

HEARING ON THE NOMINATIONS OF MICHELLE
DePASS, CYNTHIA GILES, AND MATHY
STANISLAUS TO BE ASSISTANT ADMINISTRA-
TORS AT EPA

HEARING
BEFORE THE
COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

APRIL 28, 2009

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ONE HUNDRED ELEVENTH CONGRESS
FIRST SESSION

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**HEARING ON THE NOMINATIONS OF
MICHELLE DePASS, CYNTHIA GILES, AND
MATHY STANISLAUS TO BE ASSISTANT AD-
MINISTRATORS AT EPA**

TUESDAY, APRIL 28, 2009

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

The full committee met, pursuant to notice, at 10 a.m. in room 406, Dirksen Senate Office Building, Hon. Barbara Boxer (chairman of the full committee) presiding.

Present: Senators Boxer, Inhofe, Lautenberg, Klobuchar, and Whitehouse.

**OPENING STATEMENT OF HON. BARBARA BOXER,
U.S. SENATOR FROM THE STATE OF CALIFORNIA**

Senator BOXER. Good morning. Today, the Public Works Committee will consider three nominees for Assistant Administrator positions at the EPA. The three offices administered by these positions are central to the Agency's mission to protect the public health and to protect the environment.

Mathy Stanislaus has been nominated to be Assistant Administrator for the EPA's Office of Solid Waste and Emergency Response, which protects our families and communities from dangerous toxic wastes, including Superfund sites. The Nation's most heavily contaminated toxic waste sites are the Superfund sites. Mr. Stanislaus holds degrees in engineering and law, and he has more than 20 years of experience helping to ensure that toxic waste cleanups are done.

One in four people live within four miles of a Superfund site, including 10 million of our children. During the Bush administration, the pace of cleanups declined by 50 percent compared to the Clinton administration, from about 80 cleanups per year to less than 40. The Nation also has a cleanup backlog of more than 100,000 leaking underground storage tanks which can threaten drinking water supplies.

The GAO found that it could take \$12 billion in public funds to clean up these tanks. Cleaning up these sites not only protects public health and safety, but provides jobs and helps to revitalize local communities.

I look forward to hearing more about how Mr. Stanislaus will work to address these critical issues.

Michelle DePass is the nominee to be EPA Assistant Administrator for International Affairs. Her experience includes working as Environmental Compliance Manager in my home State for San Jose, California, and is a Senior Policy Adviser at the New Jersey Department of Environmental Protection. Most recently, she has worked as a Program Officer at the Ford Foundation.

EPA's Office of International Affairs works with other countries to address common threats to public health. In my State, which shares a border with Mexico, we worry about toxic waste sites and we worry about insufficient water treatment facilities and other environmental issues which pose health threats, and we know about the health threat facing us today in a different area.

International shipping also threatens the health of people in California's port communities, an issue that I am glad to see Administrator Jackson is taking steps to address.

We live in a world where solutions to serious health and environmental problems demand international cooperation, and I look forward to hearing from Ms. Giles about how she will approach these—why did I say Ms. Giles? That's wrong. I look forward to hearing from Michelle DePass—wrong—on how she is going to face these critical issues.

[Laughter.]

Senator BOXER. Cynthia Giles now is nominated to be Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance. She has more than 30 years of experience in environmental law as Assistant U.S. Attorney in Philadelphia from 1985 to 1990, and then at EPA's Region III, the New England Interstate Water Pollution Control Commission, and the Massachusetts Department of Environment Protection. Since 2005, she has been Vice President and Director of the Advocacy Center for the Conservation Law Foundation in Rhode Island.

The Office of Enforcement and Compliance Assurance is the safety net that backs up all of EPA's efforts to clean up the environment and protect public health. It not only helps facilities comply with safeguards, it also holds polluters accountable when they violate the safeguards that threaten public health.

The new Assistant Administrator for Enforcement and Compliance has a lot of work to do to restore the confidence inside the agency and among the public.

I want to say to each of you, congratulations on these nominations. You have the opportunity to rebuild the Agency's ability to safeguard communities, revitalize our economy, and restore the public's faith in the EPA. And we are fortunate to have such a strong group of nominees, and I really look forward to hearing about your plans to address these challenges.

With that, I call on the Ranking Member, Senator Inhofe.

**OPENING STATEMENT OF HON. JAMES M. INHOFE,
U.S. SENATOR FROM THE STATE OF OKLAHOMA**

Senator INHOFE. Thank you, Madam Chairman, and you started on time.

Senator BOXER. Yes.

Senator INHOFE. All right.

Senator BOXER. We do try.

Senator INHOFE. I know. I know.

First of all, I have had the honor of visiting with each of these nominees. I see one problem and that is everyone is from the same area of the Country. Now, you may like that, Senator Whitehouse, but you know, it wouldn't hurt to have a little diversity. I mentioned this when each one of you was in my office and I really believe that you are going to be looking at things from a perspective that is not all locked into the far northeast.

The EPA is grappling with policy decisions that could have serious impacts on rural America, and though not having a voice in the current Obama EPA, I hope the nominees will assure me today that they will bring balance to their decisionmaking, specifically by reaching out to rural communities and to seek their input.

In fact, it would be kind of a good idea maybe for each one of you in your opening statements to address that. I know that you have answered to my satisfaction in my office, but I think it is something that probably has not gone unnoticed.

I want to repeat a simple principle that I have been advocating my entire political career. We need to balance the environmental protection with concern over how decisions affect the economy and the people who run this great machine called America. Achieving this balance, as well as broadening the agency's geographical focus in decisionmaking will be essential in promoting our economic recovery.

Madam Chairman, I am looking forward to hearing from each of the nominees. Thank you.

[The prepared statement of Senator Inhofe follows:]

STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR
FROM THE STATE OF OKLAHOMA

Good morning. We are here today to consider three nominations for the Environmental Protection Agency: Michelle DePass for Assistant Administrator of the Office of International Affairs, Mathy Stanislaus for Assistant Administrator of the Office of Solid Waste and Emergency Response, and Cynthia Giles for Assistant Administrator of the Office of Enforcement and Compliance Assurance. I want to extend a welcome to all of you and your families here today.

I have had the pleasure of meeting with all three of these nominees, and I look forward to working with each of them. One thing that concerns me, however, is that the Obama EPA is becoming top heavy with nominees from one region of the country. Ralph Waldo Emerson once said, "Difference of opinion is the one crime which Kings never forgive." In our geographically diverse democracy, decisionmaking and policy at the Federal level are usually influenced by regional differences. I would argue this influence is a positive one. Unfortunately, I don't see this kind of regional diversity at the Obama EPA. Ms. DePass and Mr. Stanislaus are from New York City; Ms. Giles is from Rhode Island. That's fine, so far as it goes. Yet all three of these candidates are from urban centers on the East Coast. Couple these nominees with Gina McCarthy, who is from Massachusetts, and Administrator Lisa Jackson, who is from New Jersey, and you have an EPA team with little direct knowledge of the middle of the country. What is good for the East Coast is not necessarily good for the rest of the United States.

EPA is grappling with policy decisions that could have serious impacts on Rural America, though it will not have a voice in the current Obama EPA. I hope the nominees will assure me today that they will bring balance to their decisionmaking, specifically by reaching out to rural communities to seek their input. What you do at EPA is important to Oklahomans, Ohioans, Tennesseans, Minnesotans, and many other parts of the country. To be successful in formulating policy, to make it work for everyone, you must have a national perspective.

Finally, I want to repeat a simple principle that I have been advocating for my entire political career: we need to balance environmental protection with concern for how decisions affect the economy, and the people who run this great machine called

America. Achieving this balance, as well as broadening the agency's geographical focus in decisionmaking, will be essential in promoting our economic recovery.

Senator BOXER. Thank you so much, Senator.
Senator Klobuchar.

**OPENING STATEMENT OF HON. AMY KLOBUCHAR,
U.S. SENATOR FROM THE STATE OF MINNESOTA**

Senator KLOBUCHAR. Thank you very much, Madam Chair.

And thank you to the nominees. It is great to see you all here. I just want to say, listening to Senator Inhofe here, I found actually in our State that you can join this idea of environmental protection and furthering the economy. I was just sitting there listening and thinking of two examples in our State, one when I was a prosecutor like you, Ms. Giles. We did a lot with enforcing the rules in our county, not necessarily legal criminal actions, but making sure that we were cleaning up brownfields and some of the waste sites, and we were able to then have some very successful businesses that started on those sites.

The second example I would give you that is more rural, and I know you have been hearing from all of us the importance to look at the entire Country, and that is that the State of Minnesota spends \$50 million a year, or our visitors do, on worms and bait for fishing. And I use that as an example because keeping our waters clean in Minnesota actually promotes our economy because we have people visiting that want to fish and hunt in our State. So we see this clear connection between having a cleaned up environment and furthering our economy in our State.

A few other things just to think about, as Senator Inhofe was mentioning, some of the issues across the Country. Our State is one of the cleanest and leanest States. We have the second highest recycling rate of any State in the Country and we recently created the first e-waste recycling law in the Country which is worth looking at.

This just passed in 2007 and it requires all manufacturers of video monitors to register to the State and to facilitate the collection and recycling of consumer products. The law ensures that televisions and computer monitors which may contain hazardous, yet valuable material, stay out of our landfills and instead are safely reprocessed.

With nearly 200 recycling sites statewide, over 33 million pounds of waste have been collected since the enactment of our law, and the numbers have exceeded expectations.

As I said, we see this as a way to compete internationally. We have one of the most aggressive mercury cleanup and mercury bans in the Country in our State, bipartisan with a Republican Governor signing that into law. And we have seen these issues in our State in a more bipartisan way, which I think has been very helpful.

So just a few things to think about as you go through your hearing. Again, I want to congratulate you and look forward to working with you as a Member of this Committee.

Thank you.

Senator BOXER. Thank you.
Senator Whitehouse.

**OPENING STATEMENT OF HON. SHELDON WHITEHOUSE,
U.S. SENATOR FROM THE STATE OF RHODE ISLAND**

Senator WHITEHOUSE. Thank you, Chairman Boxer. Thank you for holding this important hearing today to consider the nomination of these three very well qualified individuals to fill key positions over at EPA.

Madam Chair, I am especially pleased to introduce today Ms. Cynthia Giles, who is from my home State of Rhode Island. As the nominee for Assistant Administrator for Enforcement and Compliance Assurance.

The Ranking Member, Senator Inhofe, may see a phalanx from the far northeast here, but from Rhode Island, we don't often get Presidential nominees. We are a small State.

[Laughter.]

Senator WHITEHOUSE. So I am just very, very pleased and proud, and I want to recognize in the audience her husband, Professor Carl Bogus from the very renowned Roger Williams University School of Law in Rhode Island. So this is a happy day for us here in Rhode Island.

I have known and worked with Cynthia for many years and have seen first-hand her leadership in the Ocean State on many critical environmental issues, including clean energy and climate change, water pollution and water resource management, and State Environmental Agency performance.

Over many years, she has repeatedly proven herself to be a vigorous, successful and politically savvy advocate for the public good, and she will undoubtedly be an outstanding member of the President's environmental team. Her broad experience and success in protecting human health, the environment and effective environmental enforcement is evident. She spearheaded efforts in Rhode Island leading to the successful passage and implementation of RGGI, the Regional Greenhouse Gas Initiative, a regional cap and trade program aimed at reducing greenhouse gas emissions from electric generating facilities; by the way, with strong support from the electric generating industry.

Additionally, with her leadership, Rhode Island adopted the California, or as we call it, the Rhode Island greenhouse gas emission standard for cars, and successfully defended these rules in Federal court last year.

These are just a few of many examples demonstrating Cynthia's willingness to create, implement and enforce much-needed environmental change and to facilitate cooperation between EPA and State and local governments and communities.

She is actively involved in the Rhode Island community, teaching as an Adjunct Professor of Environmental Law at the Roger Williams University School of Law in Bristol, Rhode Island; serving as a Director of the Rhode Island chapter of the Conservation Law Foundation; and chairing the Rhode Island chapter of the Sierra Club.

She has demonstrated strong and effective commitment to education, community outreach and collaboration to develop environmental policies that work. She has also previously served within the EPA at the Region III office in Philadelphia, Pennsylvania,

helping EPA enforce Federal laws and assisting Region III States to implement those laws and regulations.

Prior to that, she served in an office I hold dear, that of an Assistant United States Attorney, also in Pennsylvania, focusing again on environmental enforcement activities. She is a graduate of Cornell University, holds a law degree from the University of California at Berkeley, and a master's in public policy from the Harvard University Kennedy School of Government.

Cynthia's career has been a clear testament to her desire to use her abilities for the greater good. She possesses a strong sense of purpose, strength of character, and the utmost integrity. She is eminently qualified for this position, and I am delighted to support her.

I would add in closing that enforcement, fair and reliable, supports America's business community in adhering to environmental requirements and protecting those who play by the rules from those who seek unfair competitive advantage by cheating on the environmental laws that Congress has established.

I look forward to working with her through her nomination and I look forward to seeing her be an active, fair and sensible enforcement voice for the Environmental Protection Agency.

Thank you very much, Madam Chair.

Senator BOXER. Well, you couldn't have made a stronger case, so thank you for that.

I ask unanimous consent that a statement from Senator Schumer on behalf of Ms. DePass and Mr. Stanislaus be submitted for the record.

Without objection, so ordered.

[The referenced material was not received at time of print.]

Senator BOXER. So now we are going to turn to our three nominees. We will start with Mr. Stanislaus, who is nominated to be Assistant Administrator for Solid Waste and Emergency Response at the EPA.

STATEMENT OF MATHY STANISLAUS, NOMINATED TO BE ASSISTANT ADMINISTRATOR FOR SOLID WASTE AND EMERGENCY RESPONSE, ENVIRONMENTAL PROTECTION AGENCY

Mr. STANISLAUS. Thank you, Madam Chairman.

Please allow me to first express my gratitude to Chairman Boxer and Ranking Member Inhofe for holding this hearing, to all Members of the Committee for their thoughtful statements, and for those of you who took the time to meet with me over the past few weeks.

If I may, Madam Chairman, I would like to introduce my wife, Suganthi Siva and my parents who immigrated to this Country to provide the very kind of opportunity that I am being presented with here today.

Senator BOXER. We would love them to stand. Very nice to see you all. Thank you for being here.

Mr. STANISLAUS. And of course, I don't want to forget and recognize my mother-in-law who is also here.

Senator BOXER. Oh, no.

[Laughter.]

Senator BOXER. Hi. Special welcome.

Mr. STANISLAUS. As well as my sister, brother-in-law and friends who have taken the time to come out to support me and experience this experience with me.

I also want to especially recognize two of the young people who promised to come out and support me and write school reports, my nieces Faith and Kelsey.

Senator BOXER. Well, would you stand up, girls? It is very nice to see you. There they are. Thank you for being here.

Mr. STANISLAUS. I am deeply honored that President Obama has nominated me for the position of United States Environmental Protection Agency Assistant Administrator for the Office of Solid Waste and Emergency Response. If confirmed, it would be a privilege to work with and for Administrator Lisa Jackson to protect human health and the environment.

President Obama and Administrator Jackson have affirmed two core values for EPA to uphold during this Administration: scientific integrity and the rule of law. As both environmental lawyer and a chemical engineer, I understand, like President Obama and Administrator Jackson, and believe that science and the law must be the foundation for sound environmental decisions. I pledge to uphold to this commitment.

The President's commitment to the rule of law is a hallmark of a principled regulatory agency. EPA needs to exercise its policy discretion in good faith and in keeping with congressional and court directives. I respect this Committee for its diligent efforts to hold EPA to the rule of law and I pledge to uphold this principle every day if I am confirmed.

I started my career as Assistant Regional Counsel in 1988 for the EPA in its New York Regional Office, focusing on the Superfund Program and leading the implementation of the newly enacted Emergency Planning and Community Right to Know Act.

Since then, I have worked in the private sector, as an adviser to EPA and the United Nations. I have testified at congressional hearings, and I am currently co-director of New Partners for Community Revitalization, a not-for-profit brownfields development organization.

Based on my 20 years of work in brownfields, Superfund and solid waste programs, I believe that the lack of transparency and participation from communities in government decisions have resulted in a legacy of decisions that have left certain communities being burdened by contaminated sites and waste facilities.

I strongly believe that the solution to addressing this failure requires engaging all stakeholders and ensuring transparency in decisionmaking. In particular, I believe that it is critical that government take the extra effort to provide access and information to those in our society who are most burdened by pollution.

There is an opportunity to address both the public health and economic burdens of contaminated sites and waste facilities. A key principle to the challenges of contaminated sites and solid waste facilities is the forging of a common agenda and partnerships among diverse stakeholders, including environmental justice organizations, local governments, not-for-profit brownfields organizations, businesses, developers and financiers.

While I may be from the northeast, I can assure you that I will work throughout the United States to achieve that goal and will also work with rural governments to further that goal.

In conclusion, if confirmed, I pledge to uphold the laws by which the EPA is directed, to conduct the affairs of the office in a transparent and open manner, to be responsive to the inquiries of this Committee and Congress, and to uphold the mission of the EPA to protect human health and the environment.

Thank you.

[The prepared statement of Mr. Stanislaus follows:]

**Statement of Mathy Stanislaus
Hearing on Nominations
Committee on Environment and Public Works
United States Senate**

Thank you, Madam Chairman.

Please allow me to first express my gratitude to Chairman Boxer and Ranking Member Inhofe for holding this hearing to all Members of the Committee for their thoughtful statements; and to those of you for taking the time to meet with me over the past weeks.

If I may, Madam Chairman, I would like to introduce my wife, Suganthi Siva, and my parents who immigrated to this country to provide the very kind of opportunity that I am being presented with here today.

I am deeply honored that President Obama has nominated me for the position of United States Environmental Protection Agency (EPA) Assistant Administrator for the Office of Solid Waste and Emergency Response. If confirmed, it would be a privilege to work with and for Administrator Lisa Jackson to protect human health and the environment.

President Obama and Administrator Jackson have affirmed two core values for EPA to uphold during this Administration: scientific integrity and the rule of law. As both an environmental lawyer and a chemical engineer, I understand and – like President

Obama and Administrator Jackson – believe that science and the law must be the foundation for sound environmental decisions. I pledge to uphold to this commitment.

The President's commitment to the rule of law is the hallmark of a principled regulatory agency. EPA needs to exercise its policy discretion in good faith and in keeping with Congressional and court directives. I respect this Committee for its diligent efforts to hold EPA to the rule of law, and I pledge to uphold this principle every day if I am confirmed.

I started my career as Assistant Regional Counsel in 1988 for the EPA in its New York regional office focusing on the Superfund program and leading the implementation of newly enacted Emergency Planning and Community Right to Know Act (EPCRA). Since then I worked in the private sector, as an advisor to the EPA, Congress and the United Nations and currently co-direct New Partners for Community Revitalization, Inc., a not-for-profit brownfield development organization.

Based on my 20 years of work in brownfields, Superfund and solid waste programs, I believe that lack of transparency and participation from communities in government decisions have resulted in a legacy of decisions that have left certain communities being burdened by contaminated sites and waste facilities.

I strongly believe that solution to addressing this failure requires engaging all key stakeholders and ensuring transparency in decision-making. In particular, I believe that it

is critical that government take the extra effort to provide access and information to those in our society who are most burdened by pollution.

There is an opportunity to address both the public health and economic burdens of contaminated sites and waste facilities. A key principle the challenges of contaminated sites and solid waste facilities is the forging of a common agenda and partnerships among diverse stakeholders including environmental and environmental justice organizations, local governments, not-for-profit brownfields organizations, businesses, developers and financiers.

In conclusion, if confirmed, I pledge to uphold the laws by which the EPA is directed, to conduct the affairs of the office in a transparent and open manner, to be responsive to the inquiries of this Committee and Congress and to uphold the mission of the EPA – to protect human health and the environment.

**Senate Environment and Public Works Committee Hearing
April 28, 2009
Follow-Up Questions for Written Submission**

Questions for Mathy Stanislaus

Questions from:

Senator Barbara Boxer

1) Mr. Stanislaus, on March 9, 2009, President Obama issued a Presidential Memorandum on Scientific Integrity that seeks to "restore scientific integrity in government decision making". According to the Administration, using science to help the Administration achieve its goals "requires that the Administration's decision about public policy be guided by the most accurate and objective scientific advice available."

If confirmed, do you commit to use, and ensure that personnel at the Office of Solid Waste and Emergency Response use, the most accurate and objective scientific advice available, even if that advice comes from other state or federal agencies?

Yes

2) Mr. Stanislaus, on January 23, 2009, Administrator Jackson issued a memo to all EPA employees stating, "The President believes that when EP A addresses scientific issues, it should rely on the expert judgment of the Agency's career scientists and independent advisors. When scientific judgments are suppressed ... American's can lose faith in their government to provide strong public health and environmental protection."

If confirmed, do you commit to ensure that you and personnel at the Office of Solid Waste and Emergency Response will not attempt to suppress or otherwise inhibit any federal scientist from providing their scientific opinions or advice to members of Congress or their staff?

Yes

3) Mr. Stanislaus, on April 23, 2009, Administrator Jackson issued a memorandum to all EPA employees titled, "Transparency in EPA's Operations". In this memorandum Administrator Jackson stated: "I am relying on EPA employees to use their good judgment to conduct themselves with the openness and integrity that along can guarantee public trust in EPA."

If confirmed, do you commit to ensure that you and personnel at the Office of Solid Waste and Emergency Response will promote a transparent exchange of relevant scientific information in EP A decision making?

Yes

4) Mr. Stanislaus, on April 23, 2009, Administrator Jackson issued a memorandum to all EPA employees titled, "Transparency in EPA's Operations". In this memorandum Administrator Jackson stated: "I recognize the importance of Congressional oversight and encourage our programs to provide Congress with the information necessary to satisfy its oversight and legislative interests to the extent possible and consistent with our Constitutional and statutory obligations ... Nothing contained in this memorandum interferes with your right to ... furnish information to Congress or a Member of Congress, as provided under applicable law ..."

If confirmed, do you commit to ensure that you and personnel at the Office of Solid Waste and Emergency Response will not seek to suppress or otherwise inhibit scientists for providing their scientific opinions or advice to Congress, a Member of Congress, or their staff?

Yes

5) In a speech announcing the Administration's scientific integrity policy on March 9, 2009, President Obama stated: "Promoting science isn't just about providing resources - it is also about protecting free and open inquiry. It is about letting scientists ... do their jobs, free from manipulation or coercion, and listening to what they tell us, even when it's inconvenient - especially when it's inconvenient."

If confirmed, do you commit to support the freedom of EPA scientists to openly discuss and debate scientific findings and issues, both in the course of agency decision-making and when speaking to Congress, Members of Congress and staff for Members of Congress?

Yes

6) Mr. Stanislaus, in one of EPA Administrator Lisa Jackson's first memos to her staff on January 23, 2009, she said: "EPA's strength has always been our ability to adapt to the constantly changing face of environmental protection Now, more than ever, EPA must be innovative and forward looking because the environmental challenges faced by Americans all across our country are unprecedented."

If confirmed, do you commit to actively encourage a free, open flow of scientific ideas and debate across federal agencies in order to help the federal government analyze and develop innovative solutions to environmental challenges facing our nation?

Yes

7) Mr. Stanislaus, in regards to the ongoing cleanup of the Tennessee Valley Authority's coal-ash disaster on the Emory River in Harriman, TN, do you commit to an oversight

approach that will consider and explore new approaches and information in a forward-looking effort to provide the most protection for the environment?

Yes

8) Mr. Stanislaus, in regards to the ongoing cleanup of the Tennessee Valley Authority's coal-ash disaster on the Emory River in Harriman, TN, do you commit to ensuring that known heavy metal contaminants associated with coal, including selenium, are thoroughly investigated and assessed to address a range of possible impacts to wildlife and the ecosystem from a potentially large selenium release into the river?

Yes

9) Mr. Stanislaus, the nation has over 100,000 leaking underground tanks with dangerous contaminants that can threaten drinking water supplies.

A 2007 Government Accountability Office report on EP A's tank cleanup program made four recommendations, including a better focus on "how EP A distributes program resources to states."

If confirmed, do you commit to update my staff with on EP A's implementation of these recommendations?

Yes

10) Mr. Stanislaus, according to a 2008 Government Accountability Office report, the Department of Defense has 140 Superfund sites. Among other things, the report recommends that DOD's enter into interagency cleanup agreements to help ensure an orderly cleanup process.

If confirmed, do you commit to provide my staff with the status of achieving such agreements at DOD sites? And, do you also agree to work with my staff in following up on the GAO's recommendations?

Yes

11) In 2005, the Government Accountability Office recommended that EP A "expeditiously implement the statutory mandate under Superfund to develop financial assurance regulations for those businesses EPA believes pose the highest level of risk for financial assurance failure." A federal court recently ordered EP A to provide information describing the businesses that would fall under such financial assurance regulations.

If confirmed, do you commit to brief my staff prior to submitting the information to the court but no later than May 22, 2009 on the criteria and data that EP A is using to create the information that is responsive to the court's order?

I appreciate your interest in the important issue of financial assurance under CERCLA. I understand that EPA is involved with ongoing litigation and is working to respond to the court's order, but I am unable to discuss details of this particular case. If confirmed, I will look into this issue and will ensure that EPA will continue to update your staff about this matter.

Questions from:

Senator James M. Inhofe

1. Are Brownfields currently being sold after redevelopment even as residential real estate is struggling to be sold?

My understanding is that brownfield transactions and redevelopments are being impacted similarly to other real estate projects due to the current challenge to finance projects.

2. What has been the impact of the nation's economic crisis on the funding of Brownfields redevelopment?

My understanding is that brownfield transactions and redevelopments are being impacted similarly to other real estate projects due to the current challenge to finance projects.

3. Is available private capital for Brownfields redevelopment drying up?

My understanding is that brownfield transactions and redevelopments are being impacted similarly to other real estate due to the challenge of financing, both from public and private sources.

4. Please list all Brownfields projects that you have worked on or been involved with as Co-Director of New Partners for Community Revitalization, as CEO of Allegiance Resources, as Director of Environmental Compliance at EnviroSciences, as Adjunct Professor at the Pratt Institute, and as a board member of New York City Environmental Justice Alliance and UPROSE.

*Public Place Site, Brooklyn, New York
Starlight Park Site, Bronx, New York
Erbograph Building, Manhattan, New York
Atlantic Terrace Site, Brooklyn, New York
1776 Southern Boulevard, Bronx, New York
Salvation Army/St. Vincent's Hospital Project, Staten Island, New York
Willets Point, Flushing, New York
152 East 118 Street, Manhattan, New York
126th Street/2082 & 2890, Manhattan, New York
UFI Site, Jamaica Avenue, Richmond Hill, Queens, New York*

*Stanley Commons, Brooklyn, New York
457-469 148th Street, Bronx, New York
"La Terraza: Cornerstone Site B-1, 3100 Third Avenue, Bronx, New York
Hickory Woods, Buffalo, New York*

5. Please list all New Jersey Brownfields that you have been hired as a consultant for in the past ten years.

None

6. What will you do to reduce the current backlog of National Priority List sites?

EPA has a statutory obligation to advance the cleanup of Superfund sites as expeditiously as possible. I will make this one of my priorities.

7. Will the current condition of our economy impact how you will manage environmental cleanups?

EPA has a statutory obligation to protect public health and the environment. My understanding is that EPA is proceeding forward on environmental cleanups with the allocation of funds from the Recovery Act and appropriations.

8. EPA currently encourages the use of coal combustion products in concrete, road base, and embankments for highway construction projects. If confirmed, will you encourage the use of coal combustion products? Please explain how you will accomplish this.

I understand that coal combustion products have been successfully beneficially used for uses such as concrete and road aggregate. This has resulted in reduced disposal costs and reduced energy cost. I will continue to encourage the beneficial use of coal combustion products.

9. During your April 28, 2009 nomination hearing you stated that you plan to engage all stakeholders and increase transparency in federal efforts to clean up Superfund sites. Please explain how you intend to accomplish this if you are confirmed.

If confirmed, I will continue my practice to outreach to all stakeholders to solicit their views prior to EPA decisions using the most appropriate methods for soliciting information from each stakeholder including meetings, workshops, forums, focus groups, surveys, and roundtables. I will seek to have EPA develop progress milestones in consultation with stakeholders and timely and regularly disclose progress toward achieving the milestones.

10. During your April 28, 2009 nomination hearing you pledged that you will consider the interests of Rural America if confirmed. Please list your experience with rural issues. Are there any parallels from your environmental justice background with your rural experience?

Based on my work with small towns and my work on environmental justice, a common issue is the lack of capacity. In addition, a common issue that has been identified in my work with small towns is to need to protect agricultural lands, as well as minimize the impacts from such lands. If confirmed, I will seek to have EPA identify and implement the extra steps necessary to ensure that representatives of Rural America participate in and have their issues incorporated into EPA's decisions.

11. Please state your position on combined animal feeding operations.

I recognize that combined animal feeding operations serve an important agricultural purpose. I will seek to ensure that these operations comply with public health and environmental protection statutory obligations in a manner that the economic value of these operations are maintained.

12. If confirmed, how will you address the challenge of cleaning up contaminated sites with increasingly tight budgets and a growing number of bankrupt companies that cannot pay for the cleanup?

EPA has a statutory obligation to advance the cleanup of Superfund sites as expeditiously as possible. I will make this one of my priorities. I will examine a number of methods to advance the cleanup of contaminated properties including enhanced project performance measures, and contractor and financial oversight.

13. During your April 28, 2009 nomination hearing you stated that you support President Obama's effort to reinstate the Superfund tax. Do you believe that polluters already pay for the sites they contaminated?

Superfund requires that parties that are found to be responsible for contamination at a Superfund site pay for their share of the cleanup cost.

14. Do you intend to focus EPA resources on communities that are disproportionately affected by contaminated lands?

It is my understanding the EPA resources must be allocated based on statutory obligations. I will uphold this obligation. As I stated at the April 28, 2009 hearing, EPA should take the extra effort to provide access and information to those in our society who are most burdened by pollution.

15. All of the Obama EPA nominees that have come before the committee are from urban areas on the east coast. If confirmed, will you include rural and other parts of the United States that are geographically different than the East Coast in your efforts to bring diverse stakeholders together? Please explain how you will do this.

Yes – I will include stakeholders from throughout the United States, including Rural America. I will do this by conveying to EPA staff that outreach and consultation must

include representatives from diverse geographical areas of the United States and the unique issues of Rural America are included in EPA decisions.

16. During your April 28, 2009 nomination hearing you stated that it "is critical that government take the extra effort to provide access and information [...]" President Obama pledged that transparency will be a major focus of his administration. How will you provide the public with access to information and increase transparency in the Office of Solid Waste and Emergency Response?

To further President's pledge, EPA Administrator Jackson made the following commitment her January 23, 2009 memo to EPA's employees: " Public trust in the Agency demands that we reach out to all stakeholders fairly and impartially, that we consider the views and data presented carefully and objectively, and that we fully disclose the information that forms the bases for our decisions. I pledge that we will carry out the work of the Agency in public view so that the door is open to all interested parties and that there is no doubt why we are acting and how we arrived at our decisions." I pledge to uphold this commitment by seeking the methods to provide access to information on all of the programs and transparency on decisions within the Office of Solid waste and Emergency Response with a special focus on providing access to the disenfranchised in our cities and rural areas, communities of color, native Americans, people disproportionately impacted by pollution, and small businesses, cities and towns working to meet their environmental responsibilities.

17. During your April 28, 2009 nomination hearing you stated that "scientific integrity" will be a core value for EP A to uphold during the Obama Administration. Please explain how you will uphold this value at the Office of Solid Waste and Emergency Response if confirmed.

I will ensure that scientific data and analysis are the basis for decisions by Office of Solid Waste and Emergency Response. I will ensure that Office considers scientific data and analysis developed by other agencies and parties, as well as those developed by EPA, in its decisions.

18. Do you have any connection to the Gowanus Canal or conflict of interests in regards to this project? Do you support it being listed as a Superfund site? What impact would the Superfund designation have on the surrounding properties? If designated as a NPL site, how long would you estimate the cleanup will take?

I do not have a direct connection with the Gowanus Canal. However, NPCR has provided technical assistance in connection with the proposed redevelopment of the Public Place Site, which is located immediately adjacent to the Gowanus Canal. At this point, I cannot state specifically what the impact of the Superfund designation will be on the surrounding properties, or how long the cleanup will take.

19. During your April 28, 2009 nomination hearing you stated that you did not know that the Youth Ministries for Peace and Justice (YMPJ) received a grant from Venezuelan dictator Hugo Chavez. YMPJ is a member of the New York City Environmental Justice Alliance (NYCEJA), which you currently serve as Co-chair and member of the Board of Directors. This information was obtained from a New York Times article dated October 27, 2007, which can be found here:

<http://query.nytimes.com/gst/fullpage.html?res=9405E4DC 133BF932A 15753 C 1 A9619C8B63&n=Top/Reference/Times%20Topics/People/B/Bamard.%20Anne&pagewanted=2>). As part of your duties as Co-chair and board member of the NYCEJA Board of Directors, should you have known about the grants made to NYCEJA members from Venezuelan dictator Hugo Chavez, especially considering it was reported by the New York Times?

As a NYCEJA Board Member, I am not privy to the finances of YMPJ.

20. Do you think that soliciting and accepting gifts from an avowed enemy of the United States of America is acceptable?

No

21. Are the members of NYCEJA that received Venezuelan dictator Hugo Chavez gifts required to pay taxes on such gifts?

I am not aware of gifts to NYCEJA member organizations, nor their tax treatment.

22. Are the members of NYCEJA that received Venezuelan dictator Hugo Chavez gifts required to pay federal taxes on such gifts?

I am not aware of gifts to NYCEJA member organizations, nor their tax treatment.

23. Were you at The Point CDC when Venezuelan dictator Hugo Chavez visited the Bronx to hear solicitations from local community groups?

No

24. Were any NYCEJA member groups at The Point CDC meeting soliciting gifts from Venezuelan dictator Hugo Chavez?

I was not present.

25. What personal and professional connections do you have to YMPJ?

YMPJ Executive Director Alexie Torres Fleming is on the board of New Partners for Community Revitalization, Inc., of which I am co-director. YMPJ is a member organization of the New York City Environmental Justice Alliance. I served as a

technical consultant to YMPJ with respect to reviewing the investigation and cleanup of the Starlight Park Manufactured Gas Plant Site, Bronx, New York.

26. As Co-Director at New Partners for Community Revitalization, Inc. (NPCR), does any of your NPCR staff have connections to YMPJ?

YMPJ Executive Director Alexie Torres Fleming is on the board of New Partners for Community Revitalization, Inc. NPCR provides technical assistance resources to YMPJ to address brownfields projects.

27. Do you serve, or have you served, on any board of directors with YMPJ, and if so, for how long?

Alexie Torres Fleming of YMPJ has served on NPCR's Board for approximately three years and representatives of YMPJ have served on the board of the New York City Environmental Justice Alliance for approximately 10 years.

28. Have you worked with the Bronx River Alliance, and if so, please describe the extent of your involvement with them?

I have not worked directly with the Bronx River Alliance. The Bronx River Alliance has attended meetings that I was present regarding the cleanup of the Starlight Park Manufactured Gas Plant Site.

29. You are listed on the NYCEJA website as a board member of YMPJ. You have disputed this. On the NYCEJA website, as of April 28, 2009, you are listed as co-chair of the group (<http://www.nyceja.org/aboutus.html>). Please explain why this website is in error. Also, please provide me a copy of the tax returns from YMPJ from tax years 1994 - 2008.

I served as co-chair of NYCEJA. The affiliation of YMPJ was due to me being the designated representative on the NYCEJA board to address environmental justice issues identified by the organization. I do not have access to tax returns from YMPJ.

30. You were a member of Ilankai Tamil Sangam for nearly 20 years. At one time you also served as Vice President of the organization. Are you aware, or were you aware during your tenure as Vice President, and as a member of Ilankai Tamil Sangam, that the organization did fundraising for the Liberation Tigers of Tamil Eelam (LTTE)?

During my affiliation with Ilankai Tamil Sangam, I am not aware that the organization ever did any fundraising for the LTTE.

31. Do you agree with the State Department's decision in 1997 to designate the Liberation Tigers of Tamil Eelam (LTTE) as a terrorist organization?

I have no basis on which to evaluate the State Department's decision,

32. Do you agree with former Sri Lankan Ambassador Bernard Goonetilleke's statement to the New York Times on October 24, 2006, when he said "the Tamil Rehabilitation Organization and the Federation of Tamil Sangams of North America are well documented as LT.T.E. fund raising fronts"?

I have no knowledge of the basis for this statement

33. Do you agree with Sri Lankan Foreign Minister Rohitha Bogollagama when he said on March 17, 2007 in a Boston Globe article that America needs to closely scrutinize Tamil charities, especially the Federation of Tamil Sangams of North America?

I believe that all charities should be closely scrutinized with respect to compliance with their legal obligations.

34. Is the Ilankai Tamil Sangam a part of the Federation of Tamil Sangams?

Based on my review of the Federation of Tamil Sangams' website, Ilankai Tamil Sangam is listed as a member.

35. Please list all fundraisers that you either organized or participated in that were connected to the Ilankai Tamil Sangams from 1980 -2009.

In 1983, I assisted at a booth at the India Day parade in New York City that sold food and drinks. The proceeds were provided for refugee rehabilitation efforts.

36. Please list all donations that you have made to the Ilankai Tamil Sangam and any other member group of the Federation of Tamil Sangams of North America and include the amount and date.

The only financial contribution was to purchase tickets at Ilankai Tamil Sangam annual meeting/cultural events that I attended. I also paid membership dues from approximately 1980 to 1999.

37. On your EPW questionnaire form, you list that your membership concluded in 1999. Does this mean that you have had no association with the Ilankai Tamil Sangam from 1999 to present day?

Since 1999, I have attended the annual cultural event several times.

38. Please list the reason for not continuing your membership in the Ilankai Tamil Sangams.

I could not dedicate the time to participate regularly in its meetings.

39. Have you ever raised or donated money to the LTTE?

No.

40. Your EPW questionnaire did not list your association with the Organization for Waterfront Neighborhoods (OWN). Please explain why this was omitted.

I served as a technical advisor to OWN, not as a member.

41. Please describe the extent, if any, of your financial relationship with OWN.

ARC was hired as technical advisor and conducted a technical analysis of the New York City Department of Sanitation Commercial Waste Study in 2004.

42. Please explain how OWN operates and its connection to other groups.

In my role as technical advisor, I am aware that OWN developed policy platforms for the equitable handling of municipal solid waste in consultation with its member organizations.

43. Have you ever worked with or for Rocking the Boat?

No.

44. Your EPW questionnaire did not list your association with the Brooklyn Solid Waste Advisory Board. Please explain why this was omitted.

I have not served on the Brooklyn Solid Waste Advisory Board. During the course of my work in addressing solid waste, I am certain that I have spoken to members of the Board.

45. Your EPW questionnaire did not list your association with a group called the Concerned Residents of Soundview. Please explain this omission. Please describe any litigation or financial transactions you or groups you were or are connected to received from this group.

Allegiance Resources Corporation (ARC) performed an independent technical review on behalf of the Concerned Residents Committee located in Soundview, Bronx, New York. The task involved the review of investigation and cleanup of Soundview Educational Complex at 1440 Story Avenue, Soundview, Bronx, New York. ARC was paid by the New York City School Construction Authority, not by the Concerned Residents Committee of Soundview.

46. Your EPW questionnaire did not list your association with the East River Environmental Coalition. Please explain this omission. Please describe any litigation or financial transactions you received from this group.

ARC provided independent technical services to the East River Environmental Coalition with respect to a proposed expansion of a Con Edison power plant in Manhattan, New

York. ARC was compensated through a funding mechanism established by the New York State Public Service Commission and funded by Con Edison.

47. While serving on the Board of Directors for UPROSE, did you receive any financial compensation from UPROSE?

No

48. Did NYCEJA ever compensate you as an advisor or consultant for work on other projects with other groups or coalitions?

No

49. Please list all projects that NPCR, NYCEJA, UPROSE, ARC, YMPJ, The POINT CDC or any other group or project that you have been associated with that has applied for federal appropriations.

NPCR had applied for appropriations for brownfields training and technical assistance to Senator Clinton and Congresswoman Velazquez in 2008 that was not funded. NPCR has a pending appropriations request for brownfields training and technical assistance to Senator Gillibrand and Congresswoman Velazquez in 2009. during my service on NYCEJA and UPROSE's boards, there had been no federal appropriations to these organizations. Arc has not received a federal appropriation. I have no personal knowledge of federal appropriations to YMPJ or The point CDC.

50. On your EPW questionnaire you are listed as CEO of Allegiance Resources Corporation (ARC). What is Stephen Fleischacker's title at ARC? Have you worked with him before ARC? Will your relationship with Mr. Fleischacker create any conflicts of interest?

Mr. Fleischacker's served as Chief Operating Officer of ARC until June 2005. I have previously worked with him at Enviro-Sciences, Inc. from 1/1996 to 7/2001. My relationship with Mr. Fleischacker will not create a conflict of interest.

51. What advocacy role did you have while with UPROSE and what involvement did you have in EPA's award to the group for defeating the Sunset Energy 520 megawatt plant?

I served as a technical advisor and conducted analysis of the proposed power plant project.

Senator BOXER. Thank you.

Cynthia Giles, nominated to be Assistant Administrator for Enforcement and Compliance Assurance, EPA.

STATEMENT OF CYNTHIA GILES, NOMINATED TO BE ASSISTANT ADMINISTRATOR FOR ENFORCEMENT AND COMPLIANCE ASSURANCE, ENVIRONMENTAL PROTECTION AGENCY

Ms. GILES. Thank you, Madam Chairman.

I would first like to take the opportunity to thank you and Ranking Member Inhofe for holding this hearing, and Senator Whitehouse for his very kind introduction.

This is my husband, Carl Bogus, who is here, who was already introduced by Senator Whitehouse.

Senator BOXER. Would you stand up, sir? Welcome.

Ms. GILES. And two of my sisters, Andrea and Marilyn.

Senator BOXER. Please stand. Welcome.

Ms. GILES. I am honored to be nominated.

Senator BOXER. How many sisters do you have?

Ms. GILES. I have three sisters.

Senator BOXER. That is nice. Any brothers?

Ms. GILES. No.

Senator BOXER. OK. Just checking it out.

Ms. GILES. I am honored to be nominated to assist Administrator Jackson in the vital mission of the Environmental Protection Agency, and I thank her and President Obama for offering me this opportunity to serve.

I have had the privilege of being a public servant both with State government and Federal Government, including EPA. I served as an Assistant United States Attorney in Philadelphia, where I represented the United States in suits to enforce Federal environmental laws. And I served in several positions within EPA Region III managing programs, lawyers, and the EPA Enforcement Program for Maryland, Delaware, Pennsylvania, Virginia, West Virginia and the District of Columbia.

After moving to New England, I served as the head of the Water Program in the Massachusetts Department of Environmental Protection. I have also worked in the private sector, in a non-profit environmental advocacy organization and even a brief stint in academia teaching environmental law.

In today's parlance, I have been a dot.com, a dot.org a dot.edu and a dot.gov.

[Laughter.]

Ms. GILES. Over the course of my 30-year career in environmental law and policy, I have worked in just about every major area of environmental protection, including clean energy and climate change, RCRA and Superfund, clean drinking and surface waters, groundwater protection, wetlands, TSCA and others. I understand that compliance with the law is essential to secure the public benefits that the laws are designed to achieve.

President Obama and Administrator Jackson have said repeatedly that the core values of EPA are scientific integrity and the rule of law. Enforcement is part of the commitment to the rule of law. It is part of our commitment to the people who expect the protections of clean air and water wherever they may live. And it is

part of our commitment to businesses that should not be at a competitive disadvantage when they take seriously their responsibilities to obey the law and respect their neighbors.

Scientific integrity must also be a guiding principle for enforcement. As we pursue compliance, we must look at and be guided by the facts, and make sure that we are addressing the biggest environmental and public health problems. And we need to be particularly mindful of our obligation to protect vulnerable populations.

Responsible stewardship of our air and water is a necessary part of our economic vitality. Indeed, responsible stewards of businesses rely on EPA and the States to protect businesses by making sure everyone plays by the same rules. Especially now, the business community will be counting on EPA and the States to make sure there is a level playing field and that we are pragmatic and use common sense in achieving that goal.

In seeking to ensure compliance with the laws passed by Congress, EPA, of course, works closely with the States. States have the majority of inspectors and enforcement staff and States have the local knowledge that helps to ensure that we are as efficient and effective as possible in enforcing the law.

In this task, EPA and the States are partners. At the same time, EPA needs to make sure that the guarantees of clean air and clean water are shared equally by all. The Administrator has outlined five key goals for EPA: reducing greenhouse gas emissions; improving air quality; managing chemical risks; cleaning up hazardous waste sites; and protecting water.

The Enforcement and Compliance Office of EPA will be part of achieving all of these goals and others by assuring that we enforce the law and achieve compliance with these programs to tackle these critical problems.

I affirm my personal commitment to as much transparency and openness in the operations of government as possible. Not only should citizens know what their government is doing, but an informed citizenry is also an excellent ally in creating pressure for better compliance.

President Obama and Administrator Jackson have pledged that under their watch, the environmental cop will be back on the beat. I stand ready to work with the capable and dedicated staff of the Enforcement Office to carry out that pledge.

Thank you.

[The prepared statement of Ms. Giles follows:]

**Statement of Cynthia J. Giles
Hearing on Nominations
Committee on Environment and Public Works
United States Senate**

Thank you Madam Chairman.

I would first like to take the opportunity to thank you, and Ranking Member Inhofe, for holding this hearing, and Senator Whitehouse for his kind introduction.

If I may I would like to introduce my family. My husband, Carl Bogus, is here. Our three children, Beth, Ian and Zoe, unfortunately were not able to attend. And two of my sisters, Marilyn and Andrea, are also here with me today.

I am honored to be nominated to assist Administrator Jackson in the vital mission of the Environmental Protection Agency and I thank her and President Obama for offering me this opportunity to serve.

I have had the privilege of being a public servant both with state government and the federal government, including EPA. I served as an Assistant United States Attorney in Philadelphia, where I represented the United States in suits to enforce federal environmental laws. And I served in several positions within EPA Region 3, managing programs, lawyers and the EPA enforcement program for five states and the District of Columbia. After moving to New England, I served as the head of the water program in the Massachusetts Department of Environmental Protection.

I have also worked in the private sector, in a non-profit environmental advocacy organization, and even a brief stint in academia, teaching environmental law. In today's parlance, I've been a .com, .org, .edu and .gov.

Over the course of my 30 year career in environmental law and policy I have worked in just about every major area of environmental protection, including clean air and climate change, RCRA and superfund, clean drinking and surface waters, groundwater protection, wetlands, TSCA and others. I understand that compliance with the law is essential to secure the public benefits that the laws are designed to achieve.

President Obama and Administrator Jackson have said repeatedly that the core values of EPA are scientific integrity and the rule of law. Enforcement is part of the commitment to the rule of law. It is part of our commitment to the people who expect the protections of clean air and water wherever they may live. And it is part of our commitment to

businesses that should not be at a competitive disadvantage when they take seriously their responsibilities to obey the law and to respect their neighbors.

Scientific integrity must also be a guiding principal for enforcement. As we pursue compliance, we must look at and be guided by the facts, and make sure that we are addressing the biggest environmental and public health problems. And we need to be particularly mindful of our obligation to protect those disproportionately affected by pollution.

Responsible stewardship of our air and water is a necessary part of our economic vitality. Indeed, responsible stewards of businesses rely on EPA and the states to protect businesses by making sure everyone plays by the same rules. Especially now, the business community will be counting on EPA to make sure there is a level playing field, and that we are pragmatic and use common sense in achieving that goal.

In seeking to ensure compliance with the laws passed by Congress, EPA of course works closely with the states. States have the majority of inspectors and enforcement staff and states have the local knowledge that helps to ensure that we are as efficient and effective as possible in enforcing the law. In this task EPA and the states are partners, at the same time that EPA needs to make sure that the guarantees of clean air and water are shared equally by all.

The Administrator has outlined five key goals for EPA: reducing greenhouse gas emissions, improving air quality, managing chemical risks, cleaning up hazardous waste sites, and protecting water. The enforcement and compliance office of EPA will be part of achieving all of these goals, by assuring that we enforce the law and achieve compliance with programs to tackle these critical problems.

I affirm my personal commitment to as much transparency and openness in the operations of the enforcement office as possible. Not only should citizens know what their government is doing, but an informed citizenry is also an excellent ally in creating pressure for better compliance.

President Obama and Administrator Jackson have pledged that under their watch the environmental cop will be back on the beat. I stand ready to work with the capable and dedicated staff of the enforcement office to carry out that pledge.

**Senate Environment and Public Works Committee Hearing
April 28, 2009
Follow-Up Questions for Written Submission**

Questions for Cynthia Giles

Questions from:

Senator Barbara Boxer

1. Enforcement Backlog. Ms. Giles, media reports indicate that the Obama Administration is attempting to reduce a "backlog of air, water, waste and other enforcement settlements and actions that stalled in the final months of the Bush administration..."

If confirmed, will you commit to brief my staff on the size of the backlog and the status of EPA's actions to reduce the backlog?

Answer: *Yes.*

2. Drop in Criminal Enforcement Cases. Ms. Giles, EPA's efforts to enforce criminal violations of environmental law have declined in recent years, from 477 in 2000 to 319 in 2008. If confirmed, do you commit to review and brief my staff on the reasons for this decline and to take steps to address any unwarranted changes in policy that could have helped to cause this decline?

Answer: *Yes.*

Senator James Inhofe

1. One particular issue before the Enforcement office stems from a recent decision by the U.S. Court of Appeals that overturns EPA rules that allow industries to forego emissions requirements of hazardous pollutants during startup, shutdown, and malfunction events. Unless the pending decision is modified, hundreds if not thousands of companies across the country may be placed in the difficult position of knowingly violating a regulation if they shut down or restart a plant operation.

Some may simply choose not to restart - an outcome that would be problematic given the state of our economy. What are your thoughts on this issue and will you commit to immediately reviewing this decision if confirmed?

Answer: *I do not currently have sufficient knowledge of this issue or the recent decision to have a fully informed opinion. If confirmed, I will work with EPA's Office of Air and*

Radiation and other offices within EPA to consider the effect of this decision on the rules protecting air quality and what actions by the Office of Enforcement and Compliance Assurance would be appropriate.

2. What is your position on the sanctity of contracts and consent agreements?

Answer: *If confirmed I would act in accordance with federal law, as interpreted by the courts. It is the responsibility of the Office of Enforcement and Compliance Assurance to help protect human health and the environment by assuring compliance with applicable federal laws and regulations as reviewed and interpreted by the courts, by entering into and enforcing consent agreements and abiding by federal rules governing such consent agreements, and by other appropriate means.*

3. Do you believe as a matter of equity and basic fairness that previously lawful conduct should give rise to retroactive liability, and what are your thoughts on the disincentives such a position creates to the implementation of programs and agreements that will be under your responsibility?

Answer: *The job of the Office of Enforcement and Compliance Assurance is to seek compliance with the laws passed by Congress to protect human health and the environment. The principles under which liability is imposed in those laws are determined by Congress. If confirmed I am committed to the fundamental principle of adherence to the rule of law, including following court decisions that interpret those laws, and would endeavor to ensure fairness and consideration of equities in all enforcement actions.*

4. The New York Times has reported some energy industry officials are concerned that the recent EPA nominees, many of them from the North East, may have a difficult time understanding the great importance of energy's crucial role in the Midwest economy. Do you think you are well equipped to understand and deal with the ramifications of any potential decision you make may have on areas like the Midwest? Can you assure us that when issuing enforcement actions or penalties that the potential economic harms and how they may be passed on to consumers will be taken into account?

Answer: *In addition to running an environmental program for the Commonwealth of Massachusetts and working on environmental issues in Rhode Island, I oversaw the federal enforcement programs in EPA Region 3, working with the states in that region, which include Pennsylvania, Maryland, Delaware, Virginia, West Virginia and the District of Columbia. If confirmed I would bring this diversity of experience to the position and am committed to taking a national perspective in protecting human health and the environment, and to fair and equitable enforcement of environmental laws and regulations across the country. In issuing enforcement actions or penalties if confirmed I would consider the factors stated in applicable law.*

5. Please explain how your new national role may require you to change your positions in the past as chairwoman of the Sierra Club's Rhode Island chapter or director of the Conservation Law Foundation's Rhode Island Advocacy Center.

Answer: *If confirmed I will assume a position of great public trust. I take this responsibility seriously and will consider both the objective science and the law in making decisions, without bias toward positions taken by organizations with which I have been affiliated.*

6. You stated in your opening remarks the importance of science and scientific integrity at the EPA. Will you be willing to take into account all scientific data presented to you? Even if it is politically unpopular or contrary to positions held by the current administration? Can you ensure us that your enforcement actions will not be ruled by political considerations?

Answer: *Scientific integrity is a core value for the Obama Administration and if confirmed I will make scientific integrity and the rule of law guiding principles for the work of the enforcement office. As we seek compliance with environmental laws, and pursue violators of these laws, we must evaluate the facts and the law and be guided by the most accurate and objective science, which should not be influenced by political considerations.*

Question from Senator Voinovich

1. Across the country, communities are facing incredibly costly regulations and enforcement actions, especially in the area of sewer overflow control, sometimes costing individual communities billions of dollars. Yet at the same time, cities are facing declining ratepayer bases and additional hardship caused by the economic downturn. What does EPA plan to do to review its affordability guidelines, and to ensure that municipalities have the ability to target limited resources to the most important clean water priorities?

Answer: *It is my understanding that EPA takes financial considerations into account when considering the timing of expenditures for the wastewater improvements necessary to enhance public health and environmental protections in all communities. If confirmed, I will work with my colleagues in the Office of Water to consider how to best address affordability concerns while achieving the goal of healthy waters for all communities.*

Senator BOXER. Thank you so much.

And last, but certainly not least, Michelle DePass, nominee for Assistant Administrator for International Affairs.

STATEMENT OF MICHELLE DePASS, NOMINATED TO BE ASSISTANT ADMINISTRATOR FOR INTERNATIONAL AFFAIRS, ENVIRONMENTAL PROTECTION AGENCY

Ms. DePASS. Thank you, Madam Chairwoman and Ranking Member Inhofe, for holding this hearing. It is an honor to be here. I would like to introduce my husband, Joshua Paulson.

Senator BOXER. Welcome, sir.

Ms. DePASS. Who I am delighted is here with me.

Allow me also to recognize my parents, Rupert and Marsyl DePass in absentia, who have supported me in my decisions throughout my entire life.

I am deeply humbled President Obama has nominated me to be the Assistant Administrator for the Office of International Affairs at the Environmental Protection Agency. It would be a great privilege to work with and for Administrator Lisa Jackson. The Administrator is a gifted leader and policymaker, and I would be honored to serve with her in protecting our Nation's environment and public health.

I sit before you today almost two decades after my environmental career began. My professional and personal commitment to protecting our environment has been field tested and strengthened during this time. Protecting our environment for the benefit of all Americans has not only been my career, it is my passion. And for me, this passion is not simply a question of protecting our natural resources. Rather, it is about protecting people and our future generations.

I have dedicated my life to raising awareness and taking action to help people gain access to cleaner air, land and water, regardless of where someone lives or his or her economic circumstances. This passion began with a legal internship at the EPA in Region II in New York City. That extraordinary experience working side by side with dedicated staff to investigate and initiate corrective action on our most hazardous waste sites fueled two decades of experience in environmental policy and management.

In that time, I have worked in and alongside nongovernmental entities, local governments, State government, and international institutions. I have helped empower local communities and organizations to ensure that their voices are heard when environmental policies are made that affect their lives. And I have worked in government to administer and develop such policies, first as Environmental Manager in the city of San Jose, and later as Senior Policy Adviser of the New Jersey Department of Environmental Protection.

Currently, I serve as the Ford Foundation's Environment and Development Program Officer. In this position, I am responsible for supporting the development of sound environmental policies and practices in the local, national and international arenas. My background working with U.S. and global institutions representing diverse constituencies with nongovernmental organizations, coupled

with my professional experience in government, has prepared me to foster cooperation on an international environmental agenda.

Since 1970, the EPA has made great strides in giving our Nation a cleaner, healthier environment. In today's era of globalization, these challenges to our health and environment have grown. We cannot address them purely on a domestic level. President Obama's environmental initiatives are highlighted by five key objectives: reducing greenhouse gas emissions; reducing other air pollutants; addressing toxic chemicals; cleaning up hazardous waste; and protecting water.

I share his commitment to these objectives and I am cognizant of their global potential. International cooperation on environmental issues is not only desirable, but necessary in ensuring the health of Americans. Pollution has no national boundaries.

I was raised in Queens, New York, the Nation's most diverse county. My parents were immigrants who came to the U.S. from Jamaica, West Indies. They were intent on creating a better life for themselves and building a wonderful home for our family. From my earliest experience with family, community and education, I interacted with people of different cultures who spoke different languages, and I embrace the opportunity to work with Administrator Jackson and a team of dedicated professionals at the EPA to achieve cooperative solutions to the world's environmental problems and to the trans-boundary problems of toxics, air and water pollution.

As one who has spent her career as a public administrator and lawyer in the public sector, I would be honored to lead the Office of International Affairs and to utilize the EPA's technical expertise in environmental science, research, education and policy to tackle our global environmental challenges.

If confirmed, I will administer with the priorities of our President as my guide. I pledge today to serve the President and Administrator Jackson, this Committee, Congress and the citizens of the United States who are depending on our global expertise and cooperation.

Thank you.

[The prepared statement of Ms. DePass follows:]

SENATE CONFIRMATION FOR MICHELLE J. DEPASS
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
PERSONAL STATEMENT

Thank you, Madam Chairwoman and Ranking Member Inhofe for holding this hearing. It is an honor to be here.

I would like to introduce my husband, Joshua Paulson, who I am delighted is here with me. Allow me to also recognize my parents, Rupert and Marsyl DePass, in absentia, who have supported me and my decisions throughout my entire life.

I am deeply humbled President Obama has nominated me to be the Assistant Administrator for the Office of International Affairs at the United States Environmental Protection Agency. It would be a great privilege to work with, and for, Administrator Lisa Jackson. Lisa is a gifted leader and policymaker and I would be honored to serve with her in protecting our nation's environment and public health.

I sit before you today, almost two decades after my environmental career began. My professional and personal commitment to protecting our environment has been field tested and strengthened during this time. Protecting our environment for the benefit of all Americans has not only been my career, it is my passion. And for me this passion is not simply a question of protecting our precious natural resources. Rather, it is about protecting people and our future generations. I have dedicated my life to raising

awareness and taking action to help people gain access to cleaner air, land and water, regardless of where someone lives or his/her economic circumstances.

This passion began with a legal internship at the EPA, in Region Two in New York City. That extraordinary experience, working side-by-side with dedicated staff to investigate and initiate corrective action on our most hazardous waste sites, fueled two decades of experience in environmental policy and management. In that time, I have worked in and alongside non-governmental entities, local government, state government, and international institutions. I have helped empower local communities and organizations to ensure that their voices are heard when environmental policies are made that effect their lives. And I have worked in government to administer and develop such policies, first as an environmental manager of the City of San Jose, and later as Senior Policy Advisor of the New Jersey Department of Environmental Protection.

Currently, I serve as the Ford Foundation's Environment and Development Program Officer. In this position, I am responsible for supporting the development of sound environmental policies and practices in the local, national and international arenas. My background working with US and global institutions representing diverse constituencies with non-governmental organizations, coupled with my professional experience in government, has prepared me to foster cooperation on an international environmental agenda.

Since 1970, the United States Environmental Protection Agency has made great strides in giving our nation a cleaner, healthier environment. In today's era of globalization, these challenges to our health and our environment have grown. We cannot address them purely on a domestic level. President Obama's environmental initiatives are highlighted by five key objectives: reducing greenhouse-gas emissions; reducing other air pollutants; addressing toxic chemicals; cleaning up hazardous-waste sites; and protecting water. I share his commitment to these objectives, and I am cognizant of their global potential. International cooperation on environmental issues is not only desirable, but necessary, in ensuring the health of Americans. Pollution has no national boundaries.

I was raised in Queens, New York, the Nation's most diverse county. My parents were immigrants who came to the United States from Jamaica, West Indies. They were intent on creating a better life for themselves and building a wonderful home for our family. Through my earliest experiences with family, community and education, I interacted with people of different cultures who spoke different languages. I embrace the opportunity to work with Administrator Jackson and the team of dedicated professionals at the EPA to achieve cooperative solutions to the world's environmental problems and to the transboundary problems of toxics, air and water pollution.

As one who has spent much of her career as a public administrator and lawyer in the public sector, I would be honored to lead the Office of International Affairs and to utilize the EPA's technical expertise in environmental science, research, education and

policy to tackle our global environmental challenges. If confirmed, I will administer with the priorities of our President as my guide in fulfilling the daily duties of my office. I pledge today to serve the President and Administrator Jackson, this Committee, Congress and the citizens of the United States who are depending on our global expertise and cooperation.

Thank you.

**Environment and Public Works Committee Hearing
April 28, 2009
Follow-Up Questions for Written Submission
Questions for DePass**

Questions from: Senator Barbara Boxer

Question 1: Ports

Ms. DePass, port activities in Southern California contribute to pollution that cause 5,400 premature deaths, 2,400 hospitalizations, and 140,000 incidences of asthma and respiratory problems.

This administration has already taken steps to help address part of this problem, but more can be done.

If confirmed, do you commit to brief my staff on the latest status of international negotiations to reduce port pollution, and to work with them to strengthen health safeguards on international ships?

Answer: *Yes*

Question 2: Water Treatment

Ms. DePass, communities in my state of California near the border with Mexico need help addressing wastewater and drinking water infrastructure needs. Many of these communities need funding and technical expertise.

If confirmed, do you agree to work with my staff to better focus EPA on helping local communities address their wastewater and drinking water infrastructure needs in this region of the country?

Answer: *Yes.*

Questions from: Senator James M. Inhofe

Question 1: Climate change advocacy groups are calling for at least a 50 percent reduction in global emissions of greenhouse gases by 2050. The Obama Administration has set a long-term goal of an 83-percent reduction by 2050, using 2005 as a baseline. This number is in line with those proposed by other developed countries. However, no one expects developing countries to embrace similar long-term reduction commitments in the negotiations concluding at Copenhagen. In fact, IEA, IPCC, and other estimates point to a significant projected increase in CO2 emissions from developing countries between now and 2050.

If the international community is to at least halve global emissions by 2050, what does this imply for a long-term target for developing countries as a group, assuming that other developed countries accept long-term reduction targets on the order of 80 percent, global CO2 emissions from fossil fuel combustion climb to at least 50 gigatons per year, and non-DECO countries account for roughly two-thirds of those total emissions?

Answer: *There are a number of important questions including meaningful actions by all major economies, that will need to be addressed in the negotiations under the UN Framework Convention on Climate Change (UNFCCC) in the coming year, culminating at the COP/MOP meetings in Copenhagen in December. I expect that my office will contribute to the overall effort by providing technology assistance and relevant pilot projects to developing countries, as well as advancing US objectives to liberalize trade in environmental goods and services. These efforts, taken together, will help developing countries grow in a more sustainable and carbon-neutral fashion.*

Question 2: Given the general financing challenge and our country's financial constraints, some are calling for an increased role by the World Bank and other international financial institutions (IFIs). However, some environmental groups are calling for limitations on investments in coal and other fossil-based infrastructure that flow from those institutions. Does the Administration support Bank and IFI support of carbon capture and storage for fossil fuels in developing countries?

Answer: *As a nominee who has not been confirmed, I am not in a position to represent the Administration and am representing my own views. Carbon Capture and Storage is a very important technology to reduce greenhouse gas emissions from fossil fuel sources. The World Bank and other IFIs can and should play an important role in supporting developing countries' transition to low carbon development through its standard methods of country strategy development, policy dialogue, and investment operations.*

Question 3: China published its national mitigation plan for reducing its emissions of greenhouse gases in 2007. What is the Administration's position on China's plan?

Answer: *As a nominee who has not been confirmed, I am not in a position to represent the Administration and am representing my own views. It is my understanding that China's 2007 National Assessment Report on Climate Change outlined many positive steps. Many of these have co-benefits in areas outside of climate protection (e.g., public health). Their current Five Year plan includes the goal of reducing the energy intensity of the economy by 20% by the end of 2010, which will result in greenhouse gas reductions of 10% below business as usual if the target is reached. China is taking many important steps toward a climate-friendly economy, although their emissions continue to grow in absolute terms. More needs to be done, and the United States and China can do more together. If confirmed, I will work with others in the Administration to engage in very active discussions with the Chinese on the related issues of climate change and clean energy in order to make that happen.*

Question 4: A recent Dutch study indicates that under the European ETS absolute emissions from power generation are expected to rise. In fact, a number of major European utilities have announced plans for new coal-based power plants, which suggests that the European scheme does not penalize coal - unlike proposals here in the United States. How does this relate to the U.S. and EU commitment under the Bali Action Plan to ensure the comparability of their efforts?

Answer: *As noted, the Bali Action Plan seeks to ensure comparability among developed countries making emission reductions. In approaching their Kyoto Protocol commitments, the EU adopted a "bubble" strategy which allows for emissions trading among member nations. The EU approach allows for emission trades across sectors. While absolute emissions may increase in the energy sector, overall emissions would have to be offset in other sectors.*

It is my understanding that the US is considering a domestic trading system, and this might be one way that comparability could be achieved.

As noted earlier, these are important questions that will be addressed in the negotiations under the UN Framework Convention on Climate Change (UNFCCC) in the coming year, culminating at the COP/MOP meetings in Copenhagen in December.

Question 5: Currently, developing countries place hefty tariffs and non-trade barriers on the import of climate-friendly goods and services from the United States. These tariffs help line the pockets of government officials and subsidize other government expenditures, including military programs. At the same time, these barriers increase the cost to the U.S. taxpayer of helping fund climate-friendly technology transfer to developing countries. Developing countries are insisting

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on financial assistance from the United States as part of an international agreement on climate change. Does the Administration support linking U.S. funded technology transfer to a commitment by developing countries to remove these trade barriers? If not, how will the Administration explain its opposition to a link to the U.S. taxpayer?

Answer: *As a nominee who has not been confirmed, I am not in a position to represent the Administration and am representing my own views. My understanding is the US is striving to remove and eliminate tariff and non-tariff barriers within the context of Doha Round or WTO negotiations. This will create a supply push for these climate-friendly technologies. In a complementary fashion, we hope to provide technical assistance which demonstrates these technologies within the context of the UNFCCC. This is intended to create a demand-pull for these technologies. It should be noted, however, that these two negotiations are taking place on parallel tracks, in separate fora.*

Question 6: Please explain how your new national and international role may require you to change your positions in the past managing the Ford Foundation's initiative on Environmental Justice and Healthy Communities.

Answer: *My role at the Ford Foundation involves supporting and stimulating good environmental policy and practices, nationally and internationally that protects human health and environment. Similarly, if confirmed, my priority will be to work with Agency staff and other agencies such as State Department and US AID, to move forward protection of health and environment through a variety of bilateral and multilateral processes and arenas.*

Question 7: The position of Assistant Administrator for International Affairs of the EPA calls for the use of adequate scientific inputs in the development of procedures for the direction of the Agency's international programs and activities. Will you be willing to take into account all scientific data presented to you? Even if it is politically unpopular or contrary to positions held by the current administration?

Answer: *Scientific integrity is a core value that I share with the President and the Administrator of the EPA. If confirmed, I will conduct my work in a transparent and open manner that is based on science.*

Senator BOXER. Thank you very much.

All of you made very strong statements and we thank you very much.

The way we are going to proceed now is each of us will have 5 minutes to ask questions. We are going to do it in order of arrival here. And I will start by just doing a required series of questions. I will go down starting from Mr. Stanislaus down.

Do you agree, if confirmed by the Senate, to appear before this Committee or designated Members of this Committee and other appropriate committees of Congress and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as Assistant Administrators at the EPA?

Mr. STANISLAUS. Yes.

Ms. GILES. Yes, I do.

Ms. DEPASS. Yes, I do.

Senator BOXER. The record will show you all said yes.

And second question: Do you agree to ensure that testimony, briefings, documents and electronic and other forms of communication are provided to this Committee and its staff? By "this Committee," I mean both sides, the minority and the majority side. And other appropriate committees in a timely manner?

Mr. STANISLAUS. Yes, I do.

Ms. GILES. Yes.

Ms. DEPASS. Yes, I do.

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

Mr. STANISLAUS. No.

Senator BOXER. All right.

So I just have a question for Mr. Stanislaus because of the situation we face in Superfund where I expressed my concern that we have slowed these cleanups dramatically by half. I would ask, if confirmed, will you agree to work with my staff to develop a plan to expedite the pace of cleanups?

Mr. STANISLAUS. Yes, I will.

Senator BOXER. And sir, if you are confirmed, will you work with my staff to determine whether EPA could do more cleanup work if it had more funding? Would you let us know?

Mr. STANISLAUS. I will certainly look at the funding, as well as the technical issues. Absolutely.

Senator BOXER. OK. I have some other questions for each of you, and I will submit them for the record.

I will at this time call on Senator Inhofe.

Senator INHOFE. Thank you, Madam Chairman.

The last question, Madam Chairman, that you asked of the three on conflicts of interest, Mr. Stanislaus responded to it. The other two did not. Was that intentional?

Senator BOXER. Oh, I am sorry. I thought you all—did you not respond? I am sorry.

Ms. GILES. No, I did not. The answer is no.

Senator BOXER. Oh, please. Well, let me ask you again. Thank you. I figured it would be fine, so I just thought I heard you say it.

[Laughter.]

Senator BOXER. So for the two of you, and thank you, Senator Inhofe. I will put back his full time.

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

Ms. GILES. No, Madam Chair.

Ms. DEPASS. No, I do not.

Senator BOXER. Well, thank you very much.

Thank you, Senator.

Senator INHOFE. All right. And I have a third question for the three of you, and that is, it is a little more specific, even though the Chairman did address this, and that is: Would you and your staff be just as responsive to Members of the minority on this Committee in terms of requests that are made, as you would if it were the Chairman?

Mr. STANISLAUS. Absolutely, Senator.

Ms. GILES. Certainly, Senator.

Ms. DEPASS. Yes, Senator, I will.

Senator INHOFE. Well, that is what you said in my office, and I knew what the answer was.

[Laughter.]

Senator INHOFE. You mentioned, Ms. DePass, that in the past you were the manager of the Ford Foundation's initiative on environmental justice and healthy communities. Could you explain if there would be any change in your position, or how your new national and international role may require you to change your position that you have taken before?

Ms. DEPASS. Thank you, Senator. Currently in my role as the Ford Foundation Program Officer, my work is to stimulate good environmental policy and practice nationally and internationally. I don't foresee that there will be any large or major changes as I will be working to protect the U.S. interest, working internationally now in bilateral and multilateral arenas.

Senator INHOFE. All right. Fine.

Ms. Giles, I am going to ask you something relating to your position on the sanctity of contracts and consent agreements. In your potential new capacity, and by the way, I would say that I intend to support all three of these nominees and I appreciate the time that they took to join me in my office, but in your potential new capacity as head of Enforcement and Compliance, you have responsibility and authority for enforcement of the NSR program. I notice that the EPA announced yesterday its intent to review three NSR-related decisions.

Now, other recent enforcement actions by the EPA have sought to go after certain electric power generators because of one of the NSR rules was overturned by the D.C. Circuit Court. I would have to ask you, do you think that, as a matter of equity and basic fairness, that previous lawful conduct should give rise to retroactive liability? And what are your thoughts on the disincentives such a position creates to the implementation of programs that will be under your responsibility?

Ms. GILES. Well, Senator, as I say in my testimony, one of the key foundational principles for EPA under Administrator Jackson is, of course, dedication to the rule of law. And part of that commit-

ment, of course, is to follow court decisions that may occur over the course of consent decrees.

My commitment, if confirmed, is to make sure that we effectively and fairly enforce the laws of the United States as those exist at the time and as may interpreted by the courts.

Senator INHOFE. At the time that—at what time?

Ms. GILES. At the time that those decisions are being made, Senator.

Senator INHOFE. That an individual has, in other words, the rules that were in effect at the time that a person took the responsibility.

Ms. GILES. Well, Senator, I am not familiar with the specific circumstances that you are referring to there. I would be happy to look at that.

Senator INHOFE. Well, I am only referring to, it was a court decision, D.C. Circuit, that may have changed the rules. And I am talking about some of the generating companies that complied with the rules, the NSR rules, at the time, and then they changed the rules. This is my concern, not just that particular case, but anything else where there are rule changes that come up after the fact.

Ms. GILES. Senator, it certainly is the obligation of the Office of Enforcement and Compliance, and my obligation if confirmed, to enforce the laws, including the new source review laws, to protect air quality in the United States, and from time to time court decisions may change the legal framework under which the Agency operates. In accordance with adherence to the rule of law, I think that EPA is required to go along with the law as interpreted by the courts.

Senator INHOFE. OK. That is fine.

Mr. Stanislaus, I wanted to get to a question you and I talked about in my office. And that was having to do with your affiliation with the New York City Environmental Justice Alliance and its member groups. I had brought up specifically that one of the member groups that your name is identified with received—and one of my Members brought this up to me, who isn't here now, I wish the Member would show up—that one of the member groups of that New York Justice Alliance solicited and received grants from Hugo Chavez.

Now, I would ask you on the record now, is this something that you were aware of at that time, that you solicited, or that you approved?

Mr. STANISLAUS. No.

Senator INHOFE. OK.

And Mr. Stanislaus, I am concerned, as I brought up in my office, there is a lot of controversy on remedies, on what we are doing in the Superfund Program. It happens that the most devastating of all the Superfund sites in the Nation happen to have been in my State of Oklahoma. And you and I talked about this in the office. We have had the full cooperation now, I couldn't have asked for more cooperation previously in taking care of that particular Tar Creek Superfund site.

There is some work remaining. The buyouts I think are pretty much complete. There are some things that have to be done with the land once all the buyouts and the moves have been made. I

would just like to ask if you would give just the same full attention to that particular—completing that Superfund, the Tar Creek Superfund site in Oklahoma as we have had up to this date.

Mr. STANISLAUS. Absolutely, Senator. It is my intention to ensure that cleanup goes forward and is completed, along with all the other Superfund sites.

Senator INHOFE. OK, I appreciate that very much.

Madam Chairman, as you know, we also have an Armed Services Committee hearing right now, and I am going back and forth. I am going to try to get some other Members in here.

Senator BOXER. OK.

Well, I think this doesn't seem to be a contentious hearing, so I have a feeling you can go and not worry. If there are any big problems, staff will call you back.

Senator INHOFE. Well, I always worry a little bit.

Senator BOXER. Don't worry.

[Laughter.]

Senator BOXER. Ever since I took this, he has been worrying. I know.

[Laughter.]

Senator INHOFE. And this, too, will change.

[Laughter.]

Senator BOXER. No comment. It is too loaded a charge.

Thank you. Have a good hearing at the Armed Services. Thank you.

Senator Whitehouse, to be followed by Senator—you don't have any questions? Or you do? No?

Senator Lautenberg.

Senator LAUTENBERG. Thanks, Madam Chairman.

And one of the things that we see in this Committee is many times we are witness to revelations. It is almost epiphanous in terms of what happens here. And our Chairman has earned the respect of everybody in the U.S. Senate and people outside because of her diligence in pursuing matters of importance.

But it was in this very place in this Committee that we were introduced to a fellow named Barack Obama. He came here as a Member and it was immediately obvious that he was very talented, that he understood the issues and almost instantaneously. He responded with sensible responses to a situation that we were in, and he is a truly a very great protector of the environment.

And I want to thank all of you for what you do, for protecting my grandchildren. And I urge you to continue to work as diligently as you can to continue that protection, because if you can take care of the Lautenberg grandchildren, you take care of everybody's grandchildren. And we love them all.

And so when I see your careers thus to date and I see that two of you, Mr. Stanislaus, Madam DePass, you were born outside our Country, right?

Mr. STANISLAUS. I was.

Ms. DEPASS. No, sir. I was actually born in New York City, but my parents were born in Jamaica, West Indies.

Senator LAUTENBERG. I see. Well, so we can classify you as relatively new citizens. And the fact that you are here contributing at the level that you have, with the credentials and the veracity that

you bring from your earlier assignments just tells us something about the system that we are on, the integration of people with ability and a commitment to do the job.

So we thank you for that which you bring to this table and to what we expect will be a productive period of time in these new assignments. Obviously, you are not going to have a problem, any one of you, in being confirmed. The fact that we don't have a lot of attendance here also suggests not just that others may not want to hear what you have to say, but they have already come to a conclusion that you are qualified, and that you will have the support, especially with the leadership of our Chairman.

And so I am pleased to see you here. I got a little frightened when the Chairman said that, or I should say a little encouragement, when the Chairman said that she was going to call on people based on their time of arrival, and I thought it meant arrival on earth and I would be——

[Laughter.]

Senator LAUTENBERG. And I thought certainly I would be first.

Senator BOXER. Well, Senator, I will do that, but then we might go to in order of size.

[Laughter.]

Senator LAUTENBERG. Those who need the most protection. You don't need any protection.

[Laughter.]

Senator LAUTENBERG. I would ask, if I may indulge my friends, for Mr. Stanislaus, I was one of those who was very enthusiastic about saying that a very *de minimis* charge on those who produce items that could then turn into obnoxious waste should pay the price for monitoring or disposing of those things, the Superfund law. And that was originated, Ms. DePass, by a fellow named Florio. Jim Florio was a member of the House and later Governor of New Jersey. In a lame duck session in 1980, he created the Superfund Program and established the fact that the polluter should pay.

And Mr. Stanislaus, any challenge to the view that the polluter must pay for their share of the damage that they might do?

Mr. STANISLAUS. Thank you, Senator.

President Obama has included the Superfund tax in his budget, and I will support that.

Senator LAUTENBERG. I just want to catch up with Ms. Giles. You know, I looked at your career and I think back to days when I was much younger and kind of looking for a place to plant myself. And my mother would have looked at your resume and said: What's the matter? Can't you hold a job?

[Laughter.]

Senator LAUTENBERG. Anyway, it was wonderful, the experiences that you have had in different places I think prepares you so well for this responsibility.

In 2008, a GAO report found the Bush administration fined polluting companies much less than the previous Administration. And if the companies knew that there was only small financial consequences for polluting, some of them they choose to break the law rather than spend the money cleaning up operations.

What do you think ought to be included in vigorous enforcement of our environmental laws to make sure that a powerful incentive is to make certain that people are going to pay, pay fully, as fully as we can make them, for the damage they have created?

Ms. GILES. Thank you, Senator.

In achieving the objective of compliance with the law, aggressive enforcement is certainly one of the tools. And as you have pointed out, penalty structure is an important part of that enforcement to provide a deterrence to other companies from making a decision to violate the law and to recoup the economic benefit that a company might obtain by violating the law.

Following through with that type of enforcement program is part of the way that the Office of Enforcement and Compliance assures that we achieve the protections for human health and the environment laid out in the Federal laws.

Senator LAUTENBERG. Thank you.

And Ms. DePass, forgive me for giving you to Paris, the elegance of your presentation commended that lofty title, but DePass is very good.

And one of the things that certainly is a difficult problem if we try to cure the international assaults on America alone. And while I believe that the U.S. has the responsibility of leading the way in fighting pollution, fighting toxic disasters, with strong legislation to cap greenhouse gas pollution, we are going to need international cooperation. What do you think we can do to ensure that other countries also work to reduce the greenhouse gas emissions?

Ms. DEPASS. Senator, thank you for your question.

The President has made one of his commitment to set an agenda for the United States to lead the way in terms of setting and reducing greenhouse gas emissions. And the State Department is leading the actual delegation toward Copenhagen where we will set an agenda. Although I am not privy to the actual qualitative and quantitative goals that they have for the future negotiations, I do pledge, if confirmed, to be able to assist the Administrator and the Administration in encouraging major emitting countries to do the same.

Senator LAUTENBERG. Madam Chairman, I congratulate you on the fact that we have the individuals of such high caliber that we automatically assume capability in getting the job done. We know that the hearts are there. We know the minds are there. And it is up to us to give them the tools to get the job done. And I commend all of you for your wonderful work and the record that you bring to these jobs. We hope you get started in a hurry.

Senator BOXER. Well, Senator Lautenberg, you speak for us all when you talk about your grandkids always. And that is what our work is really about. And we need the backup. We need the backup support out there in the field where it really happens, because sometimes we make good policy here. We have great landmark laws, but if they are not enforced, they are not carried out, and their spirit is just not paid attention to, we don't fulfill the promise.

So we are very thrilled that the three of you are here. I think it is a tribute that we didn't have a lot of people here, really. This is what you—for those of you watching this, the young people, I would say to them that when nominees are in trouble is when you

get a big turnout and people pressing them and pressing. So know that this is a good sign.

And of course, I was thrilled to hear Senator Inhofe say he supports the three of you. That is wonderful news for me and for all of us.

We need to make sure our questions are submitted for two of the nominees by close of business tomorrow. Answers are due back by Friday at noon. Can you all make sure you do that? Friday at noon if you get written questions?

Mr. STANISLAUS. Yes.

Ms. GILES. Yes.

Ms. DEPASS. Yes.

Senator BOXER. I don't want to miss anybody.

Again, congratulations on how smoothly this went. And you all just come to us so highly qualified. We look forward to moving your nominations very quickly.

Thank you, and we stand adjourned.

[Whereupon, at 10:50 a.m. the committee was adjourned.]

