and May.

Question 7. What role will the Commission expect to play in defining future U.S. flood control policy?

Answer. Sir, there are many divergent opinions concerning the proper role of the Nation in flood control. Generally, it is my view that the Federal Government's responsibility should be to provide for the needs of people when local governments cannot or will not meet those needs.

Flood control needs on the Lower Mississippi River, extending into seven states and resulting from runoff from 41 percent of the United States, constitute an obvious national interest. Local governments could never have achieved the development of the comprehensive project without the engineering expertise of a Federal agency such as the Corps of Engineers and under the oversight of a group such as the Mississippi River Commission, which facilitates input from both Federal and local interests in implementation of the project.

The Mississippi River Commission is charged by law to recommend to the Chief of Engineers policies for implementing the Mississippi River and Tributaries project. The Administration over the years and the Congress have continued to recognize the unique nature and national interest in the improvement and maintenance of flood control and navigation systems on the Mississippi River. The continued existence and support of the Presidentially appointed Commission and confirmation by the Senate are evidence of the unique nature of the Mississippi River. Generally, the Commission is not considered as having a significant role in the establishment of national flood control policy as it is applied to more localized projects.

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ROOM 410 DIRKSEN BUILDING WASHINGTON, DC 20510

INFORMATION

REQUESTED OF PRESIDENTIAL NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to Honorable John H. Chafee, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC (Attn: Staff Director) as soon as possible.

Name of Nominee: ROBERT BERNARD FLOWERS

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LOWER MISSISSIPPI VALLEY
P.O. BOX 80
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VICKSBURG, MS 39180

Home Phone: (601) 636-6771

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Flowers (Last) Robert (First) Bernard (Middle)

Position to which nominated: President and Member, Mississippi River Commission **Date of Nomination:**

Date of birth: 09 July 1947 (Day) (Month) (Year) **Place of birth:** Kane, Pennsylvania

Marital status: Married **Full name of spouse:** Lynda Louise Kangas Flowers

Name and ages of children:

Robert Edward Flowers	26	07 February 1971
David Alan Flowers	24	21 January 1973
William Brett Flowers	22	27 July 1974
Matthew Bernard Flowers	17	11 August 1979

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Heidelberg American H.S.	9/61 to 6/65	H.S. Diploma	6/65
Virginia Military Inst.	8/65 to 5/69	B.S. Civil Eng	5/69
Univ. of Virginia	6/74 to 1/76	Masters, CE	1/76

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

7/69 - 10/69	Student	US Army Engr School	Ft. Belvoir, VA
10/69 - 12/69	Student	Airborne/Ranger School	Ft. Benning, GA
1/70 - 12/70	Platoon Ldr	94th Engr Bn, B Co.	Nellingen, Germany
1/71 - 12/71	Co. Cdr	94th Engr Bn, B Co.	Nellingen, Germany
1/72 - 11/72	BN S-3	94th Engr Bn	Darmstadt, Germany

Employment record—Continued

1/73 - 3/74	Dir. of Engrg	HQ US Army Support	Thailand
4/74 - 12/75	Student	Univ. of VA	Charlottesville, VA
1/76 - 9/76	Student	US Army Engr School	Ft. Belvoir, VA
10/76 - 8/80	Dist. Engineering	USAE Dist, Portland	Portland, OR
9/80 - 8/81	Adjutant	20th Engr Brigade	Ft. Bragg, NC
8/81 - 7/82	BN S-3	307th Engr Bn 82d Airborne Div	Ft. Bragg, NC
8/82 - 8/83	BN Exec Off	307th Engr Bn 82d Airborne Div	Ft. Bragg, NC
8/83 - 7/84	Student	US Army Cmd & Gen Staff College	Ft. Leavenworth, KS
8/84 - 6/85	Combat Developer	Combined Arms Combat Development Act.	Ft. Leavenworth, KS
6/85 - 6/87	Bn Cdr	307th Engr Bn 82d Airborne Div	Ft. Bragg, NC

Honors and awards: List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Legion of Merit

Bronze Star Medal

Joint Meritorious Service Medal

Meritorious Service Medal

Army Commendation Medal

Memberships: List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
Soc. of Am. Military Engrs	Reg. Vice Pres	8/95 to present
Soc. of Am. Military Engrs	Member	1985 to present
Assoc. of U.S. Army	Member	1985 to present
Army Engr Association	Member	1988 to present

Qualifications: *State fully your qualifications to serve in the position to which you have been named.*

I have been a U.S. Army Corps of Engineers officer for over 27 years. I have commanded at all levels from platoon through Division. I have dealt with the many public and private interests of the Lower Mississippi Valley for the past 18 months.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

N/A - Currently serving as Commander, Lower Mississippi Valley Division, and plan to continue my active duty as an officer in the U.S. Army.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

No plans.

3. Has anybody made a commitment to you for a job after you leave government?

No.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

N/A - Not a fixed term.

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No.

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

N/A - I have not previously held such a position.

Financial Statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

None.

3. Are any assets pledged? (Add schedule).

No.

4. Are you currently a party to any legal action?

No.

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes.

6. *Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?*

No.

Potential conflicts of interest:

1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, *whether for yourself or relatives, on behalf of a client, or acting as an agent,* that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None.

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

N/A - No conflict exists.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

(See attached statement of Division Ethics Counselor)

Political affiliation and activities: List all memberships and offices held in, or financial contributions (in excess of $1,000), and services rendered to any political party or election committee during the last 10 years.

None.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

None.

Additional Matters:

1. If there is any additional information which you believe may be pertinent to the *Members of the Committee in reaching their decisions, you may include that here.*

None.

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes.

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

No.

AFFIDAVIT

ROBERT B. FLOWERS) ss. being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Robert B. Flowers

Subscribed and sworn before me this 28 day of February, 1997.

Barbara R. Larson

Notary Public

My Commission Expires February 27, 1999

EMPLOYMENT RECORD (continued)

7/87 - 6/88	Student	National War College	Ft. McNair Washington, DC
7/88 - 6/90	Staff Officer	Joint Staff/Pentagon	Washington, DC
6/90 - 6/92	Brigade Cmdr	20th Engr Brigade	Ft. Bragg, NC
7/92 - 10/93	Dep Asst Cmdnt	US Army Engr School	Ft. Leonard Wood, MO
10/93 - 7/94	Dep Cmdg Gen	US Army Engr School	Ft. Leonard Wood, MO
7/94 - 8/95	Asst Div Cdr	2d Infantry Division	Korea
8/95-present	Cmdg General	US Army Engr Div Lower Miss. Valley	Vicksburg, MS

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