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BUSINESS MEETINGS

MEETINGS

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

FIRST AND SECOND SESSIONS

JUNE 15, 2017; DECEMBER 13, 2017; FEBRUARY 7, 2018

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

Available via the World Wide Web: http://www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE
36–116 PDF WASHINGTON : 2019

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COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ONE HUNDRED FIFTEENTH CONGRESS
SECOND SESSION

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C O N T E N T S

Page

JUNE 15, 2017

OPENING STATEMENTS

Barrasso, Hon. John, U.S. Senator from the State of Wyoming 1
Carper, Hon. Thomas R., U.S. Senator from the State of Delaware 2

ADDITIONAL MATERIALS

Presidential Nomination 561. Nomination of Kristine L. Svinicki, of Virginia, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 2022. (Reappointment) From President Donald J. Trump, received June 6, 2017 5
Nomination Reference and Report, Presidential Nomination 561, referring to the Committee on Environment and Public Works the nomination of Kristine L. Svinicki, of Virginia, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 2022. (Reappointment) Signed June 15, 2017 6

DECEMBER 13, 2017

OPENING STATEMENTS

Barrasso, Hon. John, U.S. Senator from the State of Wyoming 7
Carper, Hon. Thomas R., U.S. Senator from the State of Delaware 7

ADDITIONAL MATERIALS

Presidential Nomination 1079. Nomination of R. D. James, of Missouri, to be an Assistant Secretary of the Army, vice Jo-Ellen Darcy, from President Donald J. Trump. Dated October 5, 2017 9
Nomination Reference and Report, Presidential Nomination 1079, referring to the Committee on Environment and Public Works the nomination of R. D. James, of Missouri, to be an Assistant Secretary of the Army, vice Jo-Ellen Darcy. Signed December 13, 2017 10

FEBRUARY 7, 2018

OPENING STATEMENTS

Barrasso, Hon. John, U.S. Senator from the State of Wyoming 11
Carper, Hon. Thomas R., U.S. Senator from the State of Delaware 12

ADDITIONAL MATERIALS

Presidential Nomination 1426. Nomination of Andrew Wheeler, of Virginia, to be Deputy Administrator of the Environmental Protection Agency, vice Robert Perciasepe, resigned. From President Donald J. Trump, received January 8, 2018 20
Nomination Reference and Report, Presidential Nomination 1426, referring to the Committee on Environment and Public Works the nomination of Andrew Wheeler, of Virginia, to be Deputy Administrator of the Environmental Protection Agency, vice Robert Perciasepe, resigned. Signed February 7, 2018 21

BUSINESS MEETING

THURSDAY, JUNE 15, 2017

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

The Committee met, pursuant to notice, at 10:03 a.m. in room 406, Dirksen Senate Building, Hon. John Barrasso (Chairman of the Committee) presiding.

Present: Senators Barrasso, Carper, Inhofe, Capito, Boozman, Wicker, Fischer, Rounds, Ernst, Shelby, Moran, Cardin, and Booker.

OPENING STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM THE STATE OF WYOMING

Senator BARRASSO. Good morning. I call this business meeting to order.

I thank everyone for coming today. We are here to consider the nomination of Kristine Svinicki to be reappointed as a member of the Nuclear Regulatory Commission. Senator Carper and I will give our opening statements; after that other members may make remarks until we have a reporting quorum. We are very close to that right now. Then we are going to proceed to that one item on the agenda.

As soon as we get the reporting quorum, we will have the vote. Then I will wait and let every other member make a statement, if they would like.

I applaud the President's nomination of Ms. Svinicki. She has served as a member of the NRC for more than 9 years, including the last 6 months as Chair. The members of the Environment and Public Works Committee know her well. She has testified before this Committee 18 times, three times as a nominee. In every appearance before us as a member of the Nuclear Regulatory Commission, she has proven herself to be a well qualified, experienced, and dedicated public servant.

Twice before, members of this Committee and the full Senate have agreed. When Ms. Svinicki was first nominated to be a member of the Nuclear Regulatory Commission, this Committee reported her by voice vote in 2007. The Senate confirmed her by voice vote as well. She was renominated for a second term, reported by voice vote in 2012, confirmed as well by the Senate.

President Trump has designated Ms. Svinicki as Chair of the Nuclear Regulatory Commission in January 2017. Before joining the NRC she built a distinguished career in public service; various staff positions in the Senate, as a nuclear engineer at the Department

of Energy, and as an energy engineer for the Wisconsin Public Service Commission.

I am going to ask that the remainder of my statement go into the record, because I do think we have a reporting quorum at this time.

And I will turn to Senator Carper.

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

OPENING STATEMENT OF HON. THOMAS R. CARPER, U.S. SENATOR FROM THE STATE OF DELAWARE

Senator CARPER. Thanks, Mr. Chairman.

I am going to ask unanimous consent that my statement be submitted for the record, and just say a couple things if I could.

I just want to say how proud I am to serve on this Committee, and how proud I am to serve with our Chairman and each one of you. We have a lot of new members of this Committee. I think the new members bring a lot to the Committee, and we are happy you are with us.

Former Chairman Inhofe and I had focused a lot of the time that we have been in the Senate on all things nuclear, and continue to. He provided great leadership of the Subcommittee for a number of years, along with George Voinovich. I attempted to do that as well. And it is important, it is important work; part of our responsibility to this Committee.

We have had some real turbulence in recent years with respect to the NRC. There were times when those folks were before us, and I had never seen five more unhappy people in my life. We had these very contentious, difficult hearings. I am sure Jim Inhofe remembers those. Those days are behind us, and we seem to have a Commission that seems to be working well together, in a collegial and productive way. So that is good.

Kristine has been a member of the Commission for a number of years. The members obviously know when she worked on the floor as a member of our staff, and we have a high regard for her. I am pleased that I think we are going to get her confirmed out of the Committee. I certainly support doing so.

There are a couple of other nominees that are before us, with her, two other Republicans, so we are considering three—not today, but three Republicans that are sort of like packaged together. And we have two Democrats, one whose term expires next year. I have talked to the Chairman about somehow pairing these two additional Republicans that have been nominated by this President, to pair them with one of the Democrats whose term expires next year.

That would give us a situation that, if we could get them all done, I hope we could get them done quickly, that we would have three Republicans and two Democrats to continue to serve on the Commission. So I hope could move in that direction, but today I hope we will report out Kristine Svinicki.

The other thing I want to say, the Democratic Ranking Members are raising in Committee hearings and mark ups this week our concern about moving forward as a body with respect to health care. I am not going to belabor it, but I do want to say this, if I could.

As some of you know, I start my day in the gym in the morning. I know the Colonel over here, and I sometimes run. He could run me into the ground; he could have this morning. It was brutal out there. I like to run down to the Lincoln Memorial. I don't know if you have had a chance to go down there lately, but engraved up on the walls around President Lincoln's statue are some of his most famous speeches, like the Second Inaugural address is there; the Gettysburg address is there.

Sort of coming on the heels of yesterday a new tragedy was visited on our colleagues in the House. Thank God for the Capitol Police. Everyone I have seen since then has shaken their hands and thanked them. I hope you are doing that as well. I think we all just got a wake up call that life is dear, and not something to take for granted.

The other thing is, for me at least, is a reminder that we need to work together. People want us to work together, not just on this nomination today, not just on health care. They want us to work together.

I am going to try to do a better job of doing that. I think we all could.

Thank you.

[The prepared statement of Senator Carper follows:]

STATEMENT OF HON. THOMAS R. CARPER,
U.S. SENATOR FROM THE STATE OF DELAWARE

Thank you, Mr. Chairman. I'm pleased to support the re-nomination of Chairman Svinicki to continue to lead the Nuclear Regulatory Commission.

Since joining the Environment and Public Works Committee, I have worked closely with my colleagues to strengthen the "culture of safety" within the U.S. nuclear energy industry.

Due, in part, to our collective efforts, and to the efforts of NRC leadership and the Commission's dedicated staff, the NRC continues to be the world's gold standard for nuclear regulatory agencies.

However, as I've said time and time again, that does not mean we can become complacent about nuclear safety and our NRC oversight responsibilities. I'm certain every member of this Committee shares that perspective.

Ensuring the NRC continues to have experienced and dedicated leadership on the Commission is one of the most important things this Committee can do to ensure a high level of safety and excellence at our Nation's nuclear facilities.

I have been consistently impressed with the current Commission at the NRC and its members' ability to work well with each other. Each commissioner brings a unique set of skills to the table, and that certainly includes our Chairman, Kristine Svinicki. That diverse skill set has served the Commission—and our country—well.

Mr. Chairman, you and I have talked before about having parity with the NRC nominees, which continues to be a priority for me, but I support moving Chairman Svinicki through the confirmation process at this time out of respect for her long time service on the NRC and because of the need to provide certainty and predictability with respect to the leadership of the NRC going forward.

If Chairman Svinicki is reconfirmed, she will be responsible for leading the NRC in its mission to protect the health and safety of the American people by ensuring our Nation's fleet of nuclear reactors operates efficiently and safely.

While on the topic of health, I want to express my growing concern that there is an effort underway to write a health care bill that only involves a handful of Senators, all of the same party. The legislation is being drafted behind closed doors, and despite not yet having a single hearing to review it, there is talk of quickly moving the bill to the floor.

I know that we all share the desire to make health care accessible and affordable for every American. In that spirit, I ask my Republican colleagues to join with us Democrats so we can work together on a health care bill. Something this important should be done on a bipartisan basis.

After the horrific events of yesterday morning, I think we're all a bit more reverent today. I think the idea that we're Americans first and members of political

parties second is fresher on our minds. And while this Committee doesn't have jurisdiction over health care, I hope all of us here will summon our better angels and step away from our respective party corners.

The public has a right to participate in this process. Let's remove the shroud of secrecy, and instead, come together to present the American people with a law that preserves the parts of the Affordable Care Act that should be preserved and fixes those that should be fixed so that we can truly make high quality health care more affordable for one and all.

Senator BARRASSO. Thank you very much, Senator Carper. I enjoy working with you and look forward to continuing to work with you in a bipartisan way. I appreciate your help in expediting this nomination today.

We have agreed—the Ranking Member and I have agreed that this will be a voice vote, but members may choose to have the vote recorded on the nomination. So we will have that opportunity in a few seconds.

We do have a quorum. I would like to call up nomination number 561, Kristine Svinicki of Virginia, to be a member of the Nuclear Regulatory Commission for the term of 5 years, expiring June 30th, 2022, a reappointment. I move to approve and report the nomination favorably to the Senate.

Is there a second?

Senator CARPER. I second.

Senator BARRASSO. All in favor, please say aye.

[Chorus of ayes.]

Senator BARRASSO. All opposed, no.

[No audible response.]

Senator BARRASSO. In the opinion of the Chair, the ayes have it. We have approved the nomination of Ms. Svinicki to be a member of the Nuclear Regulatory Commission, which will be reported to the full Senate for approval.

The voting part of our business meeting is finished, but I am happy to recognize any member who wishes to make a statement on the nomination that we have just approved.

Senator Inhofe.

Senator INHOFE. You are going to see an exodus here of the Senate Armed Services Committee, which I am going to. But I want to echo your words, both of you, in praise for Ms. Svinicki. She has been excellent. I made that expression at our last meeting, and I am very glad to have her back.

Senator BARRASSO. Would anyone else like to make a statement?

Hearing none, the business meeting is concluded and adjourned.

[Whereupon, at 10:10 a.m., the business meeting was concluded.]

[Additional material submitted for the record follows:]

EPW
PN561

The White House,

JUN - 6 2017

To the
Senate of the United States.

I nominate Kristine L. Svinicki, of Virginia, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 2022. (Reappointment)

DONALD J. TRUMP

NOMINATION REFERENCE AND REPORT

PN561

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
June 6, 2017.

Ordered, That the following nomination be referred to the Committee on Environment and Public Works:

Kristine L. Svinicki, of Virginia, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 2022. (Reappointment)

June 15, 2017.
(Date)

Reported by Mr. Barrasso John Barrasso
(Signature)

with the recommendation that the nomination be confirmed.

☑ **The nominee has agreed to respond to requests to appear and testify before any duly constituted committee of the Senate.**

BUSINESS MEETING

WEDNESDAY, DECEMBER 13, 2017

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

The Committee met, pursuant to notice, at 9:54 a.m. in room 406, Dirksen Senate Building, Hon. John Barrasso (Chairman of the Committee) presiding.

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

OPENING STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM THE STATE OF WYOMING

Senator BARRASSO. Good morning.

I call this business meeting to order.

Some members have to leave in the next couple of minutes to get to votes in the Commerce Committee, so I am going to call the business meeting to order and thank all of you for coming on time.

We are here to consider the nomination of R. D. James of Missouri to be the Assistant Secretary of the Army for Civil Works. After we vote, we will then conclude our business meeting and turn to our hearing focused on oversight of the Nuclear Regulatory Commission.

As the Committee heard last week, R. D. James is well qualified to serve as Assistant Secretary of the Army for Civil Works. He will bring a wealth of experience and expertise to this critically important role in addressing our Nation's infrastructure needs.

I applaud the President's nomination of such an accomplished American and dedicated public servant. I urge all my colleagues to vote yes on Mr. James' nomination.

At this time, I would like now to turn to the Ranking Member for his statement.

OPENING STATEMENT OF HON. THOMAS R. CARPER, U.S. SENATOR FROM THE STATE OF DELAWARE

Senator CARPER. I would just say that R. D. James will be confirmed over my dead body.

[Laughter.]

Senator CARPER. I said to him after the hearing, "R. D., you are going to be traveling a lot," because I think he has met with all of us, and he said to each of us, "I'll come to your State." I said, just make sure you get credit for the frequent flyer miles you are going to be piling up because there are going to be a lot of them.

I think we are lucky with somebody as experienced as he is. Frankly, he is just a delight. I said to some of you, he reminded me of Sonny Perdue, a young Sonny Perdue. I am happy he is willing to do this; happy that his wife—Jenny, I think is her name—is willing to share him; and send his nomination to the full Senate.

Thank you.

I have a greater, a fuller statement that indicates I do not plan to block his nomination over my dead body.

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

Senator BARRASSO. That will be included in the record.

Senator CARPER. Thank you.

Senator BARRASSO. Now that enough members have arrived, I would like to move to a vote on the one item on today's agenda.

The Ranking Member and I have agreed to vote on the nominee by voice vote, but any member may choose to have his or her votes recorded after the voice vote.

I would like to call up Presidential Nomination 1079, R. D. James of Missouri to be the Assistant Secretary of the Army for Civil Works.

I move to approve and to report the nomination favorably to the Senate.

Is there a second?

Senator CARPER. Second.

Senator INHOFE. Second.

Senator BARRASSO. All those in favor, say aye.

[Chorus of ayes.]

Senator BARRASSO. Opposed, nay.

[No audible response.]

Senator BARRASSO. In the opinion of the Chair, the ayes have it.

We have approved the nomination of Mr. James to be Assistant Secretary of the Army for Civil Works which will be reported to the full Senate for approval.

The voting part of the business meeting is concluded. Any member who wishes to submit a statement for the record regarding the nomination may do so.

With that, our business meeting is concluded.

[Whereupon, at 9:58 a.m., the Committee proceeded to other business.]

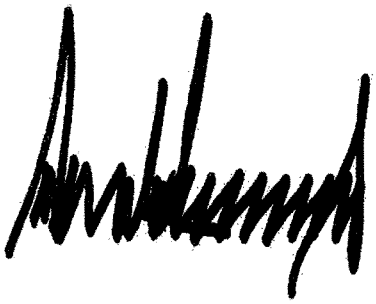
[Additional material submitted for the record follows:]

Dep AS/EPW
Pursuant to 3/16/2005
PN 1079

The White House,
October 5, 2017

To the
Senate of the United States.

I nominate R. D. James, of Missouri, to be an Assistant Secretary of the Army, vice Jo-Ellen Darcy.



NOMINATION REFERENCE AND REPORT

PN1079

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
November 14, 2017.

Ordered, That the following nomination be referred sequentially to the Committee on Environment and Public Works for 20 days of session; that if not reported within 20 days it be discharged and placed on the calendar, under authority of the order of the Senate of 03/10/2005:

R. D. James, of Missouri, to be an Assistant Secretary of the Army, vice Jo-Ellen Darcy.

December 13, 2017.
(Date)

Reported by Mr. Barrasso
(Signature)

with the recommendation that the nomination be confirmed.

✓ **The nominee has agreed to respond to requests to appear and testify before any duly constituted committee of the Senate.**

BUSINESS MEETING

WEDNESDAY, FEBRUARY 7, 2018

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

The Committee met, pursuant to notice, at 9:40 a.m. in room 406, Dirksen Senate Office Building, Hon. John Barrasso (Chairman of the Committee) presiding.

Present: Senators Barrasso, Carper, Inhofe, Capito, Boozman, Wicker, Fischer, Moran, Rounds, Ernst, Sullivan, Shelby, Merkley, Gillibrand, Booker, and Duckworth.

OPENING STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM THE STATE OF WYOMING

Senator BARRASSO. Good morning. Thank you for coming.

We are here to consider the nomination of Andrew Wheeler to be the Deputy Administrator of the Environmental Protection Agency, the EPA. This Committee voted to report Mr. Wheeler to the full Senate only 2 months ago. His nomination was returned to President Trump on January 3rd, and on January 8th President Trump renominated Mr. Wheeler.

So we consider his renomination today. We will follow the same process that we implemented last November 29th, when we voted to report his original nomination. To that end, we will be voting at roughly 9:50 to accommodate members' schedules and allow us to begin our hearing scheduled at 10 a.m.

So before we vote at 9:50, we will discuss Mr. Wheeler's nomination. The majority will have 10 minutes, beginning with my opening statement. The minority will have 10 minutes to speak, beginning with the Ranking Member's opening statement.

I will make a few brief remarks then reserve the balance of the majority's time to make additional comments. I know Senator Inhofe would like to make a comment as well. The Ranking Member may then recognize those members of the minority wishing to speak during the minority's time.

After each side has used its time we will move to vote as soon as a quorum is present. Once we conclude our business meeting, we will proceed to our hearing, which is scheduled to begin at 10.

We can start the clock on our time.

I would just say that we are here to vote on the nomination of Andrew Wheeler to be Deputy Administrator of EPA. He has worked in the environmental field for over 25 years. He spent 12 of those years serving this Committee's Clean Air Subcommittee as the staff director, as Republican staff director and general counsel.

He has proven himself to be a well qualified, experienced, and dedicated public servant.

We all know that Mr. Wheeler will make an invaluable contribution to the protection of America's public health and safety as Deputy Administrator of the EPA. I urge my colleagues to vote yes on Mr. Wheeler's nomination.

I reserve the majority of my time.

Senator Carper.

OPENING STATEMENT OF HON. THOMAS R. CARPER, U.S. SENATOR FROM THE STATE OF DELAWARE

Senator CARPER. Thanks, Mr. Chairman.

Last week EPA Administrator Scott Pruitt appeared before our Committee. I told him that it would be difficult—at the conclusion of the Committee hearing, I mentioned to him that it would be difficult to move forward with additional EPA nominees until the nomination of Kathleen Hartnett White was withdrawn. I am pleased that the Administration heeded our words and responded to our concerns and those of other Senators. I hope that the White House will name a qualified nominee to run the Council on Environmental Quality.

Former Governor, worked with 49 other Governors across this country, I know that every Governor in this country has a secretary, we have in Delaware the Department of Natural Resources and Environmental Control, every State has a similar kind of department within their State government structure. There are over 30 Republican Governors in the country right now. They each have a secretary whose expertise and whose responsibilities are in line with those of this Committee. They provide a good pool from which this Administration can draw excellent talent. It is imperative that they use that pool to do so.

Today this Committee will vote for the second time on the nomination of Andrew Wheeler to be Deputy Administrator of EPA. As a staff member on this Committee for Senator Voinovich and Senator Inhofe, Mr. Wheeler was not someone with whom we agreed on each and every policy. However, Mr. Wheeler did prove to be someone with whom we could work on policies on which we did agree, like the Diesel Emission Reduction Act, which George Voinovich and I initially introduced and which Jim Inhofe has been a champion of for many years since George left us.

I would also note that Mr. Wheeler's responses during and after last year's hearing on his nomination were for the most part encouraging. But I would like to take a moment to discuss what I believe may be some concerns associated with both Mr. Wheeler and the EPA, and to note that I very much hope these concerns could be addressed in a manner that would allow the full Senate to consider his nomination soon.

Recently the public got a chance to read the so called Murray Action Plan, a list of policy proposals submitted to President Trump and other Trump administration officials by Mr. Wheeler's former client, Bob Murray. The Murray Action Plan includes any number of measures that EPA has already started to implement, like repeals of the Clean Power Plan and the Clean Water Rule and the

dissemination of EPA's career work force. Decimation, the decimation of EPA's career work force.

The document also calls for some measures that EPA has not yet acted upon. For example, Mr. Murray has called for repeal of the Mercury and Air Toxics Standard, rules that limit dangerous pollutions from power plants, even though industry is already complying with those rules. Mr. Murray also calls for a re-evaluation of climate change science and the repeal of EPA's so called Endangerment Finding, the conclusions that both the Bush and Obama administrations reached that found global warming pollution from cars and SUVs was dangerous.

I personally met with Mr. Wheeler twice since his nomination. I have asked him directly whether he was involved in writing Mr. Murray's proposals. He assured me that he was not. He told me that one of Murray Energy's priority issues that he has worked on, however, was securing health and other benefits for retired miners.

He also assured me that he views EPA's legal authority to regulate greenhouse gas emissions, which is based on the Endangerment Finding as settled law. I have no reason to doubt Mr. Wheeler's assurances that at least on the question of the Endangerment Finding he holds a view that is different a distinct from Mr. Murray's.

However, I am sure that I speak not just for myself when I say that I do not feel similarly assured by Mr. Pruitt. The Trump White House has said that it wants EPA and the Transportation Department to negotiate what I like to call a win-win on CAFE and tailpipe standards with California. That means that the Trump administration's policies must be to leave the Endangerment Finding alone, because the Endangerment Finding is what gives EPA and California the authority to write the tailpipe greenhouse gas rules in the first place.

But Administrator Pruitt has repeatedly refused to say this clearly. For example, in July he told Reuters that there might be a legal basis to overturn EPA's Endangerment Finding decision. When I asked him just last week to commit not to overturn it for as long as he is Administrator, he refused to make that commitment.

Similarly, when Senator Merkley was here to my left, Senator Merkley asked Administrator Pruitt to confirm the public reports to confirm the public reports that the White House officials have told Mr. Pruitt that he does not have their permission to move forward with his planned Red Team-Blue Team challenge to climate science. Mr. Pruitt called these reports untrue.

And just yesterday the Administrator questioned whether warming temperatures were a bad thing in the first place. Administrator Pruitt did agree, however, in response to Senator Markey, that his preference was to work to find consensus with California on how to regulate greenhouse gas tailpipe standards for cars and SUVs. But reports indicate that serious technical negotiations with California have yet to begin. And any move to repeal or revise EPA's Endangerment Finding would completely and immediately derail this entire effort.

Last week, Administrator Pruitt was given the opportunity to say that he does not plan to do each and every thing that Mr. Wheel-

er's former client, Bob Murray, asked the Trump administration to do. He was offered that opportunity. Unfortunately, he did not seize that opportunity.

I believe that members of this Committee and members of the public deserve more clarity about whether the Trump administration will be guided by science and the law or by Mr. Murray's demands. That lack of clarity is a large part of why I cannot yet support quickly moving forward with Mr. Wheeler's nomination. I believe we all need to understand particularly, for the items on the Murray Action Plan list—like the Endangerment Finding, climate science, and the Mercury and Air Toxics Rule—whether this Administration will govern in a manner that will bring regulatory certainty to industry or whether it will accede to the wishes of Mr. Wheeler's former client and throw our industry into disarray with litigation.

In closing, let me just say this. I look forward to a continued dialogue with our colleagues in the Senate, with the Administration over our concerns in hope that we can address them as we work toward a possible time agreement for the consideration of Mr. Wheeler's nomination.

With that, we will reserve our time.

Thank you, Mr. Chairman.

Senator BARRASSO. Thank you very much, Senator Carper.

Senator Merkley, anything that you would like to add to this nomination?

Senator MERKLEY. Thank you, Mr. Chairman.

I am very concerned about the direction of the EPA in this Administration. We see the censorship of scientists; we see the denial of science; we see Web pages that help our communities adapt and prepare for climate change disappearing from the EPA Web site. We see Administrator Pruitt travel to foreign countries, promote pollution rather than promote environmental protection. We see secrecy in meetings and calls and travel schedules, a complete lack of transparency in serving the American people. This is not an agency that is trying its best to protect the health of our citizens, protect our drinking water, our air, and our public lands.

When Administrator Pruitt was here last week I asked how many of his EPA's 15 major air actions were supported by the American Lung Association or by the American Academy of Pediatrics. And he didn't know, maybe because he hasn't met with them, hasn't talked to public health advocates, despite being in charge of environmental protection.

I am afraid that the nominee before us will not help EPA right its course. He is another lobbyist for another industry. An Administration that promised to drain the swamp, but instead we see a revolving door of lobbyists and D.C. bureaucrats taking appointments in the Administration to new levels on issues directly related to their former clients.

Plus, they have received waivers to allow them to proceed to avoid the ethics rules that bar former lobbyists from participating in any particular matter on which they lobbied in the past 2 years. This is the swamp; this does not serve the American people. And we should reject this nomination.

Senator BARRASSO. Senator Gillibrand, anything you would like to add?

Senator GILLIBRAND. No, thank you, Mr. Chairman.

Senator BARRASSO. Thank you.

Senator Inhofe, any members on this side who would like to have time?

Senator INHOFE. No, thank you, Mr. Chairman.

Senator BARRASSO. Senator Sullivan.

Senator SULLIVAN. Yes, Mr. Chairman. I just hope that this isn't part of the continuing effort of my good friends and colleagues on the other side to obstruct, block every single Trump administration nominee. I mean, the facts are, and I can give them to the press later if they ever want to report on this, but the unprecedented slowness with which we are seating people in the executive branch, it is unbelievable; it is remarkable. And yet it never gets reported on. I mean, the election is over. We need to start putting people in positions in the executive branch. And slowing, slow rolling, resisting, whatever you call it, in a way unprecedented, never been done before, had Republicans done this during the first year of the Obama administration, the New York Times would have front page articles every single day.

So I certainly hope that we can finally start moving people who are qualified, we don't have these week long "debates" on people who then get 90 Senators to vote for them. It is outrageous. We have had railroad accidents recently. The head of the Federal Railroad Administration, the FRA, got voted out of the Commerce Committee unanimously. Nominated in August, and he is still sitting there. Why? Why? It is outrageous.

And I hope we can finally start confirming people the way the American people want us to. Mr. Wheeler, I think, is well qualified. Some people might not like his background on certain issues. He was staff director on this Committee for a number of years.

And I think with regard to the EPA Administrator, the one thing he is doing is promoting the rule of law, again. The last Administrator, Gina McCarthy, she ignored the rule of law every chance she could. The U.S. Supreme Court put a stay on her Clean Power Plan, first time in the history of the U.S. Supreme Court that they put a stay on a rule that had not gone to a court of appeals. Why? Because they probably almost certainly thought it was illegal.

So I just hope we can start moving forward and getting people nominated. And this idea of delaying every single nomination, every single one, and my colleagues on the other side know they are doing it. Unfortunately, the press won't call them out on it. Unprecedented. And it is time we start getting people in the executive branch. It doesn't help that we delay every single Assistant Secretary, Under Secretary. I just hope that this resistance and delay and blockades of well qualified people is finally, finally going to end.

And my colleagues on the other side know, and I have talked to a lot of them, a lot of them don't even agree with it. But certain elements of their party are requiring that every single nomination to the executive branch, regardless of how qualified, regardless of the fact that they are going to get a 95 to 4 vote in the Senate

eventually, they get delayed. And I certainly hope this isn't part of that delay.

Thank you, Mr. Chairman.

Senator CARPER. Can I just respond?

Senator BARRASSO. Yes.

Senator CARPER. To our friend and colleague from Alaska——

Senator BARRASSO. Start the clock on the minority side.

Senator CARPER. Let me just say, to my friend from Alaska, let me just remind you, unlike Alaska, I live in a State where 90 percent of our pollution comes from places outside of our State. I live in a State—we are the lowest lying State in America. We see every day the vestiges of sea level rise. And I am sitting here, in order to work with all of you, but also to represent the interests of my State and our part of the country. We are deeply concerned.

I think you know me well enough to know I am not one who is interested in just blocking nominations for the sake of blocking nominations. I think, to the Senator from Alaska, I have also spent some time in the military. They have something in naval aviation called refusal speed. And it is when you bring your airplane out on the taxiway to the end of the runway to go through your checklist and prepare to take off. You get cleared for takeoff, and the airplane moves down the runway. You finally reach a speed where you can either push forward on the throttle and take off or you can pull back on the throttle and stay on the ground.

I use that analogy, I think we are at something like refusal speed in this Committee. And we have already moved forward, and my colleague may not recall, but confirming the nominations of Susan Bodine, Matt Leopold, David Ross, I think we can make further progress, and I hope today's meeting will help lead to that.

I was pretty specific in mentioning three or four things that are especially important to us to be able to move forward in a more expeditious manner. And I just hope that you will take that in good faith, and let's work together. We spent much of last year not working together, really battling each other. I think there is a chance to work this year on a more positive basis. I think it has already begun, but I think it could be continued here today.

Thank you.

Senator SULLIVAN. Mr. Chairman, may I respond must briefly?

Senator INHOFE. Go ahead.

Senator BARRASSO. Briefly, Senator Sullivan. Then Senator Inhofe.

Senator SULLIVAN. My colleagues on both sides of the aisle know me, I don't normally get frustrated like this. But I think my friend from Delaware would acknowledge that on the broader issue of moving nominees forward once they get out of committee on the floor there has been unprecedented delay and obstruction. I am just asking my colleagues on the other side of the aisle to cease and start getting these people in their positions.

Thank you.

Senator CARPER. I would just say in response, in the words of Harry Truman, the only thing new in the world is the history we forgot or never learned. Don't forget that. I think there is some blame to go around for both sides.

Thank you.

Senator BARRASSO. Senator Inhofe, and we now do have a quorum, members have arrived, and we have the quorum. If you want to?

Senator INHOFE. No, I can wait.

Senator BARRASSO. No, go ahead.

Senator INHOFE. Well, it is kind of interesting that the person that we are talking about right now is Andrew Wheeler. It is not Scott Pruitt. You guys beat him up for 2 and a half hours last week, unmercifully, and now you want to continue doing that again. I think it is probably because you can't really find anything wrong with the individual who is here. Yet to answer to your observation, I say to my friend from Alaska is, they are disciplined, we are not. Just wait and see how this vote turns out. They are all going to vote against him. That is the deal they made. Let's go.

Senator BARRASSO. Now the time is expired. I would like to move to a vote on the one item on today's agenda.

The Ranking Member has requested that the nominee for the Deputy Administrator of the EPA receive a roll call vote. I would now like to call up Presidential Nomination 1426, Andrew Wheeler of Virginia, to be Deputy Administrator of the Environmental Protection Agency. I move to approve and report the nomination favorably to the Senate.

Is there a second?

Senator INHOFE. Second.

Senator BARRASSO. The Clerk will call the roll.

The CLERK. Mr. Booker.

Senator BOOKER. No.

The CLERK. Mr. Boozman.

Senator BOOZMAN. Yes.

The CLERK. Mrs. Capito.

Senator CAPITO. Yes.

The CLERK. Mr. Cardin.

Senator CARPER. No by proxy.

The CLERK. Mr. Carper.

Senator CARPER. No.

The CLERK. Ms. Duckworth.

Senator CARPER. No by proxy.

The CLERK. Mrs. Ernst.

Senator ERNST. Yes.

The CLERK. Mrs. Fischer.

Senator FISCHER. Yes.

The CLERK. Mrs. Gillibrand.

Senator GILLIBRAND. No.

The CLERK. Mr. Inhofe.

Senator INHOFE. Aye.

The CLERK. Mr. Markey.

Senator CARPER. No by proxy.

The CLERK. Mr. Merkley.

Senator MERKLEY. No.

The CLERK. Mr. Moran.

Senator MORAN. Aye.

The CLERK. Mr. Rounds.

Senator ROUNDS. Aye.

The CLERK. Mr. Sanders.

Senator CARPER. No by proxy.
The CLERK. Mr. Shelby.
Senator SHELBY. Aye.
The CLERK. Mr. Sullivan.
Senator SULLIVAN. Aye.
The CLERK. Mr. Van Hollen.
Senator CARPER. No by proxy.
The CLERK. Mr. Whitehouse.
Senator CARPER. No by proxy.
The CLERK. Mr. Wicker.
Senator WICKER. Aye.
The CLERK. Mr. Chairman.
Senator BARRASSO. Aye.
The CLERK. Mr. Chairman, then ayes are 11, the nays are 10.

Senator BARRASSO. We have approved the nomination of Mr. Wheeler to be Deputy Administrator of the Environmental Protection Agency, which will be reported to the full Senate for approval.

Senator Inhofe, anything additional you would like to add?

Senator INHOFE. No, I don't think so.

I would say, though, that Andrew Wheeler, he worked for me for 14 years. You get to know a guy pretty well in 14 years. We passed more legislation together under his leadership, leading the Committee as well as my personal staff, than we have ever done before. He will do a good job, and I am glad that he is going to be confirmed.

Thank you, Mr. Chairman.

Senator BARRASSO. Senator Wicker.

Senator WICKER. Let me just mention the larger point that Senator Sullivan has made. It is well taken, we have a duly elected and constituted President of the United States. And he is entitled to put his team into place. And we have debated Mr. Wheeler today, and the difference of opinion about that. But there really can be no difference of opinion that we are experiencing an unprecedented delay in getting second and third tier appointees confirmed. We are getting dangerously to the point, really, where the members of the majority party are going to have make a decision about changing the rules. And people should just know that. Because this President is entitled to his team, and he has not been allowed to put his team in place.

So a word to the wise should be sufficient. We are getting to critical mass on the delay, and it has to stop.

Senator CARPER. Mr. Chairman, may I have 30 seconds?

Senator BARRASSO. Yes.

Senator CARPER. In response to my friend, I was privileged to serve for 8 years as Governor of Delaware. And for those 8 years I had the opportunity to nominate hundreds of people to serve in different capacities. I had the opportunity to nominate them, I didn't have the opportunity to name them, to appoint them. A senate was involved. Usually they agreed; sometimes they didn't.

And part of our constitutional responsibility is to advise of concerns. Sometimes both sides maybe get carried away with that. But we have a path forward here, I think, on this nomination. I think maybe before you arrived I talked about that. I would be happy to

talk with you about it further. But there is a path forward. And I hope that we will seize this opportunity.

Thank you.

Senator BARRASSO. Senator Wicker.

Senator WICKER. Nominees that get confirmed with 90 votes are being required to take the full 30 hours. That is the problem. And the unprecedented delay is something that this majority is going to have to deal with. Just be advised.

Senator BARRASSO. With that, our business meeting is concluded and adjourned.

[Whereupon, at 10:02 a.m., the Committee proceeded to other business.]

[Additional material submitted for the record follows:]

EPW
PN1426

The White House,

JAN - 8 2018

To the

Senate of the United States.

I nominate Andrew Wheeler, of Virginia, to be Deputy Administrator of the Environmental Protection Agency, vice Robert Perciasepe, resigned.

DONALD J. TRUMP

NOMINATION REFERENCE AND REPORT

PN1426

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
January 8, 2018.

Ordered, That the following nomination be referred to the Committee on Environment and Public Works:

Andrew Wheeler, of Virginia, to be Deputy Administrator of the Environmental Protection Agency, vice Robert Perciasepe, resigned.

2/7/2018 2018.
(Date)

Reported by Mr. Barrasso _____
(Signature)

with the recommendation that the nomination be confirmed.

☑ **The nominee has agreed to respond to requests to appear and testify before any duly constituted committee of the Senate.**

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