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# INTERIOR NOMINATION

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## HEARINGS BEFORE THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS UNITED STATES SENATE

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

THE NOMINATION OF  
THOMAS S. KLEPPE TO BE SECRETARY  
OF THE INTERIOR

SEPTEMBER 23 AND 25, 1975

### DOCUMENTS

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## NOMINATION OF THOMAS S. KLEPPE TO BE SECRETARY OF THE INTERIOR

TUESDAY, SEPTEMBER 23, 1975

U.S. SENATE,  
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,  
*Washington, D.C.*

The committee met, pursuant to notice, at 10 a.m., in room 3110, Dirksen Office Building, Hon. Henry M. Jackson, chairman, presiding.

Present: Senators Jackson, Metcalf, Johnston, Abourezk, Haskell, Stone, Fannin, Hansen, Hatfield, McClure and Bartlett.

Also present: Grenville Garside, special counsel and staff director; Owen Malone, professional staff member for the majority; Harrison Loesch, minority counsel; and W. O. Craft, Jr., deputy minority counsel.

### OPENING STATEMENT OF HON. HENRY M. JACKSON, A U.S. SENATOR FROM THE STATE OF WASHINGTON

The CHAIRMAN. The hearing will come to order. The Senate Committee on Interior and Insular Affairs meets this morning to begin its consideration of President Ford's nomination of Mr. Thomas S. Kleppe to be Secretary of the Department of the Interior.

Mr. Kleppe, or may I say Congressman Kleppe, or Small Business Director Kleppe, whichever, on behalf of the committee, I want to welcome you to our hearing. We look forward to hearing your statement and your answers to our questions.

I am sure you realize that the President has selected you for a position of great trust. The Department of the Interior bears the major responsibility for the management and preservation of our Nation's natural resources.

The Secretary and the Department also occupy a special trust relationship with the Nation's Indian people and the people in territories under the U.S. flag.

As I have said on a number of occasions, the Department of the Interior is in a very real sense our Department of Conservation. Its responsibilities include the wise management of the government's vast land and mineral holdings in the West, and the yet-to-be developed energy resources of the Outer Continental Shelf.

The decisions of the Secretary and the Department's programs affect the lives of all Americans. They involve the protection and development of our water resources, our nationwide system of parks, recreation areas, national monuments, historic sites, and the careful husbanding and protection of America's fish and wildlife.

The effects of the Department's programs are felt nationwide. Past notions that the Secretary's role applied primarily to our western States no longer hold, if they ever did.

The Department's activities affect all 50 States, and the Secretary must be responsive to the needs and concerns of all our people.

The Nation's energy problems have brought a new dimension to the Department's responsibilities for our federally owned oil, gas, coal, and other resources.

The challenge today is to accelerate the development of those resources to meet national needs, and to do so with full attention to our environmental goals. As I have said before, the Secretary of the Interior is the people's trustee for the total environment.

Success in that office involves difficult decisions; a sensitive assessment of environmental considerations; and a careful eye on the needs of future generations of Americans.

Mr. Kleppe, as you and the members of this committee know, your nomination has been attended by comments in the press to the effect that your modest record, your low profile, if I may, on natural resources, energy, and environmental issues do not equip you to provide the leadership the Department of the Interior needs at this time.

I am not saying this. This is what they are saying. And, as you know, press and other articles reporting your nomination have called attention to problems that have beset the Small Business Administration during your service there.

The Civil Service Commission report of August 1974, leveled very serious charges against SBA involving alleged violations of the merit system and the Federal personnel laws, regulation, and rules.

It has been charged that political interests have been allowed to influence SBA appointments in a style approximating a patronage system.

Attention has also been focused on the allegations of mismanagement and corruption in the administration of SBA programs brought to light by the House Subcommittee on Small Business in their oversight hearing in 1973 and 1974.

This committee is, of course, deeply interested in your attitudes and positions on the vitally important natural resource, conservation, energy and environmental issues you would have to deal with as the Secretary of the Interior.

We are also intent upon seeing to it that the merit system principles of the Federal Civil Service and the Federal personnel laws are strictly adhered to in the Department.

And it goes without saying that this committee expects the highest quality of management in all Department of Interior programs. To the extent they bear on your qualifications and fitness to serve as Secretary of the Interior, the committee will be interested in your responses to questions and your comments on all of these matters.

I hope you will make good use of this opportunity to give us your assessment of how the Secretary of the Interior should respond to the great challenges facing that high office, and that you will address the criticisms that have been leveled at your administration of the Small Business Administration.

At this point I would like to place in the record a biographical sketch of the nominee.

[The biographical sketch follows:]

**BIOGRAPHICAL SKETCH OF THOMAS S. KLEPPE**

Mr. Kleppe was born in Kintyre, North Dakota, July 1, 1919. He was graduated from Valley City High School and attended Valley City Teachers College.

Mr. Kleppe's first job, at 17, was as a helper at the country grain elevator which his father operated in Kintyre, North Dakota. After being assistant manager of the grain operation, he became manager of a small North Dakota bank at the age of 21.

In 1942, Mr. Kleppe entered the U.S. Army where he served for four years and attained the rank of Warrant Officer, J.G. He was honorably discharged in 1946.

Upon leaving the military service, Mr. Kleppe joined the Gold Seal Company of Bismarck, manufacturer of bleaches and waxes with national distribution. At the age of 28, he was vice president of that company, and nine years later became its president. He remained with the Gold Seal Company until 1964 when he was a candidate for the U.S. Senate. In 1950, during his tenure with Gold Seal, Mr. Kleppe was elected Mayor of Bismarck and served for four years.

In 1964, Mr. Kleppe became vice president and a director of Dain, Kalman & Quail, a Minneapolis investment banking firm. He remained with the firm in those capacities until commencement of his campaign for Congress in 1966.

Mr. Kleppe was elected to the 90th Congress on November 8, 1966, and re-elected in 1968. While serving in the House of Representatives, he was a member of the Agriculture Committee and three of its Subcommittees—Livestock and Grains, Research and Extension, and Departmental Operations. In 1970, he resigned his seat in the U.S. House of Representatives to run for the U.S. Senate.

Mr. Kleppe became Administrator of the U.S. Small Business Administration on January 18, 1971, with a recess appointment by President Nixon, and on February 25, 1971, was sworn in officially by the President following unanimous confirmation by the U.S. Senate.

Mr. Kleppe is married to the former Glen Loew Gompf, and they have four children: Janis Eileen (Mrs. Jerry Cunningham), Thomas Stewart, Jane Paula (Mrs. Richard Sutermeister) and Jill Marie.

The **CHAIRMAN**, Senator Fannin.

**STATEMENT OF HON. PAUL J. FANNIN, A U.S. SENATOR FROM THE STATE OF ARIZONA**

Senator FANNIN. Mr. Chairman, it is a great pleasure to welcome this morning Mr. Thomas Kleppe, nominated as Secretary of the Interior. I am very pleased to see him surrounded with very outstanding and highly respected members of the Congress.

They have all spoken highly of him in the past and I know they will strongly recommend him this morning because of the splendid record he has made. Mr. Kleppe brings not only proven administrative abilities to this difficult job, but a reputation for a balanced approach to management, which is important.

Needless to say, this balanced approach is a prerequisite for an executive department which manages over 500 million acres of Federal land, and administers programs for conservation, development, and utilization of these vast areas which often contain conflicting objectives.

In addition, the Department is responsible for the management of vast mineral and water resources, fish and wildlife resources of millions of acres, reclamation projects and operation of hydroelectric power systems and for the preservation of various historic areas and conservation of vast recreation areas.

The task is monumental. Certainly the administration of these many conflicting programs requires an experienced individual, such as the nominee we have today, who comes highly recommended by those who have worked with him in the past.

As a member of Congress Mr. Kleppe was known for his open and forthright manner. As administrator for the Small Business Administration he established a reputation as an effective and vigorous leader.

I am confident that this nominee will rise to the challenge of this strenuous position, and I look forward very much to working with him. Mr. Kleppe's vitality and proven administrative ability is exactly what we need at this time to bring together a very diverse and many-faceted department.

We certainly welcome you here this morning, Mr. Kleppe and the gentlemen who are with you. They are greatly admired Members of Congress and we are anxious to hear from them.

The CHAIRMAN. Thank you, Senator Fannin. Any questions—I mean comments at this time?

Senator McCURE. Mr. Chairman, on a personal note, I want to welcome before this committee a man with whom I entered the Congress some years ago. I noticed some familiar fans in the back of the room a minute ago, the class of the 90th Congress.

I think the fact that they appear here and the fact that some of us who entered Congress at the same time have a high personal regard for Thomas Kleppe speaks a lot more loudly than the words of some people who don't know him at all.

I look forward to your testimony, Tom.

Mr. KLEPPE. Thank you, Senator.

The CHAIRMAN. Thank you, Senator McClure. If there are no further comments from my colleagues, I will call on the Senior Senator first, Senator Milton Young. We are delighted to have you here this morning.

#### STATEMENT OF HON. MILTON R. YOUNG, A U.S. SENATOR FROM THE STATE OF NORTH DAKOTA

Senator Young. Thank you, Mr. Chairman, and members of the committee. This is a very special occasion for me to appear before your committee with a long-time friend, Tom Kleppe, and to strongly urge his confirmation as Secretary of the Interior.

He would be the first Cabinet member North Dakota has ever had and our whole State is very proud of this nomination. I have known Tom Kleppe for at least 25 years and his father, a tough old Non-partisan Leaguer, long before that.

Tom Kleppe was born and raised in Kintyre, N. Dak., which is about the size of the town next to the farm where I was born. Both have a population of about 75, when everybody is home.

His whole life is characterized by success in everything he undertook. There is one exception. He didn't do so well when he ran against my colleague—[Laughter.]

Senator Young. When he was only 17 years old he was the grain buyer for his local county elevator. This is a tough job that requires considerable skill, knowledge and good judgment.

From an employee he rose to president of the Gold Seal Co., where he frankly admits he did well financially for both himself and the company. As I stated previously, Tom Kleppe has established an honorable and enviable record in everything he undertook, both in private business and public life.

He was a highly esteemed mayor of the city of Bismarck, N. Dak., and the youngest mayor they ever had. From this first public office he was elected to the U.S. House of Representatives, where he served with distinction for two terms.

His record and experience as a Member of the House will be very helpful to him as Secretary of the Interior. Following his service in the House, he became Administrator of the Small Business Administration, in which capacity he has served for almost 5 years.

His record as Administrator again is commendable and I think the best in that agency's history. I had always wanted the Small Business Administration to be more progressive in its loan policy.

Nearly half of all the business loans made by SBA in its 22-year history have been made during Tom Kleppe's 4½-year administration. The SBA has, in that period, made 122,000 business loans for \$7.9 billion.

This is what the agency was set up for, to help small businessmen, and he has done a good job of it. I would like to draw your attention to one particular loan which is typical of Tom Kleppe.

An SBA loan program for minority groups made possible a manufacturing plant on the Fort Totten Indian Reservation in North Dakota. As a result of this loan to the Devils Lake Sioux Tribe, the Brunswick Corp. established a sizable manufacturing plant on this Indian reservation.

Tom made the biggest SBA loan ever at that time to a minority group. And it did not take him forever to make the decision to do so. This has proved to be a good loan.

This industry, which eventually will be owned entirely by the tribe, is doing very well. It not only provides many jobs for needy Indians, but at the same time has reduced welfare payments by a very substantial amount on this reservation.

I cite this particular loan because it is so typical of Tom Kleppe. It does not take him forever to make a decision. While he is a tough administrator, as long as I have known him he has been willing, far more than most people, to listen to both sides of every controversy.

When he makes a decision, though, he will fight hard for the position he has taken. I have often envied Tom Kleppe in other respects. He was a good enough baseball player at one time to be offered a contract with the St. Louis Cardinals.

He was an excellent bowler and once bowled a 300 game. Even at golf he scored a hole-in-one and has been good enough to take my money for years.

The CHAIRMAN. That covers the Bureau of Outdoor Recreation.

Senator YOUNG. He is an accomplished horseman and used to break his own riding horses. Tom Kleppe is a great outdoorsman from a State which prides itself on its great hunting, fishing, and many other forms of outdoor recreation.

North Dakota is a State that is deeply involved in all of the varied functions of the Interior Department. We are the No. 1 duck propagation State.

The management of our wetlands and large game reserves come under the jurisdiction of the Fish and Wildlife Service, a part of the Department of Interior.

The CHAIRMAN. It looks like your State is going to do pretty well.

Senator YOUNG. We have four Indian reservations which are closely related to the activities of the Bureau of Indian Affairs, an agency of Interior. We have one of the most beautiful national parks in the Nation, Theodore Roosevelt National Memorial Park, administered by the National Park Service.

North Dakota is a major coal State. We have huge deposits of low sulfur lignite coal which is strip mined, primarily for the production of low-cost power.

Over half of the coal deposits in our State are owned by the Federal Government. We are a sizable oil- and gas-producing State and the Interior Department administers the leasing of much of this land. The Forest Service and the Bureau of Land Management control thousands of acres of Federal land in North Dakota.

We have one of the largest mainstem dams on the Missouri River, Garrison Dam, which generates vast amounts of hydroelectric power, marketed by the Bureau of Reclamation, an agency of Interior.

North Dakota is one of the 17 reclamation States. We have a very substantial irrigation project, the Garrison diversion project, which is about 30 percent completed.

This was originally sponsored by North Dakota more than 60 years ago. The Federal Government has now spent about \$85 million on it.

Mr. Chairman, having lived his life in a State that has all this close involvement with the Interior Department and its agencies, along with his excellent administrative and legislative experience, ideally qualifies Tom Kleppe to be Secretary of Interior.

Tom Kleppe has received strong and bipartisan support from the whole upper Midwest area. Governor Link of North Dakota and Governor Kneip of South Dakota speak well of this nomination.

Former Gov. William L. Guy of North Dakota, who is now executive director and spokesman for 10 Western Governors through their Energy Policy Council, also praised the Kleppe nomination.

Mr. Chairman and members of the committee, I cannot help but feel that if Tom Kleppe receives the approval of this committee and the Senate, he will make an outstanding Secretary of the Interior.

North Dakota would be very happy and proud if he is confirmed. I sincerely hope this committee will recommend Tom Kleppe's confirmation.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Young, for a very fine statement. We are delighted to welcome our long-time former colleague to this committee who did such an outstanding job as a member of the committee, Senator Burdick.

**STATEMENT OF HON. QUENTIN N. BURDICK, A U.S. SENATOR FROM  
THE STATE OF NORTH DAKOTA**

Senator BURDICK. Mr. Chairman and former colleagues. I appear here today in support of the nomination of Thomas S. Kleppe for the office of Secretary of the Interior.

I am satisfied that he possesses the necessary qualifications for this most important position. Mr. Kleppe is an active North Dakotan, having been reared in a Western atmosphere, where resources, environment, and conservation play such an important role in the developing West.

Having lived in one of the 17 Western States, he is given an awareness of the importance of the development and conservation of our natural resources.

His experience in the private business world, which can only be described as successful, adds to his qualifications. Having served two terms in the House of Representatives provides Mr. Kleppe with a first-hand working knowledge of the legislative branch of Government, which could serve him well as he presents the Department's views before the various committees of Congress.

As Administrator of the Small Business Administration he is acquainted with the Executive side of Government, which completes a background of experience for this important assignment.

For these reasons, I recommend the approval of the nomination.

The CHAIRMAN. Thank you very much, Senator Burdick. Congressman Andrews, we are delighted to welcome you to the committee, and we will be pleased to have your comments.

**STATEMENT OF HON. MARK ANDREWS, A U.S. REPRESENTATIVE  
FROM THE STATE OF NORTH DAKOTA**

Congressman ANDREWS. Thank you, Mr. Chairman.

Mr. Chairman, and members of this distinguished committee, it is with a great deal of pride and personal pleasure that I appear before you today in support of my good friend and former colleague, Tom Kleppe.

Mr. Chairman, I had the privilege of serving with Tom in the House from 1967 to 1971. Tom represented what was then the western District of North Dakota and I represented the eastern District.

I can assure you the man our President has nominated for Secretary of Interior has the greatest respect of his former colleagues on both sides of the political aisle. His government experience, consisting of mayor, legislator, and more recently, Administrator, has proven him to be an extremely capable and effective leader.

I can also assure you, Mr. Chairman, that Tom Kleppe is a man of impeccable honesty and integrity. Long before it became a common and expected practice, Tom Kleppe in 1969 demonstrated his openness and integrity by disclosing publicly all his financial holdings.

Because today, Mr. Chairman, you will no doubt carefully review Tom Kleppe's record, I will not dwell on his accomplishments. I do know his record is one that can withstand the closest scrutiny.

But I do want to leave one final thought with you. As you know, the Secretary of the Interior is charged with the responsibility of administering our country's vast natural resources.

Tom Kleppe, Mr. Chairman, is from a State where the dust bowl era of the thirties and limited rainfall have ingrained in all of us a deep love for the land and our water resources.

Tom Kleppe knows the needs and understands the problems the Western States face in developing energy for the rest of the country.

Furthermore, Tom Kleppe is from the most rural State in the Nation and knows the important role agriculture plays in solving the problems of food and fiber in the Nation and the world.

As you are well aware, Mr. Chairman, there are often competing interests at stake when natural resources are developed. Nonetheless, I am convinced that Tom Kleppe will make sure that future development is orderly and that our country's land, mineral and water resources are preserved and protected for careful and wise use of future generations.

He will do this, Mr. Chairman, because this is the type of man he is, and this is really the greatest thing anyone can say about any other individual.

I appreciate the opportunity of being here and speaking on behalf of our fellow North Dakotan, Tom Kleppe.

The CHAIRMAN. Thank you, Congressman Andrews.

Congressman Steiger is here—Sam Steiger, and I believe Phil Rupee is here, too, or was here.

Are there any other Members of the Congress or the Senate who wish to make a statement? Unless any of our colleagues have questions of our colleagues, I think we can excuse them, so that Congressman Steiger can make his presentation.

We want to thank you gentlemen.

Mr. KLEPPE. I would like to say a word to my colleagues before they leave if I may, Mr. Chairman.

The CHAIRMAN. Fine.

Mr. KLEPPE. Thank you.

I would just like to acknowledge with a word of appreciation and thanks not only your opening remarks and Senator Fannin's and Senator McClure's, but Senator Young's comments, I deeply appreciate them.

Yes: I have known him a long time, but please do not be misled about how much I earn from him on the golf course. It came very hard.

Senator Burdick, on two occasions, I was not too kind to him. I tried as hard as I could to beat him twice. It did not work, and maybe that adds a double appreciation to the fact that he is here this morning and has given this fine statement.

Congressman Andrews, with whom I served in the Congress from North Dakota, when you are colleagues from a State like that you get pretty close.

Now there is only one Congressman from North Dakota, and that is Mark Andrews. I appreciate your coming. To these gentlemen, I thank them very much for coming; and thank you, Mr. Chairman, for this interlude.

The CHAIRMAN. Thank you, Congressman Kleppe. Thank you, gentlemen. We appreciate your testimony very much. We know you have other meetings to attend and for that reason will excuse you now, with thanks for your participation here this morning.

Congressman Sam Steiger, we are very pleased to have you with us this morning as a member of the Interior Committee of the House, and we are glad to welcome you.

**STATEMENT OF HON. SAM STEIGER, A U.S. REPRESENTATIVE  
FROM THE STATE OF ARIZONA**

Congressman STEIGER. Thank you, Mr. Chairman.

As you indicated, there were other members who were to be here, and I can only assume that there was a schedule hangup or something, but we were to appear en masse, obviously to support Mr. Kleppe.

Mr. Chairman, aside from our affection and respect for Mr. Kleppe, I think this is a uniquely good choice at this time because of the similarity between Mr. Kleppe's experience when he took over SBA, which through nobody's fault was in some disarray because of the newness of it, and the confusion of organization and did by any standard a remarkable job.

Again, we have the Interior Department, again through nobody's fault but simply because of the delay in implementing the final authority, there is disarray in the Interior Department.

I think the committee should be aware that Tom Kleppe is the kind of a person who can bring order out of disarray, and has an understanding of the importance of the constituency of the Interior Department.

Not only the obvious constituency of Indians, but the farmers dependent upon reclamation and those who depend on the resources of public lands. And most important, I guess, at this point in our history, those who simply respect the public lands.

Tom is the kind of person who will understand all of those pressures, and I think as the committee works with Mr. Kleppe over the coming period of time, they will come to learn that he says what he means, he means what he says, and he can deliver when he says he can deliver.

I thank the Chair for its indulgence.

The CHAIRMAN. Thank you, Congressman Steiger. We appreciate your statement. Are there any questions? Senator Hatfield has a question.

Senator HATFIELD. I just want to make an observation about my longtime personal, warm friend from Arizona, and his remarks concerning Mr. Kleppe's capabilities would have even more impact on this Senator if we could arrive at some solution on the OEC proposal.

Congressman STEIGER. I cannot imagine the Senator bringing a parochial interest into this national question.

Senator HATFIELD. I was only taking your comments about this public land business very seriously.

The CHAIRMAN. I am glad the mood is getting more serious. Thank you very much, Congressman Steiger. Are there any other Members of the Congress who wish to speak prior to calling on the nominee?

Senator METCALF. Mr. Chairman, some of the Members of Congress wish to have statements—

The CHAIRMAN. Oh, yes. I ask unanimous consent that Members of the House and Senate who wish to submit statements or former Members may do so at this point in the record.

Now, we are very pleased to again welcome you, Congressman Kleppe, to the committee. You have a short, prepared statement, I think, at this point. You may proceed in your own way.

#### STATEMENT OF THOMAS S. KLEPPE, NOMINEE TO BE SECRETARY OF THE INTERIOR

Mr. KLEPPE. Mr. Chairman, members of the committee, thank you very much. Again, I thank you, Mr. Chairman, for that interlude you permitted me for the purpose of recognizing the gentlemen who were with me at the table.

If you would allow me a point of personal privilege at this moment, I would like for you, Mr. Chairman, and the committee members to know that my dear wife, Glen, is sitting in back of me in her red dress.

The CHAIRMAN. We are delighted to have your wife here. She will supply the answers that you don't supply.

Mr. KLEPPE. You are so right.

The CHAIRMAN. You will be allowed to confer from time to time.

Mr. KLEPPE. I don't think she is prepared for that, thank you.

Mr. Chairman and members of the committee, you all know that North Dakota has a harsh climate. I have lived through real winters there, and through droughts, and the Dust Bowl conditions of the thirties.

But North Dakotans are willing to make that sacrifice. They do it because they know the value of, and they love, clean air and clean water and good soil.

I came from a farming family, and grew up close to the soil. I am still involved in farming. Protecting the productivity and value of the land is ingrained in me.

Mr. Chairman, I am frankly proud to have been nominated to the post of Secretary of the Interior by the President, and grateful for the confidence that he has expressed in me.

But at the same time, I am very humbled by the responsibility that I would face as head of the Department which serves as guardian for some of the most beautiful and most valuable natural resources of this Nation and carries out the Government's trust obligations to American Indians.

The North Dakota farmboy in me says that it is a lot of land to protect, and that protecting it is all important. It appears that the rate of growth of consumption of resources in this country has reached a new high at the very time that we are all coming to a new recognition of the necessity for preserving the quality of our natural living environment.

Clearly, we are going to have to make economic sacrifices if our heirs are to enjoy the quality of life that we want for them.

At the same time, if our heirs are to enjoy other aspects of that quality of life, we will need access to the minerals and other natural resources that are a necessary ingredient and that have contributed so much to make America a prosperous Nation able to afford its people a good standard of living.

As we attempt to strike the delicate balance between resource use and resource protection, we must keep in mind that the economic penalty for an error in the direction of overprotection can always be corrected, while the damage from resource abuse may be irreparable.

At the same time, we must not permit the proper development of our natural resources to be paralyzed by baseless fear of damage to the environment.

I have reviewed in my mind the technical skills that I wish I could bring to the office of Secretary of the Interior. I would add here—that I could bring to the members of the press who have written some articles about my qualifications or lack of qualifications. They would include those of the geologist, botanist, zoologist, anthropologist, economist, chemist, hydraulic engineer, and so on.

I would certainly want to be a magician, too. No man has all those skills. I certainly do not. What I can offer is this: a heartfelt dedication to the many important missions of the Department of the Interior; a willingness to take an unbiased and penetrating look at the major issues facing the Department, listening to experts, including Members of Congress, on all sides of the questions; a concentration upon the development of long-term solutions to the problems, rather than resorting to short-term expedients; a determination to advocate the soundest solutions, as I see them in my independent judgment, to the public, before the Congress and within the administration.

By constantly doing those things, and through active and aggressive persuasion and management, I hope to bring renewed vigor to the Department.

It is my intention to convince you and all our citizens that the value and beauty of this great Nation's natural resources have become even greater, and that the lot of our native Americans has improved, during my service at the Department of the Interior.

Thank you, Mr. Chairman. I will be pleased to talk with you concerning my nomination.

The CHAIRMAN. Thank you, Mr. Kleppe.

Gentlemen, if there is no objection, we will observe a 5-minute rule. I am usually the first violator of it, but stop me the moment the 5 minutes is up. I think we will move along faster that way.

Senator METCALF. Mr. Chairman, with all due deference to the witness, we adopted a rule in this committee that all nominees for confirmation be sworn.

The CHAIRMAN. That is right. I am sorry.

Senator METCALF. I think the rule should be uniformly applied in order to—

The CHAIRMAN. Absolutely. The keeper of the judicial process has been Senator Metcalf, and I am most grateful. Mr. Kleppe, if you will raise your right hand.

Whereupon, Thomas S. Kleppe, nominee for the office of Secretary of the Interior, was duly sworn by the chairman.

The CHAIRMAN. Mr. Kleppe, I want to thank you for your fine opening statement. First, we have a series of letters here from Members of the Congress, individual citizens, and other sources seeking your views on specific projects and issues. We will make this material available to

you so that you can go over it, and provide your responses for the record.

I realize it is hard to comment on matters that you have not heard about or have not had a chance to study. Please review this material and you can provide written responses for the record rather than take up the time of the committee now.

I think we will save time if we confine our questions to the broad issues. I will ask the staff to make this material available to you.

First, let me ask you this broad question. Do you feel that you can faithfully carry out the enormous responsibilities of the office of Secretary in enforcing the law, in carrying out the mandates of the Congress, even though you, yourself, philosophically may in the past have been opposed to some of the statutes that are on the books?

Mr. KLEPPE. Mr. Chairman, that does not bother me at all. I am a great respecter of the law, I believe, and I would do everything in my power to comply with the law, all the way up and down the line, irrespective of any positions I might have taken, or anything I might have said on any issue.

The CHAIRMAN. Both the letter and the spirit of it?

Mr. KLEPPE. The letter and the spirit, and I am glad you added that spirit—

The CHAIRMAN. It is easy to technically comply, but what I always look for in a witness, a nominee for this office and we try to conduct fair hearings—is the intellectual honesty of the nominee.

I direct the question in that spirit, because I think it goes to the heart of our system of government. Once you take over a job, it is like a judge sitting on a bench. You do act in many areas where the decisionmaking power of the Secretary is involved in a quasi-judicial capacity.

He does not just administer. The Secretary acts as a judge in many matters. That is why I want to ask this fundamental question. The question goes to how these programs are going to be administered in the area of natural resources, the handling of the Indian people, the Indian nations and the territories. It goes to every aspect, whether it is people or their material well-being, or to the enormous resources of the Nation.

This is the overriding issue, at least with the chairman, because I have voted for a lot of people that I disagreed with personally. As one member of this committee, as my colleagues know, I have taken a very independent position. My test looks for intellectual honesty. If I believe that the nominee is honest in the general sense and intellectually honest above all, even though I might disagree with him on a lot of issues, I have a tendency to support that kind of a nominee.

That is the heart of this job, as I see it, I want to raise this broad, philosophical question because we have some controversial matters to deal with, including strip mining, the leasing program and what not. I will be more specific later on, but do you feel that you can freely and faithfully and without any inhibitions make decisions as you see them in conscience and in accordance with the letter and spirit of the laws that we have put on the books to govern and guide the conduct of the Secretary of the Interior in administering this enormous operation.

Mr. KLEPPE. Mr. Chairman, I give you an unqualified yes to those questions. If I may add to that, the spirit is important to me, too.

The CHAIRMAN. The spirit even more than the letter?

Mr. KLEPPE. I think you are right.

The CHAIRMAN. It is an attitude, I think.

Mr. KLEPPE. It is an attitude. I am a great believer in the importance of the attitude of a person toward his job, whatever it might be. In this regard, there comes to my mind promptly that when a piece of legislation is written and becomes law, that does not always spell out everything.

Lots of times there is a spirit and there is an intent of Congress covered in the words of the report that are very, very helpful. To me they bring forth a better definition of what it is that is really intended.

I would add one other thing. I approach this opportunity at the Department of the Interior, Mr. Chairman and members of the committee, totally unbiased, totally without prejudice, and again tell you that I give an unqualified answer of yes to the questions you posed.

The CHAIRMAN. Character, integrity, and ability to me are the watchwords of a qualified Secretary. Ideology is very confusing these days.

I am always reminded that Oliver Wendell Holmes was violently opposed by the liberals back at the turn of the century when Teddy Roosevelt appointed him to the Supreme Court, because he was a New England aristocrat.

He went on, of course, to become one of the most liberal justices, if there is a definition of that term. Most of these terms have been de-based, liberal, conservative, and so on.

The political currency is very confusing. I mention this because I think intellectual honesty is the real test, especially in this office. I have gone over my time.

Senator Fannin.

Senator FANNIN. Thank you, Mr. Chairman.

Mr. Kleppe, as you know, my State of Arizona has 44 percent of its land under Federal ownership, and 27 percent being owned by the first Americans.

So we are very much involved with the Department of Interior. Indecision has created great problems in the State of Arizona over the years. I could point back to some of them, such as the Hopi-Navajo land dispute, because there was not a decision made by the Department of Interior or the BIA.

We have a conflict and I was very pleased that you have made it very specific that you are willing to make decisions. You brought out that this has been a part of your work in the SBA.

I praise you for that. You feel that you will be able to make decisions on these conflicting matters that will be coming before you?

Mr. KLEPPE. Senator Fannin, from a personal point of view, I look at myself as a decisionmaker. I am not a procrastinator. If there is one thing I like to do it is to get going.

But I do not like to leave that wide open at that point, because of so many factors that become involved, particularly in these controversial issues.

In this regard I can understand that there are going to be limitations from the standpoint of the speed of a decision based on a study authorized here or a litigation over there.

I have never been so deluged in my life as in this brief time that I have had to look at some of the things in Interior that are being held up because of a study or because of litigation.

Somewhere along the line, we, have got to do something about getting some decisions made. But I assure you, Senator Fannin, that I am no procrastinator.

Senator FANNIN. We have waited since 1882 in one of these decisions I am talking about. [Laughter.]

I am very concerned, too. You have a trust obligation to the American Indians. It is absolutely vital that we give our Indian people the same opportunities that we give the other citizens.

I do not feel that we have accomplished that objective, even in my own State. Your decision to approve an SBA loan for the Indians has been in your own State, but I know that was not the first consideration.

Have you had loans, for instance, that the State of Arizona should know about, on the Indian reservations?

Mr. KLEPPE. Do I know about them?

Senator FANNIN. Yes; do you know about some of the loans—

Mr. KLEPPE. Some of them. We have had an active program of lending, and also in Government contract procurement, with the Indian people in the State of Arizona. But when you ask me about some of the loans—

Senator FANNIN. I know you will not still be administrator of those loans, Mr. Kleppe, but I hope you can use your influence on the SBA, since you should have and will have considerable influence, and will have better knowledge, perhaps, of the needs for some of these loans.

I am just talking about one program they have on the reservation in Arizona, to develop the Jojoba seed. It is a growth, wild growth or desert growth on the reservations.

I would say it is just like the brush growth, but they had been able from the seeds to get an oil similar to sperm whale oil. They are trying to get financing at this time.

Mr. KLEPPE. What will they do with the product, Senator?

Senator FANNIN. It would be for sperm whale oil. I just turned over a sample of it to General Motors.

Mr. KLEPPE. They are looking for some capital?

Senator FANNIN. This is just one illustration I am talking about. You will be in a better position to consider the recommendations. You will not be making the loans, but I am just bringing out that I feel we have not gone forward quickly enough with helping our Indian people develop.

We had some active projects with the Hydro-Kani plant at Yuma, Ariz., and near the Red River, Colorado River, and on one of the other Indian reservations, but there are so many opportunities. I feel that since you have had this vast experience with SBA, you are better able to evaluate them and I just bring that out to you, because I think it is important.

My time is up.

Senator METCALF [presiding]. Senator Johnston.

Senator JOHNSTON. Thank you, Mr. Chairman.

Mr. Kleppe, you have been in the Congress, you have been around Washington. Do you feel you are familiar with the jurisdiction of the Department of Interior?

Mr. KLEPPE. I think, Senator, I have learned a fair amount—in the last 10 days particularly. I would say the answer to your question is, it would not take long to find out about the jurisdictions I am not familiar with right now.

But I think substantively yes.

Senator JOHNSTON. You have been in the House. You must be familiar with land and water conservation; are you not?

Mr. KLEPPE. Yes.

Senator JOHNSTON. Do you think Congress, the Government, is doing enough acquisition of lands for parks and recreation areas?

Mr. KLEPPE. Senator, what I can find out about that program and that fund, it is a very popular program, both inside the administration and Congress and outside. It is a very wonderful program.

I guess the only question I have discovered in connection with this concerns the economic aspect. How much is a good figure to be appropriated?

Senator JOHNSTON. Right now the fund is \$300 million and at the present rate of acquisition, it would take some decades to acquire that which is already authorized. We just passed out of this committee a bill that would increase that fund to \$1 billion.

It includes not only money for recreation but money for historic preservation as well, and I think it is a very classic and clear issue of whether or not this country at present is giving the kind of priority to land acquisition that ought to be given.

It is not really the kind of a question that you have to study a great deal. It is something that I think, it seems to me, that every Secretary of the Interior should have a very deep feeling about.

I think the members of this committee do, on both sides of the aisle. Are you telling me that you are not familiar with whether or not \$300 million is enough?

Mr. KLEPPE. I am not passing on whether the \$300 million is enough, not on the specific amount. What I am commenting on is that everything I find out about that program is advantageous and positive.

I would add to that, justifying what you just said, I understand that there is a backlog of authorized projects under this of \$2 billion \$900 million, so that gives substance to what you said.

May I add one other important ingredient to this? In using this money and in placing those lands under application into the park system, or into wherever it may go, there is the question of people for maintenance.

I can see it going so fast that it could not properly be taken care of under the framework of the personnel structure. I do not know if the bill you passed out of here made any provision for additional maintenance, additional upkeep.

Senator JOHNSTON. You stated the question rather well, but not the answer. How do you feel about the program? Is \$300 million enough? Do you have an opinion or don't you have an opinion?

Mr. KLEPPE. I do not have an opinion on whether \$300 million is right or too low or too high. I like the program, though, from what I know of it.

Senator JOHNSTON. With respect to this committee's bill, I think it will pass in the Senate, and also the House, I trust, since they passed it last year. You do not have any feel or indication of what your advice to the President would be on that bill?

Mr. KLEPPE. No, for this reason: I would like to find out how well the program can be administered to accomplish proper utilization of the \$300 million.

Senator JOHNSTON. We can take care of that very well.

Mr. KLEPPE. You might, but I am not sure that administratively it can be done. This is why I am giving this kind of answer. I may be very frank in telling you that if this all works out I may be up here in 6 months or a year and say that we can sure use \$500 million.

I do not know at this point, and that is why I am giving you the answer I am.

Senator JOHNSTON. I may not have the chance to speak to you in quite this situation again, so let me put in 2 cents for this program. We do not have an unlimited amount of land and water in the country, and it is going very quickly.

If we do not increase that amount very soon, we are going to lose a lot of it to the bulldozers and lose it forever for the country.

I think the President's policy thus far opposes this program, opposes the increase. I think it is a very, very unwise situation, and I hope as Secretary that you will rethink that, and reapprise the President to the end that we can dramatically increase that program this year.

Mr. KLEPPE. Senator, as I understand it the administration's opposition has been strictly along budgetary lines. I know of no other reason that it has been objected to whatsoever.

Senator JOHNSTON. Oh, nobody is against a park.

Mr. KLEPPE. So, again, it boils down. I think it has to be shown that the \$300 million can be properly used. If you were going to sit here and build a backlog of applications, that will not do you any good, or me, or anyone else.

Senator JOHNSTON. Honestly, the administration is not a problem.

Mr. KLEPPE. You say that is not a problem?

Senator JOHNSTON. No.

Mr. KLEPPE. You added something that I was not sure of, then.

Senator METCALF. The Senator's time has expired. Senator Hansen.

Senator HANSEN. Thank you, Mr. Chairman. Mr. Kleppe, let me join in the words of welcome you have already heard, to express my pleasure at your being here this morning in the capacity that brings you before this committee.

I am the ranking member on the Subcommittee on Parks and Recreation. From what I have learned, in talking with superintendents of various national parks around the country, I pay particular attention to your statement when you say, "As we attempt to strike the delicate balance between resource use and resource protection, we must keep in mind that the economic penalty for an error in the direction of over-protection can always be corrected, while the damage from re-

source abuse may be irreparable." You continue, "At the same time we must not permit the proper development of our natural resources to be paralyzed by a baseless fear of damage to the environment."

In a somewhat slightly different context, having in mind the great national heritage that is represented by national parks, national monuments, national landmarks, recreation areas, historic sites and so forth, it seems to me that there is an increasing imbalance between the propensity of Congress on the one hand to establish ever more and more of these sites, and on the other the failure to provide adequately for the management of these resources that I am sure you and I agree are very important and very special to us, also.

What do you think can be done and would you propose to take an active role in seeing the needs for adequate staffing of our national park systems in all of those areas under the jurisdiction of the Park Service might be funded in order that we can provide what I think has to be a minimal amount of protection to them.

I have the feeling now that we are doing less than an acceptable job, and unless we can increase that budget in the Department, I think we are going to look back in later years and see all too late the error of our ways.

What do you think can be done and what do you propose to do?

Mr. KLEPPE. Senator Hansen, first of all, when I think of America's parks and the areas that you mentioned, they represent an esthetic quality, an esthetic beauty in our Nation, enjoyed by millions every year.

It is incumbent, in my opinion, upon us, the Federal Government, because it comes under the jurisdiction of the Department, to keep those facilities as clean and as best supervised and as protected as possible.

Having said that, we come quickly to the recognition that that takes manpower. That takes womanpower, whatever it might be.

Senator HANSEN. Personpower is the new word. I understand.

Mr. KLEPPE. I am sure you understand what I am saying. In any event, it would seem to me that the growth and development of this area of our natural life in America is something near and dear to a big majority if not all of the citizens of this land.

So our responsibilities have become greater. On the other side of the equation you and I know that the battle of personnel, the battle of budget, the battle of cost is an ongoing one.

We have been living with it at SBA for the benefit of small business people, and every department that I know of is living with the same thing. I doubt if there is a bureau or office in the Department of Interior today that does not believe it is short of manpower.

This is the reason I raised the point to Senator Johnston, that if we were just going to spend the \$300 million every year for land and water conservation to put more units into this esthetic quality of life in America, without people to take care of it properly, I think that would be a mistake.

This is why I wanted to add that ingredient I think is vital. From the standpoint of a more direct answer to your question, I am in support of a concept that if we are going to have these parks and areas, we ought to take care of them.

If we are going to add more, let us have the people to do the job, or let us not add them right away. Let us only add them as we can do the job of taking care of them.

Senator HANSEN. You are the witness, and what I might think is relatively unimportant at this particular time, but I would like to join in support of the theory and the proposition that Senator Johnston put forward.

I do think that we have already within the park system a tremendously important national heritage that we can ill afford not to take care of.

At the same time, I think there are other elements that are deserving of inclusion in that system. So I join with my good friend from Louisiana in saying that time is running out. Some of these national treasures are very fragile.

If we delay too long, we are going to have not too much that is important left to preserve. So I hope we can get on with that job, and I appreciate your candid answer in saying that we have got to see, once having established them, that they are properly preserved and protected.

Senator METCALF. The Senator's time is up.

Senator HANSEN. Thank you, Mr. Chairman.

Senator METCALF. The Senator from South Dakota, Senator Abourezk.

Senator ABOUREZK. Mr. Chairman, is this a good time to ask about SBA loans to some of my constituents?

Senator METCALF. The time is short; he is about to leave the SBA.

Mr. KLEPPE. Senator Abourezk has asked about some before.

Senator ABOUREZK. Mr. Kleppe, I guess you know that the Bureau of Indian Affairs, which is in the Interior Department, has almost unfettered jurisdiction over the Indian tribes in this country through the 1934 Indian Reorganization Act.

They have what you would call open-ended authorization to run Indian affairs about the way they want to. Each Indian tribe has a different condition and a different problem under which they either suffer or live.

In South Dakota right now, especially at the Pine Ridge Indian Reservation, we have probably more than our share of difficulties with regard to Indian militancy, with regard to what the tribe itself either does or does not do to deal with that militancy.

In line with that, the U.S. marshals and Justice Department recently proposed a system by which law enforcement would be brought back to some kind of normal level on Pine Ridge for about a year's time.

Are you familiar with that?

Mr. KLEPPE. To some degree, Senator, yes.

Senator ABOUREZK. What it would do is to try to train Indian police, using marshals as a supervisory force, a training force out there, just long enough to restore things to normal.

As you know, the murder rate on the Pine Ridge Reservation is six times higher than that of Chicago. I think it will hold, even though 100 FBI agents on the reservation have cut down the murder rate somewhat this year.

So far the Bureau of Indian Affairs, in typical fashion, I might say, has refused to go along with the marshals plan. I suspect the reason they have refused to is because they see that as an invasion of their own empire.

They do not want that to happen, no matter what happens to the Indians out there. Second, I know, also, that the tribal council which was set up under the 1934 Indian Reorganization Act has been almost completely ignored by the tribal chairman of the Pine Ridge Reservation.

He makes decisions through himself alone or through the executive committee. The Bureau of Indian Affairs, which is under Interior and would be under your jurisdiction if you are confirmed, has gone along with the chairman and ignored the tribal council's decisions, which has resulted in the great political turmoil and violence that has occurred on the Pine Ridge Reservation.

With all that background, my question to you is this: do you intend to make sure that the Bureau of Indian Affairs stays out of tribal—internal tribal politics to the extent that they will allow the Indian people, through their council, to make decisions, rather than going along with what the chairman wants?

Mr. KLEPPE. Senator Abourezk, it seems to me that the question of self-determination, which is what you are talking about, the tribal council, vis-a-vis the BIA, ought to be given all the opportunity to work itself out that can possibly be provided.

Senator ABOUREZK. What does that mean in terms of my question?

Mr. KLEPPE. That means specifically—what I am saying is—the tribal council ought to have more voice in the affairs of the reservation.

Senator ABOUREZK. More voice—

Mr. KLEPPE. More voice. This is a backing away, not a relinquishing of any of the authority of BIA, but a backing away of the administration of the affairs of the tribes on the Pine Ridge Reservation.

That is a general statement, but it provides an answer to your question, I believe. I did not know the details of all the things you recite about the murders and the difficulties and the situation at Pine Ridge.

But this question of self-determination has two sides to it, from what I am able to learn. You have some tribes who like to have more authority in running their affairs. You have others concerned about it because of losing some control—losing some support that they might otherwise get from the Federal Government through the BIA.

So it works both ways, depending on the local situation. If that condition exists in Pine Ridge, where the tribal council—and you have a dichotomy, apparently, between the council and the chairman, so I had better stay out of that because I just do not know enough about it.

But where you have the tribal council wanting to make more decisions from the standpoint of the affairs of the tribe, I think that would be a proper policy that I would support from the standpoint of the activities of the BIA in that given area.

Senator ABOUREZK. Even if you believe in that, would you enforce that belief on the BIA?

Mr. KLEPPE. I would certainly attempt to give that a go, yes.

Senator ABOUREZK. They work for you, of course.

Mr. KLEPPE. Yes.

Senator ABOUREZK. Secondly, how do you stand on the marshals plan? Would you favor it? Would you require the Bureau of Indian Affairs to adopt that plan for a year's time?

Mr. KLEPPE. I do not know, Senator. I just do not know that much about it. There is one thing I do not like the sound of, and that is the idea of the marshals, whoever they might be, doing the training on the reservation.

I think if that plan were going to be adopted, the training itself ought to be off the reservation. Other than that, I do not know enough about the details to give you a further answer.

Senator ABOUREZK. That's the BIA's position. I see you have been talking to them already.

Mr. KLEPPE. I have been talking to them, yes, but their position is a little different than mine.

Senator METCALF. The Senator's time has expired. Senator Hatfield.

Senator HATFIELD. Thank you, Mr. Chairman. I would also like to welcome my colleague from the class of the 90th Congress. First of all, Mr. Kleppe, as you know, the Interior Department has significant responsibilities as it relates to wilderness studies and areas it manages for potential wilderness classification, or designation.

I would like to know generally what your disposition toward the possibility of expanding the wilderness system might be, or your general philosophy concerning wilderness in general.

Mr. KLEPPE. My general answer to that, Senator Hatfield, is yes, I do believe in the wilderness concept. I believe in the reasons for it and concur with the proponents of it.

I think it ought to be increased in our total composite structure. If you will, allow me beyond that to reserve the decision and the judgment on individual situations which may have a lot of other circumstances. But I hope I have addressed your question from a general point of view.

Senator HATFIELD. You do agree, then, that a study which indicated we had not yet implemented the Wilderness Act as aggressively as we should have is one that you will give careful attention and strong leadership to as it relates to the lands within the Interior Department?

Mr. KLEPPE. Yes.

Senator HATFIELD. Secondly, I want to commend you, Mr. Kleppe, for having implemented, for the first time, the set-aside program which was authored by the late Senator Morse, of Oregon, in 1958 and took until 1971 to get this implemented, through the leadership you have provided the SBA.

My question is, I have a letter before me, a letter of exchange between you as Administrator of the SBA and the Director of BLM who will now be a part of your administration in the Interior Department when you are confirmed.

May I assume and make the record here today that you will continue to give aggressive leadership to the opportunities provided under the set-aside program to maintain the viability of small operators in the general forestry products industry?

Mr. KLEPPE. I would certainly answer that yes, provided it does not fight legally with rules governing BLM. I don't know what the letter says that you referred to.

Senator HATFIELD. I am speaking basically of the period we are now entering for a reassessment of the procedures that were set forth for this SBA-BLM set-aside program.

Mr. KLEPPE. I cannot think of a reason that I would not further support the position taken previously. I was pretty strongly involved in that, and unless there is some legal complication that I am not aware of, I think the answer to that would go down the line.

Senator HATFIELD. I would like to urge you to continue to give leadership to this concept of raw materials being made available to the small business enterprises of this country, rather than continue to see the trend toward the giants with the large corporations gobbling up the access to raw materials, or dominating the access to raw materials.

I think the set-aside program is a very good model that might be considered in other resources that would come under the management of the Secretary of the Interior.

I wonder if you would care to comment on that as far as perhaps being innovative and coming up with some other proposals that might be patterned after the timber set-aside.

Mr. KLEPPE. Yes; I would like to comment on that. Subsequently, it will be very easy for me to agree with the set-aside program, because I think it is so right, I think it is so right for America.

If it would become known that other activities in the Department of the Interior would lend themselves to that kind of an objective, allowing a set-aside for the benefit of small enterprises, I think my record and my beliefs are such that I would support it pretty strongly.

Senator HATFIELD. Such as perhaps oil leaselands?

Mr. KLEPPE. Possibly, there might be something innovative that could be done there. When you start talking about oil leaselands, you are talking about—that is a whole different ball game, but maybe something innovative.

Senator HATFIELD. You are not foreclosing that possibility?

Mr. KLEPPE. I would think not.

Senator HATFIELD. Thank you, Mr. Chairman.

Senator METCALF. The Senator from Colorado.

Senator HASKELL. Mr. Kleppe, I would like to welcome you here. I have a few questions. Within the Department of the Interior, as you are well aware, there are highly qualified professionals, whether they be the Bureau of Reclamation, the USGS, Bureau of Outdoor Recreation.

Now, these individuals have professional opinions which I think should be available to the Congress. From time to time, the administration, for some other reason, will decide that a particular project will not go.

They do not want it to go, they take a position against it. That is fine, but I think the proper reason, the actual reason should be articulated to Congress. My question to you is, as Secretary of Interior, would you permit and in fact encourage your department heads to provide frank, professional testimony to this committee, even though it may differ from an administration line.

Mr. KLEPPE. Senator Haskell, I am not sure that I could answer that any other way except from my personal point of view, by virtue of this problem. The problem is, the Office of Management and Budget which is part of the President's administrative arm—

Senator HASKELL. I understand OMB.

Mr. KLEPPE. You are not referring to that?

Senator HASKELL. I am asking a direct question. If OMB decides for some reason it does not want a particular project to go, let us assume that the Bureau of Reclamation's professionals feel it is beneficial all the way around, and they have professional reasons.

Mr. KLEPPE. You are talking about technical reasons?

Senator HASKELL. Technical, professional reasons. Would you permit the head of that bureau or the head of the Bureau of Outdoor Recreation, to come and give professional testimony and recommendations, even though it be in opposition to or different from the administration's official line?

Mr. KLEPPE. Senator, I think the answer to that is "Yes." I think that the relationships between the Department of Interior and Congress are vital.

The committee needs—and is entitled to—the technical answers available from an expert in the Department.

Senator HASKELL. I am very, very pleased to hear you say that, because in the past I do not feel that we have had that benefit.

Senator JOHNSTON. Would the Senator yield at that point?

Senator HASKELL. I will.

Senator JOHNSTON. If the head of the Bureau of Outdoor Recreation, for example, was for a billion-dollar land and water conservation fund—

Mr. KLEPPE. No, that is a question for OMB. You are talking about something else, that is not technical expertise. I would not want any of our people, nor would I want Tom Kleppe to come up here and cut the legs out from under the President.

Senator HASKELL. Would you permit the head of the Bureau of Outdoor Recreation to give specific instances of land that should be acquired and reasons why, if they are not acquired, they may be gone?

Mr. KLEPPE. That is fine. That is technical. But he is talking about dollars.

Senator HASKELL. I am asking a slightly different question than my colleague.

Mr. KLEPPE. I can respond to yours, Senator Haskell, the way I did because I believe very strongly that we will be able to do better if we are talking to each other.

We have expertise down in that department and it should be available from a technical point of view. But OMB exists for a purpose, too, and you would not want me to undercut my pledge, my promise, or the administration position.

But that does not mean that I am not apt to go to OMB and argue very strongly for the thing you are talking about.

Senator HASKELL. I think we understand each other.

Senator JOHNSTON. Does that mean you would fall in behind OMB's opinion as well?

Mr. KLEPPE. On the questions of dollars, Senator, and I have had some experience with this, when I have fought my fight with OMB on the budget, supplemental or what-have-you, and I have lost, yes, I will come up and support that position.

But I have fought pretty hard. I have been accused of fighting a little bit too hard on some occasions. But that is something I will continue to do if I believe something is right.

But once I have lost, I am a member of the team, and I will stick with it and I will come over here and support that position.

But from an expertise standpoint, and the technical point of view, I think we ought to make available the resources we have. I think the same thing would be true if this committee wanted assistance from Interior on language in a bill with which the Department might not agree.

Senator HASKELL. From time to time, at least it has been my observation, and it may be erroneous in the past, that pressure has been brought on the heads of departments within the Department of Interior, perhaps not to come up or to lend their professional opinion.

To my way of thinking that is self-defeating.

Mr. KLEPPE. I do not like that, Senator. I agree with you.

Senator HASKELL. If I have any time left—

Senator METCALF. Your time has expired. The Senator from Idaho.

Senator McCLURE. Thank you, Mr. Chairman. We are glad to have you before this committee, Mr. Kleppe. This is a time for candor, and I appreciate the fact that your answers are candid.

In that nature, I want to make reference to a couple of editorials. One is an editorial and the other is a response to it by a letter to the editor.

I think they epitomize the kind of criticism leveled against you. I refer to one that appeared in the Oregonian on Wednesday, September 10, 1975, in which the headline on the editorial is "Kleppe's Non-record". Down in the body of the editorial it has this devastating criticism.

Speaking of leaders of the conservation movement who are disturbed by his lack of record in resource matters, they have not, however, found reasons as yet to oppose his confirmation.

It goes on to express that the apprehension is sufficient reason to oppose the confirmation. In the last paragraph of that editorial it says, and I quote, "It may be that the price will be a Secretary without the political or personal strength and knowledge to restore the Department to vigorous accomplishment." I would reject the specific charge, knowing you as I do, particularly in regard to the question of political and personal strength, that you have that strength but it evoked a response, a response that made reference, as did Senator Hatfield, to your moving forward in the SBA on a set-aside program for small timber purchasers.

Pointing out that that had lain ignored since 1958 and the Morse amendment, until you breathed life into it in 1971. This writer at least was very appreciative of the courage and the strength with which you carried forth your responsibilities and carried it in the context of the questions asked in regard to budgetary matters within the framework of the administration, and succeeded where others had neither succeeded nor attempted.

Mr. Chairman, I would ask unanimous consent that the editorial and the response to which I have made reference both be made part of the record.

Senator METCALF. Yes.

[The editorial and the response follow:]

[Editorial from the Oregonian, Sept. 10, 1975]

#### KLEPPE'S NON-RECORD

The nomination by President Ford of Thomas S. Kleppe of North Dakota to be secretary of interior raises no cheers in this portion of the West. This important department has been in serious disarray for a long time. It needs a strong, experienced administrator—a person who knows natural resources and their management. If Mr. Kleppe is such a man, his record does not reveal it.

Kleppe was elected to serve two terms in the House of Representatives, 1966-70. At the suggestion of then President Nixon, he ran for the Senate in 1970 against Sen. Quentin Burdick, a Democrat, and was defeated as badly as he was when he opposed Burdick in 1964. President Nixon thereafter appointed him administrator of the Small Business Administration, a position he still holds. Neither in this executive post nor in Congress did Kleppe, 56, a former Minneapolis investment banker and former mayor of Bismarck, N. D., distinguish himself.

Although Kleppe has the support of North Dakota's senators, Burdick and Young, leaders of the conservation movement are disturbed by his lack of a record in resource matters. They have not, however, found reasons as yet to oppose his confirmation. Their apprehension is that he will go along with those in the Ford administration who stress resource development over conservation—notably, the Office of Management and Budget.

The Interior vacancy was left by the resignation of ex-Gov. Stanley Hathaway of Wyoming, who was assailed by wilderness-type environmentalists and who resigned because of illness after being confirmed. Hathaway did have a record of strong support of resources use, but also of balancing use with conservation. Kleppe is a comparative unknown in the natural resources field, although called a middle-of-the-roader by Sen. Milton Young, Republican, who sponsored him.

President Ford evidently wants to avoid another fight with Congress over appointment of a new secretary of the interior. It may be that the price will be a secretary without the political or personal strength and knowledge to restore the department to vigorous accomplishment. We hope this is a harsh judgment and that Mr. Kleppe will prove to be a better administrator than his record indicates.

[Editorial from the Oregonian, Sept. 12, 1975]

#### SOME DO CHEER KLEPPE APPOINTMENT

(By Joseph W. McCracken, Executive Vice President, Western Forest Industries Association)

To the Editor: On Wednesday (Sept. 10), you voiced grave misgivings over President Ford's appointment of Thomas Kleppe as secretary of interior. First, you hold that Mr. Kleppe's appointment "raises no cheers in this portion of the West." False. It's safe to assert that every member of the independent segment of the forest products industry, from coast to coast, is cheering. Every co-op plywood plant, every independent sawmill in Oregon is delighted.

Then you share "apprehensions" that Mr. Kleppe will "go along with those who stress resource development over conservation—notably, the Office of Management and Budget." This brings me to explain why our part of the timber industry is applauding Thomas Kleppe.

The fact that we still have a competitive, free enterprise forest products industry in the West is almost solely the result of a single personal, courageous act of Mr. Kleppe's.

Seven months after then President Nixon had named him administrator of the Small Business Administration, Mr. Kleppe announced a landmark federal timber set-aside program, to assure small businesses a reasonable supply of raw material in the years to come. The set-aside program, authored by Sen. Morse in 1958, had languished and lain ignored by both Democratic and Republican administrations until Kleppe breathed life into it in 1971.

But giant companies in this industry, which wished to control timber supply, hence opposed set-asides, went over Mr. Kleppe's head directly to the White House, demanding that the President and the Office of Management and Budget

nullify and kill the program. Thomas Kleppe was called in, refused to yield and offered to resign his position rather than give in.

And this is the man you allege to be a possible "patsy" for the OMB?

Further, you opine that Mr. Kleppe didn't "distinguish himself" either in Congress or with the SBA.

I suggest that you should have called former Reps. Wyatt, Green and Dellenback, then call Rep. Ullman before writing those words. During his 1966-70 term representing North Dakota, he was esteemed by his colleagues, and is highly regarded by Oregon's Senators Hatfield and Packwood.

As an agency head, Mr. Kleppe took an ailing SBA, headed by an administrator almost prostrate from physical disability, took a shambles, nursed it through heavy political cross-fire and created a responsive entity of government.

You imply that Thomas Kleppe is inexperienced in natural resources administration. But obviously one can't serve two terms in Congress from North Dakota without being totally conversant with coal, oil and gas, abundant in that state. And though he is no forester, Mr. Kleppe knew enough about timber to figure out that our precious supply must be shared among all business, not be monopolized by giants. I submit that his knowledge of the forest products industry alone transcends that of any of his predecessors in the Interior job.

Senator McCLURE. I introduce an editorial from the Oregonian critical of the Kleppe nomination, and a response to the editorial from Mr. Joseph McCracken who disagrees with the editorial. I do not know whether you have had the briefing from the Department of Interior on the helium conservation program.

If you have, I will ask some questions. If you have not I will make a comment.

Mr. KLEPPE. I would appreciate the comment.

Senator McCLURE. The helium conservation program is a national disgrace, and I have been trying to find somebody in the administration who would have the guts and the willpower to admit that a mistake has been made.

It started with OMB, our old familiar jousting partner, deciding it was not economically feasible to continue a program established by Congress and that the payoff was going to be bad, so, they unilaterally, without congressional action, canceled contracts, or undertook to cancel contracts because the court has said, "You cannot do it".

So the helium, which is being separated from the helium-rich gas streams is now being vented to the air, and the Government is required to pay for it. That is neither a conservation nor an economic measure. Somewhere, somehow, somebody in the administration has to take a look at that and say, "We made a bad decision".

But everybody is so afraid of admitting an error that we are wasting an asset, and we are wasting hundreds of millions of dollars of the taxpayers' money.

Somebody down there has to have more integrity and courage than they have been willing to show in the last several years. Knowing you to be a man of integrity and courage, I hope you will be that man.

Aside from that small matter that might amount to a \$1 billion bill to the Federal Government for a dead horse, I wish you well in your job, if you are confirmed, as I confidently predict you will be.

I have no specific questions—

Senator METCALF. The Senator's time has expired.

Senator McCLURE. May I complete my sentence?

Senator METCALF. Of course.

Senator McCLURE. It may be a long sentence.

Senator METCALF. That is what the prisoner said.

Senator McCLEURE. I have no specific questions because I am not seeking to put you on record on complicated issues, questions, that demand a very careful scrutiny of the pro's and con's before a decision is made.

I know you will give it that scrutiny before making that decision.

Thank you very much.

Mr. KLEPPE. I will look.

Senator METCALF. Senator Stone.

Senator STONE. Mr. Kleppe, I want to congratulate you for coming here by yourself. Similarly, when you came to see me privately, by yourself, you asked me what should I do my homework on. And because of the rumors, of your name having been mentioned in the Watergate investigation, I said to do your homework on that. I put in front of you two Xerox copies, one a story by the St. Louis Post Dispatch of January 20, 1974, outlining the so-called responsiveness program, and another a memo by Mr. Frederick Malek, Director of the Executive Office of the President, which lists the contacts for that program in each of the agencies, and which lists your name for SBA.

The staff put together some research on this, and mentions that Mr. Frederick Malek in a White House memorandum of March 17th to Mr. H. R. Haldeman, describes this program. The implication is raised, which I invite you to dispel, that the operation responsiveness program, which apparently was an effort to utilize some of the executive branch's leverage to assist the reelection effort may have involved you in your capacity as head of the SBA.

Would you respond?

Mr. KLEPPE. I would dispel that implication completely, and I would like to expand on it, Senator.

Senator STONE. Please do so.

Mr. KLEPPE. The only contact I recall in this regard was a visit to our staff meeting one morning by Freddie Malek. The only reference at that time—this was during the 1972, prior to or during the Presidential campaign—the only reference to responsiveness that I recall was on a general overall point of view, comparable to something like this. If SBA is going to have a major procurement contract, or a major economic development loan for a new shopping center, or something that there is an opportunity for the President or the Vice President to identify with, would you please let us know. It was not hard for me to agree to that.

There was no reference to the fact that we should make loans to certain people because they will be contributors to or workers in the campaign for former President Nixon. I would not have sat still for that. I reject that thought, that idea.

From the standpoint of further explaining the situation, I think it is fair to describe to this committee some of the actions which I took initially when former President Nixon asked me to take this job.

In the presence of a couple of names that you will recognize, Haldeman and Ehrlichman, I said there are two things that I don't want to happen. I will take this job, but there are two things I do not want to happen. One, I don't want to get a telephone call some day which will say, "Tom, will you hire so and so," because we are not going to take anybody over there that we do not think can do the job.

The second thing is, I don't want to get a telephone call some day that says, "Tom, would you make a loan or give a contract to so and

so because he is a good Republican precinct committeeman, or he is a good contributor."

Gentlemen, I never received such a call, never. I would add to that that in the first 3½ years I was at SBA, the White House inquired about 63 loan applications that we had, they did not call Tom Kleppe, they called someone else. I can tell you that we made 7 of those loans, we rejected 56. We did it on the basis of credit.

I would not be a part of any of these activities, and this is why I am pleased you asked me, Senator. And I wanted to give that background, because it has not happened to us.

Senator STONE. Mr. Kleppe, you were kind enough to tell me that privately, and I thought it well worth being aired publicly.

One last question. There was a series of weekly activity reports by a Mr. Muromoto to Mr. Chuck Colson as part of the responsiveness program. In the report for the week of May 15, 1972, which is in the Watergate documents: exhibit 262-17, book 13, page 5579, there is this entry: "No. 3, Working with Under Secretary Lynn of Commerce, Tom Kleppe of SBA, and Ray Hanzlik, reaccusations of impropriety brought against Ben Fernandez of NEDA by Congressman Henry B. Gonzalez." Is there anything there we ought to know about?

Mr. KLEPPE. Not that I know of Senator. As I recall at that time, Ben Fernandez was head of NEDA. NEDA is the National Economic Development Association, a group that we used to fund on a grant basis out of SBA until the creation of OMBE, the Office of Minority Business Enterprise, which is now in Commerce. Then the funding went over to them.

The experience of NEDA has been outstanding. They have done an outstanding job of working with Spanish-speaking Americans generally, but other minorities particularly, in packaging loans and offering management assistance, and it has been a very good activity.

So I do not know about these allegations, these accusations. I know NEDA has done a good job, and I know that we fund them on a very much reduced basis. OMBE does fund them, and has been funding them for some time.

Senator STONE. Mr. Kleppe, thank you.

Mr. Chairman, I know my time is up.

Senator METCALF. It comes my turn. Mr. Kleppe, and I join my colleagues in welcoming you as a neighbor and a friend to the committee and to this hearing.

I am not going to argue with you about whether the winters in Montana are colder than they are in North Dakota. I think the record will probably speak for itself. If you can survive in either State, it is a real accomplishment. I think we have States that are very similar and very alike.

The statements you made on your experience and background, I can counter in my own. We have a standard question, Mr. Kleppe, that is asked of all nominees. That is, if confirmed, will you agree to appear before this committee, or other committees of the Congress, assuming you have reasonable notice of the hearing?

Mr. KLEPPE. I would hope I would be invited. I like to share with the committees with whom I am dealing as often and as much as I can on substantive matters.

Senator METCALF. As you realize, the reason that question is always asked, is that at one time there were some members of the administration who refused to appear before the committees.

Mr. KLEPPE. I am very much bent the other way, Senator. I love to communicate with the Congress about the problems I am dealing with and working with because I know that is the only way we will get anything done that will satisfy the needs.

Senator METCALF. You don't have to worry, you will have plenty of opportunity to communicate with this committee.

During the past two Congresses, Mr. Kleppe, this committee has worked on legislation to encourage private industry to mine manganese nodules from the deep ocean floor. These nodules lie outside the jurisdiction of any nation. However, this committee has had primary jurisdiction on mining and Outer Continental Shelf activities.

What is your attitude of the Government's role in helping or assisting our nationals in mining manganese nodules?

Mr. KLEPPE. Senator, if you don't ask me to get involved in a jurisdictional question—

Senator METCALF. I will ask you to get involved in a Cabinet administrative question. We will take care of the congressional jurisdiction.

Mr. KLEPPE. Just so I understood that correctly.

Senator METCALF. Since you brought up jurisdiction, let me follow with what was going to be my best next question. Last February, the then Secretary of Interior, Rogers Morton, created within the Interior Department, within the department that you will administer, an Ocean Mining Administration to, among other things, assure appropriate policy planning within the Department and within the executive branch for the promotion of the domestic mining capabilities to which I previously referred.

This committee strongly supported that action. Now, there is some dispute in this committee as to just how we should go about ocean mining, but I think there is unanimity on this committee that jurisdiction of this committee has long been asserted toward mining on the ocean floor, not on the water column, but on the ocean floor.

I have recently learned that the National Oceanic and Atmospheric Administration, NOAA, under the Department of Commerce, is considering activities in ocean mining that would encroach on the Interior Department, not this committee, but the Interior Department's program and responsibility.

Are you prepared to assure this committee that you will continue Secretary Morton's policy of insisting that the Interior Department have authority and jurisdiction over ocean mining?

Mr. KLEPPE. Senator, from what I know, that sounds like a good policy to me. It sounds to me like sufficient expertise is available and within the administration the jurisdictional question of ocean mining rightly belongs in Interior. I guess that answers your question.

I was hoping that your jurisdiction did not deal with the Congress, because that was something for you to work out.

Senator METCALF. Yes. We have some problems on jurisdiction in the Congress, of course, with the Commerce Committee and Public Works Committee, and so forth. But you are going to assume control of an agency, the Department of Interior, that also has jurisdictional prob-

lems down in the Cabinet. I want your assurance because I have been chairman of the subcommittee on Mines and Mining. Senator Jackson, because of Senator Hansen's and my great experience as seabed States, appointed us an Ad Hoc Subcommittee on the Outer Continental Shelf, so we have worked very hard to develop ocean mining in and around the States of Montana and Wyoming.

This committee has unanimously insisted that we have jurisdiction over the mining on the ocean floor. I hope that you will help us in the administration to take care of this.

My time has expired. Senator Johnston.

Senator JOHNSTON. Yes. Mr. Kleppe, does the administration have an energy policy?

Mr. KLEPPE. Senator, do you really want me to respond to that? I guess I could say that there are 535 on the Hill, one down at the White House, and the Nation has none. Would that be a fair statement?

Senator JOHNSTON. If the answer is yes, who in the administration is responsible for that policy?

Mr. KLEPPE. I guess you would start with the President, and then you would consider very strongly Frank Zarb, who heads the Energy Administration.

Senator JOHNSTON. You do not have a great deal of experience in energy, is that correct, sir?

Mr. KLEPPE. I do not know how to answer that. Do I have a lot of experience in energy? I am no expert. Does anybody have a lot of experience in energy? If you look around and see the turmoil that has been created in Congress and in the administration on energy, isn't it a fair question to ask if anybody really has a lot of experience—

Senator JOHNSTON. The background of that question is this, Mr. Kleppe. I submit to you that really the administration does not have an energy policy. There are a bunch of departments that are sort of interrelated and not very cohesive. We have had all kinds of energy czars and Zarbs and Secretaries and all that, and it has never really been possible to tell who is running the store as far as energy is concerned.

I wonder if—I take it you as Secretary of Interior would defer to Frank Zarb on energy matters? You would consider him to be No. 1 and you would consider your role as Secretary of Interior to be more or less subservient or subordinate, should I say, in matters of energy?

Mr. KLEPPE. I have no indications otherwise; that is correct.

Senator JOHNSTON. You would say Frank Zarb would be the No. 1 man on energy?

Mr. KLEPPE. Yes; if you leave the President out and talk within the administration. I would think it has been very obvious to note that Frank Zarb has been the main spokesman and main activist in the area of energy policy and the energy program.

Senator JOHNSTON. I understand when Rogers Morton was here, he competed very well—

Mr. KLEPPE. That was at the beginning, before the FEA was established. When the FEA was established, there was a shift of action and jurisdiction, and what have you.

Senator JOHNSTON. You take it the FEA will be continued permanently?

Mr. KLEPPE. I suppose so. How often do we create an agency and then do away with it? That does not happen very often. I think I could answer that in the affirmative. My guess is yes. It seems that we run in cycles, Senator. You get an agency created for a crisis purpose, and then it wanes. And I would hope this one would wane because of the crisis being relieved, but I am not that optimistic. But I suspect it will go that way for the immediate short run anyway.

Senator JOHNSTON. Thank you, Mr. Chairman.

Senator METCALF. Senator JACKSON.

The CHAIRMAN. First, I want to ask you a question on natural resources. As you know, in the deepest possible sense the Secretary of Interior is the No. 1 environmentalist in the Nation. His Department has jurisdiction and authority over millions of acres of land. The Secretary of Interior is the steward of our magnificent national park system, our wildlife refuge system, our Outer Continental Shelf lands, and hundreds of millions of acres elsewhere made up of public lands involving our beautiful scenery and wilderness, wildlife habitat, and so on.

His decisions about the management and disposition of grazing lands, oil- and coal-bearing lands, wilderness policy, wildlife refuge, applications for rights-of-way, access, all can affect in the deepest and most universal sense the fate of public land treasures which belong to all the people.

I would like your brief comments on the description of the Secretary's duties that I have just given. Do you feel that is your responsibility and your role, keeping in mind that existing law gives the Secretary very broad discretion in the management of the lands involved, and the purposes for which they have been dedicated. I would like to get a little bit of your philosophy into the record if this has not already been covered.

Mr. KLEPPE. No; it has not. Senator. I thank you for the description of your thought and the question. I will be very honest in telling you that I have thought considerably about this for the last couple of weeks because this is such a vital area of responsibility that falls to the Secretary of Interior. It has to do with the protection of our resources, and yet the use and development of them.

Grazing as you mentioned, yes, but not overgrazing. Logging, or clear cutting, or what you are talking about in the timber areas, but not abuse, with full regard to the protection of the environment. Mining, yes, and the development of minerals and resources, but with full considerations to the environmental aspects.

Here you have an equation with two sides that are extremely critical. I can only say to you, Mr. Chairman, I recognize this, I accept this, and I approach the responsibilities of this job with no biases, as I indicated earlier, no prejudices, but wanting to look at the arguments and debates on both sides, to be able to fairly judge, recognizing the responsibility for the utilization and yet the protection of this great wealth that we have in our resources.

The CHAIRMAN. I want to thank you for those comments. What you are saying in a large part, you recognize the difficult task of fulfilling a commitment on development balanced with environmental concern.

The question is whether both can be done. I think you feel that you can provide that balance.

Let me just ask you, if this has been gone into, Mr. Chairman, I want to pass it over. But I wanted to ask about the allegations that appeared in the press regarding the SBA, problem in Richmond. You were never implicated in any of the accounts that I read. There are comments about violation of the Civil Service Commission regulations and so on. I think it would be useful if you could make some comments on what you know and what you don't know about these allegations.

Mr. KLEPPE. Mr. Chairman, let me take these one at a time. I welcome the opportunity to make brief comments, or extensive comments, whichever you wish.

The CHAIRMAN. I do not want to go over my time. Maybe my colleagues will want to follow up on it, but go ahead.

Mr. KLEPPE. I will quiet down as soon as the gavel strikes.

Senator METCALF. Your time has already expired, Mr. Chairman.

The CHAIRMAN. I ask unanimous consent that he be permitted to respond.

Senator METCALF. He can respond.

The CHAIRMAN. If the Senator from Oregon will be gracious enough, as he always is, to yield time.

Mr. KLEPPE. I will make my comment brief. On Richmond, the whole circumstances of the Richmond allegations have been laid out in a complete public record already. The subcommittee over in the House spent excessive time in investigating this thing and questioning me on all aspects of it.

The total activity of the Richmond activities have been spelled out in public, so I will not get into any details.

The CHAIRMAN. Staff informs me that they went into the record on the investigation in the House, and there is nothing involving Mr. Kleppe in connection with any wrongdoing of any kind.

Mr. KLEPPE. If I would smile a little bit as I go to make a brief comment on the Civil Service thing, I preface it by saying all you have ever read in the press have been the allegations, never the responses. I sit here and say to you, Mr. Chairman, and members of this committee, that if there has been one example of an administrator or leader in the Federal executive branch who has been apolitical, I would like to believe that I could qualify at the top.

I have bent over backwards to do everything in our Agency not on a partisan basis, because small business does not know the difference between a Republican, or a Democrat, or an Independent, any more than it knows the difference between a black or white, or an Indian, Eskimo, Asian, or anybody else. Small business is small business, and we refused to bend to the political pressures as it has been alleged we did.

On the contrary, I have been chastised seriously by fellow Republicans in the Congress because I did not accept their recommendations, but rather turned them down. I have even been scathed by Republicans in the press because I did not take the Republican recommendations. Then to get a Civil Service allegation that says, Kleppe, you are political, that hurts because it is not true.

I could go into a lot more detail, but my responses are here. They are made part of the record, Mr. Chairman.

The CHAIRMAN. That will be included in the record.

Finally, I think the people in the Department want to know this—if confirmed, will you follow the criterion—that well qualified career employees shall have an equal opportunity to compete for higher level policymaking and decisionmaking jobs, and for positions outside the career civil service? Will they be considered on the basis of merit?

Mr. KLEPPE. Most assuredly, Mr. Chairman. The answer is yes. I think our record of doing that in SBA will be evidence of that.

The CHAIRMAN. In sum, are you saying that the thousands of career employees who have no party affiliation, are going to get a fair shake under the Kleppe administration?

Mr. KLEPPE. Yes, sir.

The CHAIRMAN. Thank you. And I thank my friend from Oregon.

Senator METCALF. The Senator from Oregon.

Senator HATFIELD. I am always happy to yield to the Chairman.

Mr. Kleppe, I need not recite the various and sundry comments and evaluations that have been made in the past about whether a person who is appointed Secretary is operating his own shop, or whether he has some Under Secretary or Assistant Secretary sent from the White House to run the operation, or that there is some other Secretary, some other Agency, that has more influence with the White House over matters concerning his Department than he has himself. But you know all of these various reports and rumors.

All I want to ask is, Do you intend to be the real Secretary of Interior as it relates to not only your own household where you are in a very difficult situation of presiding over a kind of federation of agencies, which is somewhat distinguished from many other departments, and based on your own personal relationship to the President, to the White House?

Mr. KLEPPE. Senator Hatfield, this is a welcome question, because anyone who knows me knows that wherever I have been for a long time, I have been the boss. I have no idea that the President nominated me for this without believing that I would be the boss. I have great regard for expertise, for assistance, extremely well qualified assistance. Being so short in the total book education part of life, I need smart people, and I intend to use them.

Within the constraints of my time, I expect to run that Department as much as I possibly can. Within the area of the Cabinet, the administration itself, I would hope and expect that I am going to be considered a vocal part of the President's team.

At the same time that I have given you these expressions, I have a burning personal desire to do more in the area of communicating with this committee, and the similar committee in the House about the problems of the Interior, because they are so great, and they involve the lives of our people so acutely, that we have to work together.

I know we have a lot of bureaus and a lot of departments in Interior, but I also know that I welcome the opportunity to bring together these qualified people just to do a better job.

Senator HATFIELD. Thank you. Now, Mr. Kleppe, O. & C. lands. You recall in our private visit that I wanted it in blood, or at least under your oath to tell the whole truth and nothing but the truth today, and to pledge your view and position on O. & C. lands.

Mr. KLEPPE. I slept very poorly last night, Senator, but one thing I was not thinking about was that you were going to extract a commitment from me on O. & C. lands. You know and I know this has not been a controversy—where did you get into the controversy with Sam Steiger on this?

Senator METCALF. If the Senator would yield, we have had a controversy on O. & C. land ever since I have been in the Congress, which is more than 20 years.

Mr. KLEPPE. Which way does the controversy go?

Senator METCALF. It is not as old as Senator Fannin's 1882, but it is pretty old.

Senator HATFIELD. I sit on your budget on the Appropriations Committee, and that is the way it goes.

Mr. KLEPPE. Without me getting locked in before I get out the door, Senator Hatfield, I will be more than pleased to deal with you personally substantively on the question of O. & C. lands, because I am not well informed on all of the controversy.

Senator HATFIELD. You have no plans to reorganize or change the status quo on the O. & C. lands?

Mr. KLEPPE. I do not know.

Senator HATFIELD. You do not know whether you have plans?

Mr. KLEPPE. I do not know whether I have plans to agree or disagree with your question.

Senator HATFIELD. Do you have any specific plans to change the status of the O. & C. lands?

Mr. KLEPPE. Not at this moment.

Senator HATFIELD. Do you anticipate that you might have?

Mr. KLEPPE. I don't know. I think, if I recollect correctly, my two predecessors established these plans, or were in agreement with the plans, and I know of no current reason to change that.

Senator HATFIELD. Many of your predecessors came down hard on this in their confirmation hearings.

Mr. KLEPPE. They did. I guess I am coming down hard, too.

Senator HATFIELD. I appreciate the fact that you are in a situation perhaps where you have not been fully briefed, but before the final vote is called for on this committee for your confirmation, could we have perhaps a statement from you as to what your views are on the O. & C. lands? Perhaps we have handled this a bit on the facetious side, but I am very serious about the subject. It is not a parochial matter as it may be interpreted by people listening to the question. There is a basic Federal policy involved here. It involves both the integrity of the Federal Government and the history of these lands, which is terribly unique.

They are significant to the Nation as a whole because of programs that have been developed through these lands in forestry management. I think you will find every reason to give full support to the present formulas and the present status of those lands. We really come back to OMB with grasping hands out trying to make changes, purely looking at things from the standpoint of dollar signs rather than resource management.

I am serious about it, and I would like to have a statement to your views on the O. & C. after you have had a chance to be briefed on them.

One last question. Do you have any plans for the reorganization of American Samoa as far as more self-government is concerned and more home rule, and the problems we have with American Samoa which would be under your jurisdiction?

Mr. KLEPPE. First of all, Senator, I would address the first part of your observation, which is the O. & C. lands. I know you are serious about this, and everything you say may be dead true. But I would also give you a pattern in the context of hoping and expressing a real desire that you not extract a firm commitment from me before these confirmation hearings are over, because then the door is shut. I may agree with everything you say, but really, I think that if every member of this committee and every Member in this Senate were going to extract a commitment from me so that I could not wiggle, under conditions that I know nothing about today, it would be an impossible situation.

I would ask you first only that you not demand that response from me in writing prior to the confirmation hearings. You have my assurance that every consideration will be given, in all fairness, everywhere up and down the line, and I may be with you 10,000 percent if it is possible. But rather than say right here and now, Senator Hatfield, yes, just from a policy point of view and a personal point of view, I would hope that that would not be requested.

Senator HATFIELD. Let me follow through and make sure our semantics are on the same frequency. I think it would be very appropriate to make contingent the confirmation of any individual on something that specific.

Mr. KLEPPE. You do think so?

Senator HATFIELD. I would agree with you in general form, but I do think it would be proper for us to have your viewpoint and your kind of understanding on these specifics. None of us are locked in; we cannot even commit a future Congress. But by the same token, we have to take a position and a stand on some of these things which are in existence, or say whether we expect to try to change them. I want to know your philosophy and your understanding of the O. & C. lands, and that is what I am asking for.

Mr. KLEPPE. You know if you got my word you would have it. I do not know what the circumstances are. I have been advised that I could say to Senator Hatfield and this committee, no problem on the O. & C. lands at all. But I am giving you a philosophical point of view that if every member here, and every member of the Senate would think as you just indicated, that I should not be confirmed unless I have agreed to every project nearest and dearest to him, I just do not agree with you.

Senator HATFIELD. I would agree. But again, we have a right to know your position on the current status of any particular program or policy or reform over which you will be presiding.

Mr. KLEPPE. But you are asking me for a specific answer to a specific situation I have not been able to look at yet, and you want that before the confirmation hearings are over.

Senator HATFIELD. It is really not that complicated, we will hold hearings until—

Mr. KLEPPE. I understand you can hold the hearings forever, and that is why I wanted to address the question as I did.

Senator METCALF. Senator Haskell.

Senator HASKELL. Mr. Kleppe, there is one very important aspect of the energy policy of the Nation that I believe you will be involved in. That is the leasing of Outer Continental Shelf lands for oil and gas. I am informed that the Interior Department is very close to a decision on a 1.6 million acre lease off southern California. Also, for your background, I presume you are aware of Senate bill 521 which provides for different methods of leasing Outer Continental Shelf lands.

I would like to first ask you whether you have formed an opinion, and if so, what it is, as to whether the terms of the proposed lease sale in California, which is a fixed royalty and a bonus bid, are in the best interests of the American public, or whether you think some other method should be explored. If you don't have an opinion, you don't have an opinion.

Mr. KLEPPE. Senator, would you excuse me. Would you please repeat that? I was trying to look at some notes—

Senator HASKELL. They are about to enter in, or publish a notice of sale on this immense tract of land, leasing it on the basis of a fixed royalty and a competitive bonus bid. I am asking you whether you think that method is in the best interests of America.

Mr. KLEPPE. Without trying to delineate the exact method of handling and distributing the bonus payments, as it were, it probably has merit. I would think that the proposal makes sense. But the utilization of the bonus money, where does it go?

Senator HASKELL. I am not asking you that.

Mr. KLEPPE. Oh, you were just wondering about the bonus arrangement?

Senator HASKELL. Right.

Mr. KLEPPE. I don't know quite how to answer you. I think it is all right, but I am not that sure.

Senator HASKELL. Are you familiar with the alternate methods of leasing by a net profit bid as opposed to a bonus bid?

Mr. KLEPPE. No; not that much, I am not familiar with the difference.

Senator HASKELL. Mr. Kleppe, this is vitally important, because there are differences of opinion as to what is the best way of bidding. There are those, and I am among them, who say that the bonus bid excludes a lot of people from actually acquiring leases. I am one of those who does not happen to think that this is the best interests of the American public.

Furthermore, S. 521 is going through the Senate, and it's over in the House, and it mandates different methods of leasing, at least on an experimental basis. I would like to ask you one thing.

When you are Secretary of the Interior, and even before that, will you use your best efforts to hold up that notice of sale until you personally have had an opportunity to examine and analyze whether that is the best method, or whether other methods shouldn't be used?

Mr. KLEPPE. I would certainly commit that I would take a look at that, because I would be extremely interested in that, as you indicate.

Senator HASKELL. It is a vital national issue, Mr. Kleppe.

Mr. KLEPPE. May I ask you, Senator, do I interpret the bonus system as precluding smaller people from being able to bid?

Senator HASKELL. This is the thinking of people minded as I am. Other people may not agree, but there is a substantial body of opinion that comes to that conclusion.

Mr. KLEPPE. That was the first thing that struck me. The other proposal you are talking about is the profit system?

Senator HASKELL. Mentioned in S. 521, although previous Secretaries have said the authority exists for them to do it in law anyhow.

Mr. KLEPPE. I am not that conversant with it, but I would want to take a look at it because I recognize the importance of this. As you say, this is a critical issue in America.

Senator HASKELL. That satisfies me. I understand that you will look at it, and you will exert such influence as you have before you as Secretary not to let them beat you to the punch and publish this notice of sale, because it is at the point now of going out. And I think it would be too bad not to have the Secretary of the Interior himself review this matter. So I understand—

Mr. KLEPPE. I want to find out if that has already been published.

Senator HASKELL. It has not. And would you use your influence to see that it does not until you can personally review it.

Mr. KLEPPE. I will do some checking.

Senator HASKELL. Would you use your influence to see that the notice of sale is not published until you have a chance to look into the entire situation?

Mr. KLEPPE. Even considering the fact that I am still the Administrator of SBA, I hate to be in the position—you ask me to use my influence. I hate to be in the position of giving any instructions to the Department of Interior when I sit here as Administrator of SBA and the nominee.

Senator HASKELL. This is of vital importance.

Mr. KLEPPE. I understand that. But don't you think this is a little clumsy, Senator, for me?

Senator HASKELL. No, sir, I don't. I think if I were going to be Secretary of Interior and some vital national decision was about to be made by an acting secretary I would ask him to hold up until I had a chance to review. That is all I am asking you to do.

Mr. KLEPPE. I understand your question very well, and I don't want to be presumptive of what this committee and what the Senate of the United States may do, and this is the reason I raise the point that I raise.

But I will say to you, whether you call it influence or not, I will be talking with them.

Senator HASKELL. Will you request them to hold up until you have had a chance to review it?

Mr. KLEPPE. Until I have had a chance to review it, whether this is delayed extensively or not?

Senator HASKELL. That's right. Until you have had a chance to personally review it, because I don't think that this will be delayed extensively.

But we are talking about something that may happen before you have a chance to make an informed judgment. All I am asking is that you exert your best efforts not to let it happen before you have had a chance to review it.

Mr. KLEPPE. In the event of delays, where do we stand? Does that still mean making reference to this request to the Department of Interior that they not publish that until I see it even though I am SBA Administrator and not Secretary of Interior?

Senator METCALF. The Senator's time has expired, but certainly you can answer the question yes or no.

Mr. KLEPPE. I can ask them, but you ask me to deliver something I am not sure I can deliver.

Senator HASKELL. No; I didn't. I will repeat my question again.

Senator STONE. Maybe I can assist. What the Senator is asking for is that you request the Department of Interior not to publish until you can be briefed, not to deliver the delay to the Senator or to this committee, but only to ask for a little delay—I'm sure you are only talking about days, aren't you?—until you can be briefed.

Mr. KLEPPE. I can do that.

Senator HASKELL. Once you are briefed, you will have an opinion. Right now you don't have a background or knowledge, so you don't have an opinion.

But this is a vital issue, Mr. Kleppe.

Mr. KLEPPE. I understand it is. And I can do what you clarified as long as you don't look to me to force the delivery of the situation.

Senator HASKELL. You can't force the delivery until you have reviewed. But if you decide you think it is a good idea to lease on a net profits basis or some other basis, I am sure they will be receptive—

Mr. KLEPPE. That dialog is understandable and I can do this.

Senator METCALF. The Senator's time has expired. Thank you, Senator.

Senator McClure.

Senator McCLURE. Mr. Kleppe, I could do down a whole list of concerns that concern me individually and concern my State.

As you know, the State of Idaho is owned two-thirds by the Federal Government. Half of that two-thirds is administered by the Bureau of Land Management and will be under your administration. I am not at all immune from special concerns of the philosophy of management of the Bureau of Land Management. Water is absolutely vital to all of the Western States, and certainly my State is no exception.

The Department of Interior has very major input into Federal water policy, including some thrust on the part of some who typically desire to enlarge the area of control of the Federal Government and the diminishment of the area of authority in the State government.

The question of the expansion of national parks is a matter of vital concern to the people of Idaho. There is a study long overdue which

was supposed to have been furnished to this committee and to Congress a long while ago on the Sawtooth National Recreation Area, the possibility of making it an element in the National Park Service.

There are rumored changes with respect to the management of Yellowstone National Park that will force more of the visitor use outside of the park and on the surrounding public domain, much of which would be in my State and would severely impinge upon forest management practices in southeastern Idaho.

We have a high percentage of the total mileage of the wild and scenic rivers in my State, matters of extreme concern to the people of Idaho.

We have another 11½ million acres of land being proposed for inclusion in the wilderness system. They are now under the Department of Agriculture. Nevertheless, the Department of Interior has the major responsibility for evaluation of mineral potential within those areas.

We have now pending, and I hope will pass very soon in the House of Representatives, the Hell's Canyon National Recreation Area bill, again with some very great responsibility of the Department of Interior with respect to the mineral potential within that area.

All of these are matters of extreme concern that have not yet been mentioned by any individual member. I can go down that list with an almost endless group of questions, asking you for a commitment on these matters, but I am not going to do that.

Not because I am interested, or not because I am not concerned about your attitude, but because I have the greatest confidence, which is more important than your present commitment. That is, that you will look at them with an open mind.

When we get to those questions, we will have the opportunity to not only ask you your opinion but to give you ours. That when we seek a briefing on a question, whether it be a leasing practice on the current policy of the Department of Interior that the Desert Land Act ought to be repealed, a decision with which I find myself in strong disagreement, that we will have the opportunity not only for you to be briefed by the people within the Department of Interior but to have the input of those who from the outside have a different opinion. So I will not ask for specific commitments.

I understand the concern of individual Senators who have asked these questions. I know Senator Hatfield's strong concern about the O. & C. lands and the extreme importance that has for anyone who represents the State of Oregon. They have to have that concern.

But again I have great confidence in you personally, and in your ability to look at these matters with an objectivity and intelligence and with maturity. So I will not ask you to be committed upon these issues, other than I have already suggested.

I hope you will take a look at the helium program because although it does not affect my State directly, I have no personal interest in it other than as a representative of the people of the United States.

I do hope you will get back and take a look at that one, and somewhere in the next several weeks you will be in a position to adopt an attitude and make a recommendation based upon your evaluation of the facts.

We will be from time to time landing on you a lot harder when you are in a position to make specific decisions.

Senator METCALF. Thank you. I want to echo and concur with what the Senator from Idaho just said about the helium program.

I was saying a moment ago about the O. & C. lands they have been a problem ever since I have been in Congress which dates back to the Eisenhower administration.

The helium program has been the same. That is a valuable, almost irreplaceable resource that we are wasting. Somebody should step in there in this administration and do something about it, and save that resource for the people of the United States.

Senator Stone, I propose to run this hearing until 1 p.m. You are the next one up for 5 minutes. The 5-minute rule is still on.

Senator STONE. Thank you, Mr. Chairman. Mr. Kleppe, in your opening remarks, you described your commitment, in very good terms I thought, to the esthetic qualities that have to be taken care of in our national parks.

Do you feel the same way about our national forests as you do about our national parks?

Mr. KLEPPE. I certainly do. I think this is of prime importance in almost any matter you can think of in the Department of Interior. When you consider the two sides of the equation that is certainly one side of it.

Senator STONE. Mr. Kleppe, we have a little problem in one of our national forests in Florida.

Mr. KLEPPE. Osceola?

Senator STONE. You are well prepared, Mr. Kleppe. In that situation we have some rich phosphate deposits and an application pending to strip mine them. Yet it is a national forest. It has trees as national forests are supposed to have.

Have you an opinion on whether or not it is appropriate to engage in substantial strip mining in a national forest?

Mr. KLEPPE. Senator, may I make a couple of observations about Osceola? One is I am advised that phosphate is a product that the United States exports.

No. 2, I understand that it has been recommended by the Assistant Secretary for Energy and Minerals in the Department of Interior that no fair decision could be made on this until a 3-year study is conducted.

Two (a) would be that this would have to be an appropriated item.

No. 3, I understand that there might be serious problems of contamination to the Florida aquifer, which strikes me as something that could be serious because of the mining slimes, salt water, and everything else. It could be extremely destructive to the environment.

I guess those three observations would conclude my feelings and thoughts about the Osceola situation.

Would it not be fair to conclude from that that any kind of mining situation is probably not imminent.

Now, having said that you and I need to recognize that there is always the threat of a lawsuit over here because of the Department of Interior sitting on their haunches. That gets to be legal. I am not an attorney. I try to look at these things from the standpoint of where they are.

If legally the Department of Interior can be forced into granting a permit, maybe the things I have just said go out the window. But I am not satisfied that they ought not be considered in their totality.

Senator STONE. Mr. Kleppe, that is the kind of an answer that my colleague from Florida, Mr. Chiles, and I were seeking from the previous nominee.

If you can stick with that answer as your approach, then, with regard to that issue, not only would I not have objection to your nomination but I would vigorously support it in that area.

That is a good answer and I am most appreciative of it.

Mr. KLEPPE. Thank you.

Senator McCLURE. Would the Senator yield?

Senator STONE. I was talking about Florida, not Idaho.

Senator McCLURE. The Senator anticipated my question because we also have phosphates in the national forests and our attitude is somewhat different, our conditions are somewhat different.

Senator STONE. I am aware of that, Senator. And as long as you don't monkey with my monkey—

Mr. KLEPPE. If you fellows find a way to get along, it would be helpful.

Senator McCLURE. I just wanted to make certain that the answer of Mr. Kleppe was carefully focused on your monkey and not on my earibou.

Mr. KLEPPE. I am fully aware of the fact, and I am sure that you are, that the conditions in each individual circumstance are different. And all I want to do is leave you with a committed impression that I will look at these things as fairly as I can based on the individual circumstances. And that includes expressions from Members of Congress because, after all, you are pretty close to it.

You are dealing with your constituents all the time, and I have been there. And I know what that is like. You need to respond. We want to respond.

We may not always agree, but we want to respond.

Senator METCALF. Senator Haskell.

Senator HASKELL. Mr. Kleppe, I have two questions, reasonably short. I am informed that as of December 31, 1974, according to USGS there is about 1 million acres of land already under lease but on which there is no activity.

Mr. KLEPPE. For what?

Senator HASKELL. Oil and gas on the Outer Continental Shelf. For one reason or another there is no activity.

The concern of this committee is that lands not be locked up. If they are leased, that they be explored and produced.

I am asking you whether you will look into this situation of non-activity on Federal leases to the end that either the leases are dropped and somebody else takes them or they are actually explored?

Mr. KLEPPE. Agreed.

Senator HASKELL. All right, sir. Then, to shift gears on you, the Bureau of Outdoor Recreation of Interior has been given coordinating authority over wild and scenic rivers studies.

That act originally designated 27 rivers to be studied. Last year we added another 29 rivers to be studied. However, Interior has been so

slow in responding to the congressional mandate that only a handful of studies have been completed.

In fact, the administration last year asked us to extend the protection period. All I am asking you is, if you are confirmed as I anticipate and hope that you will be, will you make an effort to expedite these studies?

There is no point in having studies sit around forever, let's get them done.

MR. KLEPPE. Yes.

Senator HASKELL. One last question. There is a river in North Carolina—

MR. KLEPPE. The New River?

Senator HASKELL. Yes. Are you familiar with that?

MR. KLEPPE. To a minor degree, yes.

Senator HASKELL. Since Secretary Morton testified in regard to that river recommending that it be designated as wild and scenic—it is a long way from Colorado but I happen to have seen it—I wonder if you—I don't want to extract commitments out of you—but have you given that situation some thought?

Have you formulated an opinion as to what your actions might be?

MR. KLEPPE. No, Senator. For the simple reason that the environmental impact study is out for comment and it will be 90 days before any recommendations come back. It would be a commitment of mine at that time to take a look at all of the pros and cons of the New River proposal.

Senator HASKELL. I am glad you are aware of it because Senator Ervin felt very strongly on this subject. It is really a very historic site. I am told it is the oldest river in the Nation.

MR. KLEPPE. I am told it is the second oldest river in the world. The Nile is the oldest.

Senator HASKELL. As long as you are aware of it.

MR. KLEPPE. Yes, I certainly am.

Senator HASKELL. Thank you, Mr. Chairman.

Senator METCALF. Thank you very much. I think my colleagues for their participation, and now I would like to have this opportunity for some interrogation.

I don't know why you have not been asked about Federal coal leasing except that I suppose my colleagues assumed I would ask you, so here we go.

You mentioned in your opening statement that you were familiar with strip mining and coal leasing because of the extensive amount of coal in North Dakota. Of course, that coal bed extends over into Montana, South Dakota, and Wyoming, and is probably the source of much of the concern that we have right now about strip mining legislation.

Congress has made a long and outstanding effort to regulate strip mining, both on the public domain and in private lands associated with the public domain. This has been important as far as this committee and Congress is concerned because of our constitutional responsibility for the supervision of public lands. And only Congress can act on the public domain.

We have delegated to the Secretary of Interior important responsibilities for leasing of not only coal but other minerals, for maintaining and operating and supervising the whole public domain.

We passed in this Congress by 84 to 12 a bill, S. 391, which provided for two things. First it would make significant revisions in the Mineral Leasing Act of 1920 as it relates to Federal coal leasing policies and procedures.

That bill has been the result of a considerable amount of work and cooperation with members of the administration in trying to work out a bill that is satisfactory both at the other end of Pennsylvania Avenue and up here.

The second part of that bill, title II, has not had the same cooperation from the administration. It is a modification of the strip mining bill that was vetoed by the President, a modification that only relates to the public domain.

So we have taken out any controls over private lands or any control over State lands or any control over any other lands other than the lands under the direct supervision and/or the responsibility of Congress in accordance with the Constitution and cannot be subject to State legislation.

That bill has passed the Senate by a substantial majority, 84 to 12. A similar bill is under consideration in the House of Representatives.

I don't know what the House of Representatives is going to do. As you well know, having served in the House, neither body can predict what will happen in the other body.

But some action is going to be taken and taken soon. I want to ask you, if confirmed, and I am sure you are going to be confirmed, Congressman, will you refrain from issuing coal leases until this Congress has been given a reasonable opportunity—and I think that will be a relatively short time—to pass or to consider S. 391 or its companion bill in the House?

Mr. KLEPPE. Senator Metcalf, I find no difficulty in agreeing with that because of the many steps necessary to bring about any changes anyway. So I think that activity on the part of Congress—we are talking about the House, the Senate has acted—if this does not go on ad infinitum—

Senator METCALF. I would not hold you to that commitment if the House of Representatives or the Senate stretches out. I say reasonably.

I am sure that before the end of this session the House of Representatives is going to pass some legislation, and we are going to have it resolved in a conference and we will send it to the President.

He will either sign it or veto it, and whatever would happen in a limited amount of time, that would be your commitment.

Mr. KLEPPE. Fine. The best answer in the world as far as I am concerned is for it to be established in a law that the Congress has passed and the President has signed. Then we would enforce it.

That is the best of both worlds as far as I am concerned.

Senator METCALF. It is the best of both worlds as far as I am concerned, but unfortunately we have not been able to achieve that so far.

But we may well be able to achieve it because Congress has made substantial concessions—the Senate has in 391.

Mr. KLEPPE. Senator, do you know the companion bill in the House? This is not Patsy Mink's bill, is it?

Senator METCALF. Ms. Mink is chairman of that committee. It is Ms. Mink's bill, but it is not the bill that Ms. Mink has to repeal the Mining Law of 1872. It is not the same bill.

Ms. Mink has a bill to repeal the mining law of 1872 that has had considerable publicity around the United States, some criticism and some praise. But that is not the bill we are referring to.

This is a bill to reform the mineral leasing program of 1920 with respect to coal. Title I of the bill would have passed this committee unanimously because we were all in accord with the basic provisions of it. There was some dispute in the markup, but I feel that all the members of this committee would have voted for title I.

Title II as I say has just excerpted the public lands from the strip mining bill. That was vetoed. All I want is to get a commitment to give us a fair chance—some time to enact legislation before you start—

Mr. KLEPPE. That seems very reasonable.

Senator McCLURE. Would the Senator yield? I think a comment might be made here appropriately that there are two routes for the protection of the public lands so far as coal leasing is concerned.

The administration has done nothing with respect to the promulgation and publication of regulations for an ongoing leasing program, but could have done so had they wished to do so.

The Congress has sought to set those regulations by at least the general format—at least the general format of those regulations by legislation. The result is no regulations are in effect that go as far as we would like, and no legislation is in effect. And no leasing program goes forward.

In the meantime the question that was asked earlier, does the country have an energy policy, has to be answered in the negative, partly because of this impasse in which the administration waits for the Congress and the Congress waits for the administration and nothing happens.

We could have had a very good reclamation program on public lands had the Department of Interior been aggressive enough to adopt regulations and publish them and go forward with a leasing program.

There is a certain hazard involved in doing that because they then become responsible for it.

Senator METCALF. Senator McClure, for the record, regulations have been published in the Federal Register and are in the comment stage at the present time.

Senator McCLURE. It could have been done years ago.

Senator METCALF. It should have been done years ago. And probably would have been further advanced had we had a Secretary of Interior or an Assistant Secretary at the present time.

I am in complete accord with the Senator from Idaho. It may be that you can publish and have adopted some regulations that would take care of the whole question of the strip mining program.

I would rather have it enacted into statute and written in the statute rather than the regulations. But certainly, until the regulations are approved and agreed upon and published in the Federal Register, you as the custodian of the public domain and the Federal lands would not permit any leasing to go into permanent contracts until we have had another chance to look at all of this business of strip mining and reclamation and control.

Mr. KLEPPE. Senator, thank you. Yes, I think that is a fair request and I will try to give you a fair, positive response. I would also indicate

to you that I agree with you. I would much prefer to see it legislated, but I will not throw up my hands in futility and say I don't think it can be done by regulations. Because I think it is possible that it can be.

Senator METCALF. It certainly can be. The Congress has delegated to the Secretary of Interior the responsibility for leasing and maintaining and administering the public lands. We have been derelict in my opinion in failing to pass statutory regulations, and I think the Department of Interior has been derelict in failing to approve and adopt additional regulations on their part.

Anyway, I think you have given me the response. I certainly would not insist on an inordinate delay. I want to get to mining some of this coal. I think it is a resource we need.

I don't want to mine areas that should not be mined. I don't want to mine areas that cannot be reclaimed, but I think we should go forward with the business of helping coal energy.

And I would not hold you to anything other than a reasonable promise to give us an opportunity to pass this legislation.

Mr. KLEPPE. Thank you, Senator.

Senator METCALF. Along the same line, we have attempted to have reform of several regulations in the procedures and so forth down in the Department of Interior. I agree with Senator McClure. I am not going to ask you for specific answers of specific instances.

I was on the Migratory Bird Conservation Commission for a number of years. I enjoyed my experience on that Commission. I can probably say, well, are you going to have Secretary Reed give us certain wildlife refuges? That's at the point of my question or series of questions.

I am not going to ask you how you feel about the wild river, or the Missouri, or anything of that sort. But from time to time, this committee has made suggestions for reforms and streamlining procedures down there.

I don't mean to deprecate it by saying it's an unwieldy department, but they have so many agencies. And some of them are in opposition to each other. BLM against the National Park Association was an example the other day.

Will you give us the cooperation that we failed to have from the other Secretaries of Interior in trying to work together and communicate on departmental reform and improvement of procedures?

Mr. KLEPPE. I certainly will, Senator. I hope that it might go further than that. The understanding would go further than that.

I don't think that you want to sit here as a committee and try to, in fact, manage the Department of Interior. There is an understanding that is necessary. If I am going to be over there, I profess to wanting to be able to manage the Department.

From the standpoint of having input from this committee, the committee in the House, other Congressmen and Senators, we welcome that knowing full well it has to be an item of discussion.

We may not agree, but I will not lose respect for you and I hope you don't lose respect for me if we don't agree. Because that is life in America, and at this point I can say to you, yes, we welcome this kind of communication.

Senator METCALF. Personally I have enjoyed my relationship with every Secretary of Interior. Some, in my opinion, have been more helpful for the legislation I was seeking than others but, nevertheless, it has been my experience that we could improve the communication between the committee and our parallel in the agency downtown.

We look to you for leadership and guidance and I hope you will rely on us for help up here in your legislation.

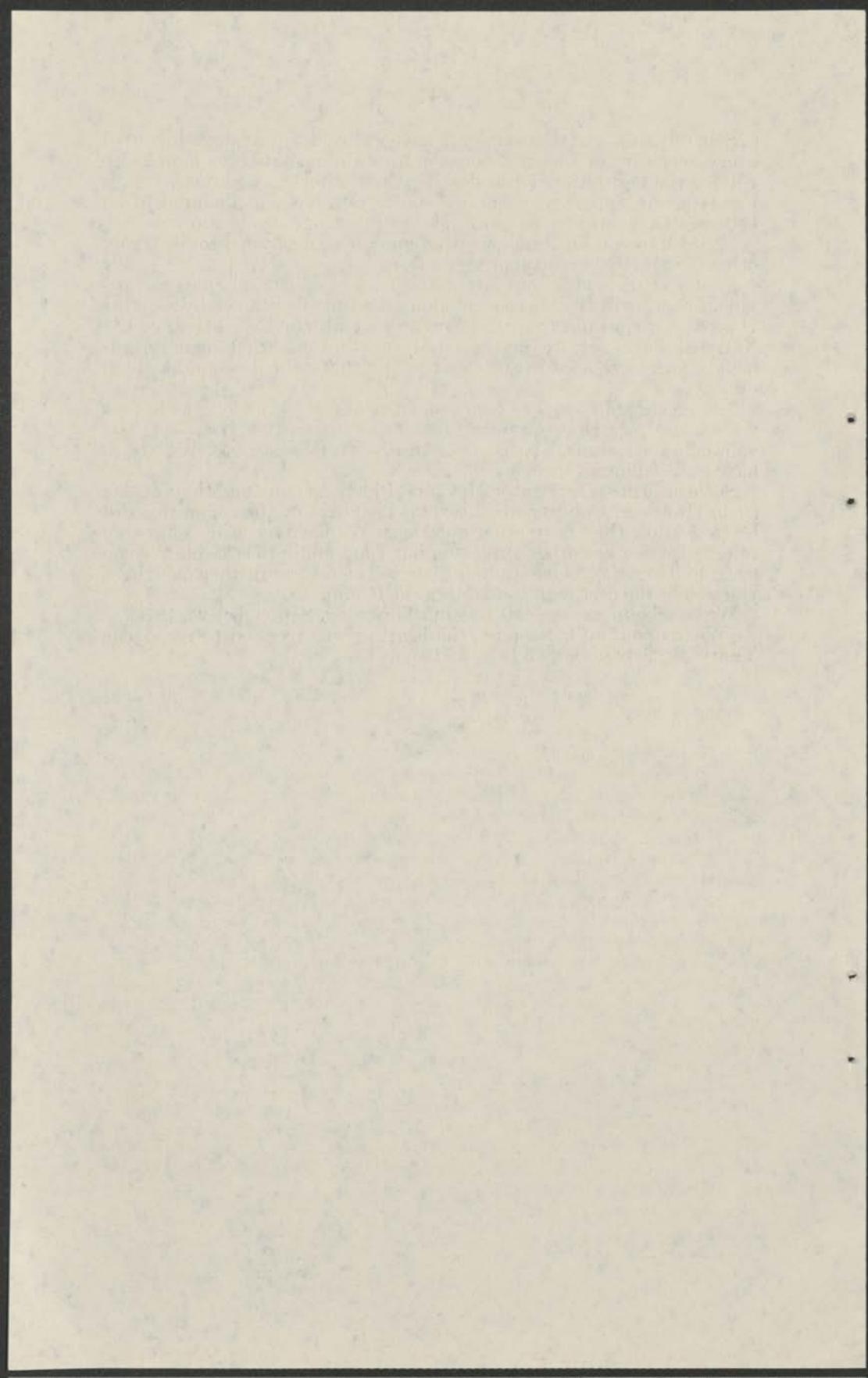
Will you then look into adoption of regulations and rules to provide that we will be able to meet along the lines mentioned by Senator Haskell with people from the Bureau of Outdoor Recreation, or the National Park Service, or the BLM and find out what their recommendations have been in spite of the fact that your decision has been otherwise?

Mr. KLEPPE. From the commitment of ourselves, as long as it does not violate any rules or laws that deal with the OMB aspect. The answer on a technical basis, yes. On an expert basis, yes. We are to have that communication.

Senator METCALF. Senator McClure, I have no more questions at this time. However, Congressman, several members of the committee did leave. I know they have other questions. We have set aside Thursday to hear some other other witnesses, but I am going to ask you to come back on Thursday. And if other Congressmen have further questions, you will be the first witness to appear at 10 a.m.

We will be in recess until 10 a.m., Thursday, September 25, 1975.

[Whereupon, at 12:45 p.m., the hearing was recessed to reconvene Thursday, September 25, 1975, at 10 a.m.]



## NOMINATION OF THOMAS S. KLEPPE TO BE SECRETARY OF THE INTERIOR

THURSDAY, SEPTEMBER 25, 1975

U.S. SENATE,  
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,  
*Washington, D.C.*

The committee met, pursuant to notice, at 10 a.m., in room 3110, Dirksen Building, Hon. Lee Metcalf, presiding.

Present: Senators Metcalf, Stone, Bumpers, Hansen, Hatfield, McClure, Bartlett, and Chiles.

Also present: Grenville Garside, special counsel and staff director; Owen Malone, professional staff member for the majority; Harrison Loesch, minority counsel; and W. O. Craft, Jr., deputy minority counsel.

### OPENING STATEMENT OF HON. LEE METCALF, A U.S. SENATOR FROM THE STATE OF MONTANA

Senator METCALF. The committee will come to order. This is a continuation of the hearing of the confirmation of Hon. Thomas S. Kleppe to be Secretary of the Interior.

At the conclusion of the last hearing, Congressman Kleppe was asked to return this morning for additional questions from members of the committee, such questions as they might have.

We also have a full schedule of 10 witnesses for today.

As I understand it, you have been asked a series of questions that have been submitted by Senator Williams on behalf of the members of the Labor Committee. There are some questions here that have been handed me this morning from other Members of Congress, Congressman Miller, from the Committee on Education and Labor, and I have a couple of questions about mine safety regulations.

All of these are written. We have a long schedule, so I propose, if it's all right with you, Congressman, to give you these questions, have you answer them in writing and put them in the record and then move forward to hearing this long list of witnesses.

I don't think you'll be required to come back except in executive session on financial disclosure, which would have to be before the full committee and you will be notified about that.

Mr. KLEPPE. Senator, that's fine with me. As a matter of fact, I had hoped that I could bring the responses to the first set of questions with me this morning, but I didn't quite get them all finished; I will be very glad to do just exactly as you suggest.

Senator METCALF. Do you have some questions?

Senator STONE. My senior colleague, Senator Chiles, expressed an interest in coming to ask a few questions about the Osceola Forest, and I think, one or two others.

I'm calling him right now to invite him down.

Senator METCALF. Congressman, I'm going to submit these questions to you.

I'll now call on our first witness, Hon. William H. Wilcox. Mr. Kleppe, I may call you back after Secretary Wilcox's testimony.

If, by that time, Senator Chiles is not here, I'll excuse you because I understand you have another meeting. Staff will see that you receive our written questions.

Mr. KLEPPE. You want me to wait, then, until after the first witness?

Senator METCALF. Would you, please?

Mr. KLEPPE. I will be readily available.

Senator METCALF. Thank you.

Senator METCALF. The first witness this morning is Hon. William H. Wilcox, who is Secretary of the Community Affairs for the State of Pennsylvania.

Mr. Wilcox, we're pleased to have you here today at the hearing and we're looking forward to your comments.

#### STATEMENT OF HON. WILLIAM H. WILCOX, SECRETARY OF COMMUNITY AFFAIRS, STATE OF PENNSYLVANIA

Mr. WILCOX. Thank you. I'm very grateful to the committee for permitting me to appear here this morning.

I wish I could say that in every sense it's a pleasure to appear before this committee, but in a way there is little satisfaction in it.

It is no easy matter to speak against the advancement of a man's career, particularly a man who I do not know personally, and against whom I certainly bear no ill will.

I say I don't know him personally, although I did meet with Congressman Kleppe on two separate occasions, once with Governor Shapp—well, I guess Governor Shapp was present both times.

It was only 3 years ago that thousands of homeless and propertyless people in Pennsylvania and other States, victims of the worst flood in this country's history, were dependent upon the Small Business Administration, and Mr. Kleppe's leadership, to begin restoring order to their lives.

Let me interject at this point, that much of what is in this statement is supported by records of testimony at previous hearings of the Senate, the U.S. Senate and the U.S. House of Representatives, specifically the hearings before the Subcommittee on Disaster Relief of the Committee on Public Works, May 11 and 12, 1973, in Wilkes-Barre; and also the hearings before the Subcommittee on Water Resources of the Committee on Public Works, House of Representatives, November 6, 8, and 13, 1973.

The Senate hearings, particularly, has provided us with a useful source of documentation but I want to say that we would be expressing these concerns, perhaps, in a somewhat more general fashion whether we had this material or not, but it does, to some extent, constitute documentation for our expressions for concern here, and we could pro-

vide the committee staff, if you like, the citations in these two documents, which tend to document the statements which we make here in this statement, if that would be acceptable to the committee.

Senator METCALF. I won't order that it be put in the record. I'll ask the staff to examine it. My own personal feeling is we don't need additional documentation unless they request it.

However, if we do need further documentation, we're certainly going to rely upon your testimony and your statement rather than the documentation.

So, unless you hear from the members of the staff, you do not need to provide any further documentation.

Mr. WILCOX. Thank you, Mr. Chairman.

As a State official in charge of coordinating State recovery efforts in the hardest-hit section, the Wilkes-Barre-Wyoming Valley area, I saw firsthand what happened. I feel a responsibility to report what I saw to this committee. I should say that I'm speaking with Governor Shapp's approval. In fact, he said, "Tell them you're speaking for me, too."

What happened in the wake of Tropical Storm Agnes is relevant in two important ways to Mr. Kleppe's nomination. First, it was a test of his administrative ability, flexibility, and sensitivity to the people whom government serves.

Second, I suggest, it gave some insight into his attitudes on matters for which he would be responsible as Secretary of the Interior, particularly flood-plain management and the prevention of future flood damage—important long-range environmental issues.

There is much to say, and I want to speak briefly, but at the same time make clear that what I say is not simply my own opinion, but reflects a concensus of those who observed SBA during the flood recovery.

I have already referred your staff to the record of a hearing by Senator Burdick's Subcommittee on Disaster Relief in Wilkes-Barre in May 1973. Dismay and concern about SBA's performance is one of the constant themes of that record, from the opening statement by our senior Senator, Senator Scott, to the concluding letter from a flood victim.

The lack of responsibility shown by SBA at a time of crisis was so complete that I fear you will find it hard to believe. For a year after the flood, SBA's most important office, in Wilkes-Barre, had no consistent direction or leadership. Directors were sent in and shipped out so fast that even now it is impossible to get an accurate count of how many there were.

The lowest estimate on record, from a flood victim, is five directors in 8 months; the highest estimate, from the present chairman of our House Republican Caucus, is 11 directors in 10 months.

To people in chaos, SBA brought more chaos. We have documented cases of disaster loan applications from businessmen which took SBA more than 1½ years to process.

If the State hadn't moved in with an interim loan program, hundreds of flood-damaged businesses would have gone bankrupt. In fact, the State underwrote close to \$30 million worth of loans for businesses to carry them along until the SBA loans could be processed.

But the impact of SBA's shortcomings on individual homeowners, ordinary citizens, was even more severe. They were given a series of arbitrary deadlines, most of which were extended at the last minute after State pressure, not always by SBA but frequently by Frank Carlucci, the President's representative.

They faced long delays, inconsistency, and refusals by SBA staff to clearly explain decisions or even inform them of their basic rights, such as the right to appeal a loan reduction or refusal. That, again, is documented in some detail in these notes of testimony.

One of the flood victims who testified before Senator Burdick's committee put it this way: "SBA totally demoralized so many victims, many of whom settled for less than they were entitled to, that they did less than they might have to restore their lives to normalcy."

The saddest part of the record is how SBA treated the most vulnerable flood victims. Senator Scott and many others—and I was just reading, and I have here a clip from Congressman Daniel Flood from Wilkes-Barre to the American Friends Service Committee—have expressed dismay, and really strong dismay in many cases, at SBA's treatment of the elderly. Many senior citizens were not advised of their rights to have loan payments suspended; many were offered loans with economic terms too harsh for them to afford.

One indicated in here that the loan repayment schedule was equal to the retirement benefits that the senior citizen was receiving each month, so he wouldn't have had anything left to rent a home or to feed himself.

Many were offered loan terms, as I say, that were too harsh for them to afford, and many were treated rudely. Compassion and courtesy toward the senior citizens was the exception of SBA, not the rule.

At the same time, the Pennsylvania Human Relations Commission found many of SBA's personnel completely ignorant of State and Federal human rights laws.

Until the State took it to court, for example, SBA refused to even consider disaster loan applications for people who were on probation or parole.

I should say that SBA's position was not to even consider these people for the \$5,000 front-end forgiveness, until we threatened to take them to court.

Of course, it was an unprecedented situation, and SBA, like all of us in Government, faced unprecedented strains, including the need to hire large numbers of people quickly.

Errors in such a situation can be expected and can be forgiven. Refusing to deal with the situation cannot.

Yet, that was SBA's stance. There was a secrecy and defensiveness that permeated the entire organization, and cooperation with other agencies was, at best, sporadic, and I would include Federal agencies in that, as well. The Controller General of the United States indicated some of the problems of SBA coordinating with other Federal agencies.

Let me cite a few examples: SBA refused in the first days after the flood, as it had refused after a 1971 flood in Chester, Pa., to join with the State in setting up one-stop centers for flood victims. Eventually, after some persuasion, SBA did send some of its personnel into

a few of our centers. The outreach to the citizens out in the rural areas, and the aged people out in the rural areas, was carried on by the State and not by SBA.

SBA generally refused to attend meetings held by or for flood victims.

For a while, SBA refused State offers to help in the distribution of loan applications. In fact, SBA was always strict to the point of unreasonableness in making applications available.

When the Governor's wife personally asked to see an application, she was given one with the word "COPY" first written across it so that it could not be duplicated.

At one point, we ran off several tens of thousands of copies of a HUD form on SBA's assurance that it could be used by flood victims applying initially for disaster loans; then SBA changed its mind and said it wouldn't accept the forms.

Worst of all, SBA simply refused to let anyone from outside the agency have access to its regulations, as incredible as that may seem.

For months after the flood, we were as ignorant as the average flood victim of the standards and procedures SBA used in making its decisions, decisions which varied from place to place, and time to time.

At a meeting in my office, 9 months after the flood, in the presence of a Pennsylvania deput attorney general, I asked SBA officials for a copy of the regulations and was flatly refused. They said the most that they could do was to permit us to copy portions of the regulations by hand.

Senator METCALF. I'm disturbed. I think if that had happened in the State of Montana, and I wager in the States of Wyoming, Oregon, and Florida, had you brought this to the attention of the committee, either of your Senators, they could have obtained those regulations for you.

Mr. WILCOX. I had thought, Senator, about what other things were the advantage of hindsight, one of the other things that we might have done at that point to get the regulations, as the next sentence or two indicates, that by less formal means we did get the regulations.

I do think you have to keep in mind that even at this time after the flood, we were working a good many hours a day more than 8, and there are things that we might have done, with the advantage of hindsight now, that we didn't do to follow up.

The simple fact was that we were told, by implication at least, to go sue to get the regulations, and perhaps we should have contacted Senator Schweiker or Senator Scott. I have no recollection that we did, but we're really here testifying about the problems with SBA and not our shortcomings, and I would be quick to concede that, perhaps, we should have followed up more intensely.

Senator METCALF. I just want to make the record clear on my point that I'm sure had you just gotten on the telephone to Senator Scott, for instance, who's minority leader of the U.S. Senate, you would have surely gotten those regulations very quickly.

Mr. WILCOX. They were responsible officials of the regional office of SBA whom we met, who simply refused to make the regulations available.

Senator HANSEN. May I raise one question here? How many months time elapsed that you didn't have regulations, despite your efforts to get them from SBA, and it never occurred to you to go to the Members of Congress?

Mr. WILCOX. We did not seek the regulations immediately after the flood. It was when we began to realize that there was a good deal of difference in the administration of SBA policy in different sections of the State and at different times.

Senator HANSEN. Put your own time frame on it. Just tell me how long you were denied them. I'm just amazed. I share in Senator Metcalf's incredibility that you wouldn't have thought to have gone to a Member of Congress for help.

Mr. WILCOX. I'm not, offhand, sure that we didn't. I just don't happen to recall any specific instance where we did.

Senator METCALF. Mr. Wilcox, Senator Chiles is here. He tells me that he's having a markup in another committee. I wonder if you would allow me to ask you to stand aside and recall Congressman Kleppe so that he can be interrogated by Senator Chiles, and then you can resume your statement.

Mr. WILCOX. I'd be more than pleased to do that, sir.

Senator METCALF. Thank you, sir.

Senator CHILES. I want to thank the witness for allowing me to do this. I understand that Congressman Kleppe is pressed also, and I appreciate this very much.

Senator METCALF. Everyone is very cooperative this morning.

Congressman Kleppe, this maybe is the next to the final episode in your appearance before this committee before we interrogate you on your financial disclosure.

We now have Senator Chiles here, and there's no 5 minute rule. You're on.

Senator CHILES. My question will only take a few minutes. Let me say that I was delighted to hear the answers that you gave to my distinguished colleague, Senator Stone, in regard to the Osceola Forest. This is something that's been a tremendous concern to us and, I think, a tremendous concern to the people of Florida. I am referring to the prospect that approximately one-third of this national forest could be destroyed by strip mining under any kind of guise or idea that this is sort of compatible with the concept of multiple use of forest land, that you could have a multiple use that would allow you to destroy one-third of the forest.

We think it would do irreparable damage and never be restored the way it is and we think it is such a treasure now for the people of Florida. So, I was delighted to hear your answer.

The only thing that I wanted to advise you of, perhaps, or to get your concentration on also, is that my understanding was that you said—which I think could well be true, that if you delayed this for additional studies, and I understood you to say that those studies could take 2 to 3 years to see what adverse effects would take place, that there could be some lawsuits. And, as the results of those lawsuits, that you have no way of knowing what would happen in regards to the permits that were issued under the mining act for the exploration permits.

The only concern that I have in that regard, and I certainly recognize that any one of the permit holders could file suit, is that I would hope that Interior would be putting forth the strongest possible suit, or defense, that they could put forth.

I'm a little concerned, and I might as well put it on the table, the Solicitor in Interior has been sitting for 18 months in rendering an opinion as to whether the permits needed to be issued or not.

I have submitted a brief to the Solicitor, or the then-Secretary of the Interior Rogers Morton, which I'm sure got into the hands of the Solicitor, and we haven't had any answer, really, with regard to that brief.

My concern would be that if we're going to have lawsuits, that Interior is going to set forth the strongest case that we could possibly set forth for the protection of the area. I think that would have to be that NEPA would override the mining act; that the Endangered Species Act, being a later pronouncement of Congress, would also be a factor, and that every other thing that we could think of—and the point that you've mentioned, the danger to the water, et cetera—that all of those things would be included.

My concern would be that you wouldn't have a lawsuit set up on a weak point that when the permit holders were able to win that lawsuit, then we could say we've done everything we could—they sued us and we lost the lawsuit.

The only point that I wanted to raise, and I did want to applaud your answer—I'm delighted to see that kind of feeling on the part of one I think is going to be Secretary of the Interior, but I also wanted to raise the additional point that I think Interior, I would hope Interior, would set forth the strongest proposition in resisting a law suit, if one came at this time, to issue.

MR. KLEPPE. Senator Chiles, thank you very much for those observations. I think I read very clearly what you're saying. I'm pleased that you know of the colloquy that Senator Stone and I had. I said that in good faith because I see that as the circumstances.

I would add one other thing that I don't believe I said to you, Senator Stone, and that is that I'm very aware of the considerations, generally, of the people in Florida. I'm talking about the political leaders, and I think most of the people in the State of Florida, whom I believe agree with the position that you two gentlemen have expressed. That's another thing I want to add.

Having said that, I know you don't expect me to make a commitment dealing with the legalities of future developments. You have qualified that very carefully.

May I comment on your observation about the Solicitor dragging his feet for 18 months.

Senator CHILES. Yes, sir.

MR. KLEPPE. Without knowing more about it, would it not be possible that you could consider that a positive measure from the standpoint of your position in Florida?

Senator CHILES. Yes, sir. It's possible.

MR. KLEPPE. I just raise that. It strikes me as possibly something in his favor.

All I would say, from Tom Kleppe's point of view, is that I recognize that there are serious problems, and that those involved are greatly concerned. The Department of the Interior would take this into consideration.

I have to qualify, again, that I try to stay away from legal matters without good legal advice, because I'm not an attorney, as you know. I depend heavily upon the people I trust to give me that kind of guidance. But, from the standpoint of all of the observations made regarding Osceola, I think we have an understanding on the table and I think I can read you clearly; and I hope you read my observations clearly.

Senator CHILES. I think so and I appreciate your observations. Certainly you're not an attorney, and I recognize that, but I think if you're asking an attorney to defend you as the Secretary of the Interior, you would be the defendant in a law suit—

Mr. KLEPPE. You might have a few suggestions, is that what you're saying?

Senator CHILES. I would hope that you would want that attorney to bring forth every defense that he could possibly set forth. That's the point I really wanted to try and make.

Thank you very much.

Mr. KLEPPE. Thank you.

Senator METCALF. Thank you Senator. Senator Stone?

Senator STONE. Just to conclude this line, and I thank you for responding to my senior colleague in this fashion—What Senator Chiles and I are urging you to do as the prospective Secretary of Interior, if confirmed, is that at the time that the Department of Interior makes its decision and its findings and conclusions and its rules, before and in advance of any law suit, possibly, that if there are four reasons for denying strip mining in the Osceola, use all four.

Mr. KLEPPE. Thank you.

Senator METCALF. We should have quit while we were ahead but Senator Bumpers is here and he wants to ask some questions, too. Senator Bumpers, you have the floor.

Senator BUMPERS. Mr. Chairman, I apologize for holding up the proceedings here. I've been off saving the ozone.

I have only two or three short questions that may have already been covered but I'd like to hear your responses for my personal benefit, and I admit they are personal because I think at least one part of this has been covered, and that is your feelings about the leasing of coal lands pending no strip mining bill.

Mr. KLEPPE. Senator Metcalf and I have had a fair amount of dialogue on this particular question, and, as I recall our conversation on it, it boiled down to giving Congress a chance to legislate.

Then I believe I said that it would be the best of both worlds to have it legislated; to have it passed by the Congress and have it signed by the President so there's a policy.

I will not, at this point, accept the fact that it cannot be done by regulation. Therefore, we're looking at something down the path.

Senator BUMPERS. What is your personal feeling about the bill the President vetoed?

Mr. KLEPPE. I guess I would have no specific comment on that.

Senator BUMPERS. I say that because when I was a Governor, my department used to get in trouble trying to be loyal to me.

Mr. KLEPPE. Thank you for that.

I have no particular comment on that. I know how the President feels about the development of our resources for energy purposes, but I would have no specific comment about the veto aspect of it.

Here again, I get back to some of the conversation that Senator Metcalf and I had on this. Something needs to be done in this area and there are one or two ways to accomplish the objective. I think I've just covered those.

I just believe that with proper communication of the principles of the administration and the principles of Congress that we can do something about this.

Senator BUMPERS. Would you agree with this statement that the coal companies in this country would be reluctant to make significant—and I'm talking about fairly mammoth investments in the development of coal, raw coal, the synthetics that come from it, and so on, unless they have some fairly good guidelines that they consider as permanent?

Mr. KLEPPE. I think so, Senator. I've been in the business world long enough to know that when you're dealing with the public's money and you are the executive officer of a company entrusted to make a profit, you're going to take a look at every aspect mentioned in your question. Therefore, I think they're going to have to be satisfied that there are some assurances in the guidelines, whether legislation or regulation.

Senator BUMPERS. Even though some States, and the argument is made that there are many States in this field, and there are; and I note that we passed a strip mine bill when I was Governor of my State which isn't nearly as stringent as it ought to be.

Mr. KLEPPE. North Dakota just passed one in their last session that ended early this year and it's a very strong strip mining bill.

Senator BUMPERS. Well, the President said—and I'm not asking you to respond to it—but he said, set out the various productions you lose if you sign that bill. I agree very strongly to that because I felt the truth of the matter was that you lose production by his veto simply because there would still be no guidelines to guide the coal companies in making their calculations as to what their cost was going to be in the future. As long as they have uncertainty hanging over their head, I don't think they're going to make substantial investments.

Let me go to another thing. Have you read the offshore drilling provisions, the amendments to the Leasing Act as they relate to offshore drilling?

Mr. KLEPPE. You mean the Outer Continental Shelf?

Senator BUMPERS. Yes.

Mr. KLEPPE. The up-to-date on the dialogue that we've had on that, Senator, is that the leasing time has been postponed and that I have agreed with Senator Haskell that I would look at these provisions from the standpoint of the bonus vis-a-vis a profit method of how to make provisions for those submitting bids.

I did agree that I would do that.

He asked me, and I agreed, that I would request the Department of the Interior to postpone action until I could look at the situation. We had a discussion and I wanted to be sure that he understood that I couldn't give orders to the Department of the Interior because I'm sitting here as the Administrator of SBA today.

He told me later that he completely understood my answer on this and that if it was satisfactory. So, I say that I will be looking at it very carefully before this is all done, not only from the standpoint of the bonus versus the profit method but also all other aspects of Outer Continental Shelf leasing.

At the same time I say this, you and I know that there is expediency in this project because of the importance of development. It's probably the fastest source of new energy that we can get for this country and there have been some scheduled leases, as you know.

Senator BUMPERS. Yes.

The reason I bring that up, and I don't want to explore the whole thing here this morning because I know it's been gone into before, but the one thing I'm extremely anxious about is, as you know, there are ten different options within that that the Secretary has available to him for leasing the Outer Continental Shelf.

Mr. KLEPPE. No. I did not know all this.

Senator BUMPERS. There are 10 and I believe all of them give the Secretary an opportunity to take care of small producers and independent producers because this requires a very capital and intensive type exploration, as you know.

We were extremely sensitive to what we thought was the necessity of protecting these people. I trust you appreciate that same problem?

Mr. KLEPPE. I do, Senator. I think my last 4½ years could add a great deal of credence to that particular point.

Senator BUMPERS. Having come from the Small Business Administration, I would think you'd be aware of that.

The next thing is really not related so much to your department, this deals with the national forest.

Do you have any feelings about clear cutting? I might add that during the hearings and markup in this committee on the strip mining bill, we defeated a proposal to mine the national forests. Only 4 percent of the numbers of known coal reserve in this country are in the national forest but there's a proposal to mine that.

My personal feeling is that as long as it's only 4 percent there, we should get the other 96 percent first. We were able to beat that down here and on the floor of the Senate, both. I felt very strongly about that and I might say that I have very strong feelings about clearcutting. I want to know your feelings on it.

Mr. KLEPPE. Not knowing which way your strong feelings go—

Senator BUMPERS. I'll never tell.

Mr. KLEPPE. Please, don't take my comments to indicate that I feel that I know a great deal about clearcutting. I think I can say this honestly, that it is a method that can be abused.

From a technical point of view, I believe that it would be possible by virtue of proper planning, proper scientific methods, that clearcutting might be used advantageously, and that the environment, and the esthetics, and everything else about the productivity, could be protected and handled properly.

That's one open-ended response, but I do believe there are possibilities both ways. My feeling today is that clearcutting, per se, could be rather devastating if abused.

Senator BUMPERS. Mr. Chairman, I won't take any more time.

Senator HANSEN. If my distinguished colleague would yield just for an observation for whatever relevancy it may have for the record at this point. Let me say that I was one that did not favor the complete ban on strip mining in national forests.

Persons who have been in the State of Nevada undoubtedly are aware that we have about 5 million acres of national forest without a tree on it. There are many, many thousands of acres throughout the United States that are contained within the national forests that don't have any trees on them.

The trouble, though, it seems to me, in taking a hard and fast position against strip mining in national forests tends to overlook what the facts are in a precise location.

Mr. KLEPPE. I agree with that.

Senator HANSEN. If you have a little finger of national forest land running down, on which there are no trees and which intersects BLM lands, heavily underlain with coal, and there is logical mining units, then I favor giving the Secretary of Agriculture the authority to at least advise the other Secretaries, and the Secretary of Interior specifically, as to his recommendation.

I don't think any of us want to see strip mining go in and rip up great areas heavily forested. On the other hand, if we're concerned about the cost of electrical energy to people, and I gather there is a growing concern in this country, it doesn't make sense either to arbitrarily exclude certain areas for no good reason at all except that it happens to be national forest land, and to say there can be no strip mining there.

I think that these things can be approached in a very reasonable fashion on a case-by-case basis and let there be a judgment made as would seem indicated from the facts on the ground.

I know that point of view didn't prevail. We were beaten on the floor of the Senate, but I must say that there's a lot of emotion tied up in such terms as "national forests," and I can well understand and emphathize with people that say, let's keep them out of the National forests.

I think it would be more realistic and would be more responsive to the people of this country, who are trying to overcome a very serious enegry shortage, to at least be willing to take a look on the ground of what the facts are.

I thank my colleague for allowing me to interrupt.

Senator BUMPERS. I thank you Senator, and just for clarification let me say this, that I have no objection to clearcutting in the national forests where there are no trees.

Mr. KLEPPE. This is what I gathered from Senator Hansen's observations: it's a perfect indication of each situation being different. I would like to assure this committee that I will take as fair and honest approach to all of these problems and issues that involve my authority, my jurisdiction, as I possibly can. I will always be interested in hearing both sides of every question.

Senator METCALF. May I comment that it may be taken out of all of our hands by the decision of the fourth circuit in the *Monongahela National Forest* case, anyway.

Mr. KLEPPE. I understand that's possible, too.

Senator HATFIELD. I was going to make that comment but I would like to take one step further the observations of the Senator from Wyoming. As one who's been attempting to bring about the reforestation of some 3.3 million acres of Federal forest lands that have been cut over and not reforested, I would say that these lands to which the Senator from Wyoming referred are over and above even those 3.3 million acres that can be and should be, and should have been reforested long ago. Hopefully we will have that done if we can maintain our budget level over the next 10 years.

Mr. KLEPPE. Senator, may I ask you, has that mostly been a budget problem as to why they haven't been reforested?

Senator HATFIELD. It's been strictly a budget problem but not limited to the matter of appropriating money because we have to have a 2- to 3-year lead time in developing the planting stock to use for the reforestation, and you can't grow trees on an annual budget base. We have to make commitments a little longer than that.

That's been primarily a budget matter that has not been the negligence of the Forest Service but it's been the inability of the people at OMB to raise their vision and to exercise a reasonable mentality toward this problem. They have, as I've indicated before, strictly an accountant's approach. They're looking at a ledger and they're not looking at the investment and the return on the investment.

I just want to emphasize this point because I think the Senator from Wyoming, Mr. Hansen, has made a very good point and that is that when you talk about Federal forest lands, we ought to be more definitive. We talk about them in one way with great reverence and then we treat them in another way with complete irreverence and disdain as our failures to reforest and properly manage those forests show.

I don't think that under the multiple use concept that there need be incompatibility but I think it's got to be very carefully planned and very carefully selected as to what areas might be open for mining. I have a predisposition against it but I do not deny the fact that there may be areas designated as Federal forest lands that land themselves to mining because there are no trees there now and we don't have any plans to reforest them, perhaps we didn't even have forests there in the memory of man. I would, however, be not destroying forestry resources or potential forest stations by mining.

That obviously represents more of the view from my State, but at the same time I think the Federal forests are national resources that have to be looked upon from a national base. The national base today is primarily housing needs, and we're not meeting that housing need. It's not only an economic matter but it's a social problem in this Nation today.

We have only one resource that's renewable; one that can provide the building materials to meet those housing needs and that's the forest resource.

It cannot be met if we're not properly managing those forest lands, and I know the Interior Department has only limited responsibility as it relates to some of these lands because most of them are in the Forest Service of the Agriculture Department where it's always been a stepchild.

Hopefully, one of these days, if I live long enough, we'll bring those forest lands all together under one single management, and hopefully under the Interior Department, certainly out of Mr. Butz' Department. That's what I'd like most of all. But I don't want to personalize it that much because none of his predecessors had any more knowledge of forestry than Mr. Butz, who I doubt knows the difference between a spruce and a fir, but that's another subject.

Senator HANSEN. If my colleague would yield, may I share the blame a little bit, among others. I gather that even Mr. Butz doesn't have exclusive jurisdiction, if my memory serves me correctly. I think that the Tussock Moth moved into parts of your State, and despite Mr. Butz's advisors' recommendations, there was yet another agency that said don't worry about this little butterfly, he'll move away very quickly.

Is that not right?

Senator HATFIELD. We must give Mr. Butz credit. I must say to my colleague that he did give us support on the Tussock Moth; that's true. That's true with any of our resources. No single department, probably, has exclusive decisionmaking over the use or the policies governing those resources. EPA has a very important role and I would like to sustain that role of EPA, but also hopefully to see it recognize the need for flexibility when the facts warrant—in particular the *Tussock Moth* case—where they were a little reluctant to move even when the facts were before them.

I'm only pointing out that we do have these problems in the Federal forest lands as between BLM and Forest Service, and using different measurements, different criteria, and basic philosophy in some instances. Mr. Kleppe, I'm looking to you as the potential new Secretary of Interior to provide, perhaps, extra strong leadership in the Federal forest lands under your jurisdiction because of the fact that the Forest Service, as I see it, in the Agriculture Department is still pretty much relegated to a secondary role or to a stepchild relationship.

I think we need that kind of strong leadership from the Secretary of Interior to influence, perhaps, some of the areas of the Agriculture Department that put the forest land into less than the priority than I think it belongs.

Thank you, Mr. Chairman.

Senator METCALF. That's a splendid argument for my forest bill that you and I fought about in the last Congress.

Senator McClure, do you have any questions?

Senator METCALF. No questions.

Senator METCALF. I'm going to excuse Congressman Kleppe, but I do want to make an additional comment now that you're here.

Yesterday we had testimony from representatives from the Department of Interior, and we had testimony from representatives from the Department of Agriculture. The Interior representatives, in my

opinion, were very derelict in responding to communications from the chairman of this committee, Senator Jackson and Senator Haskell. They came up with testimony on the Alaskan claims proposition that wasn't responsive to the needs of the legislation and wasn't responsive to the needs of the committee.

In continuation of the dialog we had at the conclusion of our last hearing, I would hope that while I know that you and I are not going to always agree on legislation, that you'll make some decisions down there so that Congress can move forward instead of delaying and delaying and studying and studying and never coming to any conclusions.

I think that both Senator Haskell and I were very unhappy with the presentation that the Department of the Interior presented on a most important and long-studied case.

If you are confirmed, it would seem to me that the most important thing is that you are our representative down there, this committee's representative down there in the executive department, and that you get some decisions up here. Then Congress can move on it.

Mr. KLEPPE. Senator Metcalf, I consider that an attitude that we ought to be able to correct because as I said the day before yesterday I like to consider myself a man of decision and not a procrastinator. I hope to communicate that to all of my colleagues so that they can respond.

You and I know, and all the rest know, that we're not always going to agree. If we put our cards on the table then something can be done, and that's the objective.

Senator METCALF. We always have a responsibility for inquiry into possible conflicts of interest, as you know. I understand that you've entered into a blind trust.

Mr. KLEPPE. Yes, Senator, 4 years and 8 months ago.

Senator METCALF. When you went into the Small Business Administration.

Mr. KLEPPE. Yes.

Senator METCALF. Senator Jackson made me chairman of an ad hoc committee to inquire into the matter of public financial disclosure by candidates for confirmation. I have been derelict, as I've criticized others. I haven't gotten a report out. We have to consider suggestions that we amend the committee rules. It's never been brought up to a full committee.

Would you have any objection to making a public disclosure of your financial statement?

Mr. KLEPPE. Senator, this is absolutely a nonsensitive question for me. The answer is "yes."

Senator METCALF. The answer is "yes," you would not have any objection?

Mr. KLEPPE. I have no objection.

I need to add one thing to that. This blind trust has been in effect for 4½ years. The sworn statement that I have given, certainly may be revealed, but that does not give the amount involved in the blind trust because I don't know that amount.

Senator METCALF. I understand that.

Does anyone else have anything further? If not, we'll excuse you. As you know, I submitted some questions to you about the Coal Mine

Safety Act. Senator Cranston has submitted some questions about the special areas in California.

I would hope that you would get those responses out in writing as soon as possible and as soon as they're available I hope that the staff will make them available to the interested parties and members of the press that are concerned.

Mr. KLEPPE. Senator Metcalf, I will go to work on those promptly.

May I make one observation?

Senator METCALF. You certainly may.

Mr. KLEPPE. I would be remiss if I didn't say a special word of thanks and appreciation to the staff of this committee, both the minority and majority side. They have been, in my judgment, outstanding.

One other thing. The reporter who was here on Tuesday came out with a transcript that's the best I've ever seen in my experience in Congress. I'm sorry that it isn't this lady but whoever it was, it was an outstanding job.

Those thank-you's are besides my thanks for your appreciation and your courtesy.

Senator METCALF. They'll be appropriately noted in the record and called to the attention of those people who merit that consideration. Thank you.

Senator METCALF. We now turn, with a great deal of gratitude to Mr. Wilcox who can continue his presentation and discussion.

I want to say, Mr. Wilcox, that I'm going to direct the staff to excerpt and summarize that hearing that was held before Senator Burdick and Senator Scott that you've referred to, so that all members of the committee will have the benefit of the material that you've presented today.

#### STATEMENT OF HON. WILLIAM H. WILCOX, SECRETARY OF COMMUNITY AFFAIRS, STATE OF PENNSYLVANIA—Resumed

Mr. WILCOX. I appreciate that very much, Senator. I suppose it won't surprise you that I've had, during this interval, an opportunity to take a look further on the line of questioning that was raised before Mr. Kleppe came back.

I want to be sure that the facts, as I understand them, are clearly conveyed to the committee. I'm not saying that we did not contact the Senators. I just don't recall, personally, having contacted either Senators or their staff. It may well be that the attorney general or the Governor's office made such contact.

I don't share the certainty that was expressed earlier that that kind of contact would, in fact, produce the regulations, because as noted here in the testimony, and I read the sentence from my testimony: In the record of Senator Burdick's hearing after Senator Domenici's request to an SBA official for a copy of the regulations, it is noted that "The information requested was not received in time for publication."

It might be interesting if inquiry could be made to find out whether those regulations ever did finally end up in the committee file.

Senator METCALF. That's exactly the kind of matter that I was talking to Congressman Kleppe about a minute ago about delay and dereliction in supplying us with material, and I hope that that won't happen again.

Mr. WILCOX. If I might vary from the admonition earlier, just briefly, I would note that this particular matter is recorded on pages 1272 and 1273 of the Burdick hearings in Wilkes-Barre.

Senator METCALF. I'm glad you had opportunity to look that up in the hearing and make the record explicit.

Mr. WILCOX. The reasons for SBA's behavior are more than I can understand. You may be familiar with testimony in 1973 before the House Subcommittee on Small Business by a former SBA official who alleged—and I emphasize that it was an allegation which as far as I know has neither been proven or disproven—the decision was made at the highest levels of the agency to downgrade Agnes from a Class A disaster to Class B disaster, which meant it would have less of the agency's time and resources.

As I say, I frankly do not know whether this charge was ever refuted or substantiated.

Whatever the case may be, I have no doubt that responsibility for SBA's performance must lie with Mr. Kleppe, to a large extent. If you go through the record of Senator Burdick's hearing, you will find some praise for the SBA. But even those who are strongest in their praise, specifically a bank president from Wilkes-Barre, and a highly respected Federal judge also from Wilkes-Barre, they felt compelled to voice their dismay with the way SBA operations were run, even if they do not pursue the question of responsibility for that failure.

I cannot accept the picture of Mr. Kleppe resting above some responsibility for what was going on below. He has testified publicly several times about the strain that the Agnes recovery effort placed on his operation. He was aware that there were problems. In fact, I was present when Governor Shapp told him so.

As the months went by, the problems caused by SBA not only did not decline, but seemed to grow more numerous.

One instance in which we provoked a direct response from Mr. Kleppe, and I think it's germane to the position which is now being considered, almost made us sorry that we had. That response had some important implications for policies that might be pursued by the Department of the Interior.

For months after the flood, SBA insisted that flood victims could only use their disaster loans to move back into the flood plain; more specifically, to move back to the property from whence they came that was flooded. Relocations to a new property away from the river and out of the flood plain were discouraged even with the flood victim's had been severely damaged.

In the words of an Under Secretary for Relief for the International Red Cross—at least now he's in the position—flood victims were “encouraged or forced to stay in the flood plain, through the assistance of the SBA loan.”

I expressed my dismay about this situation in a letter to Senator Scott. Mr. Kleppe responded to the Senator that it was “essentially a State and local problem.”

As I reread that exchange of correspondence last night and again this morning, I have come to the conclusion that, really, Mr. Kleppe missed the main point of that correspondence which was that we ought to be sensitive to the land use implications of how we use the Federal money.

This stance was in direct violation of Presidential Executive Order 11296 of August 10, 1966, which states, in part, that all Federal agencies "shall, as far as practicable, preclude the uneconomic, hazardous or unnecessary use of flood plains" in connection with Federal expenditures.

It also violated an agreement reached between the Commonwealth of Pennsylvania and the Federal Council on August 1, 1972, a month after the flood to promote relocation of housing away from areas where the risk of future flooding was high.

I find something terribly disturbing in Mr. Kleppe's airy delegation of the flood plain matter to local governments which in some cases just barely existed after the flood and to a State government which had much less leverage on the problem than his own agency.

It is one of the worst cases I have ever seen of a governmental official putting on bureaucratic blinders and refusing to be responsible for the wider implications of his actions.

It was one of the first things that came to mind when I read in the newspapers that Mr. Kleppe had been nominated for Secretary of the Interior; an agency, which I needn't remind you gentlemen, has enormous environmental and land use responsibilities and which you've just been talking about in the last few minutes.

If the Susquehanna River floods again, and if the many families who live there, because Mr. Kleppe left them no choice, are once again driven from their homes, I would not, for the world, want to be in his shoes, having to defend that position.

We asked if the Small Business Administration would at least forgive the loans of those flood victims who relocated in the flood plains and then had their properties taken by urban renewal. Otherwise, those flood victims would simply have had to take their urban renewal money and hand it over to SBA. They would have been left with no home and few, if any, funds for buying another one.

Mr. Kleppe's response, in his letter to Senator Scott, was to express dismay that Pennsylvania, in cooperation with the U.S. Department of Housing and Urban Development was giving pre-flood value to flood victims whose homes were taken by urban renewal.

In this way, we helped to make financially sound some of the families who had suffered the greatest losses from Agnes.

Mr. Kleppe's complaint that this left some flood victims "without the burden of bearing personally any portion of the disaster damage [they have] sustained." He said that they were being treated "unlike any other disaster victim outside an urban renewal area."

I think most of the damaged homes were, in fact, within the urban renewal areas of Pennsylvania.

His attitude was aptly summed up by a headline in a local newspaper: "Equal Destitution for All."

The coldness and insensitivity which characterizes Mr. Kleppe's response in these matters seems to me a reflection, if not in fact, the source of the coldness and insensitivity which his agency exhibited during the entire period of flood recovery.

I asked a woman who was a tireless advocate for flood victims in the months of recovery to join me at these hearings. She declined, and wrote me as follows: "Do you really think that anyone's testimony will change anything as far as Mr. Kleppe's appointment? I don't think so,

but don't let me discourage you from testifying. You can tell them how arbitrary, discouraging, and inept his appointments, rulings, procedures, and deadlines were. Altogether, this country ought to be able to find more human public servants."

I don't know how to answer her question about the impact of the testimony, but I felt that the record, and your deliberations, would be less than complete if I didn't relate this story here to you this morning.

That concludes my testimony, Mr. Chairman. If I could make one further brief comment. I was trying to think about what the distinction here is between the administration of SBA and the other Federal and State agencies that were involved in disaster recovery. We had lots of trouble with HUD. We fought with the Corps of Engineers. We had trouble with the Economic Development Administration, but the thing that distinguishes, from a negative point of view, the SBA from the other agencies, Federal and State with whom we worked, was its isolation and its insistence on going its own way and not cooperating and integrating with other agencies, both Federal and State.

As I mentioned before, even the Controller General of the United States makes this point with respect to intra-Federal agency coordination.

We wonder, and are concerned that a man who sets the tone of this type with respect to an important agency such as Small Business Administration, can really do the job, either from the viewpoint of proper administrations or proper sensitivity to land use issues in an important national agency with the Department of Interior.

I thank you for the courtesy for permitting me to appear here this morning, Mr. Chairman.

Senator METCALF. Thank you very much for your testimony, Mr. Wilcox, and of course, it's appropriate that in considering the qualifications of a nominee for confirmation that we be informed and explore his record as administrator in other agencies of the Federal Government.

I think every member of the committee appreciates your appearance here and your testimony here this morning.

We will also amplify your testimony with excerpts from the record that you made before Senator Burdick's committee and the testimony that was elicited at that time.

Senator BUMPERS. Mr. Wilcox, I would suggest, and the only thing I could suggest, is that you tell the lady that wrote you, that this committee and Congress did not nominate Mr. Kleppe. That's not our responsibility because it is, as you know, an executive responsibility.

You make a pretty serious case against Mr. Kleppe's administrative ability that indicates a remarkable insensitivity to the plight of people in trouble.

I've talked to Governor Shapp several times during his trouble because we had a similar disaster shortly thereafter, and we had some similar problems.

Our responsibility here is not to decide whether we would pick somebody else, but whether this man is capable of handling the job, and your testimony certainly goes to that point.

I express my personal appreciation to you for your courage in coming down here to set these things out. I think SBA, more than almost

any other Federal agency, has been shackled by too many political problems. It does not really function as it ought to and as it was designed to function.

People who really need their assistance have, in many instances—completely aside from any emergency—people who simply walk in and want to go into business for themselves but can't make a bank loan, do find an inordinate amount of redtape.

I started practicing law in 1952, and from that time until the time I was elected Governor of my State, I handled several SBA applications. I would have to say that it is one of the most onerous chores I ever took on. I only did it for a close friend because it's certainly not very rewarding.

I would say that that is probably what happened in the Agnes Hurricane problems in Pennsylvania—the Governor's Mansion was under water, wasn't it?

Mr. WILCOX. It certainly was, sir. He's never moved back, as a matter of fact.

Senator BUMPERS. It's so typical of bureaucracy, particularly one that's that political. They simply cannot be as flexible and resilient under emergency situations as they ought to be.

They treated it apparently the same way they do with people who walk in off the streets, and the situation obviously demanded a great deal more.

Senator METCALF. Senator Hansen.

Senator HANSEN. Thank you, Mr. Chairman.

Let me express my appreciation, Mr. Wilcox, for your appearance here. I know something of the concern that motivates your appearance because in a very, very small way and many, many years ago, the county in which I lived was struck by a very disastrous flood. It didn't affect anywhere near the numbers of people that were buffeted by Hurricanes Agnes but did wipe out, in the little valley in which I live, a number of homes. It just swept everything away. So, I know something about that.

I must say, though, that as we all know, Agnes took a pretty wide scope of the country, and I appreciate what Senator Bumpers said about the problems that results from trying to deal responsibly, in a sensitive manner, to all the demands.

I believe that the information I have is correct in that SBA did make available more than \$1.3 billion to the State of Pennsylvania alone in loans.

I deplore the redtape and the failure of officials to respond to requests for regulations and to do all those things that could have been done to ease and shorten the trauma that characterize the people living in the Keystone State.

I would just say this, that I'm surprised that neither the Governor nor you—I don't know when I asked you how long you'd been trying to get these regulations, you didn't actually pinpoint it in time, but on page 4 of your testimony, you do say, "For months after the flood, we were as ignorant as the average flood victim of the standards and procedures SBA used in making its decisions."

It does strike me as strange, indeed, that neither you nor the Governor would have gotten hold of the two Senators representing the State of Pennsylvania.

If you have, and there's evidence that you have, I'll like to know that, too, because I think later on today I will be submitting for inclusion in the record statements now being prepared by Senator Scott, at least, and if there is evidence that you asked either Senator Scott or Senator Schweiker for this help and you didn't get it, I'd like to know that.

If you didn't, then I would have to say that I just believe that you're going to have to take some of the responsibility because you and I know the Governor does have the responsibility to ask for aid from the congressional delegation; at the present time, I believe there are five Governors on this very Committee. During the years I was in office, we had a Democratic President, and I never hesitated 1 minute to appeal to him or to Senator McGee or to the other Senator from Wyoming who, part of the time was Democrat and part of the time was Republican, if we needed help in Wyoming.

I just think you're asking a little bit too much, maybe, to expect all of us to believe that the responsibility for the anguish and the anxiety that you suffered in Pennsylvania should fall completely on Mr. Kleppe's shoulder and should not be borne, in part, by you and by the Governor of Pennsylvania.

Mr. WILCOX. I'd like very much to respond to that. I think there's plenty of fault to be shared rather widely. I don't think it was prepared for a disaster of less magnitude than this. We made a great many errors. We had to improvise.

HUD was certainly terribly unprepared. The Office of Emergency—General Lincoln's organization was just in terrible disarray. He kept asking us to provide extra sites for trailers and we ended up providing \$9 million worth of sites that, as it turned out, we didn't need because of his miscalculations.

I'm not saying that the State carried that cost. I think that was absorbed by the Federal Government because the Federal Government knew it had made the mistake.

I want to be clear that you understand what I'm talking about here, and perhaps there's a point to be made such as you just made. What we're talking about is a pattern of isolation, of hostility and bureaucratic and administrative rigidity.

I had conflicts and disputes with Frank Carlucci and with his successor, a man by the name of William Connor. We had difficulties with HUD, but with those agencies, sir, we communicated. We were able to communicate. Our communications were welcome. They weren't always entirely friendly.

But the one agency that maintained itself aloof and hostile to, not only State agencies but to some extent that Federal agencies, as documented by the Controller General, was the Small Business Administration.

With all the difficulties that we had during a Presidential election year, and this was a highly politicized operation, I can't think of any single Federal official nominated for an important office that I would, as I have here, come down to testify against—period.

Senator HANSEN. If I may, I would like to ask that there be included in the record, at this point, an excerpt from the hearings before the Permanent Select Committee on Small Business, House of Representa-

tives. These hearings were held on September 19 and 20, 1973, and I'd like to quote Mr. McDade, who says:

Tom, I want to add my accolade for a job extraordinarily well done to you and to your associates. I want to say publicly, and for the record, what I have said to you privately. I've had the misfortune of living through Hurricane Agnes up in Pennsylvania. I don't think there's an agency of Federal Government that wasn't in Pennsylvania and the States affected. The whole alphabet was there doing everything, but there was one agency that showed the way for everybody and that was the Small Business Administration. The people that you had up there were compassionate. They went out there, as you said, to carry out the mandate to help people. They were innovative. Never watched the clock. I dealt with people from your agency at ridiculous hours of the day and night.

I guess about a third of my district was affected, probably 100,000 people, and I have said to you many times, and I say again publicly, the greatest accolade I can pay to you is to tell you that all through that dreadful and trying time, I didn't get one verbal complaint, one telephone call, one letter from my constituency that said the SBA was discourteous, that said the SBA wasn't helpful. Not one of them from 100,000 people that saw their lives destroyed, their homes gone, their businesses gone, and everything obliterated. I don't know of any greater accolade I could pay you. SBA set the example for the other federal entities and I include the Office of Emergency Preparedness and everyone else. SBA set the tone for how you deal with the American people in a compassionate and effective way in disaster. I can't compliment you enough for it. I will never forget it, neither will my people.

I ask you now to accept that, Mr. Chairman.

Mr. WILCOX. Mr. Chairman, I would like to point out—and I understand the Senator, not being from Pennsylvania, might not necessarily know this. I think perhaps that Congressman McDade did not point out that perhaps while it's true that a third of his district was affected, the most severe damage did not occur in his district.

I'd like to, if I may, sir, place in the record, also, a news story from the Wyman Valley Observer of December 24, 1972, quoting Congressman Flood, whose area was very severely affected by the flood and where the heaviest damage, I think, took place in Pennsylvania.

This is a quote: "The SBA people have been derelict in not advising aged applicants of what's available," Congressman Dan Flood charged Friday. Flood said that although many elderly and disabled who depend on social security or retirement are eligible for the suspension of payments of the principle of the SBA loan, SBA personnel have not been advising them of this fact. They are not telling because they say people are supposed to know the law, Flood said. Can you imagine some gal 82 years old knowing that silly law?"

The article goes on.

Then, the Wilkes-Barre Record of October 17, 1972, if I might read the lead paragraph, an article headed: "'Task Forces Impatient With SBA Slowness.'

"The local flood recovery task force held a special meeting yesterday afternoon with key members of the Small Business Administration, and for the first time regional representatives showed that they were clearly upset and on the verge of impatience over slowness in providing financial aid to local businesses."

That group happened to be interested, particularly, in local business. There's documentation for every comment of that sort; of a general

congratulatory nature I think you'd find in here 10 criticisms of specific shortfalls.

Senator METCALF. That is submitted and will be incorporated in the record. I hope that the members of the staff will go through and mark and call our attention to some of the material in this hearing before the House committee. This looks like a sweetheart contract.

Mr. WILCOX. I didn't hear your comment, Senator. I'm sorry.

Senator METCALF. I just said that it sounded like a sweetheart contract.

Mr. WILCOX. I can't disagree with that.

Senator METCALF. I think the record will speak for itself.

[The newspaper articles referred to follow:]

[From the Wyoming Valley Observer, Dec. 24, 1972]

#### DID NOT INFORM ELDERLY OF LAW—FLOOD SAYS SBA DERELICT IN DUTY

(By Dan McGinley)

"The SBA people have been derelict in not advising aged applicants of what's available," Congressman Dan Flood charged Friday. Flood said that although many elderly and disabled who depend on Social Security or retirement are eligible for the suspension of payments of the principal of the SBA loans, SBA personnel have not been advising them of this fact.

"They're not telling because they say 'people are supposed to know the law.'" Flood said, "Can you imagine some gal 82 years old knowing that silly law?"

Flood said Congress' intent on all such laws is to give the applicant the benefit of the doubt, not the government. But he charged "faceless bureaucrats" make decisions to suit themselves.

Flood said the SBA has assured him it will start advising the elderly of the law and he read the following regulations:

"The applicable language is as follows:

"(C) The small business administrator may, in the case of a loan made under clause (A) or a mortgage or other lien refinanced under clause (B) in connection with the destruction of, or substantial damage to, property owned and used as a residence by an individual who by reason of retirement, disability, or other similar circumstances relies for support on survivor, disability, other program, consent to the suspension of the payments of the principal of that loan, mortgage, or lien during the lifetime of that individual and his spouse for so long as the administration determines that making such payments would constitute a substantial hardship;"

Who qualifies:

Anyone with "substantial" economic hardship who relies totally for support upon: social security, or railroad retirement, or private insurance retirement, or VA benefits, or is totally disabled or partially disabled, or military or civil service retirement, or union or industry pensions, or other similar programs.

What do they qualify for:

Total suspension of all principal payments on an SBA disaster loan for residential property only—if the loan includes the contents of the home, then this includes the contents as well.

What if the borrower dies?

Then the borrower's spouse qualifies for suspension of all principal payments, when the borrower and his or her spouse die, the principal payments then accrue to the estate.

Reason for this amendment by Congressman Flood:

The median age in Agnes disaster area is 10 years above the national average.

[From the Wilkes-Barre Record, October 17, 1972]

#### TASK FORCE IS IMPATIENT WITH SBA SLOWNESS

The local Flood Recovery Task Force held a special meeting yesterday afternoon with key members of the Small Business Administration and for the first time regional representatives showed that they were clearly upset and on the

verge of impatience over slowness in providing financial aid to local businesses.

Federal Judge Max Rosenn, president of Flood Recovery Task Force, chaired the meeting of several committee chairmen from FRTF and two members of SBA—Joseph Clark, deputy director of Region 3 with offices in Philadelphia, and Joseph Finch, branch manager of the Wilkes-Barre Disaster Office.

Judge Rosenn lost little time in getting down to the purpose of the meeting, which had been called for by the local group through its executive director, Andrew Shaw, Jr.

The federal judge told the SBA officials that he wished to voice two critical complaints: (1) That payments were not being processed quickly enough so that in the fourth month of the post-flood period situations and individuals have reached a critical stage; (2) That the staff and personnel of SBA on the local level have no real understanding of the spirit of the program as it was amended and fail to realize that the SBA assignment here is to provide the means for full recovery.

Although the meeting was one of the most candid between local and federal officials dealing with flood recovery, the exchange of information remained at all times courteous and out of it both sides gained new information which is expected to clear up what Judge Rosenn had called a "critical situation."

The federal judge was quite blunt in informing Clark that he spoke for others, as well as himself, in objecting to a negative attitude on the part of SBA personnel handling the local office.

Judge Rosenn told the SBA regional official that too many local people have had their faith in the SBA and the government's promises shaken because of the treatment and lack of understanding that they received when applying for financial assistance.

"This community is about ready to blow its lid," Judge Rosenn said, "although no one in a responsible position wants to make the SBA the goat if this situation can be cleared up fast."

He urged Clark to pass the word along to those above and below him that what is needed here is some understanding so that the applicant for a loan will "receive the benefit of the doubt if one exists."

"These are not normal times," the judge said, "We can't sit and watch the problems of our people being judged on a normal basis where everything must be by the book."

The SBA officials supplied their latest figures which showed that \$5,348,000 had been loaned locally to some 1,075 businessmen who had applied for assistance. Between the opening of the local office and last week, Clark said 1,855 local businesses had applied for loans, 1,075 had been approved and 38 denied. Those denied amounted to \$4.5 million. He also said that of some 25,517 who applied for home loans, approval was given to 24,297.

Clark appeared surprised over some of the delays and examples of specific cases which were given to him by the FRTF representatives.

Lending support to the local need for faster action on the part of SBA approval and delivery of financing were representatives of four local banks: Thomas Kiley, First National Bank; Edward Boltz, United Penn Bank; Harold Rose and Barry Boyer, Wyoming National Bank; and Russell Gardner, Hanover National Bank.

It was out of the exchanges between the SBA officials and the bankers that it was cleared that the individuals applying for loans can use their own legal representatives and members of the local Committee of Bankers will work with the SBA to bring about a more workable system of financing.

Clark defended some of the complaints about slowness in the SBA granting loans beyond the original \$7,500, with \$5,000 of this under the forgiveness clause, because they had either no knowledge that they could do so, or they had discovered that they did not need it.

Judge Rosenn encouraged Clark to be more specific and the SBA official explained that many people have applications marked approved and the money is tied up for them, but they have not changed their minds and have not notified the SBA. He said that notification to SBA by those who are not going to claim their loans would free more money for those who are still in need.

Atty. Eugene Roth, a member of a Flood Recovery Task Force committee, asked for and received assurance from Clark that persons who have been previously turned down on loan applications should reapply under what have now become more flexible requirements.

Clark went a step further and said he and member of the staff under his colleague, Finch, want to provide as much assistance as possible. Clark said they (the SBA) wanted to talk to people who have been turned down so that a clearer understanding can be reached. He even offered to have a different case worker go over an individual's application if it had been disqualified previously.

Kiley and Rose were strong in their appeals for immediate assistance for the businessmen in Wyoming Valley. Mentioned in particular was the Wilkes-Barre Central City area, where many stores are still virtually untouched while their owners await the federal funding to put them back into shape.

Kiley told the SBA representative that "These people need money now! Their businesses and their futures are on the line and I don't think we can keep them hanging much longer." Rose added emphasis to the appeal by pointing out that "We have already lost the most important 30 days of our business lives."

Judge Rosenn adjourned the two-hour session at the Gus Genetti Hotel by telling the SBA officials that he was hopeful that the exchange of communications had paved the way for some quick action on the part of the federal agency.

"We feel that there is something lacking in the spirit that is being shown locally today and that which was promised to us when we visited Washington and talked to Vice President Agnew during the early days of the post-disaster period," the jurist said. "There remains a strong need for an understanding of what our people have been through and are still going through. They also deserve some good answers as to why more money has not been received by local businessmen."

Judge Rosenn said that he would make contact on Tuesday with the central office of SBA to obtain more legal assistance and any other kind of aid that might speed up the restoration of business in the area.

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

Mr. Wilcox we're very happy to have you appear before the committee. Did anyone suggest that you appear before this committee?

Mr. WILCOX. No. I discussed the matter with Governor Shapp and then made the request to appear.

Senator BARTLETT. It was your idea.

Mr. WILCOX. It was my idea, sir.

Senator BARTLETT. I would like to read into the record part of a recent hearing in the Senate for the Subcommittee on Small Business on April 21 and 22 of this year.

Senator METCALF. Is that the Burdick committee?

Senator BARTLETT. No.

Senator Morgan, you are sometimes delayed by the disaster programs, what would you think of jettisoning the disaster program?

Mr. KLEPPE. I have testified for the fact that all the disaster programs belong in the same place. The best example I have thought of is when you consider SBA as making housing loans because of loss and disaster. That is a nonfit. I guess that's all I can say. I think all disaster programs should be in one place. They have created a personal hardship for us many, many times. In the case of Agnes, we made 215,000 disaster loans, \$1.3 billion worth.

Senator MORGAN. Where should these be?

Mr. KLEPPE. I think the administration should suggest that, Mr. Chairman.

Senator MORGAN. Do you think your agency should have it?

Mr. KLEPPE. I think they are a nonfit for us.

The point of this, of course, is I think Mr. Kleppe is very much aware that when there is a disaster of the size of Agnes, that it taxes very severely an agency that does have an ongoing responsibility throughout the entire country.

I would like to quote further from the same dialog, a little further along where Senator Morgan said:

In case I don't get a chance to mention this later on, let me thank you for coming here and explaining in layman's terms what you are doing. I would be frank with you. I have been quite disappointed in my committee assignments by hearing cabinet officers and head of agencies come up here and read reports

prepared by someone else. In the first place, they read them very poorly, so I'm not able to understand them. Then, when you ask them a question, they have to yield to someone else, you are one department head that seems to have a grasp of what's going on. I think you've been able to tell us about it in an easily understandable way.

I would also like to read from a letter that I wrote to Mr. Kleppe on January 31, 1975 and I said:

Dear Tom, Mr. Chuck Watson, an attorney from Oklahoma has informed me of how well you people handled the difficult problems occasioned by the tornado in Drumwright last year. I want to take this opportunity to compliment you and your staff on a job well done.

This, of course, was not written in preparation for presentation here today but it was written because I've had experience, as have other Governors, with disasters. We've had a number of floods and tornado damage that were very severe, just as severe as Agnes in the areas affected. They're not of the same consequence, but we have them more often.

We found that the coordination between the State and various agencies is always difficult. As efforts start to deal with the problems, invariably there's a lot of loose ends that don't function properly. It takes the State, the Governor's office, and it takes the various agencies, in a very well coordinated effort to do a good job.

I don't doubt that with Agnes, particularly the size that it was, there were delays and lack of coordination; but I think I would find all of this wrestling with your conflicts.

Mr. WILCOX. I tried to say earlier that I don't think it did, but there was a special problem with SBA that was consistent and which, in this testimony, I sought to give a number of examples.

I again say that I think any objective analysis of the notes of the Burdick hearings in Wilkes-Barre would indicate special problems with SBA that were not as intense or as all prevailing with other State and Federal agencies, or other Federal and State agencies.

Senator BARTLETT. I think Mr. Kleppe, as I read, would agree that his agency is not set up in a perfect way to handle an emergency.

Mr. WILCOX. Senator, I don't know anybody that thinks that SBA should have the disaster function but that's not an excuse for inadequate management, if that's a suggestion.

Senator BARTLETT. No, but I think the point Mr. Kleppe is making is that having part of the disaster relief function in his shop, and the emergency relief directed elsewhere, doesn't provide the best logistics for smooth coordination.

Mr. WILCOX. Agreed.

Senator BARTLETT. However, I was very impressed by this Chuck Watson who went out of his way in a chance meeting in Oklahoma City to tell me what a good job Mr. Kleppe did. It was just volunteered on his part. In his community, I think about one-third of it was wiped out and he was very impressed with the SBA.

Thank you very much.

Senator METCALF. Thank you, Mr. Wilcox, and I want to say that I think you have offered a useful service and tell the lady that you mentioned at the end of your statement that you did make the record and this is the kind of record we try to attain before we vote on the confirmation.

As Senator Bumpers said, no member of this committee had any control over the decision to appoint Mr. Kleppe Secretary of Interior. Probably any one of us would have appointed someone else. Our responsibility is the confirmation and you have contributed to this hearing.

Thank you very much.

Mr. WILCOX. I thank you for the courtesy, sir.

Senator METCALF. Before proceeding with the next witness I would like to insert in the record a letter to Senator Fannin from Senator Scott.

[The letter follows:]

U.S. SENATE,  
OFFICE OF THE MINORITY LEADER,  
Washington, D.C., September 25, 1975.

HON. PAUL J. FANNIN,  
*Ranking Minority Member, Senate Interior and Insular Affairs Committee,  
U.S. Senate, Washington, D.C.*

DEAR SENATOR FANNIN: The purpose of this letter is to disassociate myself from the remarks submitted today before your Committee by William H. Wilcox, Secretary, Pennsylvania Department of Community Affairs, in connection with the nomination of Thomas S. Kleppe to be Secretary of the Interior.

Mr. Wilcox focuses attention on the performance of one man during the aftermath of tropical storm Agnes—the worst natural disaster in our Nation's history.

The very fact that thirty Federal agencies were involved in the relief effort is enough to understand the basic problems inherent in that effort. Moreover, the relief that was provided came through a multiplicity of vehicles designed for other purposes, and this led to inefficiency, confusion and waste. As my friend, Congressman Flood can also verify, there were many instances of dedicated, devoted work by officials and employees of government agencies.

I have the utmost confidence in the administrative ability of Mr. Kleppe. He is eminently qualified to be the next Secretary of the Interior.

Sincerely,

HUGH SCOTT,  
*Republican Leader.*

[Subsequent to the hearing the following letters were received for the record.]

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, D.C., September 29, 1975.

HON. HENRY M. JACKSON,  
*Chairman, Committee on Interior and Insular Affairs,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: The recent flooding in my Congressional District caused by Hurricane Eloise, and media reports that your fine Committee is considering the President's nomination of Thomas Kleppe to be Secretary of the Interior, have brought to my mind the terrible disaster Pennsylvania suffered in 1972 by Hurricane Agnes and the key role played by Tom Kleppe at that time.

During Agnes—the greatest civil disaster in the history of this Nation—the Small Business Administration under Tom performed a commendable and dedicated service to my constituents under what were clearly the most difficult of circumstances. His leadership and administration of the SBA during both the acute stages of the actual disaster and the long term recovery which continues even today has been an example which any administrator in the Federal government would do well to follow.

Permit me this means of assuring you that my strong belief in Tom Kleppe's abilities at the SBA would surely carry over to what I hopefully anticipate will be a speedy confirmation as the new Secretary of the Interior.

Sincerely yours,

DANIEL J. FLOOD, M.C.

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, D.C., October 3, 1975.

Hon. HENRY M. JACKSON,  
Chairman, Committee on Interior and Insular Affairs,  
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to convey to you and the members of your Committee my strong endorsement of the nomination of the Honorable Thomas S. Kleppe to be Secretary of the Interior. I would very much appreciate having this communication included in the record of your consideration.

I take this action being fully aware of the testimony you previously received from Pennsylvania Secretary of Community Affairs William H. Wilcox. To me it is incredible that he would attempt to raise the issue of the fine Federal response to the state's greatest disaster as a negative factor in your hearings. It is ironic that shortly after Mr. Wilcox presented his statement, necessary cooperation and coordination of federal and state officials again has become a vital factor to Pennsylvania's new flood recovery.

Mr. Chairman, the 17th District includes nearly 100 miles of the normally docile Susquehanna River. When, in June of 1972, the river became destructive beyond precedent, flood victims naturally during the period of recovery were in a critical mood due to their misfortune. But in the final analysis my constituents were very appreciative of the efforts of the SBA offices.

Consider the fact that in 1972, prior to Agnes, SBA had been called upon to assist in more than 50 disasters. However, SBA promptly provided Pennsylvania with over 800 temporary employees and about 100 permanent employees moved in from other assignments. Within two months, the agency approved 57,000 loans amounting to \$334 million. The totals finally reached 215,000 applications approved and \$1.5 billion in disaster loans dispensed. That's the equivalent of all the funds handled by this same agency during the previous 19 years.

In our view, SBA did a highly responsible job under very trying conditions. Included in those conditions were statements made by some officials of the Commonwealth who failed to speak of their own shortcomings but constantly and publicly criticized the federal effort.

No doubt there are some who believe Mr. Wilcox was prompted by political motives in presenting his testimony. There is a background in political history of a Governor representing one political party blaming all the state's problems on a national Administration of the other party. Judging from results, apparently it is still being used. As political ambitions expand, so might the use of such devices.

Frankly, Mr. Chairman, I am one who believes this to be the case here. I find it distressing. Tom Kleppe and his agency have been of tremendous benefit to the people of Pennsylvania. Along with many, many others, I thank him for his efforts and fine accomplishments. His performance should be praised, not criticized.

If the response to Agnes in Pennsylvania is to be a factor in your deliberations, let the compassion, good works, and effective results under adverse conditions be the mark of the man and the agency he led.

Sincerely,

HERMAN T. SCHNEEBELI, M.C.

Senator METCALF. The next witness is Mayor Reiten.

STATEMENT OF HON. CHESTER REITEN, MAYOR, MINOT, N. DAK.,  
ACCOMPANIED BY ALVIN A. KRAMER

Mayor REITEN. Our politics in North Dakota can get pretty hot; but on a few key issues in which the future of the state is involved, we close ranks. To us, the Department of Interior is a branch of the Federal Government that holds a main key to our future.

Republicans and Democrats alike, all the people who know Tom Kleppe best, trust him with that key. I am a Republican. My fellow traveler here, Mr. Al Kramer, is a Democrat. All of us know Tom

Kleppe as a worker. As a man with constructive ideas; as a deliberate man who will weigh the tough decisions and keep a balance between resource development and strong and sound environmental enhancement.

As a former county agent, I can say with strong conviction that the people of North Dakota are zealots in environmental protection. We have planted more trees, on a per capita basis, than the people of any other State. We have practiced soil and water conservation in every form recommended to us. We have set rigid standards for mining our coal and reclaiming the land. We are also tightening State controls on oil well drilling.

We want a Federal environmental program that does not stifle our progress, since we are a relatively undeveloped State, but favor a program which will allow us to utilize our natural resources under demanding standards to prevent erosion of our rural way of life so precious to us.

The people of North Dakota overwhelmingly favor the State retaining and expanding its role as a major food supplier for a world becoming increasingly hungry. Other contributions we can make to the welfare of the Nation and world should be subordinated to our agriculture.

North Dakotans of whatever political persuasion are confident Mr. Tom Kleppe, himself a man close to the soil, will not lend his support to courses of action that will despoil it, nor its air, nor its waters. We are sure he will apply this same close-to-the-soil thinking all across the Nation.

We came to tell you that Mr. Kleppe is a prophet with honor in his own State.

Mr. Kramer here is a Democrat and he would like to say a few words. Senator METCALF. Mr. Kramer, we're glad to have you with us.

#### STATEMENT OF ALVIN KRAMER, PRESIDENT, UPPER MISSOURI WATER USERS ASSOCIATION

Mr. KRAMER. Thank you, Mr. Chairman. My name is Alvin Kramer, I'm a former county agent and now a member of the North Dakota State Water Commission and president of the Upper Missouri Water Users Association.

Members of this committee have been advised of the support of Senator Burdick, Gov. Arthur Link, and former Governor William L. Guy, all pretty good Democrats, of Thomas S. Kleppe for the next Secretary of Interior. If confirmed, he would be the first North Dakotan to be a member of the Cabinet of the United States.

I can say with certainty that none of these gentlemen or myself, would endorse a man of mediocrity as our first citizen to become a Cabinet member. Nor would we testify for a man whose judgment we might question on matters we consider of prime importance to the future of our State. As a Democrat, there are some things that Tom Kleppe has done over the years that I have not agreed with but in sound thinking for our future he has a fine record.

A man cannot grow up on a farm in North Dakota, get elected mayor of it's capital city and be elected twice to the U.S. House of Representatives without getting some real exposure to the various fields that

Interior deal with, I mention a few; conservation, water, land resource programs, land use, energy, national parks, and Indian welfare. We have them all within our borders.

Perhaps no man in America is completely versed in Interior's wide range of enterprise. The important thing is to have a feel for these things and a history of clear and constructive thinking.

An editorial in the Minot Daily News said Tom Kleppe has these prime attributes for the job; good judgment, moderate views, the capacity to lead and organize, skill in dealing with the complex issues of the day, and the drive and determination to get things done.

With this appraisal of Tom Kleppe, I agree.

Senator METCALF. Thank you. Thank you both for coming down here and giving us your estimate and your opinion of your distinguished fellow resident of the State of North Dakota, a neighboring State of mine.

It was suggested that we have a lot of Governors on this committee, but we don't have very many Mayors, so we're glad to hear from a mayor of Minot, N. Dak., and a very close neighbor of Montana.

Senator Hansen.

Senator HANSEN. I have no questions, Mr. Chairman; thank you very much.

Senator METCALF. Our next witness is Mr. Richard Thorpe of Carlsbad, N. Mex.

We're pleased to have you here, Mr. Thorpe. You may go ahead with your prepared statement, summarized or do whatever you like. You have the floor.

#### STATEMENT OF RICHARD THORPE, CARLSBAD, N. MEX.

Mr. THORPE. Thank you, Mr. Chairman. Thank you for letting me appear today before this committee. I have prepared a statement to read but I would like to bring out a few things, if I may, before I read my statement.

As you know, I am the man that started the investigation into the Trust Territory in the Pacific.

Senator METCALF. I didn't know that, but since you told me, go ahead.

Mr. THORPE. I fought this thing alone, or should I should say with the aid of Senator Jackson and his committee, for 3 years. What I want to bring out here, and I think the American public should know, how much trouble a man has to get help. I was out there in the Pacific, I'm a country boy, I make no beans about that and tried my best to telephone conversations to the Interior and to the Justice Department, to the tune of \$1,600 and got never as much as a 10-cent postcard answer.

I fought these people out there after I bought the engines which started the whole mess and I found out after I purchased them, or I made the deposit, that they still belonged to Uncle Sam. Then I dug into it and found out that they were selling other equipment on the same basis.

Finally, in November, when I was in Okinawa shipping some equipment out at Camp Mercy that I bought on spot-bid sales, I sent a letter to Senator Jackson and that was the first help that I obtained.

I came into Washington in January 1974, and, through Senator Jackson and his committee, the Justice Department moved and an investigation was started.

When you have to lay out there in the Pacific, half-way around the world and spend \$1,600 of your personal money, and the Interior nor the Justice Department knew, then something should be done about it. Even to this day, as far as the Justice Department is concerned, I called there yesterday for Mr. Modlin, they refused to answer the phone. They're either out, they're busy, there is always something. This has been going on since Saxbe was Attorney General.

In this second part of the hearing, there is a telegram to terHorst when he was Press Secretary to President Ford, no answer. In fact, I called the White House and I was told if I called there again, they would send the Secret Service after me to ask if the telegram had been delivered.

Then I filed a letter to Saxbe, the Attorney General at that time and have a returned receipt to show that it was received; no answer. Then I went on and sent a letter to President Ford; I have a returned receipt but no answer.

It seems when you bring trouble into Washington, nobody wants to hear you. These are the things I would like to have these Senators to check into to find out why a man has to go through this and spend his personal money when the Government should be making the investigation, especially Justice.

Senator METCALF. Senator Jackson was formerly in charge of the subcommittee that had jurisdiction over the trust territories. In the last Congress, I left that subcommittee.

We have reorganized the Interior Committee so that the trust territories are under the jurisdiction of the full committee. I notice in your statement you quote Senator Johnston in his hearing that further investigation of the disposal of surplus property is definitely warranted. I know that, on the agenda of this committee there is, as soon as we can finish some material on energy and mining, an inquiry into the activities of the trust territory.

I know that the Department of the Interior is the responsible administrative agency. We will expect, and Congressman Kleppe has said he will, if confirmed, cooperate with us fully, in inquiries lodged by this committee, or lodged by the executive department.

Mr. THORPE. Mr. Chairman, there are 600 pages here of testimony, there's enough evidence in that book to send them to jail. Some of them have been charged and have not been picked up.

I read; I'm not an educated man, but I know right from wrong. I've had my opportunities in the surplus business to pick up as high as \$45,000 in the land of Georgia in 1946 by making a telephone call and I walked away from the lunch and told the man I wasn't hungry either physically or financially. I'm not going to bow to what I had done to me out there.

The Justice Department has refused to do, under any conditions, and you can't seem to get an answer from them.

Senator METCALF. Certainly you've raised serious charges. I'm not sure just what it has to do with this confirmation except that during these confirmation hearings we have asked the nominee many things

about what he would do if he is confirmed. This, of course, is one of the areas that will have to be taken immediate charge of by him to be looked into.

Mr. THORPE. This is no fault of Mr. Kleppe. He had nothing to do with this. These are things that should be cleared up before he even takes office. You have a \$25 million scandal out there, it's been a 4-year cocktail party for High Commissioner Johnston, Coleman, and a few others. It has to end.

Senator METCALF. I'll give you my personal commitment that this will be called to the attention of appropriate people if and when we do get a Secretary of the Interior. I'll ask the staff to remind me to bring this matter up as soon as we clear such other things as strip mining and the Outer Continental Shelf off-shore drilling.

Thank you for coming and thank you for reminding me that you're the person who lodged this inquiry and I, too, will note now that you're the man that started it.

Mr. THORPE. Thank you. I will now read my statement if you will permit me.

Senator METCALF. Very well. I've read your statement.

Mr. THORPE. I'd like to read it, if you don't mind.

Mr. Chairman, and gentlemen of this committee, as some of you know, I have been pushing this investigation into corruption and mismanagement of the trust territory for 2 years. What I state here today is in no way a reflection on the reputation of Mr. Kleppe or meant to embarrass him.

All that I ask is that Mr. Kleppe know the situation in trust territory and will take the time to study the staff report of the Committee on Interior and Insular Affairs and have these officials removed from office that have been involved in this investigation, as there is no way that he will be able to improve the condition, or help the people of the trust territory.

Financially and mentally I know the situation better than anyone else. I have seen with my own eyes, heard it, and lived it from the start to the present time.

I left Okinawa in April of 1973 to inspect the diesel generators on the Island of Palau which I was informed were for sale, and I was misled by the officials. It started with a \$600 deposit and has mushroomed to a \$37,000 nightmare plus 2 years of lost time.

This mismanagement has been going on since June 26, 1970. The first report by GAO shows construction funds were used for other than specific purposes originally cited by trust territory officials in justifying to Congress the need for such funds.

In 1971, the same situation existed, \$261,000 was taken from sea transportation operation funds of the trust territory to build a harbor called Port Nixon on the Island of Peleiu.

Mr. Joseph W. Beadle, Jr., Director of Transportation and Communication, stated that vessels can only enter or exit from the harbor at high tide in the period of the full moon, or every 28 days. This also means a vessel in Port Nixon is locked in the harbor for 28 days. Also lying half sunk in the harbor is a barge described by the trust territory as a large cover lighter barge, registration YFNB-2, which was received on loan from the U.S. Navy in March 1972, at the Navy station

on Guam. Although this is described as a large cover lighter barge, this is in fact, a yacht that was used by Gen. Douglas MacArthur while in command of Japan after the war.

The yacht cannot be used for any other purpose, because it is half sunk and the aft is covered with water. The rear cabins are flooded, the engine room is flooded, and cabins which are open have been vandalized, furniture destroyed, and the interior is now exposed to the elements.

Originally, this vessel was a highly polished, well-built yacht used as living quarters and as quarters for VIP visitors. Today this vessel would require a complete major overhaul, if possible, to put it in any running or living condition.

In the opinion of the naval officer interviewed, the Peleiu project at this time appears to be a complete failure.

This is another case of mismanagement by trust territory officials also obtaining surplus property that they have no specific use for, other than to joy ride and destroy. In this one project it has cost U.S. taxpayers in excess of \$1 million or better.

Mr. Chairman, this is a case where I think they have obtained the yacht which they described in their documents as a barge, under a false document. Then they turn around and take \$261,000 that was not funded for that purpose and build a harbor. This is just one example of what is going on in the trust territory for the last 4 years.

Now, here's another thing, Mr. Chairman, I have put these questions, I'm not too well familiar with these hearings, these are aimed at the Department of the Interior but I would like to read them, there are only five.

I have put forth some questions that I think the Interior Department officials should answer at this hearing. First, how did Mr. Tidwell III, on November 29, 1972, pay out some \$200,000 to Amelco Engineers Co.? Also released them from any possible claim or claims which may arise in the future? Did Mr. Tidwell III ignore the recommendation of Austin Smith Associates and the inspector that were paid to protect the interest of the trust territory?

Although the sewage and water line was never completed, nor did it pass the pressure test, the original contract was paid in full and another \$200,000 was paid for extra work. High Commissioner Johnston and Mr. Tidwell paid out money for work never completed.

How did Mr. Miyamoto pay out \$5,000 to Amelco for a building that already belonged to the trust territory and was built with material from Government supplies and located on Government property? The inspector also informed Mr. Miyamoto of this and he chose to ignore their advice.

The barge that was sold to the Philippine Packing Co. is the most open case of corruption that I have ever heard of. Mr. Zackery made the statement in the staff report of February 1, 1975, page 259; barge 626 shows only \$8,759.11 spent on repairs and drydocking in the report on the hearing, March 15, 1975, page 599; the barge No. 626 was the last barge and was drydocked. This was Mr. Zackery's own statement. This alone would cost \$25,000 to \$30,000.

Then, in their sale agreement, they guaranteed this refrigerated barge was completely rebuilt and Mr. Zackery added another \$10,000

if any other repairs were needed. Also, in the staff report of February, 1975, page 261, is Mr. Arnold's statement that the barge was never legally owned by the trust territory. The barge No. 626 in question is what I would like Mr. Chapman of the Interior Department to answer, as it seems he made the ruling on this sale.

What happened to the \$9 million worth of equipment that was shipped from Okinawa that is supposed to be in the trust territory, and if the physical count of the equipment has been made in the six districts? If so, how many cranes, tractors, and trucks were shipped to the trust territory and their location?

Quote below is from part I of the report of the Committee on Interior and Insular Affairs, March 10, 1975:

Senator JOHNSTON. As an experienced investigator, do you believe further investigation will be fruitful, or is indicated by what you found so far?

Mr. SKETO. I would like to see the records of the trust territories balanced with the records we have obtained as an investigator.

Senator JOHNSTON. Have you determined that the records do not balance, or you just can't tell one way or the other?

Mr. SKETO. We cannot tell, due to the fact that we can investigate to a certain point so far as the Army is concerned, and that is on the disposition of property. We do not have the authority to go into the trust territory, nor is that our charter.

Senator JOHNSTON. Does the failure to balance the books indicate there may be some hanky-panky? What does it indicate to you, if anything?

Mr. SKETO. Sir, if \$9 million in property in acquisition value is transferred and cannot be accounted for, I think someone is subject to explain where it went. I am not going to conjecture what happened. I don't know. I have not been out in the trust territory.

Senator JOHNSTON. Further investigation is definitely warranted; would you say that is correct?

Mr. SKETO. I don't want to comment on it, because it is in the hands of the Department of Justice. I feel it is properly their decision.

Here is where the investigation, Mr. Chairman, seems to have stopped. It seems no one can get an answer from the Justice Department, whether they are going to go on with this. I can assure you, I went through six districts, and there isn't over 12,000 tons of machinery in the six districts of the trust territory, because that's my business, machinery.

This equipment was shipped from Okinawa by Jesse R. Quigley and Robert Porter O'Keefe, who are already charged, civil charge title 18 United States Code 1001, furnishing false information on Government documents.

If anyone can explain to me why the Justice Department has not moved on this case with all the evidence in their hands, is a mystery to me. As I spent 9 months in the trust territory and traveled to all six districts, checked every public work yard, the total tonnage is about 12,000 tons, and the shipping documents show 56,000 tons.

In the years from 1970 to 1973, some \$21 million was shipped from Okinawa, less \$8 million for the barges, leaving \$13 million in surplus, or about \$3 million a year.

Quoted from the staff report dated February 1975:

For the fiscal year 1974, approximately the time of initiation of investigations of the operation, Quigley's acquisitions have diminished. His total for the year from PDO is only \$194,000.

That alone tells the story. He is now returning properties, some of which are reported to have been cannibalized, and is requesting full acquisition costs to be credited as turned in.

The above figures are the materials in which Quigley was responsible for and were obtained almost exclusively from the PDO in Okinawa, Tokyo, or the Philippines.

Also quoted from the same reports:

Information was received from a Mr. Lowell Johnson of the Pacific Machinery, Inc., who informed me that on a number of occasions, in meetings, Mr. Whitey Rowan, who is in charge of equipment for TTPI on Saipan, often questioned the rehabilitation charges from NOC. Rowan informed Johnson that when they first began to use NOC to rehab the equipment, the material was coming through as rebuilt equipment. Today the equipment is coming through only as repainted equipment. Yet, full charges for rebuilding are being made.

Johnson stated that on one of his recent visits to Peleiu, he met with Rowan and gave assistance to Rowan in checking out a large caterpillar earth mover. This earth mover was received from the Army and was supposed to have been rebuilt by NOC. It was quite apparent that the earth mover only was washed and painted, because no filters, fuel, oil, or even hydraulic hoses were replaced. The piece of machinery would not run until these equipment replacements were made. Rowan stated that the rehab of this piece of equipment in question costs TTPI approximately \$6,000.

In the trust territory, the whole picture is a twisted mass of mismanagement and corruption, and these officials, including High Commissioner Johnston, Assistant High Commissioner Mr. Coleman, and Attorney General Mr. Miyamoto should be removed from office as these men are responsible for the conditions of the trust territory at this time.

This is something else that has been going on for years; NOC has been putting this through the shop. I've been in the shop on the Island of Okinawa, they're not being rebuilt. They are cleaning and polishing them and sending them out as fast as they can send them out. The amount that they are sending out from Maha is not going to the trust territory, it's going somewhere else. They are loading on ships, and the only way I see they can do it, is have the manifest aboard ship changed en route. But it's being done.

That is the end of my statement.

Senator METCALF. Thank you very much, Mr. Thorpe. Thank you for raising these questions which are serious charges and allegations. I assure you there will be an inquiry made about them.

Mr. THORPE. Thank you.

Senator METCALF. Our next witness is Mrs. Rose Crow Flies High. She is listed here as chairwoman—I understand that you're supposed to say chairperson—of the Three Affiliated Tribes of the Fort Berthold Reservation.

Would you please identify the delegation from North Dakota and proceed.

**STATEMENT OF ROSE CROW FLIES HIGH, CHAIRWOMAN, THREE AFFILIATED TRIBES, FORT BERTHOLD RESERVATION, ACCOMPANIED BY A DELEGATION**

Mrs. ROSE CROW FLIES HIGH. Mr. Chairman and members of the committee, my name is Rose Crow Flies High. I am the chairwoman of the Tribal Business Council of the Three Affiliated Tribes of the

Fort Berthold Indian Reservation, in North Dakota. We represent the Mandan, Hidatsa, and Arickara Indians of North Dakota. I have been appointed by the Business Council to testify at these hearings on behalf of the Three Affiliated Tribes. I would like to introduce the other Council members who have accompanied me to these hearings, Mr. Austin Gillette and Mr. Ronald Little Owl.

We appear here today in support of the nomination of Thomas S. Kleppe to be the next U.S. Secretary of the Interior.

Thomas Kleppe is no stranger to North Dakota or to the Three Affiliated Tribes. He represented our people as our congressional Representative from 1967 to 1971. Prior to that time, Mr. Kleppe had served as mayor of Bismarck, N. Dak., and he has always retained strong ties with the State, and more importantly, with its citizens.

When Mr. Kleppe served in Washington as our Representative, he was always willing to listen to the problems of his Indian constituents and to assist our people whenever he could. He displayed a great knowledge and understanding of the matters which are most important to Indian people.

When Mr. Kleppe left the State to serve in Washington, D.C., as the Administrator of the Small Business Administration, he did not lose touch with our people.

As you may know, the tribes operate the Four Bears Motor Lodge complex on the Fort Berthold Reservation. This project is very important to our people. In his position as SBA Administrator, Mr. Kleppe helped the tribes secure important operating business loans from private sources so that we would be able to continue our operation and development of Four Bears. It is this type of assistance, at critical times, which Indian people do not forget.

As Secretary of the Interior, we are confident that he will protect and preserve the unique trust relationship which exists between the Federal Government and all Indian tribes. We are certain that Mr. Kleppe will assist Indian tribes in the proper development and utilization of the valuable natural and human resources which are found on Indian reservations throughout the country, and that he will support legislation and make all efforts to insure that our rights are not violated.

It is our feeling that Mr. Kleppe has been a real friend to the Indians of North Dakota. While we recognize that the problems and responsibilities which face a Secretary of the Interior are far different from those which face a Congressman with a limited constituency, we believe that the essential fairness and understanding which Mr. Kleppe has demonstrated in the past with respect to Indian affairs will carry over when he becomes the Secretary of the Interior.

For these reasons, we strongly urge the Senate to confirm the nomination of Thomas Kleppe as Secretary of the Interior.

On behalf of the Tribal Business Council and all the members of the three affiliated tribes, we would like to thank you for the opportunity to express our views on this important matter.

Thank you, Mr. Chairman.

Senator METCALF, Thank you very much for coming and giving us the opinion of the members and leadership of the group. Mr. Gillette, do you have anything to add?

Mr. GILLETTE. No, except for the matter of the Four Bears Motor Lodge, one of our many projects we have at Fort Berthold. Mr. Kleppe did assist us at a crucial time when we would have had to close our doors, but speaking in terms of Indian rights, I know that's a big area and up the Upper Missouri River Basin, we have valuable deposits of coal and, as Senator Bumpers stated earlier when he was mentioning strip mining, we're going to have to face that one of these days in the future.

I would like to see that there would be proper legislation drafted to insure that it would protect our resources. That is the only statement I have to make; thank you, sir.

Senator METCALF. Mr. Gillette, we have passed and the President has vetoed, a comprehensive bill regulating strip mining. However, this committee has not taken consideration of coal located on Indian land, we haven't had hearings, we haven't had the benefit of advice and counsel from our Indian constituents. As soon as we have cleared the way for other strip mining legislation, as chairman of that subcommittee, I propose to call in the various Indian leaders of the United States and the members of the Interior Department and inquire as to the process that we will go through for regulations for strip mining on the Indian reservations and the Indian lands.

Mr. Little Owl.

Mr. LITTLE OWL. Thank you, Mr. Chairman. I don't have anything to add to what the chairwoman and Mr. Gillette has made.

Senator METCALF. Thank you all for coming and for giving us the benefit of your advice and your experience that you have had working with Mr. Kleppe both in his position as the Small Business Administrator and as a Congressman from your State.

Do you have any questions, Senator?

Senator BARTLETT. No questions, Mr. Chairman, thank you.

Senator METCALF. The next witness is Leland G. Ulmer, manager, North Dakota Association of Rural Electric Cooperatives.

Mr. Ulmer, it's nice to have you here; if you will give us an appraisal, please.

#### STATEMENT OF LELAND G. ULMER, MANAGER, NORTH DAKOTA ASSOCIATION OF RURAL ELECTRIC COOPERATIVES

Mr. ULMER. Thank you, Senator, and thanks for the opportunity to appear. I manage the North Dakota Association of Rural Electric Cooperatives and the North Dakota Association of Telephone Cooperatives.

The electric cooperative association represents 19 rural electric cooperatives that retail electricity to 82,000 rural people over 61,000 miles of line. In addition, we represent several large generating and transmitting cooperatives that wholesale power to our distribution cooperatives in North Dakota and adjacent States. The telephone association's member cooperatives serve the rural areas of North Dakota and in North Dakota we have a lot of rural areas.

Rural electrification on the prairies of North Dakota did not really attain feasibility until the installation of the five main stem dams on the Missouri River. The low cost hydropower from these dams to these consumer-owned organizations really got things going.

In 1947, North Dakota had the distinction of having the largest number of people without central station power service of any State in the Union. We had no real source of wholesale power until the hydropower became available from the U.S. Bureau of Reclamation. Today, we serve only 1.37 consumers per mile of line. One readily sees that the low cost Bureau hydropower gave us our start and remains an essential part of our operation.

We do a lot of business with the Bureau of Reclamation and working together, we have one of the finest power delivery systems in the world. All available hydropower is being marketed from base loading or peaking. Essentially, what we have done and are doing together is obtaining the very maximum utilization of a natural resource, the falling water in the Missouri River.

The Department of Interior and its agencies is deeply involved in North Dakota. In addition to the Bureau of Reclamation, we have the Bureau of Indian Affairs, and we have a substantial Indian population. The Bureau of Land Management and the Bureau of Mines are involved in coal. The Bureau of Sport Fisheries and Wildlife, among other things, help raise the ducks our friends to the south of us shoot. The Bureau of Outdoor Recreation's role in North Dakota is obvious. We have lots of outdoors which can be utilized for recreation.

I serve as a director of a small bank in my home community. Prior to Mr. Kleppe's appointment to the Small Business Administration, our board and officers seemed reluctant to use SBA. The procedures were protracted and lengthy and redtape was plentiful. I'm happy to tell you that it's a different story today. We can point to many local success stories resulting from SBA participation in our loans and we seldom have a board meeting that doesn't find us granting loans with SBA participation. These are good loans and, thanks to SBA, our community is growing at a comfortable and healthy pace. The SBA has been administered.

My personal contact with the nominee and his accomplishments lead me to believe, most firmly, that he is well qualified to sit as a member of the Cabinet. He is an outstanding administrator and we have found him to be a fair and thoughtful human being. I do hope this committee will act favorably on his nomination. I know he will serve the Nation in a commendable manner.

Thank you for the opportunity to present our views.

Senator METCALF. Again, I will repeat that in these hearings, it is most useful to hear from the men and women who have had experience with these various agencies Mr. Kleppe will be working with as Secretary of the Interior.

I have some knowledge of the splendid activities of the rural electric cooperatives in North Dakota, not only of the Bureau of Reclamation power that you use, but of the cooperative that generates and transmits electricity, not only to your cooperatives, but into the State of Montana.

I think that is an agency, the basis on electric that should be held up for high praise as a model enterprise all over the United States.

It's good for members of this committee, all of whom are from areas that have substantial rural electric systems, to have your appraisal of the nominee.

Mr. ULMER. Thank you.

Senator BARTLETT. Thank you very much, Mr. Ulmer, for testifying before this committee. Your experience in energy; business in banking; and various activities for the Department of the Interior, these are all important in making judgments for Mr. Kleppe. We appreciate what has been said and what you're doing to make things better.

Senator METCALF. Our next witness is Mr. Mel Tonasket who is representing the National Congress of American Indians.

Do you have a prepared statement? You have propounded several questions, many of which are problems in my own State of Montana and the reservations there. Go ahead and summarize or read the statement, you have the floor.

#### STATEMENT OF MEL TONASKET, PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS

Mr. TONASKET. Thank you, Senator. It's my pleasure to be here once again and an honor to be able to represent the American Indians at these hearings.

I would like to read this statement because the number of points that I want to make, I think, are extremely crucial to the Indian reservations and the survival of our peoples and I don't want to miss any point.

Senator METCALF. Go right ahead.

Mr. TONASKET. My name is Mel Tonasket, I'm president of the National Congress of American Indians. As president of an organization composed of numerous Indian nations, tribes and people, I wish to say this to Mr. Thomas S. Kleppe, whose nomination is before the Congress for confirmation as the Secretary of the Interior.

American Indian people and the Nation as a whole desperately need a man of integrity who can bring to the Department of the Interior the credibility which, for many years, has been meager, if not non-existent.

It is our fondest hope that Mr. Kleppe will step forward and firmly announce that he will act expeditiously to prove that he is honest, that he is competent, that he is reliable, and, being honest, competent, and reliable, he will restore to the Secretary's office the power and the credibility, and that in lieu of long-winded diatribes on Indian affairs, he will act as the Chief Agent of the Trustee United States for and on behalf of all Indian people; not for the special interests which have established for their own benefit the policies and practices of the Interior Department in regard to Indian water, coal, timber, fish and all matters pertaining to Indian natural resources.

To accomplish those things, Mr. Thomas S. Kleppe must recognize at the outset this fact, that within the Interior and Justice Departments this pattern is now and for a long time past, has been adhered to within Interior's grossly inept bureaucracy.

One; there has been oppression of all Indian tribes and people by the inept bureaucracy through the undercutting of tribal leadership and its inherent power of self-government.

Two; the bureaucratic activities have as their single objective the self-preservation of that bureaucracy and the tight controls by it of all aspects of Indian life and property.

Three; the bureaucracy raids Indian property and the Treasury of the United States for non-Indian purposes and projects to the irreparable damage of the Indian tribes and people.

Four; the bureaucracy within the Interior and Justice Departments perverts laws which are favorable to the Indian people and by twisting those laws, benefits non-Indian users and projects.

Failure of the Interior Department to fulfill its function as the principal agency of the trustee United States for the Indian tribes and people, can be attributed to many factors. A principal reason for that failure is this; due to their shameful conflicts of interest, the attorneys in the Solicitor's Office of the Department of the Interior and the attorneys in the Department of Justice are now, and for many years past, have been usurping administrative powers and perverting the law in furtherance of non-Indian interests to the irreparable damage of Indian people.

I am now so gravely concerned over the conduct of the attorneys in both the Interior and Justice Departments in regard to Indian matters, that I have presented the issues to Attorney General Levi. Attached to this statement is a copy of my letter, dated September 15, 1975, to Mr. Levi. Accompanying my letter to him is a copy of the National Congress of American Indians' statement made to the Senate Judiciary Committee at the Levi confirmation proceedings. Confronting Attorney General Levi and confronting the Interior Department, are the problems reviewed in my letter of September 15, 1975.

Two key cases, involving all American Indian people, are brought forcefully to Mr. Levi's attention. They are *Arizona v. California* before the Supreme Court, and the *Walton* case involving water rights on the Colville Indian Reservation, my home reservation. Most serious charges are presented by both cases. In *Arizona v. California*, the attorneys for the Department of Justice, although purportedly representing the Indian tribes on the five Indian reservations on the lower Colorado River, abandoned the Indians and aggressively advocated claims adverse to the Indians.

In the *Walton* case on my home reservation, the attorneys for the Solicitor's Office and the Department of Justice have joined forces with a non-Indian against the Colville Tribes. Although the Colvilles deny that non-Indian Walton has any rights, those Federal attorneys advocate the position of Walton who claims that he can share Indian water. The Colville Tribes assert that Walton has no rights and that the Secretary of the Interior does not have the power to determine how much water will be taken away from the Colville allottees and the tribe and given to Walton. We deny both propositions.

There are other Indian cases where the conduct of the Interior Department and Justice Department lawyers are destructive to Indian people. One of them is on the Lummi Reservation in the State of Washington. There, the *Bel Bay* case involves identically the same problem as presented by the *Walton* case. Again, the Justice Department seeks to vest in the Secretary of the Department of the Interior power to take water from Indian allottee lands and tribal lands and force the Lummi Indians to share their short supply of water with non-Indians. That attack upon Indian rights must be stopped.

One of the most serious Indian natural resource problems in the United States is in the upper Missouri River basin. Though grave throughout the whole basin, in the subbasin of the Yellowstone River it is most serious. The Big Horn River is a tributary of the Yellowstone. The Big Horn River waters arise principally on the Wind River Indian Reservation in Wyoming, and the river flows northward traversing the Crow Indian Reservation in Montana.

In 1967, in furtherance of the great industrial cartel development of coal in the subbasin of the Yellowstone, the Bureau of Reclamation undertook its industrial water marketing program. Primarily, that reclamation program involves the sale of Indian water. Let me emphasize this fact; the Bureau of Reclamation has no right to sell the Indian water. Yet the Bureau of Reclamation has undertaken to sell hundreds of thousands of acre-feet of water, the rights to which belong to the Indian people.

Here again, the Department of Justice joins forces against the Indians. It denied in the *Powers* case, and lost, that the Crows had any rights in the Big Horn, asserting rather, as is being done in the *Walton* case, that the Secretary of the Department of the Interior controls all the Indian water.

The Supreme Court, in the *Power* case, threw out the Justice Department complaint. Yet the attack by the Justice Department on the Crow rights continues. In a case now pending in Federal court in Billings, Mont., the Department of Justice claims the United States owns all of the Big Horn River water impounded in the Yellowtail Reservoir on the Big Horn River within the Crow Indian Reservation.

Again, the Justice Department is proceeding aggressively against Indian rights and interests on behalf of the non-Indian Bureau of Reclamation, to the irreparable damage of the Indians.

One of the most serious Indian natural resource problems confronts the Northern Cheyenne Tribe in Montana. Involved is both the invaluable coal supply on their Reservation and the water rights of the Northern Cheyennes in the Tongue River. The Secretary of the Interior entered into contracts which clearly violated the trust responsibility owing to the Northern Cheyenne Indian people.

Among other things, the price the Secretary contracted for the sale of the coal was far below a fair price. Moreover, the Secretary entered into the contract involving more Northern Cheyenne land than is authorized.

On both scores, the Northern Cheyennes are the losers. Due to the fault of the Secretary of the Interior, the Northern Cheyennes are caught up in costly legal battles. Although it was thought the Secretary of the Interior would help them financially, the Acting Secretary has now advised the Northern Cheyennes that he cannot assist them in paying attorneys fees. It is a shocking thing where the Secretary violates his obligation to the Northern Cheyennes and then forces them into costly legal fees and probably court action which they scarcely can afford.

My people, the Colville Confederated Tribes, seeking to conserve, preserve, and sensibly to administer their short water supplies, adopted a water code. The Secretary of the Interior has refused to approve it. Rather, the Secretary of the Interior desires to impose his regula-

tions upon the tribes and to force the Colville allottees and the Confederated Tribes to share their water with non-Indians.

Again, the Indian people suffer from the illegal, autocratic, high-handed conduct of the bureaucracy which, as stated above, seeks to suppress and control all of the Indians for the benefit of non-Indian uses and projects.

Conduct of the Solicitor's Office and the Department of Justice in the famous *Blackbird Bend* case requires special note. Involved are thousands of acres of invaluable lands belonging to the Omaha Indian Tribe in the State of Iowa. Those lands, for over 30 years, were abandoned by the Secretary of the Interior. Finally the Omaha Tribe, with some assistance, went into possession of that and so long occupied by non-Indians who reaped millions of dollars of profit from it.

Rather than supporting the tribe, the lawyers for the Solicitor's Office and the Justice Department seemingly joined forces with the non-Indians in regard to the issue of Indian occupancy. Finally the Indians started to initiate their own lawsuit. To the amazement of the Omahas, the Justice Department rushed into court totally without preparation or knowledge of the facts or, indeed, the law which was involved.

The court consolidated the tribe's case and that of the Justice Department. The court supported the tribe's occupancy and they remain now in possession. Yet that occupancy was repeatedly attacked by the attorneys for the Interior and Justice Departments.

Now the Omaha Tribe is struggling on its own behalf to prepare an adequate suit and rectify the mistakes of the case which the Justice Department so improvidently rushed into court.

In the ultimate, the Omahas, I believe, will win. Yet they first had to whip the autocratic bureaucrats who attacked rather than supporting the wise and brave action of the tribe going into possession of their own lands from which they were so long dispossessed. At this moment, the Omaha Tribe is still endeavoring to secure assistance from the Justice Department of the caliber it requires.

Undoubtedly, the greatest problem confronting Mr. Kleppe is the fact that he will be the chief administrator of the Bureau of Reclamation which is the single greatest enemy of the Indian people in the United States. How can the Secretary of the Interior perform his functions as the principal agent of the Trustee United States for the Indian people, and at the same time administer the Bureau of Reclamation which, at this moment and for many years in the past, has raided Indian land and water rights for its powerful political backers who are the land and water speculators in the West?

My concern is this, and I pledge my own best efforts and those of the National Congress of American Indians to achieve a very necessary end.

The new Secretary of the Interior must insist that the Indian people be given the full benefit of the laws respecting the performance by the U.S. Trustee. In performing for the Indians the Secretary and his staff must exercise the highest degree of care, diligence, and skill when acting for the Indians.

The Secretary of the Interior must, moreover, force his lawyers in the Solicitor's Office to act for the Indians, not against them as so fre-

quently has happened. Lawyers in the Justice Department must, moreover, rely upon the very formidable body of law that supports the Indian rights and the Indian power of self-government.

If Mr. Kleppe follows that course, he will at least take steps in the right direction and the Indian people will support him, I believe.

That is the end of my statement, I'll be glad to answer questions on any of these matters.

Senator METCALF. The material you have submitted at the conclusion of your statement will be included in the hearing record.

Mr. TONASKET. Yes, sir.

Senator METCALF. As you know, the committee during the August recess, held two hearings, one in Montana and one in South Dakota regarding water and water rights and the memorandum of the agreement entered into by the Bureau of Reclamation and the Corps of Engineers as to the industrial disposition of the water, the five main stem dams on the Missouri.

We also had a hearing here in Washington, on that matter. Again, some of this can be resolved by legislation. You've raised questions of grave concern to me not only as a Montanan, but to every member of this committee as representatives of western areas that are concerned with water.

Some of them may have to be resolved only by litigation. Perhaps we can't even have legislation without some guidance from the U.S. Supreme Court.

The problem that you have presented, of course, is a problem that is always present in such a large agency as the Department of the Interior where there are conflicting interests involved at all times. The Bureau of Indian Affairs has a conflict with the Bureau of Reclamation, the Fish and Wildlife Service has a conflict with the Bureau of Reclamation too.

I would hope that the Solicitors for the BIA would be more active and would respond to your testimony in representing Indian rights where there is that conflict there.

I think that this committee is aware of that, we will work with the new Secretary, as we have tried to urge former Secretary's in the past, to help us resolve these questions and we look forward to your cooperation as we have in the past.

Mr. TONASKET. I would like to make one more point that I hope Mr. Kleppe will really consider. In the past couple years, the door of the Secretary of the Interior has been fairly well sealed from Indians, it is our hope, me speaking both as a member of my tribal council, and also as president of the National Congress of American Indians, that, when necessary, we be given the opportunity to meet with the Secretary of the Interior to discuss some of these issues.

Many times the incidents that I referred to here are usually handled at the lower level and the Secretary gets blamed in the press and within the tribal government for things that he really isn't knowledgeable of or aware that is happening and is being done by his underlings.

We're also concerned that Mr. Kleppe, if he goes into office, that he will really consider bringing some new blood into those key positions around him. We realize that there has to be some old liners to keep

him advised of what happened 100 years ago, 50 years ago, or 20 years ago; but, we also feel that it's really important that we have found that those old liners don't change their minds very much. Some of them are still living in the past where philosophy was brainwashed into them and that paternalism attitude.

They don't realize that we've grown up and there's a lot of things we can do for ourselves with their assistance and their support, primarily in the legal battles, in preparation for cases and that's where we get shortchanged. We will be more than happy to work with Mr. Kleppe and recruit new talent to bring that Department up to date, because we really feel that it is outdated and about 50 years behind from the cases that they are referring to as their guidance for their positions that they are taking in today's pieces of litigation.

We would be more than happy to help Mr. Kleppe in any way that we can.

Senator METCALF. This committee is going to have to work with you and Mr. Kleppe, and Mr. Kleppe is going to have to work with this committee and you. That is what I was talking about when I said we needed better lines of communication in all directions. I hope that Mr. Kleppe will read the record and will respond with more of an open door policy.

I think you have made important points. These matters will continue to be problems for us, the Congress and the administration.

Thank you very much.

Mr. TONASKET. Thank you very much.

[The information referred to by Mr. Tonasket follows:]

NATIONAL CONGRESS OF AMERICAN INDIANS,  
Washington, D.C., September 15, 1975.

HON. EDWARD H. LEVI,  
Attorney General of the United States,  
Washington, D.C.

DEAR MR. ATTORNEY GENERAL: At your confirmation proceeding before the Senate Committee on the Judiciary, a statement was made on behalf of the National Congress of American Indians by its Executive Officer. For easy reference, a copy of that statement is attached. It will be observed that reference is there made to the failure of the Attorneys in the Department of Justice to fulfill their responsibilities to the Indian Tribes and people. Because they are acting for the Trustee United States of America for the Indians, the Attorneys for the Justice Department are required to perform professionally exercising the highest degree of care, skill and diligence. References are made in the attached statement to the numerous instances in which the Justice Department is not now and has not in the past acted properly in the performance of its responsibilities.

In response to the statement of the National Congress of American Indians, you gave assurances that you would support Indian interests. You, moreover, gave assurances that you would be accessible to the American Indian people and to hear and consider their problems. Those same assurances were given to me as President of the National Congress of American Indians and as a member of the Colville Confederated Tribes in the State of Washington.

The purpose of this letter is again to bring to your attention matters referred to in the statement to the Senate Committee. There are developments in those cases directly involving the conduct of the Attorneys of the Department of Justice. The ultimate disposition of the issues that have arisen between the Western Indian Tribes occupying arid and semiarid Reservations and the Attorneys for the Department of Justice demands favorable resolution on behalf of the Indian people. Those issues involve the imperative necessity to preserve and protect the invaluable Indian rights to the use of water without which those arid and semiarid Reservations are not habitable and cannot be sustained as economical viable Indian communities.

Particular reference in the accompanying statement is made to cases vital to the Indian people and they include *Arizona v. California* which is now before the Supreme Court. Likewise involved and of equal importance to the Indian people are the cases of *Colville Confederated Tribes v. Walton, et. al.*, Civil No. 3431, and *United States of America v. Walton*, Civil No. 3831. Those cases now pending in the United States District Court for the Eastern District of Washington have been consolidated for trial.

As a member of the Colville Confederated Tribes, a member of their Tribal Council, I am vitally interested in the failure of the Department of Justice properly to perform its functions in the last cited cases, all as will be subsequently reviewed in some detail.

Prior to discussing the *Walton Cases* and the pressing need for your early action in regard to them, I will make reference to the case of *Arizona v. California*, concerning which I understand the Indians there involved have requested assistance from you. In regard to *Arizona v. California* you will observe in the attachment a letter dated January 15, 1975, from Senator Jackson of the State of Washington to your predecessor in office, the Honorable William M. Saxbe. Senator Jackson made reference to the case of *Arizona v. California* and submitted with his letter a copy of a Resolution dated January 14, 1975, adopted by the Confederation of Colorado River Tribes composed of the Fort Mojave, Colorado River, Fort Yuma, Chemehuevi and Cocopah Indians. That resolution is set forth in full in the attached copy of the statement made to the Senate Judiciary Committee. It commences at the bottom of page 135. There the Indian Tribes sharply condemn the Department of Justice for its inherent conflict of interest in the case of *Arizona v. California*, and the consequences flowing from that conflict of interest which have so gravely damaged the Tribes. They likewise condemn a proposed Stipulation which is the product of the conflict of interest and which it is intended will be made a part of the Final Decree in *Arizona v. California*. That Stipulation, I am advised, subjects and subordinates the rights of the Colorado River Tribes of the Lower Colorado River to the priorities of non-Indian projects and uses. Incredibly the Attorneys for the Department of Justice who were supposed to be representing the Indian Tribes, advocated the interests adverse to the Indians and are now supporting the Stipulation, which would be so damaging to the Indians.

I am advised that Senator Jackson, by a letter dated August 27, 1975, to you, has requested that you meet with the above named Indian Tribes on the Lower Colorado River in an effort to preserve and protect their rights in the case of *Arizona v. California*. As President of the National Congress of American Indians, I join the Confederation of Colorado River Tribes in their request for an audience with you. I cannot urge too strongly that you render them every assistance to protect and preserve their invaluable life-sustaining rights in the Colorado River. I further offer to you my own very best efforts and those of the National Congress of American Indians to bring to a just and legal resolution the case of *Arizona v. California* which is so vital to the Indian Tribes not only on the Lower Colorado River but to all American Indians.

Reference was made above to the consolidated cases of *Colville Confederated Tribes v. Walton* and the *United States of America v. Walton*. Those cases and the issues presented by them are more acute in many respects than *Arizona v. California* quite aside from its impact upon Indian rights and interests. History of the *Walton Cases* reveals an appalling arrogance on the part of the Justice Department Attorneys. It likewise reveals a gross failure of those Attorneys properly to perform their functions on behalf of the United States Trustee for the Indian people and upon whom the Colvilles are forced to rely. Reference is made to the fact that for many years the United States had failed to protect the rights and interests of the Colville Indians in a small stream referred to as No Name Creek which is entirely within the Colville Reservation. A non-Indian Walton acquired land traversed by No Name Creek, claimed rights in that Creek, monopolizing virtually its entire flow, taking water from Indian farms, stopping Indian development, interfering with Indian rights of fishery, and depleting the flow of No Name Creek into unique and beautiful Omak Lake.

In an effort to stop Walton's violations of Colville rights in No Name Creek, the Tribes initiated the above referred to cases of *Colville Confederated Tribes v. Walton*. Through its counsel the Tribes asked the Department of Justice to intervene on their behalf in the Colville case against *Walton*. Rather than acceding to

the request of the Tribes the Justice Department initiated *its own* independent action.

Main thrust of the Justice Department *Walton Case* is to have Walton enjoined from diverting water from No Name Creek "in excess of that authorized by the Secretary of the Interior." The Colville Tribes are unalterably opposed to that position, (a) denying that the Secretary of the Interior has power to "authorize Walton to have any share with the Indians in the drastically short supply of water in No Name Creek, and (b) assuming there is authority in the Secretary of the Interior to allow Walton to use the waters of No Name Creek—which is denied—the Secretary has never authorized *Walton* to take any water from the Creek.

From the moment the Justice Department filed that suit, the Colville Tribes have resisted the course adopted by it. They and other Indians similarly situated in Western United States are fearful of the implication of it. Manifestly if the Secretary of the Interior can take water from Indian allottees and give it to non-Indians, that officer is invested with the power of life and death over them. Congress, having plenary power respecting Indian affairs, has never awarded that vast authority to the Secretary with the potential for destruction of Indian people and their rights.

Irrespective of the lack of authority in the Secretary of the Interior to seize Indian rights to the use of water and authorize Walton to use it, that statement is reiterated and reaffirmed in a letter dated July 18, 1975 by your Assistant Attorney General Wallace H. Johnson to Kent Frizzell, Solicitor. That letter was hand delivered by Mr. Frizzell on the date last mentioned and on that date read aloud by Kent Frizzell to me and others present. A copy of Mr. Johnson's letter is attached.

It is throughout gravely in error. I can only infer those errors came from bad information and bad advice. I had little difficulty in disclosing factual errors made by Mr. Johnson and dispelled them at the conference with Mr. Frizzell.

Far more serious than his errors in fact, however, are what I am advised are grave errors in law. I am further advised they pervade the case which the Justice Department brought against *Walton*. Manifestly neither the Colville Tribes, which have assigned to me the responsibility in the *Walton Cases*, to protect their interests, nor the National Congress of American Indians which represents thousands of Indians, can tolerate the Justice Department acting in error to the irreparable damage of the Colvilles in particular and all Western Indians in general.

Mr. Johnson, in the final sentence of the second paragraph, declares that it is the position "of the Government herein" and consistent with *United States v. Powers*, 305 U.S. 527 (1939), that ". . . Walton, as a successor in interest to an Indian allottee, has some right to water." I am advised that the *Powers Case* was initiated by the Justice Department. In that case the Justice Department denied that the Crow Indian Tribe of Montana had any rights to the use of water under its 1868 Treaty with the United States. Rather, as in the *Walton Case*, the Justice Department in *Powers*, asserted title to the rights to the use of water was in the United States and the Secretary of the Interior had the full power and authority to use the water in disregard of the claimed rights of the Crow Indians.

The Court of Appeals for the Ninth Circuit declared that the rights of non-Indian *Powers* could not be determined in the suit brought by the Department of Justice. That Court ordered dismissal of the complaint in the *Powers Case*. (*United States v. Powers*, 94 F.2d 783 (CA9, 1938)). When the *Powers Case* came before the Supreme Court for review the Supreme Court, among other things, stated: "The decree of the Court of Appeals dismissing the bill must be sustained."

It, moreover, adopted the rationale of the Court of Appeals, stating:

"We do not consider the extent or precise nature of respondent's [*Powers*] rights in water." (*United States v. Powers*, 305 U.S. 527, 531-532 (1939))

The Supreme Court then added—reiterating the opinion of the Court of Appeals which ordered the complaint in *Powers* dismissed: "The present proceeding is not properly framed to that end."

There was nothing decided in the *Powers Case* pursuant to which Mr. Johnson of your staff could correctly declare as he does, that Walton "has some right to water."

It is equally clear that the *Powers Decision* rejects the concepts asserted by the Justice Department in the *Walton Case*, that the Secretary of the Interior has the authority to authorize Walton to take *any* water. Yet it is both explicit and

implicit in the complaint filed by the Department of Justice in the *Walton Case* and Mr. Johnson's letter of July 18, 1975, that the Department of Justice is seeking to invest title to the rights to the use of water in the United States and to authorize the Secretary of the Interior to distribute those waters.

In regard to the *Walton Cases*, it is the position of the Colville Tribes that the Department of Justice has three alternatives in the matter:

1. It can amend its complaint and join the Colville Tribes in their case against Walton and proceed to trial upon the concepts of the Colville case in its present posture;
2. It can withdraw from the case, allowing the Colville Tribes to proceed in their case without the Department of Justice being present in the case;
3. It can assume an adversary position to the Colville Tribes and necessarily abide by the results when the case is ultimately determined.

I cannot urge too strongly that you exercise your great power in your high office to take immediate action to investigate the facts in both *Arizona v. California* and in the *Walton Cases*. Having investigated those facts, I would urge you to take appropriate action to direct your staff to protect, and not denigrate, Indian rights to the use of water as has been their practice in the past.

Sincerely,

MEL TONASKET,

*President, National Congress of American Indians.*

Enclosures.

TESTIMONY OF CHARLES TRIMBLE, EXECUTIVE DIRECTOR, NATIONAL  
CONGRESS OF AMERICAN INDIANS

MR. TRIMBLE. Mr. Chairman, I am Charles Trimble, executive director of the National Congress of American Indians. I am appearing today as the representative of the largest, oldest, and most representative organization of Indian tribes throughout the United States.

We are not here to oppose the nomination of Mr. Levi. However, we are concerned, and would like to impress upon him and upon members of this committee the gravity of the situation facing the Indians because of the failure by the Justice Department to live up to the high standards of conduct owed to the Indians by this Nation's trust responsibility. The public has been made aware of the early rip-offs of vast acreages of Indian land, but few know of the well-documented continuing theft that, in fact, is going on as we sit here today.

We Indians have always known that Federal agencies didn't properly represent our interest when other interests were present, but we have had a problem getting this message to the American people. However, the conflict became so obvious and potentially embarrassing to the Government that in a message to Congress on July 8, 1970, the President of the United States, President Nixon, had this to say about the Interior and Justice Departments, and I quote:

"The United States government acts as a legal trustee for the land and water rights of American Indians. These rights are often of critical economic importance to the Indian people; frequently, they are also the subject of extensive legal dispute. In many of these legal confrontations, the Federal government is faced with an inherent conflict of interest. The Secretary of the Interior and the Attorney General must at the same time advance both the national interest in the use of land and water rights, and the private interests of Indians in land which the government holds as trustee.

"Every trustee has a legal obligation to advance the interests of the beneficiaries of the trust without reservation, and with the highest degree of diligence and skill. Under present conditions, it is often difficult for the Department of the Interior and the Department of Justice to fulfill this obligation. No self-respecting law firm would ever allow itself to represent two opposing clients in one dispute; yet the Federal government has frequently found itself in precisely that position. There is considerable evidence that the Indians are the losers when such situations arise. More than that, the credibility of the Federal government is damaged whenever it appears that such a conflict of interest exists."

President Ford has reaffirmed that position. I think that that is all a part of the politics of expectation.

Gentlemen, don't you think that the very dignity of the United States itself is in danger when you have one highly placed official after another decrying

the failure of the trustee United States to live up to its fiduciary responsibility of the highest and most exacting standards?

I wish I could say that the record of the Department of Justice had improved since that Presidential declaration. But the situation is worse and is rapidly deteriorating. And nowhere is this more true than in the area of tribal water rights. The Justice Department wished to introduce a bill last year to catalog Federal water rights that would have defined the Indian's water rights right out of existence.

Regional shortages of water, national and international shortages of coal and other power-related minerals and resources have increased the raids on tribal water and other related tribal resources by energy companies, non-Indian farmers, corporate industries, and real estate developers.

In addition, the energy crisis has actually intensified the conflict within the Justice Department by increasing the number of interests they have to serve in the name of Project Independence or some other catchword for furthering national policy, just as Manifest Destiny provided the excuse for land grabs in the past. Catchwords have been known to hold rational analysis in chains for upwards of 50 years and more.

I would like to get into some specific examples of what I mean by a failure by Justice and Interior to resolve this conflict of interest.

The Hicarilla Apache tribe on the Navajo River are not only being denied the right to exercise their water rights, but the river has become so depleted by a Bureau of Reclamation project that the fish have died.

Senator ABOUREZK. Is that the San Juan Channel project you're talking about?

Mr. TRIMBLE. Yes. The Justice Department has not seen fit to bring any action to correct this situation. In *U.S. v. Aamodt*, the Pueblos along the mainstream of the Rio Grande were originally denied a day in court, and have been locked in a desperate struggle to preserve their water rights. It is not at all clear that the Justice Department is pleading the strongest Indian case due to conflicts of interest within that Department.

Also, in the water-short Southwest, the tribes along the Colorado River are asking for time to study certain stipulations prepared by officials of the Interior and Justice Departments. These tribes believe the proposed stipulations will cause the loss of priorities in the Colorado River and rights to which the tribes assert they are legally entitled. I am enclosing a letter for inclusion in the record, from Senator Jackson, regarding this.

Senator ABOUREZK. That will be accepted.

[The document referred to follows:]

JANUARY 15, 1975.

HON. WILLIAM B. SAXBE,  
Attorney General of the United States,  
Washington, D.C.

MY DEAR MR. ATTORNEY GENERAL: This letter is in reference to the proposed Stipulation of Present Perfected Rights prepared by officials from your Department and the Department of the Interior pursuant to the case of *Arizona v. California* in the Supreme Court (373 U.S. 546 (1963); 376 U.S. 340 (1964)).

Recently, tribal officials from the Fort Mojave, Chemchuevi, Colorado River, Fort Yuma, and Cocopah Reservations appealed to the Committee seeking a delay on a decision by the United States with respect to the Stipulation. (See attached Resolution). The tribal official contend that if the Stipulation is accepted by the United States, the respective tribes will lose priorities in the Colorado River and rights to which the tribes assert they are legally entitled.

I am advised further by tribal officials that the Department of the Interior entered into a contract with a private consulting firm to determine whether or not the tribes could justify additional irrigable acreage on their reservations which they assert was not included in the evidence submitted in the *Arizona v. California* case. The contractor will complete his work on February 10, 1975, and the tribes and the Bureau of Indian Affairs will need several months to analyze the report to support the Indians' contention concerning their rights and interests in the Colorado River.

The Stipulation holds important implications for the future economies of the affected Indians and non-Indians. Considering that the *Arizona v. California* decision was rendered by the Supreme Court over ten years ago and that the Stipulation as to present perfected rights has been in process of formulation since 1966, I do not envision that a delay of several months to permit the Indians

to develop their case will jeopardize the interests of either of the parties. Therefore, I respectfully request that you defer the final decision on the Stipulation until July 1, 1975, in order that the Indian interests may be adequately considered in this issue. I am taking the liberty of sending a copy of this letter to the Secretary of the Interior because of the trustee responsibility he carries with respect to the five tribes.

Sincerely yours,

HENRY M. JACKSON, *Chairman.*

Enclosure.

Mr. TRIMBLE. There are two cases with which I am personally and immediately acquainted, involving Indian water rights, in which the conflicts of interest are all-encompassing. They are the *United States and the Colville Confederated Tribes v. Walton*, and the *Lummi Indian Tribe v. Bel Bay Community and the State of Washington*. Both of these cases are in the Federal courts of the State of Washington. In both cases, the Department of Justice is acting, in my view, in a manner entirely in opposition to the Indian interests. I am offering for the record a copy of a letter dated January 20, 1975, from the lawyer of the Colville and Lummi Tribes, the Honorable Alvin J. Ziontz, to Kent Frizzell, the Solicitor of the Department of the Interior, in which Mr. Ziontz reviews in detail the tragic consequences of the failure of the Department of Justice adequately and professionally to represent those tribes in the above-mentioned *Walton and Bel Bay* cases. Mr. Chairman, I offer that for the record.

Senator ABOUBEZK. That will be received.

[The document referred to follows:]

ZIONTZ, PIRTLE, MORISSET, ERNSTOFF AND CHESTNUT,  
*Seattle, Wash., January 20, 1975.*

*Re Colville Confederated Tribes v. Walton and Lummi Indian Tribe v. Bel Bay.*

Mr. KENT FRIZZELL,

*Solicitor, Department of Interior, Washington, D.C.*

DEAR KENT: Time is running out in the *Walton and Bel Bay* cases. I expect Judge Powell, in *Walton*, to require the parties to incorporate their positions in a pre-trial order to be lodged in the next thirty days, if not sooner. In *Bel Bay*, the various parties have informed Judge Voorhees that they will lodge a stipulation of facts by mid-February and be prepared to brief and argue their cases soon after. At this late date the inability of the respective tribes to secure support, or for that matter even a clear-cut position from their coplaintiff, the United States, on two crucial legal issues has handicapped our trial preparation, will make a shambles of the cases and certainly threatens to embarrass the United States before the federal judges involved. If this matter is not resolved promptly, I predict we will have a repetition of the same sort of mess which has occurred in the *Aamodt* case, a case which, like these two cases, was entered and prepared by the United States Justice and Interior Departments in a fatally ambiguous fashion, was long pending before the court and now is cemented into a confused and farcical trial posture.

The two specific issues which are creating the trouble are the question of the limitations imposed on the Secretary and the Department by 25 U.S.C. § 381 and the question of title to water rights within the boundaries of the reservations.

In 1887, Congress enacted § 381 as § 7 of the General Allotment Act. That section conferred upon the Secretary of the Interior the power to make a "just and equal distribution" of water among the Indians residing on the reservations. It did not authorize the distribution or patenting of water rights to non-Indians. If the Interior and Justice Departments do not agree with this contention, it is imperative that you so advise us. And if the United States cannot support us in this, we ask that it refrain from taking a position hostile to the tribes on that question and insure that Justice Department attorneys, if pressed, will inform the court that the United States takes no position on this issue, believes the question is before the court for resolution "in a case of first impression", and considers the tribe free to advance its own contentions on the matter.

A second and even more crucial question is whether the non-Indian grantee of an allottee can claim a water right as the result of the transfer of land. As you know, it is our contention that the right to the use of all water upon, under, bordering or tributary to a reservation resides undiminished in the beneficiaries of the reservation: federally recognized Indian tribes. There is, as we very well

understand, a hardcore group of attorneys within the Departments of Interior and Justice who advance the opposite view. Since the matter has never been clearly and definitely resolved where the grantee's claim has no basis in the statute, treaty or executive order establishing the reservation, we find it difficult to understand why the trustee would advocate such a position. Here again, we must ask that you promptly advise us as to whether the United States is going to support the tribes in their position. If you are not, then we must again ask that you refrain from interfering with the tribes' assertions and/or taking a position actually hostile to that of the tribes.

The importance of the issue can hardly be overstated. A holding that non-Indians inhabiting former allotments acquired a share in tribal water rights would have a disastrous effect on reservations throughout the arid West. It would give largely non-Indian landholders a death grip on the waters of the reservation, apply a multiplier effect to the destructive consequences of the allotment act and freeze the Indian people into inability to develop or even properly administer water within their own reservations.

As you can imagine, the words spoken by federal attorneys representing the United States in these two cases have tremendous impact on the federal court. Even the most casual indication to the court that the United States is opposed to or skeptical of the tribal contention can have such a result.

Therefore, we know you will understand clearly that it is crucial that either the United States support the tribe, or that they carefully avoid indicating to the court in any manner, explicitly or implicitly, any skepticism, hostility or disagreement with the tribal position. We must ask that such a commitment be made promptly and in a manner which will be communicated to the Justice Department, whose attorneys are functioning on behalf of the United States in the litigation. Because of the brief time remaining, it is imperative that action be taken in a matter of days.

We would hope to be able to enter a pre-trial order in *Walton*, in which nothing is stated as to the parties' contentions which would in any way indicate that the United States is opposed to the tribes in these matters. The entry of such a pre-trial order is, however, held up completely because the United States attorney is awaiting direction from the Justice Department which in turn is reflecting the views put forward by some solicitors who are skeptical of the tribes' position.

Please feel free to call me if you have any questions concerning this matter, but I can assure you that its importance and urgency are of the highest order and require your personal attention.

Sincerely,

ALVIN J. ZIONTZ.

#### RESOLUTION OF CONFEDERATED TRIBES OF THE LOWER COLORADO RIVER

Whereas, the Confederated Tribes of the Lower Colorado River, consisting of the Fort Mojave, Fort Yuma, Cocopah, Colorado River and Chemehuevi Indian Tribes, was formed for the primary purpose of protecting the water rights of the five Indian reservations in *Arizona v. California*; and

Whereas, the Supreme Court's March 9, 1964, decree in *Arizona v. California* required the States of Arizona, California and Nevada and the United States to furnish a list of so-called present protected rights (with the claimed priority dates) within 2 years or by March 9, 1966; and

Whereas, there have been negotiations and discussions that have taken place periodically since 1964 aimed at reaching a stipulation with respect to the so-called present perfected rights, but no such stipulation has yet been executed; and

Whereas, the five Colorado River tribes have not been kept informed of the status of these negotiations by their trustee despite the fact that their vital interests are directly and immediately involved; and

Whereas, the five Colorado River tribes made known their concern to the Interior Department and in mid-1974 the Department agreed to provide the tribes with the funds necessary to make certain essential studies required in connection with the proposed stipulation; and

Whereas, the Bureau of Indian Affairs then entered into a contract with a consulting firm that called for the submission of its report on February 10, 1975; and

Whereas, on the basis of information already obtained, it is evident, that the existing decree in *Arizona v. California* was based on an inaccurate and incomplete record, and that the proposed stipulation is contrary to both law and fact and is diametrically antipodal to the interests and rights of the five Colorado River tribes; and

Whereas, the Solicitor of the Interior Department has notified the Bureau of Indian Affairs that the Interior Department will advise the Justice Department of its position with regard to the proposed stipulation by January 17, 1975, before the completion of the report contracted for by the Bureau of Indian Affairs: Now, therefore, be it

*Resolved That:*

1. The Confederated Tribes of the Lower Colorado River are unalterably opposed to the proposed stipulation in its present form, both as to fact and law; and

2. That the Confederated Tribes, based upon the records in *Arizona v. California*, feel that by reason of the inherent conflict of interest within the Interior and Justice Departments, they were deprived of adequate representation by reason of the conflicting interests between their claims and those of the Bureau of Reclamation or agencies under contract with the Bureau of Reclamation; and

3. It is believed that by July 1, 1975, the Confederated Tribes will have marshaled the essential evidence and related data to permit them to formulate a new draft of stipulation specifically detailing the extent and nature of their present perfected rights as they relate to other claimants on the stream: Be it further

*Resolved*, That the Secretary of the Interior forthwith take all appropriate steps to see that the time for the Confederated Tribes to prepare their presentation to the Department of the Interior be extended to July 1, 1975.

Dated: January 14, 1975.

LLEWELLYN BARRACKMAN  
(And 5 others).

Mr. TRIMBLE. These are only a few examples of cases where conflicts of interest are preventing the Justice Department from fulfilling its trust responsibility in the protection of Indian water rights.

Another broad area in which the Attorney General of the United States has failed the American Indians involves the ever-contentious area of Federal-Indian-State relationship. Particularly crucial is the field of taxation in the States which seek to tax the Indian people, their properties, and their income. Chief Justice John Marshall correctly declared the threat the Indians are now confronted with: "The power to tax is the power to destroy." Unless the Attorney General of the United States takes immediate action against State encroachment through taxation, the American Indians will be destroyed.

In 1970, the Administration proposed legislation to correct some of the abuses pointed out in the President's message. One of these was the Indian Trust Council Authority. Although we supported that concept, we had our own recommendations to Congress to improve the legislation.

After all that had been said, done, and pointed out what was wrong in the protection of Indian tribal natural resources, the Justice Department recommended to the 93d Congress that the trust council bill was to create a small staff of only seven or eight attorneys to litigate, according to their figures, more than 200 cases. We are aware of many more cases that should be filed, and would be filed but for the conflict of interest. We don't think the Justice Department is really interested in solving the conflict of interest problems.

What conflict, indeed? There does not seem to be any conflict of interest standing in the way when Justice and Interior are faced with the urban areas of the West and Southwest, with their larger and more influential lobbying power.

I hope that I have been able to impress upon you that this is a severe problem. We hope that you will explore ways with Mr. Levi to minimize the conflict of interest in existing cases. Ask Mr. Levi to commit himself to investigate means by which the other interests will be separated from our unique and historical legal position with the Federal Government.

We believe that a long-term solution should be the goal, and that the Attorney General Designate should be asked to take a realistic position on the Trust Council Authority, or private recommendations for an adequate alternative.

I thank you for the opportunity to present what I believe is the legal and moral obligation of the Federal Government toward Indians, and to present our suggestions as to how the new Attorney General can establish a course of action to improve the tarnished image of the past. Thank you, sir.

Senator ABOUREZK. Thank you, Mr. Trimble.

I don't know whether you were here yesterday during Mr. Levi's testimony, when I asked him about supporting the concept of an Indian Trust Council Authority, with nonconflict cases being retained in the Justice Department. As I understood his testimony, he generally supported that concept; and in relation to the rest of his testimony, he was pretty definite about it.

Mr. TRIMBLE. We will follow up on that, sir.

Senator ABOUREZK. I want to thank you very much for your testimony.

Mr. TRIMBLE. Thank you.

JULY 13, 1975.

KENT FRIZZELL, Esq.,  
Solicitor, Department of the Interior,  
Washington, D.C.

DEAR MR. FRIZZELL: We are writing with regard to *United States v. Walton, et al.*, Civil No. 3831 in the United States District Court for the Eastern District of Washington.

You will recall that this action was initiated by this Department for the United States in its own right and on behalf of the Colville Confederated Tribes at the request of the Department of the Interior in March of 1973. The primary purposes of this adjudication were to enjoin the defendants Walton from diverting water from No Name Creek in an amount in excess of that authorized by the Secretary of the Interior, and to have the State of Washington, having no authority over the appropriation of waters within the external boundaries of the reservation, enjoined from issuing further permits for pumping or diversion therein. It is the position of the Government herein that consistent with *United States v. Powers*, 305 U.S. 527 (1939), Walton, as a successor in interest to an Indian allottee, has some right to water.

One of the theories on which this litigation has proceeded was that the diversion activities of the Waltons was in excess of their appropriate share and that their activities would cause irreparable harm to the Tribe because it has decreased the size of Omak Lake which lies downstream from the Walton allotments. In June of this year it was determined by representatives of the Office of the Regional Solicitor in Portland, representatives of the Bureau of Indian Affairs, the Colville Tribe and the Tribe's counsel that additional hydrological testing was required in the area to establish the proof necessary to support the conclusions of the expert testimony to be presented at trial on October 14, 1975. This conclusion was reached after consultation with and with the concurrence of the expert Mr. Noble and was concurred in by the United States Attorney handling the litigation.

We have now been advised that as a result of recommendations of an employee of the Bureau of Indian Affairs which were contrary to the recommendations of all counsel for the Government and the Tribe, the expert and the United States Attorney, the Tribe has undertaken a well drilling program financed by the Bureau which precludes the possibility of the tests to be conducted. Further we understand that the same employee of the Bureau recommended that the Tribe not permit the testing program previously agreed upon.

We, of course, cannot predict the ultimate effect of the lack of data on the outcome of this proceeding. However, we wish to express our disapproval of these actions which will result in either a change in a theory of the case to be presented or which will, in the view of the expert, render his testimony in support of that theory vulnerable to attack. Neither of these possible results is likely to improve our chances of success in this litigation and we believe that if a change of theory is necessary at this late time it would undermine our efforts.

We have encountered another problem while ascertaining the facts of this controversy which is common to other litigation as well. The expert who is to provide the testimony supporting the Government's case here is a consultant employed by the Tribe with funds provided by the Bureau of Indian Affairs. There is no Government witness as such. We and the United States Attorney have had great difficulty locating the Tribe's expert and therefore have not al-

ways been able to ascertain his views. The ability of counsel to reach and work with experts it, as you know, of critical importance to pretrial preparation. The insulation of experts supporting the Government's case, as exists here, and the inability of counsel to assist in directing their pretrial preparation, prevents this office from effectively performing its mission.

Litigation is difficult under the best of circumstances. Without complete cooperation from the client agency it is much more difficult. Unless such cooperation is received our efforts to vigorously act on behalf of Indians through the newly created Indian Resources Section will be frustrated. It is because of the severe consequences of less than complete cooperation that we are writing to express disapproval of the activities which prevented the tests deemed necessary by those in control of the litigation.

Sincerely,

WALLACE H. JOHNSON,  
Assistant Attorney General  
Land and Natural Resources Division.

Senator METCALF. Brent Blackwelder, please, of the Environmental Policy Center.

#### STATEMENT OF BRENT BLACKWELDER, ENVIRONMENTAL POLICY CENTER

Mr. BLACKWELDER. I'm Brent Blackwelder, Washington representative of the Environmental Policy Center. Joining me today is Bob Alvarez, our specialist on western water and energy.

Given the lateness of the hour, I'll just summarize the highlights of my testimony.

Senator METCALF. Thank you very much. We will give you every opportunity to present any material you desire. Your entire statement will be printed in the record.

Mr. BLACKWELDER. Thank you.

The focus of our testimony is on the activities of the Bureau of Reclamation. Our position is, essentially, that we believe that the committee should not approve the nomination of Mr. Kleppe unless he pledges to end the secrecy and the information coverups that have gone on within that agency in connection with Bureau of Reclamation projects.

As a former Congressman from North Dakota, Mr. Kleppe is a supporter of the gigantic Garrison diversion project of the Bureau of Reclamation. This irrigation project has been labeled by conservation groups as one of the most environmentally disastrous in the Nation.

Actually, it's been destructive to the two largest farm interests in the State, in 1973, calling for a moratorium on the project. In October 1973, the Government of Canada requested a moratorium on the project because it would send salty irrigation return flows into rivers flowing into Canada.

The Bureau refused to comply with Canada's request for a moratorium and announced that it would study alternative ways to meet Canada's objections to the salty return flows. But instead of working with the Canadians and the citizens of North Dakota on possible alternatives, the Bureau made a deliberate decision to withhold vital project information from the Canadians and from the people of North Dakota.

This decision was concurred in by top Bureau of Reclamation officials, as the attached internal memos indicate. I hope that those two

memos could be included in the record. They say that the study should be informal and not be made available to local interests nor to the Canadians.

We believe that this behavior by an agency deserves the greatest censure. The new principles and standards of the Water Resources Council, and Mr. Kleppe will become Chairman of that Council, explicitly calls upon water resource agencies to make a greater effort to involve the public.

Yet, what we have here is the Bureau going beyond mere non-involvement of the public, the Bureau is actually making an aggressive effort to exclude the public and keep secret important information about the project.

The point of this discussion of the Garrison diversion project is imposed upon the basic question: Is Mr. Kleppe going to be so zealous a promoter of Garrison diversion that he continues Interior's policy of secrecy on the project, a policy which keeps crucial information away from the State Department, Canada, and the people of North Dakota.

We urge the committee to obtain from Mr. Kleppe a pledge that he will end the secrecy from this Department on this project.

Senator METCALF. Let me interject here that a good deal of the testimony that we've had today and the previous questions have related to specific things that will have to be worked out with the new Secretary, Mr. Kleppe, if confirmed, or whoever it is. But the point you raise about secrecy and open disclosure, is such a significant point that I will direct our staff to prepare and propound a question to Mr. Kleppe and have it answered in writing, raising the secrecy of the activities of the Department and insisting that he give us a pledge that there be an open and free disclosure of information under the Freedom of Information Act and the other acts that have opened up the Government, somewhat, in recent years.

Mr. BLACKWEILDER. I'm very glad to hear that, Mr. Chairman.

One other indication of a problem with the Bureau of Reclamation is its misstatements to Congress—particularly, the Appropriations Committee—in the nature of the project and the controversy surrounding that.

In my testimony, I cite an example from Garrison diversion project, where Commissioner Stamm said to the House Appropriations Committee:

The issue with Canada relates only to return flows from the Souris Loop Division. Any reading of the memorandum that Canada has sent to our State Department shows that Canada is not only concerned with the Souris Loop, but also with the Red River Basin. An attempt to rectify the problem in the Souris River Basin will only aggravate the problems in the Red River Basin.

The Bureau of Reclamation has attempted to cover up the magnitude of Canada's problems, and in this year's project information data they submitted, they did not even mention that Canada has called for a moratorium on the project.

They just indicated that Canada has some concerns about water quality. I think that's a deliberate attempt to play down the magnitude of the problem here.

A conflict of interest that Mr. Kleppe will find himself in on the Garrison diversion project may affect his ability or desire to carry

out his responsibility with respect to other agencies within his Department.

For example, one of our great national parks, Glacier National Park, is currently threatened by a private strip mining operation in Canada. Can Mr. Kleppe voice strong objection on behalf of the National Park Service to this proposed strip mining operation and ask the Government of Canada to halt this operation when another agency within its very own Department is constructing a project on which Canada has urgently requested a moratorium?

I know that will be of special concern to you, Senator, being from Montana. The struggle is occurring over the availability to control the water in the Colorado and Upper Missouri River Basins for large-scale energy development and the growing needs of agriculture.

We urge this committee to explore thoroughly Mr. Kleppe's position on the important questions surrounding the future of western water, considering specifically the water in the Upper Missouri Basin. Earlier this year, the Department of the Interior and the Department of Army entered into a memorandum of understanding to expedite the sale of water in the main stem of the Missouri for energy development.

Recent hearings held by yourself brought out the fact that the States in the Upper Missouri region were never consulted about this agreement nor were the affected Indian tribes. How does Mr. Kleppe feel about the conduct of the Interior Department in this matter?

I wish to express also some concern here about the treatment of Indian water rights by the Federal Government, and we hope this committee will explore Mr. Kleppe's attitude on that important matter.

Finally, we conclude with a series of questions which are illustrative of basic information, broad policy information, we hope could be elicited from Mr. Kleppe.

Will the agriculture of the Upper Missouri Basin take second place to energy development? Will Mr. Kleppe refrain from selling water in the Upper Missouri and Colorado River Basins until State water plans are developed and Indian water rights are determined and adjudicated? What is the position of Mr. Kleppe regarding interbasin transfers of water?

Will the new Secretary seek State and congressional approval before any further sales of industrial water are made in these basins?

The Environmental Policy Center believes that the answers to these questions will provide an important indication of Mr. Kleppe's abilities to handle what will prove, in the next decade, to be a very serious national problem.

Thank you for the opportunity to testify.

Senator METCALF. Thank you for appearing.

As you know, this Senator is concerned with every single question that you have raised, the question of industrial water on the main stem of the Missouri is a grave one that I don't think has been appreciated enough. So, I'm very glad that you're here to raise that question.

If the Solicitor's opinion is that the State and the Indian tribes lose water control as soon as its impounded, this is something that I don't think any of us ever realized would happen and it seems to me that the State should be more active.

I'm delighted that you are here raising that one. As you know, for many years I was a member of the Migratory Bird Conservation Com-

mission. The greatest duck factory in the United States is North Dakota.

We want to be sure that Mr. Kleppe is aware of the need to refrain from draining some of the potholes that are needed for the development of wildlife. I don't think we need worry very much about interbasin transfers, for I don't think any member of the Interior Committee in the Senate is going to actually ask for any interbasin transfers of water.

Senator METCALF. The chairman of this committee, Senator Jackson, is strongly opposed to any transfer of the water of the Columbia Basin, and I'm sure the Senate will not vote for the transfer of water from the Missouri Basin to any other basin.

But anyway, I'm glad you raise these questions, because it is important that they be brought up, organized and presented in a very compact and orderly way. They will be raised by the committee before final decision on confirmation.

Mr. BLACKWELDER. Although the Senate Interior Committee is not actively contemplating interbasin transfers in any way, the Department of the Interior certainly is.

For example, in the upper Missouri right now there are approximately 13 diversion projects—2 for agricultural purposes.

Right now I know that shortages will be occurring in the upper Missouri Basin—upper Colorado Basin in the 1990's. In order to guarantee a water supply, I don't think interbasin diversion will be in the public interest. I remind you that this moratorium will be expiring within a year, and it will be a serious problem the committee will have to face.

Senator METCALF. It certainly will. This is a serious problem, and it's been amplified, let us say, but such proposals as coal slurry pipelines and things of that sort.

We just had a transfer of water for power in the old Missouri Slackwater Barge Canal. All those problems are going to be with us again.

Thank you for bringing them up. I wouldn't know what Mr. Kleppe is going to do about it, but he or some other person is going to have to deal with great problems that will impact on the American lifestyle for a long, long time. Thank you very much. We will continue to work with you.

[The prepared statement of Mr. Blackwelder follows:]

STATEMENT OF BRENT BLACKWELDER, WASHINGTON REPRESENTATIVE OF THE ENVIRONMENTAL POLICY CENTER

I am Brent Blackwelder, Washington Representative of the Environmental Policy Center, a national conservation organization with offices at 324 C St. SE., Washington, D.C. 20003. We appreciate the opportunity to testify on the nomination of Thomas Kleppe for Secretary of the Interior.

A major part of Mr. Kleppe's responsibilities as Secretary of the Interior will involve the activities of the Bureau of Reclamation. The Environmental Policy Center believes that the Senate should not confirm Mr. Kleppe as Secretary unless he pledges to end the secrecy and information coverups within the Bureau of Reclamation and promises to end the misrepresentations made by the Bureau in testimony to Congress about its water projects.

As a former Congressman from North Dakota, Mr. Kleppe is a supporter of the gigantic Garrison Diversion Project of the Bureau of Reclamation now under construction in his own state. This irrigation project has been labeled by conservation groups as one of the most environmentally disastrous in the

nation and has received considerable criticism from farm organizations in North Dakota. In fact, the treatment of farmers by the Bureau became so bad that in 1973 the two largest farm organizations in the state called for a moratorium on the project. In October of 1973 the Government of Canada requested a moratorium on the Garrison Diversion because the project would send salty irrigation return flows into rivers flowing into Canada. The Bureau refused to comply with Canada's request for a moratorium and announced that it would study alternative ways of meeting Canada's objections to the salty return flows. Instead of working with Canadians and citizens of North Dakota on possible alternatives, the Bureau made a deliberate decision to withhold vital project information from the Canadians and the people of North Dakota. This decision was concurred in by top Bureau of Reclamation officials, as the attached internal memos which were made public last spring reveal.

This sort of Watergate behavior by an agency deserves the greatest censure. The new Principles and Standards of the Water Resources Council, of which Mr. Kleppe will become chairman, explicitly call upon water resources agencies to make a greater effort to involve the public. Yet in the case of Garrison Diversion we find the Bureau going beyond the mere noninvolvement of the public; we find the Bureau engaged in an aggressive effort to exclude the public and to keep secret important information about the project.

The point of the lengthy discussion of Garrison Diversion is to pose this basic question: is Mr. Kleppe going to be so zealous a promoter of Garrison Diversion that he continues Interior's policy of secrecy on the project, a policy which keeps crucial information away from the State Department, Canada, and the people of North Dakota? We urge this Committee to obtain from Mr. Kleppe a pledge that he will end the secrecy within the Department on this project. We also urge the Committee to obtain a pledge from Mr. Kleppe that he will seek to end the misrepresentations made concerning water development projects when the Bureau of Reclamation testifies to Congress. In testimony to the House Appropriations Committee this past spring, Commissioner Stamm of the Bureau stated in response to a question about Garrison Diversion: "The issue with Canada relates only to the return flows from the Souris Loup division." This is a flagrant misrepresentation of Canada's position and an attempt to coverup the seriousness of the problems posed by Garrison Diversion. Canada's objections do not relate solely to the Souris Loup but rather concern the impacts of the project on both the Souris and Red Rivers. Canada recognizes that an attempt to correct the very serious water quality problem in the Souris River could lead to a shifting of salty return flows to the Red River Basin which would still be unacceptable. The Environmental Policy Center's concern here is that Mr. Kleppe in his eagerness to get Garrison Diversion built will allow these misrepresentations to continue and not make a bona fide effort to correct the abuses and help prevent a violation of the Boundary Waters Treaty with Canada.

Another example of misrepresentation of information about water projects by the Bureau can be found in Commissioner Stamm's testimony to the House Appropriations Committee about the Oahe Diversion Project in South Dakota. In reply to a question about the litigation against the Oahe Project Commissioner Stamm stated: "The law suit was filed by a group called United Farmers of America. It is a new group and fairly small." The truth is that the United Family Farmers who are opposing the Oahe Project have some 700 farm families as members, thus making it one of the larger farm organizations in South Dakota. The Commissioner failed to portray the extensive nature of the opposition to the project. In 1975 the State House of Representatives passed a resolution calling for a moratorium on canal construction by a margin of 45-22, and a resolution for a full moratorium on the project failed by the narrow margin of 37-33. As in the case of Garrison Diversion we find the Bureau trying to prevent Congress from obtaining an accurate picture of the nature of the project and the opposition.

The conflict of interest that Mr. Kleppe will find himself in on the Garrison Diversion Project may affect his ability or desire to carry out his responsibilities with respect to other agencies within his Department. For example, one of our great national parks, Glacier National Park in Montana, is currently threatened by a private strip mining operation in Canada. Can Mr. Kleppe voice strong objection on behalf of the National Park Service and ask the Government of Canada

to halt this operation when another agency within his Department is constructing a project on which Canada has urgently requested a moratorium?

Today a great struggle is occurring over the availability and control of water in the Colorado and Upper Missouri River Basins for large scale energy development and the growing needs of agriculture, Indian tribes and municipalities. We urge the Committee to explore thoroughly Mr. Kleppe's position on the important questions surrounding the future of Western water. Because of the fierce and growing competition for Western water the Department of the Interior has admitted that shortages may occur in the Upper Colorado Basin as early as the 1990's and that in order to meet the water requirements for the first commercial coal gasification plants to use Colorado water, "water augmentative measures will be in the public interest." Water augmentative measures can mean one or all of three things: 1) interbasin transfers from the Columbia or Missouri River Basins into the Colorado River Basin; 2) weather modification; or 3) seizure of water from existing users and holders of reserved rights. Each of these measures has serious ramifications both environmentally and politically. Yet the Department of the Interior has been moving forward to provide water for large industrial users without consideration of their own admonitions of the tremendous shortage facing the Colorado River Basin.

Consider specifically water in the Upper Missouri Basin. The Department of the Interior has admitted that in order to meet the development requirements propounded by the Administration, some 2.6 million acre-feet will be needed from the Yellowstone River Basin alone. This amount, the Department says, is enough to lower the flow of the Yellowstone, a major tributary of the Missouri, by one third. Thus far 708,000 acre-feet has been optioned out to the energy companies from the Yellowstone Basin—an amount greater than the annual consumption of the State of South Dakota. The marketing of this water went on in almost total secrecy. Early this year, the Department of the Interior and the Department of the Army entered into a "memorandum of understanding" to expedite the sale of water in the main stem of the Missouri for energy development. Recent hearings held by Senator Metcalf and Senator Abourezk brought out the fact that the states in the Upper Missouri Region were never consulted about this agreement, nor were the Indian tribes affected. The fear of the preemption of states rights to the water has led the North Central Plains States to reject this agreement between the Department of the Interior and the Department of the Army. How does Mr. Kleppe feel about the conduct of Interior in this matter?

The treatment of Indian water rights by the Federal Government has been a continuing national disgrace. Time and again Indian tribes have been made subordinate to financially more powerful interests and as a consequence, the Western tribes have been systematically denied water to the point in some areas in the Colorado Basin that cultural extinction will be a reality in the next 50 years. The Department of the Interior has attempted to reduce the amount of water provided by Congress for the Navajo Indian Irrigation Project from 508,000 acre-feet to 371,000 acre-feet. Because of the tremendous pressure of the new synthetic fuel industry to obtain water, a project which has been promised to the Navajo Tribe for over 13 years would be cut back for gasification projects.

We urge the Committee to make a special effort to question Mr. Kleppe as to his positions on states rights, agricultural rights, and Indian rights. Will the agricultural economy of the Upper Missouri Basin, where a great deal of our nation's livestock and small grains originate, take second place to energy development? Will Mr. Kleppe, as Secretary of the Interior, refrain from selling water from the Upper Missouri and Colorado River Basins until state water plans are developed and Indian water rights are determined and adjudicated? How does Mr. Kleppe plan to deal with the tremendous shortages facing the Colorado River Basin now that oil shale and gasification are demanding enormous quantities of water? What is the position of Mr. Kleppe regarding interbasin transfers of water, particularly in the Colorado and Upper Missouri Basins? Will the new Secretary seek state and Congressional approval before any further sales of industrial water are made in these basins? What plans, if any, does Mr. Kleppe have to promote the agricultural economy of the West in terms of water projects? The Environmental Policy Center believes that the answers to these questions will provide an important indication of Mr. Kleppe's ability to handle what will prove in the next decade to be a very serious national problem.

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., January 14, 1975.

Memorandum.

To: The Under Secretary.

From: Assistant Secretary

Subject: Preliminary Analysis of Alternative Proposals to Authorize Garrison Diversion Project.

Your memorandum of January 7, 1975 asked for additional information on possible changes to the authorized Garrison project to eliminate potential adverse effects of the project on Souris River flows into Canada.

As you will note, the cost and benefit estimates for these alternative plans are not markedly different from each other since the major features or size of the project remain unchanged. This, of course, is not true for the alternative that eliminates the Souris loop with no substitution of additional irrigated acreage.

The benefits and costs shown are Reclamation's best estimates at this time. They have been updated to only reflect current price levels and discounted at the "authorized" level of 3 1/8 percent. Therefore, they should be considered preliminary at best.

Two benefit-cost ratios have been calculated for each of the alternative plans: one that reflects total benefits, including secondary impacts; and one that includes only direct benefits.

We do not plan to make this information available to the State Department until we have a better indication of Canada's position on Garrison.

Attachment.

U.S. DEPARTMENT OF THE INTERIOR,  
BUREAU OF RECLAMATION,  
Washington, D.C., April 25, 1975.

Memorandum.

To: Deputy Under Secretary.

Through: Assistant Secretary, Land and Water Resources.

From: Commissioner of Reclamation.

Subject: Garrison Diversion Unit.

This is in response to the April 15, 1975, memorandum from the Acting Executive Secretary requesting a memorandum outlining the Bureau of Reclamation's anticipated time frame for completion of an economic and environmental analysis of various alternatives to the handling of the return flows to the Souris River. A full feasibility study of the six alternatives included with the January 14 memorandum from the Assistant Secretary—Land and Water Resources and a brief environmental assessment of each would require 3 to 4 years. The effort would require collection of considerable field data for potential pumping plant sites, damsites, canal alignments, desalting plant and brine disposal sites (some in Manitoba), and considerable assistance from outside agencies.

The March 11, 1975, memorandum from the Assistant Secretary—Land and Water Resources to you recommended that the studies be "informal" and not made available to "local interests nor to the Canadians." We wholeheartedly concur in this recommendation. To do otherwise would be very damaging to the United States position in the negotiations.

Further study of the alternatives at a level below feasibility grade, but sufficient to provide a closer look at the viability of the alternatives in sufficient time to properly consider the request for funding on the construction of the Velva Canal, can be completed by June 1976.

We would further note that the evaluation of the impacts by the project upon water quality in Canada are still not complete, therefore making the requested studies somewhat premature. We continue to maintain strongly our original position that there has not been sufficient evidence provided to indicate that return flows from the Garrison Diversion Unit will cause a violation of the Boundary Waters Treaty. We further believe that the return flows will improve the potential for beneficial use of waters from the Souris River.

Upon receipt of your concurrence we are prepared to initiate further studies as discussed above.

G. G. STAMM.

Senator METCALF. The next witness is Mr. Fred Werthheimer, appearing for and on behalf of Common Cause. We are pleased to have you here. Would you identify your colleagues for the record?

**STATEMENT OF FRED WERTHHEIMER, VICE PRESIDENT, COMMON CAUSE, WASHINGTON, D.C.**

Mr. WERTHHEIMER. Yes; I'm Fred Werthheimer, vice president of Common Cause, and I am accompanied by Andy Kneier and Ann McBride, members of our staff who have worked in the areas involved in this confirmation hearing.

We are grateful for the opportunity to appear, Senator Metcalf. We had a lengthy statement, and I would like to present some parts of it to you right now.

Senator METCALF. The entire statement will be incorporated into the record. You may go ahead.

Mr. WERTHHEIMER. We would like to note first that Common Cause believes the committee correctly perceived and fulfilled its "advise and consent" role in the manner in which it handled Mr. Hathaway's nomination to confirmation.

The committee carefully evaluated his past performance and established a comprehensive record on which to evaluate his qualifications. This has helped set a new standard for scrutinizing Presidential appointees, demonstrating how the confirmation process can be a more significant part of Congress oversight responsibility.

We commend Senator Jackson, yourself, Senator Metcalf, and the rest of the committee for its leadership in this important area, and we urge you to evaluate Mr. Kleppe's record and views with the same care and diligence.

While the Interior Committee has initiated an approach of broad and extensive questioning, it has not set forth any standards for confirming Cabinet appointees. We urge the committee to examine this issue during these hearings, and to discuss in its report on Mr. Kleppe the standards it has used in evaluating his qualifications.

We believe the following are the kinds of standards that could be adopted, and we have set forth four standards.

First, the Cabinet nominees should be individuals of high personal and professional integrity.

Second, a nominee should have the background to responsibly exercise the duties of the Cabinet post to which appointed.

Third, nominees should be firmly committed to basic principles of accountability in the executive branch.

And fourth, a nominee should be in basic ideological agreement with the major laws and programs which the department he or she would head must enforce and administer.

To thoroughly evaluate him on these standards and other issues, we urge the committee—as we did with respect to the Hathaway nomination—to require Mr. Kleppe to respond to any questions raised about his qualifications and to postpone voting on him until at least 2 weeks from the close of these hearings.

This 2-week period should be used by the committee to carefully study his record, competency, and views on the issues raised during the hearings.

Unlike many Cabinet nominees, Mr. Kleppe comes before the Senate with extensive experience in running a large Federal agency, the Small Business Administration. This gives the committee a good opportunity to evaluate Mr. Kleppe on the first two standards suggested above—personal integrity and administrative competence.

His record as SBA Administrator since 1971 therefore deserves the closest scrutiny by this committee. It is not a good record.

Testimony before the Senate Select Subcommittee on Campaign Practices, the "Watergate Committee," revealed the existence of a "responsiveness program" directed by H. R. Haldeman and Frederick Malek. The purpose of this program was to make use of the discretionary powers of Federal agencies to develop support for the Nixon reelection campaign.

In memorandums from Mr. Malek and his subordinate Mr. Robb Davison, the Small Business Administration is listed as a participant in the responsiveness program, and Mr. Kleppe and his assistant, Mr. Loren Rivard, are listed as contacts.

Investigations into questionable SBA loans, conducted by the Subcommittee on Small Business of the House Banking and Currency Committee during 1973 and 1974, found that several SBA loans of a questionable nature had gone to persons who headed various local Nixon-for-President groups.

One high-ranking SBA official, according to the subcommittee investigation, left a career civil service position to become a Nixon campaign official and was reappointed to the same position, which conveniently had remained unfilled, on November 20, 1972.

It is hard to believe that such a series of events could have occurred without the assistance or, at the very least, the acquiescence of the Administrator. This same official later left the SBA to take employment with a bank which was owned, in part, by persons who had received an SBA loan.

This is according to the investigation of the committee. That House investigation also found that widespread improprieties existed within the SBA, most notably in its Richmond, Va. office. According to the committee report, loans were made with no regard for sound lending principles; some loans were made to persons who had previously defaulted on other SBA loans; some loans had obvious political overtones; some loans were made in conjunction with local banking practices which actually forced the recipients to pay a much higher effective rate of interest than the law required.

All this was apparently done with the knowledge of senior, supervisory personnel. While Richmond was the most spectacular example of impropriety and inefficiency, an internal SBA audit released to the House subcommittee revealed 13 other SBA offices with "immediate, serious problems."

In addition to the participation of SBA in the responsiveness program and to the charges of questionable lending practices, the agency has also been the subject of a Civil Service Commission investigation of political influence in personnel actions.

The principal finding of that report, entitled "A Report on Alleged Political Influence in Personnel Actions of the Small Business Administration," made on August 19, 1974, stated:

The investigation produced clear evidence that persons were appointed to District Director positions, which are in the competitive civil service, because of their political affiliations or support and other non-merit factors, in violation of Civil Service Rules 4.2 and 7.1, and that SBA's approach to the staffing of these positions is contrary to, and has involved specific violations of, 5 U.S.C. 3303.

I continue quoting:

Furthermore, the investigation disclosed a pattern and practice of preferential treatment in personnel actions that violates the ethical standards for government officers and employees set forth in Executive Order 11222 and the regulations promulgated thereunder by the CSC and by SBA.

At a minimum, a significant measure of responsibility for this major disregard of both legal and ethical standards must rest with the official who controls the agency. Mr. Kleppe himself has stated before this committee: "Wherever I've been for a long time, I've been the boss," according to an AP story on Tuesday's hearings.

The Civil Service Commission report goes beyond general allegations of misdoing and charges Mr. Kleppe with two specific improprieties. In one case, according to the report, he participated in a political deal to remove an employee in the competitive civil service and replace him with a member of his political party. In the other, when a proposed merit raise for a favored employee was rejected by the Civil Service, Mr. Kleppe, who according to the report had already engaged in improper communication with a Congressman about this employee, created a special achievement award for the employee.

The recipient of this largess admitted to Civil Service investigators that he hadn't the slightest idea of what he had done to merit the award; and his official personnel file nowhere reflects either the nature of his achievement or even the fact that the award was bestowed.

The Civil Service Commission found that Loren Rivard, then Mr. Kleppe's special assistant for personnel, had engaged in serious violation of the laws prohibiting the application of political considerations to personnel actions and recommended his removal.

Mr. Kleppe at one time attempted to have Mr. Rivard appointed Wisconsin State SBA Director, but that move was not approved by the Civil Service Commission. Mr. Rivard has since been promoted to a higher paying post on Administrator Kleppe's staff.

Mr. Rivard's case is presently awaiting a hearing, but Mr. Kleppe has authorized his public affairs officer to issue the following statement: "It can be assured that Mr. Kleppe was fully apprised of the actions of his special assistant." Mr. Rivard told the St. Louis Post Dispatch: "I wouldn't have been involved in a personnel case in the first place unless he (Kleppe) was involved."

In fairness to Mr. Kleppe, no specific charges regarding his personal activities have been proven. However, investigations of the SBA continue, and it should be noted that the Civil Service Commission has no authority to recommend disciplinary action against an SBA Admin-

istrator. The allegations concerning Mr. Kleppe and the SBA are serious and have been raised by duly constituted investigatory bodies.

Mr. Kleppe's tenure as head of the SBA raises two types of questions. The first relates to his personal involvement, if any, in politically motivated circumventions of the law. Any individual who has been involved in direct and serious violations of his/her responsibilities as a Federal officer would not be qualified for the important post to which Mr. Kleppe has been nominated.

The second troubling aspect of Mr. Kleppe's performance as administrator are the questions raised about his general ability to administer a Government agency. During Mr. Kleppe's tenure, the SBA has been wracked with scandal and investigations have shown the existence of impropriety and inefficiency. Serious charges indicate that the civil service merit system, a key to effective Government administration, has been deliberately flouted and disregarded.

This is not to say that Mr. Kleppe should be denied this position simply on the basis of allegations. However, in view of the very troublesome record I have just outlined, the Senate Interior Committee bears a special responsibility.

The committee, in our view, does not presently have a sufficient record on which to make a decision in favor of confirming Mr. Kleppe. It is in the best interests of everyone, including Mr. Kleppe, for this committee to clear the air of these matters and conduct a thorough investigation to resolve these questions.

The air cannot be cleared, furthermore, by Mr. Kleppe's personal disavowals. The committee should look into the cases named by the civil service and interview the participants, as well as those making the charges. The committee should also call as witnesses those who conducted the various investigations of SBA that have taken place.

Members of this committee are particularly aware of the crucial role played by the Department of the Interior as guardian of this country's natural resources. The stakes involved here are very high. We are talking about more than defaulted loans.

The Secretary will make decisions on matters such as strip mining, oil, and coal leasing and synthetic fuel which will directly affect the quality of life of millions of Americans living on or near Federal lands and which will, in the long run, affect the lives of us all. The use of improper influence, the improper application of political criteria to these decisions, must not be allowed.

Mr. Chairman, we believe that there are five specific areas of concern which Mr. Kleppe should address to this committee in addition to the issues that I have just raised. His views on the matters I will now outline should be helpful, we believe, in evaluating him on the last two standards we have suggested—adherence to principles of executive accountability and philosophical agreement with major aspects of the Interior Department's responsibility.

The first two areas I want to deal with deal with conflict of interest and the question of recording the logging of lobbying contacts. This is not a new issue for us to raise, either with the Interior Department or this committee.

Our president, David Cohen, testified before this committee during its confirmation hearings on Mr. Hathaway. At the time and in the

committee report that followed, the committee stated, and I would like to read it:

The Committee shares the concerns expressed by Common Cause respecting conflict of interest on the part of the Department of Interior personnel, the logging of outside contacts by such personnel, the Department's leasing procedures and the overall openness as it relates to the operations of the Department. Questions on these matters were submitted to Governor Hathaway. The nominee's responses appear at page \* \* \*.

And it lists the pages. It then goes on to say—

"\* \* \* establishing the type of logging procedure proposed by Common Cause." In a letter in August sent by Senator Jackson he stated, and I quote: "The committee has made clear its interest in the adoption of such regulations by the Department \* \* \*."—

And there he is referring to conflict of interest, logging regulations and other disclosure provisions.

I can assure you that the new Secretary will be asked to commit himself to this objective. In my view, the public interest requires this kind of disclosures for these areas which are critical and affect the Nation's resources.

We very much appreciate the position that Senator Jackson has taken and that this committee has taken, and we now urge that Mr. Kleppe be closely questioned on these issues and that he be asked to provide such commitments.

While the Department has issued some new conflict of interest regulations which should go a long way toward strengthening enforcement, they do not deal with other basic issues. The new regulations contain no requirements for public financial disclosure by Interior policymakers. Nor do the new regulations set any restrictions on taking employment with regulated companies leaving the Department.

We have suggested a series of questions that we believe should be posed to Mr. Kleppe. They are similar to the questions we raised last time. In addition, we would urge that Mr. Kleppe pledge that he will not accept any employment with companies affected by his duties for 2 years after he leaves the Department.

Last July we submitted to former Secretary Hathaway a model conflict of interest regulation. This proposal contained specific provisions of financial disclosure and on conflict of interest which we believe the Department should adopt.

The model regulation has been attached to the copies we have presented to the committee, and we would urge that it be attached to our statement.

Senator METCALF. They will be incorporated in the record.

Mr. WERTHEIMER. We urge the committee obtain preconfirmation review and comment from Mr. Kleppe on the regulation. We have taken a similar position in the past on logging requirements. We similarly have submitted a model logging requirement to Secretary Hathaway, and we have attached it, and we again urge that this committee obtain preconfirmation review and comment from Mr. Kleppe on the regulation.

Another issue that we think should be addressed deals with the question of representation on advisory committees. One of the major avenues of industry influence in Interior is through the Department's 54 advisory committees. Advisory committees are supposed to serve the

role of providing a balanced input into the agency's actions. If the balance on advisory committees is totally out of line with regard to one side or the other, they serve to become more lobbying operations than advisory committees. While most of these committees were established to utilize outside expertise on various technical, administrative, and policy matters, many have evolved into federally funded lobbying arms of regulated interests. Several key Interior committees are heavily dominated by industry representatives. Industry representatives make up to 98 percent of the Emergency Advisory Committee for Natural Gas, and 92 percent of the Emergency Petroleum Supply Committee.

He should be asked, what steps will you be willing to take to insure the representation of diverse interests in the National Petroleum Council and other department advisory committees?

There are two other areas we would like to briefly discuss, Mr. Chairman. The Department's procedures for leasing Federal energy resources are an important illustration of industry influence and special treatment. This is perhaps Interior's most critical responsibility, and the stakes are enormous.

Over 50 percent of this country's fossil-fuel resources are located on Federal lands, and therefore under the Department's control.

The Department has recently proposed new leasing regulations. We believe these proposals are not adequate. They do not address the central issues of competitive bidding, diligent development and adequate data disclosure. We believe Mr. Kleppe should be asked to respond to the kinds of questions we have posed in our testimony regarding the basic needs for the reforms in this area. We have prepared a summary critique of the Department's existing leasing procedures, together with specific regulatory amendments on the reform items that were listed in this section of our testimony. Our analysis and proposed regulations have been submitted to the Department of the Interior.

A controversial issue within the Department today concerns the lifting of the moratorium on new coal leases which has been in effect since 1973. This controversy goes to the heart of Interior's primary mission, managing the development of Federal energy resources in accordance with national energy needs, while at the same time protecting and conserving the environment.

Mr. Kleppe's position on this issue should be closely examined in evaluating his approach to these conflicting issues, and I know this question has been raised with him. We consider it an important question.

We believe it is premature to even consider lifting the moratorium at this stage. We believe the following issues must first be addressed:

First, new coal-leasing regulations must be adopted that contain the kinds of reforms I have mentioned—that deal with strong requirements for diligent development, competitive bidding, and other methods of assuring the public interest is protected in the leasing of these properties.

Second, we believe that comprehensive surface coal mining and reclamation standards contained in the strip mining bill twice passed by Congress and vetoed by the President should be enacted into law. We do not believe that the Department or the executive branch can even consider the question of lifting the moratorium until that step has been taken.

To summarize, Mr. Chairman, we recommend that the Interior Committee conduct a thorough investigation, including the calling of appropriate witnesses, of the allegations surrounding Mr. Kleppe's stewardship at SBA as SBA Administrator.

The Interior Committee, as a precondition to any recommendation on confirmation, should require Mr. Kleppe to commit to specific steps to protect and enhance the integrity of the Department of Interior.

We believe the committee should not schedule a confirmation vote until at least 2 weeks after hearings on Mr. Kleppe, including the obtaining of his responses to issues raised by Common Cause and other witnesses, have concluded.

We believe Mr. Kleppe should file a full personal financial disclosure with the committee. It should include the process under which the blind trust that he has set up operates. We believe it should include the total amount of resources and assets in that blind trust.

Finally, we believe the Interior Committee report on Mr. Kleppe should specify the standards against which he was evaluated, should indicate any policy commitments he makes during these hearings, and should include his personal financial disclosure statement.

I would say we believe that this committee took an extremely important step forward in the manner in which it carried out its confirmation hearing in the Hathaway nomination. We believe that step must be maintained in the way in which this committee carries out its conduct on this nomination.

We would like to see the approach used by this committee become a standard for the rest of the U.S. Senate, and that's our goal. Thank you.

SENATOR METCALF. Do your colleagues have comments?

MR. WERTHHEIMER. No. Not at this time.

SENATOR METCALF. Thank you very much for your presentation. Of course, the entire statement will be incorporated in the record. The various materials that you have supplied will be considered by the committee—by the entire committee—in the course of its deliberations on the confirmation of the nominee. Thank you.

MR. WERTHHEIMER. Thank you very much.

[The prepared statement of Mr. Werthheimer follows:]

TESTIMONY OF FRED WERTHEIMER  
VICE PRESIDENT FOR OPERATIONS OF COMMON CAUSE

ON THE NOMINATION OF THOMAS KLEPPE  
TO BE SECRETARY OF THE DEPARTMENT OF INTERIOR

before the U. S. SENATE  
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Thursday, September 25, 1975

Mr. Chairman, Common Cause is grateful for the opportunity to testify today on the nomination of Thomas Kleppe. I am Fred Wertheimer, Vice President for Operations of Common Cause.

I would like to note first that Common Cause believes the Committee correctly perceived and fulfilled its "advise and consent" role in the manner in which it handled Mr. Hathaway's nomination. The Committee carefully evaluated his past performance and established a comprehensive record on which to evaluate his qualifications. This has helped set a new standard for scrutinizing Presidential appointees, demonstrating how the confirmation process can be a more significant part of Congress' oversight responsibility.

We commend you, Chairman Jackson, and the Committee for its leadership in this important area, and urge you to evaluate Mr. Kleppe's record and views with the same care and diligence.

Standards for Cabinet Confirmation

While the Interior Committee has initiated an approach of broad and extensive questioning, it has not set forth any standards for confirming Cabinet appointees. We urge the committee to examine this issue during these hearings, and to discuss in its report on Mr. Kleppe the standards it has used in evaluating his qualifications.

Common Cause believes the following are the kinds of standards that could be adopted:

First, Cabinet nominees should be individuals of high personal and professional integrity. This means that a nominee's past record as a government official or in the private sector should demonstrate that he or she has conducted his or her affairs honestly and fairly, conscientiously complied with the law, and that any previous government service was not used for personal financial gain. A nominee's financial disclosure statement should be made public and carefully examined for any conflict of interest problems.

Second, a nominee should have the background to responsibly exercise the duties of the Cabinet post to which appointed. In addition to the necessary experience, his or her record should demonstrate sound judgment, basic managerial skills, and compliance with proper administrative procedures.

Third, nominees should be firmly committed to basic principles of accountability in the Executive Branch. These should include

such areas as strong conflict of interest regulations and enforcement, anti-secrecy measures, public participation in administrative procedures, and checks on inordinate influence by regulated interests over department policy. These are fundamental elements of Executive Branch responsiveness to public interests and concerns. Nominees who do not support these principles we believe are insensitive to the representational responsibilities of executive departments.

Fourth, a nominee should be in basic ideological agreement with the major laws and programs which the department he or she would head must enforce and administer. Put negatively, this means that he or she should not be hostile to the department's major missions. In many cases, this will require that a nominee demonstrate a sensitivity to the conflicting interests and needs to which the department must be responsive. A nominee who has shown an unwillingness or inability to balance these conflicting concerns would seriously jeopardize a basic departmental mandate bestowed by Congress.

To thoroughly evaluate him on these standards and other issues, we urge the Committee--as we did with respect to the Hathaway nomination--to require Mr. Kleppe to respond to any questions raised about his qualifications and to postpone voting on him until at least two weeks from the close of these hearings. This two-week period should be used by the Committee to carefully study his record, competency, and views on the issues raised during the hearings.

Mr. Kleppe's Record with the Small Business Administration

Unlike many Cabinet nominees, Mr. Kleppe comes before the Senate with extensive experience in running a large federal agency, the Small Business Administration. This gives the Committee a good opportunity to evaluate Mr. Kleppe on the first two standards suggested above--personal integrity and administrative competence. His record as SBA Administrator since 1971 therefore deserves the closest scrutiny by this Committee. It is not a good record.

Testimony before the Senate Select Subcommittee on Campaign Practices, the "Watergate Committee," revealed the existence of a "responsiveness program" directed by H. R. Haldeman and Fredrick Malek. The purpose of this program was to make use of the discretionary powers of federal agencies to develop support for the Nixon reelection campaign. In memoranda from Mr. Malek and his subordinate Mr. Robb Davison, the Small Business Administration is listed as a participant in the responsiveness program, and Mr. Kleppe and his assistant, Mr. Loren Rivard, are listed as contacts.

Investigations into questionable SBA loans, conducted by the Subcommittee on Small Business of the House Banking and Currency Committee during 1973 and 1974, found that several SBA loans of a questionable nature had gone to persons who headed various local Nixon-for-President groups.

One high-ranking SBA official, according to the Subcommittee investigation, left a career civil service position to become a

Nixon campaign official and was reappointed to the same position, which conveniently had remained unfilled, on November 20, 1972.

It is hard to believe that such a series of events could have occurred without the assistance or, at the very least, the acquiescence of the Administrator. This same official later left the SBA to take employment with a bank which was owned, in part, by persons who had received an SBA loan.

The 1973 and 1974 House investigation also found that widespread improprieties existed within the SBA, most notably in its Richmond, Va., office. According to the Committee report, loans were made with no regard for sound lending principles; some loans were made to persons who had previously defaulted on other SBA loans; some loans had obvious political overtones; some loans were made in conjunction with local banking practices which actually forced the recipients to pay a much higher effective rate of interest than the law required--all this was apparently done with the knowledge of senior, supervisory personnel. While Richmond was the most spectacular example of impropriety and inefficiency, an internal SBA audit released to the House subcommittee revealed thirteen other SBA offices with "immediate, serious problems."

In addition to the participation of SBA in the responsiveness program and to the charges of questionable lending practices, the agency has also been the subject of a Civil Service Commission investigation of political influence in personnel actions. The

principal finding of that report, entitled "A Report on Alleged Political Influence in Personnel Actions of the Small Business Administration," made on August 19, 1974, stated:

The investigation produced clear evidence that persons were appointed to District Director positions, which are in the competitive civil service, because of their political affiliations or support and other non-merit factors, in violation of Civil Service Rules 4.2 and 7.1, and that SBA's approach to the staffing of these positions is contrary to, and has involved specific violations of, 5 U.S.C. 3303.

Furthermore, the investigation disclosed a pattern and practice of preferential treatment in personnel actions that violates the ethical standards for government officers and employees set forth in Executive Order 11222 and the regulations promulgated thereunder by the CSC and by SBA.

At a minimum, a significant measure of responsibility for this major disregard of both legal and ethical standards must rest with the official who controls the agency. Mr. Kleppe himself has stated before this Committee: "Wherever I've been for a long time, I've been the boss," according to AP's story on Tuesday's hearing.

The Civil Service Commission report goes beyond general allegations of misdoing and charges Mr. Kleppe with two specific improprieties. In one case, according to the report, he participated in a political deal to remove an employee in the competitive civil service and replace him with a member of his political party. In the other, when a proposed merit raise for a favored employee was rejected by the Civil Service, Mr. Kleppe, who according to

the report had already engaged in improper communication with a Congressman about this employee, created a Special Achievement Award for the employee. The recipient of this largess admitted to Civil Service investigators that he hadn't the slightest idea of what he had done to merit the "award"; and his Official Personnel File nowhere reflects either the nature of his achievement or even the fact that the award was bestowed.

The Civil Service Commission found that Loren Rivard, then Mr. Kleppe's Special Assistant for Personnel, had engaged in serious violation of the laws prohibiting the application of political considerations to personnel actions and recommended his removal. Mr. Kleppe at one time attempted to have Mr. Rivard appointed Wisconsin State SBA Director, but that move was not approved by the Civil Service Commission. Mr. Rivard has since been promoted to a higher-paying post on Administrator Kleppe's staff.

Mr. Rivard's case is presently awaiting a hearing, but Mr. Kleppe has authorized his public affairs officer to issue the following statement: "It can be assured that Mr. Kleppe was fully apprised of the actions of his special assistant." Mr. Rivard told the St. Louis Post Dispatch: "I wouldn't have been involved in a personnel case in the first place unless he (Kleppe) was involved."

In fairness to Mr. Kleppe, no specific charges regarding his personal activities have been proven. However, investigations of the SBA continue, and it should be noted that the Civil Service

Commission has no authority to recommend disciplinary action against an SBA Administrator. The allegations concerning Mr. Kleppe and the SBA are serious and have been raised by duly constituted investigatory bodies.

Mr. Kleppe's tenure as head of the SBA raises two types of questions. The first relates to his personal involvement, if any, in politically motivated circumventions of the law. Any individual who has been involved in direct and serious violations of his/her responsibilities as a federal officer would not be qualified for the important post to which Mr. Kleppe has been nominated.

The second troubling aspect of Mr. Kleppe's performance as Administrator are the questions raised about his general ability to administer a government agency. During Mr. Kleppe's tenure, the SBA has been wracked with scandal and investigations have shown the existence of impropriety and inefficiency. Serious charges indicate that the civil service merit system, a key to effective government administration, has been deliberately flouted and disregarded.

This is not to say that Mr. Kleppe should be denied this position simply on the basis of allegations. However, in view of the very troublesome record I have just outlined, the Senate Interior Committee bears a special responsibility. It is in the best interests of everyone including Mr. Kleppe for this Committee to clear the air of these matters and conduct a thorough investigation to resolve these questions. The air cannot be cleared, fur-

thermore, by Mr. Kleppe's personal disavowals. The Committee should look into the cases named by the Civil Service and interview the participants, as well as those making the charges. The Committee should also call as witnesses those who conducted the various investigations of SBA that have taken place.

Members of this Committee are particularly aware of the crucial role played by the Department of the Interior as guardian of this country's natural resources. The stakes involved here are high. We are talking about more than defaulted loans. The Secretary will make decisions on matters such as strip mining, oil and coal leasing and synthetic fuel which will directly affect the quality of life of millions of Americans living on or near federal lands and which will, in the long run, affect the lives of us all. The use of improper influence, the improper application of political criteria to these decisions, must not be allowed.

Questions for Mr. Kleppe

There are five specific areas of concern which Common Cause would like Mr. Kleppe to address. His views on these matters should be helpful in evaluating him on the last two standards suggested above -- adherence to principles of executive accountability and philosophical agreement with major aspects of the Interior Department's responsibility.

1. Conflict of Interest. While the Department's new conflict of interest regulations should go a long way toward strengthening enforcement, there remains much to be done. The new regulations contain no requirements for public financial disclosure by Interior policy-makers. Nor do the new regulations set any restrictions on taking employment with regulated companies after leaving the Department. And yet the revolving door between Interior and the energy industry has been dramatically illustrated in recent years. For example:

-- A former Assistant Secretary for Mineral Resources during 1969 - 1973, who served on the American Mining Congress -- the mining industry's main lobby in Washington -- before joining the Department, is now a vice president of Atlantic Richfield in charge of oil-shale development.

-- A former Deputy Assistant Secretary for Energy and Minerals, who was the chief lobbyist for the Colorado Mining Association before joining Interior, left in 1974 to become vice president for Governmental Relations with Gulf Oil Company.

-- A former director of the Office of Oil and Gas left

the Department in 1973 and is now the Washington lobbyist and vice president of the Lone Star Gas Company.

Mr. Kleppe should be asked his views on these problems and if he will:

-- Issue regulations requiring Department officials at GS-15 or above to file annual public reports covering their financial holdings, outside sources of income, gifts and honorariums, indebtedness, and severance arrangements with former employers;

-- Promulgate recruitment procedures and standards to limit the number of Interior officials with backgrounds in regulated companies and to place individuals with diverse backgrounds in policy-making positions;

-- Adopt regulations prohibiting Interior officials from taking employment for a specified period after leaving the Department with companies which were affected by their duties;

-- Issue regulations requiring former Department officials to report to the Department Counselor, for a period of two years after leaving Interior, their present occupation and place of employment;

-- Pledge not to accept employment himself with companies affected by his duties for two years after leaving the Department.

Last July Common Cause submitted to former Secretary Hathaway a model conflict of interest regulation. This proposal contains specific provisions on financial disclosure and

post-employment restrictions which we believe the Department should adopt. The model regulation is attached. We urge that the Committee obtain preconfirmation review and comment from Mr. Kleppe on the regulation. (Appendix A)

2. Logging of Outside Contacts. During his confirmation hearings, former Secretary Hathaway committed himself to adopt a regulation requiring Department policy-makers to keep an open record of all contacts with outside parties. The Department is presently preparing this regulation. We believe Mr. Kleppe also should pledge to implement strong logging requirements.

There is virtually no public disclosure of the effort of regulated companies and other outside parties to influence Department policy, leasing, and regulatory decisions. Industry representatives are in daily interaction with Interior policy-makers, through various formal proceedings, ad hoc meetings, office visits, and so on. Not only are these contacts hidden from public view, but the policy recommendations and supporting data given to Department officials by outside interest groups are also seldom available or subject to public scrutiny. While regulated industries relish this secrecy, the public consistently pays the price.

For example, the industry's inside lobbying efforts played a major role in last June's campaign by Interior and the White House to kill the strip-mining bill passed

by Congress. In justifying his veto of the bill, President Ford cited Interior Department figures on the loss of coal production which would result if the bill became law. Lobbyists representing the coal and electric utility industries reportedly provided much of the data used by Interior to make this case. Interior officials have now admitted that the figures were somewhat "mushy", and that the Department failed to objectively assess the bill's impact on coal production. A good logging regulation would have required prompt and full disclosure of the industry's role in this matter.

Mr. Kleppe should be asked:

-- Will you promulgate a regulation requiring Department officials at GS-15 or above to log all contacts and written material from outside parties on the public record?

Common Cause has submitted to the Department, in our meeting last July with former Secretary Hathaway, a model regulation on logging of outside contacts. This regulation is attached. We urge that the Committee obtain preconfirmation review and comment from Mr. Kleppe on the regulation. (Appendix B)

3. Balanced Representation on Advisory Committees. One of the major avenues of industry influence in Interior is through the Department's 54 advisory committees. While most of these committees were established to utilize outside expertise on various technical, administrative, and policy

matters, many have evolved into federally-funded lobbying arms of regulated interests. Several key Interior committees are heavily dominated by industry representatives. The National Petroleum Council, for example, has a 90 percent industry membership. Industry representatives make up to 98 percent of the Emergency Advisory Committee for Natural Gas, and 92 percent of the Emergency Petroleum Supply Committee.

Mr. Kleppe should be asked:

-- What steps will you take to ensure the representation of diverse interests in the National Petroleum Council and other Department advisory committees?

4. Leasing Procedures. The Department's procedures for leasing federal energy resources are an important illustration of industry influence and special treatment. This is perhaps Interior's most critical responsibility, and the stakes are enormous. Over 50 percent of this country's fossil-fuel resources are located on federal lands, and therefore under the Department's control.

It is questionable, however, if the Department is really controlling anything. Independent studies have found its leasing programs inefficient and wasteful. In many respects they seem designed to benefit the coal and oil companies who participate in them. These companies have been able to obtain lands at minimal costs, often without competition, and then permitted by the Interior Department to sit on their leased resources in anticipation of higher prices. Nearly 50 percent of all existing coal

leases and 95 percent of existing onshore oil and gas leases have been issued without competition, and only 19 percent of the coal tracts leased in the West are currently active. The public's interest in obtaining a fair return for federal resources and having them developed in a diligent fashion, as part of an overall land-use plan, has been consistently ignored.

The Department has recently proposed new leasing regulations. These proposals are inadequate. They do not address the central issues of competitive bidding, diligent development, and adequate data disclosure. They apply only to coal leases, and deal primarily with planning, operating and reclamation requirements.

In order to determine if Mr. Kleppe will support the necessary reform measures in this area, he should be asked:

-- Do you favor revised leasing arrangements to ensure that all new leases on coal and onshore oil and gas be issued through competitive bidding?

-- Do you favor stronger lease provisions requiring coal and oil companies to develop leased reserves in a diligent fashion, and increased rental and royalty rates with respect to future leases?

-- Do you support requirements that all new leases for coal and onshore oil and gas be initiated by the Interior Department in accordance with a comprehensive land-use plan?

-- Do you believe coal and oil companies should be required to submit to the US Geological Survey, as a condition for obtaining a lease, copies of all raw, processed and

interpretive data with respect to the reserves they wish to lease?

Common Cause has prepared a summary critique of the Department's existing leasing procedures, together with specific regulatory amendments on the reform items listed above (see Appendix C). Our analysis and proposed regulations have been submitted to the Department.

5. Coal Leasing Moratorium. A controversial issue within the Department concerns the lifting of the moratorium on new coal leases which has been in effect since 1973. On one side, the coal industry is pushing the Department to end the moratorium, arguing that new tracts of federal coal lands (particularly the low-sulfur coal in the West) must be developed to meet new demands for coal. On the other side, environmentalists and others are arguing that enough coal is already under lease to meet the Nation's projected coal needs for several decades. The problem is that coal and oil companies are holding these reserves out of production for speculative purposes -- a practice facilitated by the absence of Department requirements for diligent development of leased resources. Opponents also note that new leasing of Western coal will be environmentally hazardous.

This controversy goes to the heart of Interior's primary mission -- managing the development of federal energy resources in accordance with national energy needs, while at the same time protecting and conserving the environment. Mr. Kleppe's

position on this issue should be closely examined in evaluating his approach to these conflicting interests.

Common Cause believes it is premature to even consider lifting the moratorium at this stage. We believe the following issues must be first addressed:

First, new coal-leasing regulations must be adopted that contain strong requirements for diligent development, competitive bidding, increased rental fees and royalty rates, comprehensive land-use planning and data disclosure by coal companies. The industry should be required to undertake the development of coal reserves they now hold before any new leases are considered.

Second, the comprehensive surface coal mining and reclamation standards contained in the strip mining bill twice passed by Congress and vetoed by the President should be enacted into law. The clear inadequacy of the Department's recently proposed strip mining regulations demonstrates the need for legislation in this area.

To summarize, Common Cause recommends that:

1. The Interior Committee conduct a thorough investigation, including the calling of appropriate witnesses, of the allegations surrounding Mr. Kleppe's stewardship at SBA.
2. The Interior Committee, as a precondition to any recommendation on confirmation, require Mr. Kleppe to commit to specific steps to protect and enhance the integrity of the Department of Interior.

3. The Interior Committee not schedule a confirmation vote until at least two weeks after hearings on Mr. Kleppe, including his response to issues raised by other witnesses, have concluded.

4. Mr. Kleppe file a full personal financial disclosure with the Committee.

5. The Interior Committee report on Mr. Kleppe specify the standards against which he was evaluated; indicate any policy commitments he makes during these hearings; and include his personal financial disclosure statement.

**common cause**

2030 M STREET, N.W., WASHINGTON, D. C. 20036

John W. Gardner, Chairman

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APPENDIX A

## PROPOSED CONFLICT OF INTEREST REGULATIONS

## FOR THE DEPARTMENT OF INTERIOR

## DEFINITIONS

Section 1. As used in these regulations, the term --

(1) "Department employee" means any officer or employee of the Department of Interior, including special government employees as defined in 18 U.S.C. 202, in grades GS-15 or above in the General Schedule or in any of the executive levels under 5 U.S.C., chapter 53, subchapter II;

(2) "person" includes a corporation, company, association, firm, partnership, society, or joint stock company, as well as an individual;

(3) "adjudication" means adjudication as defined in 5 U.S.C. 551(7), including the process of recommending, initiating, or participating in suits to enforce Federal laws or regulations;

(4) "licensing" means licensing as defined in 5 U.S.C. 551(9);

(5) "contracting" means the process of granting, awarding, or administering of any contract, grant, or procurement authorization issued by the Department;

(6) "rule-making" means rule-making as defined in 5 U.S.C. 551(5);

(7) "Departmental proceeding" means any adjudication, licensing, contracting, or rule-making, insofar as such rule-making involves a rule of particular applicability which directly affects a party to the proceeding;

(8) "immediate family" means a Department employee, his spouse, and their dependents.

#### FINANCIAL DISCLOSURE

Section 2. (a) Each Department employee who is employed in an agency within the Department shall submit to his Bureau Counselor, and other Department employees shall submit to the Department Counselor, a financial statement containing the following information:

(1) each source of income received by any member of the immediate family if that source yielded income in excess of \$100 in amount or value, including a description of the nature, purpose, and amount of such income;

(2) the names of each person or organization --

(A) with which he is associated as an employee, officer, owner, director, trustee, partner, advisor, or consultant,

(B) in which he has any continuing financial interest, through a pension or retirement plan, shared income, or other arrangement, as a result of any current or prior employment or business or professional association, or

(C) in which any member of the immediate family has any financial interest through the ownership of stocks, bonds, or other securities, including the amount and value of such interest;

(3) the identity and value each real property holding, rights of land, or other assets held by any member of the immediate family, other than those identified under paragraph (2) of this section, which exceed \$1,000 in amount or value;

(4) the identity and value of each liability owed by any member of the immediate family which exceed \$1,000, including the name and address of each creditor, whether the loan is secured and by whom, and the terms of repayment;

(5) the identity of all transactions in securities, commodities, or real or personal property by or in behalf of any member of the immediate family which exceed \$1,000, including the monetary value or amounts involved, the number of securities or volume of commodities when applicable, and the terms of each such transaction; and

(6) the identity of each gift, gratuity, honorarium, fee, service, or other thing of value received by any member of the immediate family from a non-relative which exceeds \$25, including the source, purpose, and monetary value or amount.

(b) The statements required under subsection (a) of this section shall be submitted within ten days of becoming a Department employee, and not later than July 31st of each year thereafter. The initial statements shall cover the 12-month period prior to becoming a Department employee, and the subsequent statements shall cover the preceding 12-month period up to June 30th. The statements must be reviewed within 30 days by the Counselor to whom they are submitted for any real or potential conflicts of interest. During this 30-day period, each Counselor must notify each Department employee under his jurisdiction of the results of this review, specifying appropriate remedial action to resolve any such conflicts. Such notification must be in writing, and copies must be submitted to the Department Counselor.

(c) The statements submitted under this section, together with copies of the review notifications required under subsection (b) above, shall be maintained by the Counselor's office with whom they are submitted for a period of five years from the date filed and shall be made available for inspection in a convenient location

by any person after 45 days of such date. Copies of such statements and notifications shall be available to any person upon payment of a fee not to exceed the actual cost of making such copies.

#### DIVESTITURE

Section 3. (a) Each Department employee who participates personally and substantially in a Departmental proceeding must divest of all financial interests in any person directly affected as a party to such proceeding.

(b) Each Departmental employee who participates personally and substantially in a Department rule-making must divest of all financial interests in any person affected by such rule-making, provided a substantial part of such person's activities are regulated by the Department.

(c) The divestiture required in this section shall be made by Department employees prior to their participation in the Department proceeding or rule-making in question.

#### POST-EMPLOYMENT RESTRICTIONS

Section 4. Each Department employee must, as a condition of assuming or maintaining employment with the Department in GS-15 or above, enter into a legally binding contract with the Department. The terms of such contract shall prohibit the Department employee, for a period of two years following the termination of his employment with the Department, from --

(1) accepting employment or compensation from any person directly affected as a party to a Departmental proceeding in which such employee participated personally and substantially;

(2) accepting employment or compensation from any person affected by a Department rule-making in which such employee participated personally and substantially, provided a substantial part of such person's activities are regulated by the Department; and

(3) representing any person before the Department in any legal, lobbying, or other professional capacity.

#### REPORTING OF EMPLOYMENT

Section 5. (a) Each Department employee must submit, within 10 days of becoming a Department employee or, with respect to those who are Department employees at the time this regulation is implemented, within 10 days of such implementation, a statement to the Counselor with whom such employee is required to file financial statements under section 2 of this regulation containing the following information:

(1) his occupation(s) and place(s) of employment during the 24 months prior to the date he became employed by the Federal government; and

(2) his occupation(s) and place(s) of employment, when applicable, during any period subsequent to his initial employment with the Federal government during which he accepted non-governmental employment or compensation.

(b) The contract with the Department which each Department employee must enter under section 4 of this regulation shall require such employee to submit, during the 24 months following the termination of his employment with the Department, statements to the Counselor designed in subsection (a) of this section identifying

his current occupation and place of employment. An initial statement must be submitted within 10 days of terminating employment with the Department, and subsequent statements must be submitted within 10 days of changing his occupation or place of employment during the 24-month period.

(c) Each Department employee must submit, upon the arrangement of future employment with a non-governmental person, a statement to the Counselor designed in subsection (a) of this section identifying the person with whom such employment has been arranged. Such employees shall not participate personally or substantially in any Department proceeding which affects such person as a party to the proceeding.

(d) The statements submitted under this section shall be maintained by the Counselor's office with whom they are submitted for a period of three years following the termination of the respective Department employee's tenure with the Department and shall be made available for public inspection in a convenient location by any person within 10 days of the date filed. Copies of such statements shall be available to any person upon payment of a fee not to exceed the actual cost of making such copies. Each Bureau Counselor shall submit copies of such statements filed with him to the Department Counselor within 10 days of the date filed.

#### ADVISORY OPINIONS AND REPORTS

Section 6. (a) Each Bureau Counselor and the Department Counselor shall, upon request from any Department employee or at their own initiative, issue written advisory opinions which clarify the requirements and restrictions of this regulation and recommend appropriate action in specific cases. Such advisory opinions shall be maintained by the Counselor's office which issued them and shall be made

available for inspection in a convenient location by any person within 10 days of the date issued. Copies of such opinions shall be available to any person upon payment of a fee not to exceed the actual cost of making such copies. Each Bureau Counselor shall submit copies of such opinions issued by him to the Department Counselor within 10 days of the date issued.

(b) The Department Counselor shall issue a report not later than September 30th of each year which summarizes his activities and findings, and those of each Bureau Counselor, in the implementation and enforcement of this regulation during the preceding 12-month period up to September 15th. Such reports shall include an explanation of his and each Bureau Counselor's procedures for reviewing statements submitted to them under this regulation and a summary of the results of such reviews and any recommendations for remedial action, and shall be published in the Federal Register within 10 days of date issued.

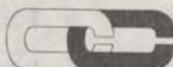
#### SANCTIONS

Section 7. (a) Any Department employee who knowingly and willfully falsifies, forges, or fails to submit any statement as required by section 2 or subsection 5(a) and 5(c) of this regulation shall be terminated or suspended from the Department for such period as the Department Counselor shall deem appropriate, but for not less than 30 days. Those suspended shall be allowed to resume employment with the Department only upon full and accurate compliance with the reporting requirements of such section or subsections.

(b) Any Department employee who knowingly and willfully violates section 3 of this regulation shall be ter-

minated or suspended from the Department for such period as the Department Counselor shall deem appropriate, but for not less than 30 days. Those suspended shall be allowed to resume employment with the Department only upon full compliance with the divestiture requirements of such section or upon appropriate reassignment of duties within the Department.

(c) The Department Counselor shall initiate a civil proceeding to enjoin any former Department employee from violating the terms of the contract entered into pursuant to section 4 and subsection 5(b) of this regulation.

**common cause**

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John W. Gardner, Chairman

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APPENDIX B

PROPOSED REGULATIONS ON LOGGING OUTSIDE CONTACTS  
FOR THE DEPARTMENT OF INTERIOR

DEFINITIONS

Section 1. As used in these regulations, the term--

(1) "Department employee" means all employees of the Department who are compensated in grade 15 and above under the General Schedule under 5 U.S.C. 5332, or under the Executive Schedule under 5 U.S.C., chapter 53, subchapter II;

(2) "person" includes an individual, partnership, corporation, association, firm, society, joint stock company, Member of Congress, officer or employee of the executive branch, or any party to a proceeding;

(3) "informant" means any person who offers incriminating information, under an assurance of confidentiality, to a Department employee for use in a civil or criminal enforcement proceeding;

(4) "pre-adjudicative stages of a proceeding" means Department activities prior to the commencement of an administrative or judicial enforcement proceeding held to determine punishment for or to prevent the violation of Federal law or Department regulation;

(5) "record of communications maintained for internal disclosure" means a record of communications received by a Department employee which shall contain--

(A) the name and position of the employee who received the communication;

(B) the date upon which the communication was received;

(C) an identification, so far as possible, of the person from whom the communication was received and of the person on whose behalf such person was acting in making the communication;

(D) in the case of communications through letters, documents, briefs, and other written material, copies of such material in its original form;

(6) "record of communications maintained for summary disclosure" means a record of communications received by a Department employee which shall contain--

(A) the name and position of the employee who receive the communication;

(B) the date upon which the communication was receive

(C) an identification, so far as possible, of the person from whom the communication was received and of the person on whose behalf such person was acting in making the communication;

(D) a brief characterization of the subject matter under discussion;

(E) in the case of communications through letters, documents, briefs, and other written material, copies of such material in its original form. In the case of materials which fall under 5 U.S.C. 552 (b), a summary of the communication or a copy of such material with suitable deletions will suffice in lieu of the original;

(7) "record of communications maintained for full disclosure" means a record of communications received by a Department employee which shall contain--

(A) the name and position of the employee who received the communication;

(B) the date upon which the communication was received;

(C) an identification, so far as possible, of the person from whom the communication was received and of the person on whose behalf such person was acting in making the communication;

(D) a brief summary of the subject matter or matters of the communication, including relevant docket numbers if known;

(E) in the case of communications through letters, documents, briefs, and other written material, copies of such material in its original form. In the case of materials which fall under 5 U.S.C. 552 (b), a summary of the communication or a copy of such material with suitable deletions will suffice in lieu of the original;

(F) a brief description, when applicable, of any

action taken by the employee in response to the communication.

#### RECORD-KEEPING REQUIREMENTS

Section 2. (a) Each Department employee shall prepare a record of communications maintained for summary disclosure for each oral or written communication initiated by persons outside the Department, pertaining to a substantive policy matter before the Department, except any such communication from informants or members of the working press. For the purpose of this paragraph, a "substantive policy matter" means any important Department action or policy issue as prescribed in regulations promulgated by the Department, except that no such regulation shall apply to agency proceedings as defined in 5 U.S.C. 551 (12).

(b) Each Department employee shall prepare a record of communications maintained for full disclosure for each oral or written communication, initiated by persons outside the Department, during the pre-adjudicative stages of a proceeding or pertaining to a pending Department proceeding, except (i) any such communication from informants or members of the working press and (ii) any such communication initiated by the party to an enforcement proceeding during the pre-adjudicative stage. With respect to communications initiated by the party to an enforcement proceeding during the pre-adjudicative stage, the Department employee shall prepare a record of communications maintained for internal disclosure.

## PUBLIC FILING

Section 3. (a) Each Bureau Counselor and the Department Counselor shall assure that records of communications maintained for summary disclosure and records of communications maintained for full disclosure which are prepared by the Department employees under their jurisdiction shall be furnished for inclusion in a public file within five working days of the receipt of the communication. Public files containing such records shall be located in the public reading room of the Bureau or Department. Such records for which no public file already exists shall be placed in public files located in the public reading room, appropriately indexed pursuant to regulations promulgated by the Department. All public files shall be maintained for a period of five years, and shall be available for public inspection and copying.

(b) Each Bureau Counselor and the Department Counselor shall assure that records of communications maintained for internal disclosure prepared by the Department employees under their jurisdiction shall be furnished for permanent inclusion in the case or other appropriate file and that a copy of such record shall be furnished for inclusion in a centrally located file in the Bureau or Department within five working days of the receipt of the communication.

(c) Each Department employee who is compensated under 5 U.S.C., chapter 53, subchapter II, shall provide for the maintenance of his prospective and retrospective calendars for public inspection in the public reading room of the Department. Such materials shall

be submitted, and updated, the first working day of each week.

#### SANCTIONS

Section 4. Any Department employee who knowingly and willfully falsifies, forges, or fails to file any record required by these regulations shall be terminated or suspended from the Department for such period as the Department Counselor shall deem appropriate, but for not less than 30 days.

**common cause**

2030 M STREET, N.W., WASHINGTON, D. C. 20036

John W. Gardner, Chairman

(202) 833-1200

APPENDIX C,  
Part I

## LEASING ENERGY RESOURCES:

## REFORM OF INTERIOR DEPARTMENT PROCEDURES

The energy shortages now facing the United States represent several crises at once. One of these is the escalating demand for energy in the face of dwindling and irreplaceable resources in this country. Another is our costly and vulnerable dependence on foreign sources for much of our fuel. Both these problems require that we take stock of our own energy resources and reconsider the practices and policies which have determined their use in the past.

Over 50 percent of this country's fossil-fuel energy resources are located on federal lands or are under federal control. Nearly half of our coal reserves are under federal control in the West, and these lands contain about 85 percent of the low-sulfur deposits for which there is increasing demand. It is estimated that up to 70 percent of our oil and gas resources are on the Outer Continental Shelf and in Alaska, most of which are federally controlled. There are also vast supplies of natural gas on federal lands in the Rocky Mountains.

The Interior Department's procedures for leasing these valuable resources for development and production appear to be inefficient and wasteful. In many respects, they seem designed to benefit the coal and oil companies who lease these reserves, enabling them to obtain lands at minimal costs, often without

competition, and to sit on the reserves in anticipation of higher prices. The public's interest in obtaining a fair return for federal resources and having them developed in a diligent fashion, as part of an overall land use plan, is often ignored. Reform of the Department's leasing procedures therefore emerges as a priority in meeting our nation's energy needs.

The Department's Bureau of Land Management, which is responsible for leasing federal energy resources, has recognized some of the existing problems, particularly in regard to the 1920 Mineral Leasing Act. Present leasing procedures are largely determined by this Act, and the Bureau has recommended some appropriate revisions. There are several reforms, however, which the BLM could implement on its own.

Common Cause has identified four key aspects of BLM's leasing procedures which call for immediate remedial action by the Bureau: 1) non-competitive leasing and lease concentration, 2) lack of diligent development of leased resources, 3) the lack of overall land-use planning in setting leasing priorities, and 4) inadequate disclosure by coal and oil companies of their data on energy resources.

Common Cause urges BLM to amend its regulations on leasing to remedy these problems. Our proposed regulatory amendments are attached.

#### 1. Non-Competitive Leasing and Lease Concentration

Nearly 50 percent of all existing leases for federal coal reserves have been granted through non-competitive arrangements. They are called "preference right leases," which enable coal or

oil companies to lease coal lands without having to bid competitively against other interests. A company can obtain a coal prospecting permit for a \$10 filing fee and one year's rental on the land for 25 cents an acre. If it then demonstrates that the land contains coal in "commercial quantities," it is automatically entitled -- as provided in the Mineral Leasing Act enacted 55 years ago -- to a preference right lease for that land. No other company can compete for the lease.

In the case of onshore oil and gas on federal lands, 95 percent of all existing leases have been issued non-competitively. Potential oil and gas fields on tracts of unknown geological structures, upon which no leases have been granted, are automatically leased to the first qualified bidder. When other tracts become available for leasing due to the expiration or termination of previous leases, they are awarded without competition on a monthly lottery, which costs only \$10 to enter.

The lack of competition in obtaining coal leases has perpetrated an enormous degree of lease concentration in the top 15 leaseholders. There are currently 144 companies holding federal coal leases, but the top 15 -- 5 oil companies, 7 coal companies, and 3 electric utilities -- control over 70 percent of the coal acreage under lease. As mentioned in the following section, much of this acreage is being held for speculative purposes. Only 48 percent of the coal mined from all leases has come from those held by the top leaseholders.

Common Cause believes that to increase competition, reduce lease concentrations, and encourage production on federal lands rather than speculation, the following changes in BLM's regulations are needed:

-- A ban on new coal prospecting permits, which would in effect eliminate the preference right lease arrangement, and a requirement that all new coal leases be obtained by competitive bidding.

-- Discontinuance of the lottery system for certain onshore oil and gas leases, and a requirement that new leases be obtained by competitive bidding insofar as the law permits.

-- A limit on the percentage of outstanding coal acreage under lease which any one company and its subsidiaries may hold.

## 2. Diligent Development

There are presently over 500 coal leases under BLM's jurisdiction, covering nearly a million acres with an estimated 16 billion tons of coal. Most of these leases (474) are located in seven Western states, 321 of which have never been active. Only 52, or a mere 11 percent, are now in active production. Five of the top 15 coal leaseholders in this group--including El Paso Natural Gas and Shell Oil Company--have never produced a ton of coal from their leases. With respect to onshore oil and gas leases, only 10 percent of the current 119,800 leases are active. This suggests that the BLM is allowing coal and oil companies to speculate with leased federal reserves--keeping them out of production in hopes of higher prices in the future.

The Mineral Leasing Act is one cause of this situation. Its requirement that coal and oil companies "diligently develop" leased reserves is weak, undefined, and has gone unenforced

since 1920. Not a single lease on federal lands has ever been terminated for lack of development, much less lack of diligent development.

Another cause is BLM's leasing arrangements themselves. A company can obtain a coal prospecting permit for a nominal fee, receive a preference right lease a few years later and then sit on the lease year after year, paying only an annual rental fee of \$.25 to \$1.00 an acre depending on the age of the lease. The lease lasts indefinitely, subject to readjustment at the end of the first 20 years. There is no requirement or incentive to produce anything. Onshore oil and gas leases on tracts of unknown geological structures carry a 10-year term with no production requirements, with only a 50 cent-an-acre rental charge each year.

These arrangements are ideal for coal and oil companies who wish to lease federal resources for speculative reasons. In many cases, it makes better financial sense to pay the low rental fees than to develop the land in a diligent manner. As a result, the public is denied valuable energy resources and the government, due to outdated financial terms set out in the 1920 Act, loses money. On the Outer Continental Shelf, for example, where large cash bonuses, higher rentals, and competitive bidding are required, diligent development is seldom a problem. Last year the government earned more than \$5 billion in bonuses and first-year rentals alone, not to mention lease revenues.

All existing coal and onshore oil and gas leases have already been issued for lengthy or indefinite periods of time and the terms of these leases cannot be changed. The only way to assure their production, therefore, is through strict definition and enforcement of

-6-

the diligent development requirement. The BLM is to be commended for finally proposing a clear definition of "diligent development" with respect to coal leases. However, it has not proposed similar clarifications for oil and gas.

Common Cause proposes the following regulatory changes in order to assure diligent development of federal energy resources and discourage speculation:

-- Adoption of BLM's proposed diligent development requirement for coal leases, and the implementation of similar requirements for all oil and gas leases.

-- Increased license and rental fees and royalty rates for coal and onshore oil and gas leases.

-- Adoption of the following enforcement provisions for non-diligent development: termination of leases or denials of extensions if the new diligent development requirements are not met; denials of any new leases to a leaseholder whose current leases are not being diligently developed; and denial of an extension of a prospecting permit to any permittee who has not diligently pursued exploration.

### 3. Land-Use Planning

There are nearly 70 million acres of federal land now under lease to coal and oil companies. This land has been leased almost entirely in response to demand from these companies, with virtually no overall land-use planning on the part of the government. Leasing decisions have been largely determined by the desire of private interests to lease certain tracts of federal lands. This has resulted in misdirected, haphazard, and unorganized land-use policies regarding energy resources.

Given the unprecedented impact that increased coal and oil development will have in the West, the Outer Continental Shelf, and adjacent coastal states, it is critically important that all future leases be incorporated into a comprehensive land-use plan. This plan should be prepared by the Department of the Interior, in consultation with state and local authorities, and should take into consideration social and environmental impacts and regional energy needs as they relate to overall national energy policy.

Common Cause believes the following regulatory changes are needed:

-- A requirement that all new leases for coal and onshore oil and gas must be initiated by the Interior Department in accordance with a comprehensive land-use plan, and noticed in the Federal Register and local newspapers.

-- A requirement that in leasing OCS tracts, the Interior Department must solicit recommendations from other Federal agencies, hold public hearings, and consult with state authorities.

#### 4. Adequate Data Disclosure

A fourth problem area concerns the information used by the Interior Department in evaluating energy resources and setting minimal acceptable bids on them. Most of this information is compiled by the U.S. Geological Survey. The exploratory and interpretative data prepared by coal and oil companies, however, is often withheld from the Department. This data is absolutely essential to adequately assess the quantity and quality of fossil fuels in various reserves and to set responsible leasing terms and priorities.

For this reason, BLM has recently required that all raw and processed data gathered by private companies on OCS oil and gas lands be turned over to USGS without cost. Common Cause believes that such requirements are timely and correct, and that similar requirements should be codified in the Federal regulations to assure adequate data disclosure for all federal mineral and fossil fuel leases. Such regulations should also cover a company's interpretive data on what certain tracts contain, as long as its proprietary nature is recognized and duly protected by confidentiality.

The following regulatory change is needed:

-- A requirement that in order to obtain a lease for coal, onshore oil and gas or OCS oil and gas, the leasee must submit to USGS copies of all raw, processed and interpretive data with respect to such proposed lease.

**common cause**

2030 M STREET, N.W., WASHINGTON, D. C. 20036

John W. Gardner, Chairman

(202) 833-1200

APPENDIX C,  
Part II

PROPOSED AMENDMENTS TO THE DEPARTMENT'S  
REGULATIONS ON LEASING ENERGY RESOURCES

Common Cause proposes that the Department of Interior adopt the following amendments to its regulations on leasing Federal coal, oil, and gas reserves (34 C.F.R. §§3100, 3300, and 3500).

Onshore Oil and Gas

1. Amend 3101.1-1 by:

a) Inserting after the first sentence: The Secretary shall issue calls for nominations of tracts for leasing when he determines that the public interest requires an expansion of oil or gas production beyond that producible from land already under lease. Such action shall be taken only after the preparation by the Secretary of a comprehensive land use plan for the area, in the preparation of which he shall request and consider the views and recommendations of appropriate Federal agencies and of State agencies, organizations and individuals.

- b) Substituting "16-2/3 %" for "12-1/2 %" in the last sentences.
2. Amend 3103.2-1(a) by striking the first sentence and substituting:  
An application for a lease on lands not within a known geologic structure of a producing oil or gas field must be accompanied by a filing fee of \$100 for each application.
  3. Amend 3110.1-1 by adding: If, at the end of the primary term of 10 years, the lessee has not engaged in operations adequate to determine that it is a producing or producible lease, the lease shall be terminated and the issuance of a new lease shall be subject to the provisions of 3112.1-2 as revised.
  4. Delete 3110.1-6(b).
  5. Amend 3112.1-1(a) by:
    - a) Deleting "subject to the filing of new lease offers" and substituting "available for lease sale if it is determined by the Secretary to be in the public interest".
    - b) Deleting the language in the last sentence following the words "provisions of this section".
  6. Delete paragraph 3112.1-1(b).
  7. Amend 3112.1-2 by deleting the latter part of the first sentence beginning with "together with".
  8. Delete all of present paragraphs 3112.2 3112.4, 3112.5-1, and 3112.5-2.
  9. Add as a new 3112.2:
    - a) Leasing of lands available under 3112.1-1 shall be by competitive bidding. Notice of lease sale shall be by publication in a newspaper of general circulation in the state and county in which the lands are located at least 30 days prior to the sale.

- b) The notice of a lease sale shall include a stipulation that, upon the request of the Supervisor, the geological and geophysical data required under this lease and processed information derived therefrom after it has been processed for the lessee's own use or for delivery to any third party shall be submitted to the Supervisor within 30 days after request. Interpretive information shall accompany the processed data.
10. Amend 3120.1-1 by deleting the word "competitive" and inserting after "leases" the following language: "for land within the known geologic structure of a producing oil or gas field."

Outer Continental Shelf

1. Amend 3301.4 by changing the second sentence to read: "To aid him in his evaluation and determinations he shall request and consider the views and recommendations of appropriate Federal agencies, shall hold public hearings after appropriate notice, and shall consult with State agencies, organizations, industries, and individuals.
2. Amend 3301.5 by adding: "The notice of a lease offer shall include a stipulation that, upon the request of the Supervisor, the geological and geophysical data acquired under this lease and the processed information derived therefrom after it has been processed for the lessee's own use or for delivery to any third party shall be submitted to the Supervisor within 30 days after request. Interpretive information shall accompany the processed data.

Coal

1. Amend 3501.1-3 by adding the following new paragraph: (e) Coal - Lease sales shall be held only when it is determined by the Secretary that the public interest requires an expansion of the mining of coal and after the lands containing coal deposits have been included in a comprehensive land-use plan prepared by the Secretary. Notice of such proposed lease sale shall be given in the Federal Register at least 30 days prior to the date of the sale. Notice shall be given also in a newspaper of general circulation in the state and county in which the lands are located. Leases shall be awarded only after competitive bidding except in the case of land presently covered by a prospecting permit. If no bid at an acceptable level is received, the land may be withdrawn from lease sale.
2. Amend 3503.3-1(a) by adding the following new paragraph: (1) Coal - Not more than five percent of the total acreage under prospecting permit or lease shall be held by any one person or corporation. For purposes of this section, the leaseholdings of a subsidiary shall be attributed to the parent corporation.
3. Amend 3503.3-1(b) by substituting for the first sentence the following: Annual rental per acre or fraction thereof for coal leases shall not be less than \$1.00 for the first year and not less than \$2.00 for each year thereafter.
4. Amend 3510.03(a) by adding as 3510.03(a) (1): Exception for Coal. No new prospecting permits for coal shall be granted.
5. Add as 3510.1-3: Data Disclosure for Coal Leases - Any present permittee wishing to obtain a lease on the land covered by his permit shall furnish to the Secretary a copy of all data obtained

during exploration. Such data shall remain confidential until the areas involved have been leased or until such time as the Secretary determines that making the data available to the public would not damage the competitive position of the permit-holder.

6. Amend 3511.3-1(b)(1) by striking the following: "or for other reasons warranting such extension" and adding "A permittee who has not demonstrated reasonable diligence in exploration during the initial two-year term shall not be eligible for an extension."
7. Amend 3521.2-1(a)(2)(ii) by adding: "No lessee of coal land who has held a lease for three years or more without diligent development as defined in 3500.0-5(e) (currently proposed by BLM) shall be permitted to file an application for an additional lease."
8. Amend 3523.2-1(b)(1) by inserting before the last sentence of the paragraph: "A lease may be cancelled if, after three years have elapsed since the granting of the lease, there has not been diligent development as defined in 3500.0-5(e) (currently proposed by BLM)."

Senator METCALF. The next witness is Mr. Raymond Spang, of the Northern Cheyenne Tribe of Lame Deer, Mont.

Welcome to the committee \* \* \*. Welcome again to the committee on another confirmation hearing \* \* \*. I have had the opportunity to visit the new facilities at Lame Deer during the August recess, and noticed that a wet summer has made Montana a much more beautiful State—taller grass than I've ever seen.

Mr. SPANG. We hope to keep it that way.

Senator METCALF. Go right ahead.

**STATEMENT OF RAYMOND SPANG, NORTHERN CHEYENNE TRIBE,  
LAME DEER, MONT.**

Mr. SPANG. The Northern Cheyenne Tribe opposes the confirmation of Thomas S. Kleppe for Secretary of Interior. We feel that he lacks the record and imagination to fully guarantee that he will vigorously and positively exercise that office's responsibility to defend the rights, resources, and lives of the American Indian.

My name is Raymond Spang. I am a member of the tribal council of the Northern Cheyenne Tribe. I have been authorized to submit this statement on behalf of the Northern Cheyenne Tribe.

Included with this short statement are four questions that the Northern Cheyenne Tribe hereby requests this committee to propound to the nominee, Thomas S. Kleppe. The tribe considers these questions of great importance to the general well-being and survival of the Northern Cheyenne people.

I wish to raise a matter of importance to the survival of the Northern Cheyenne people—the Northern Cheyenne Tribe's struggle against the threat of massive and perhaps unlawful strip mining of approximately 56 percent of the Northern Cheyenne Reservation.

This reservation of approximately 433,000 acres is located in southeastern Montana and is the homeland of the Northern Cheyenne people. Approximately 3,000 of the tribe's 3,600 enrolled members at present live there. The entire reservation rests on a vast coalbed of approximately 5 billion tons.

In the mid-1960's, rising national energy demands, new coal conversion techniques and the superior economics of strip mining created intense interest in the vast strippable coal reserves of the West. Prime among these reserves was the undeveloped Northern Cheyenne deposit.

By 1971, with the cooperation and sanction of the Department of the Interior, a collection of the Nation's leading energy companies had acquired exploration permits and strip mining leases blanketing vast portions of the reservation.

By 1973, however, prior to the initiation of any coal development under these leases and permits, the Northern Cheyenne Tribe enacted a resolution demanding that the Secretary of the Interior cancel all existing permits and leases on the ground that they were issued in violation of law.

In January 1974, the tribe supported this demand with a two-volume, 630-page document entitled, "Petition of the Northern Cheyenne Tribe to Rogers C. B. Morton, Secretary of the Interior, Concerning Coal Leases and Permits on Their Reservation."

The petition set out the factual and legal basis for the tribe's demand based on the records and files of the Department of the Interior regarding those transactions. Some 40 separate law violations involving breaches of statute, regulation, and trust obligation were carefully described.

During the ensuing 5 months the Secretary and his solicitor gave the matter extensive personal consideration. The Secretary was clearly deeply impressed with the weight of the tribe's case. Finally, on June 4, 1974, the Secretary issued his decision. Although the tribe was not satisfied with several aspects of the Secretary's decision, it did take heart from its ultimate holdings:

(a) That he as Secretary was deeply impressed with his responsibility to preserve the environment and culture of the Northern Cheyenne Tribe and would not subvert those interests to anyone's desire to strip mine that reservation.

(b) That strip mining on the Northern Cheyenne Reservation would not occur unless freshly approved and supported by the Northern Cheyenne Tribe.

Now I have some questions.

(1) I would like your affirmation that if confirmed you would recognize these pledges as binding and irrevocable commitments of the Secretary of Interior on which the Northern Cheyenne Tribe may continue to rely.

(2) Another aspect of Secretary Morton's June 4, 1974, decision ordered the convening of an administrative hearing in the Office of Hearings and Appeals of the Department of the Interior concerning allegations that certain persons and firms had acquired strip mining rights for purely speculative purposes in violation of the law and had unlawfully assigned those rights to others. The tribe was invited to participate as a party in those hearings. The tribe accepted that invitation and then discovered serious defects regarding rights to discovery and subpoena in that hearing which would severely prejudice the tribe's position. On complaint of the tribe, that proceeding has been suspended. In the near future the tribe will be bringing to the attention of the Secretary of the Interior its position regarding the defects in that hearing and will be requesting termination of the proceeding. As Secretary, would you cancel that hearing if you found that the tribe's claim of prejudice is indeed meritorious?

(3) Another aspect of Secretary Morton's June 4, 1974, decision recognized the extraordinary circumstances giving rise to the tribe's petition and the great cost incurred by the tribe in preparing and presenting its case. For that reason, the Secretary promised the tribe that to the fullest extent of his authority he would defray the legal expenses which might be subsequently borne by the tribe in the administrative hearing and in any litigation between the tribe and the coal companies.

On September 8, 1975, Acting Secretary Frizzell rescinded that commitment on the ground that the Secretary's authority to pay those costs is not clear. The tribe's position, however, is that the Secretary does in fact have such authority.

Will you, as Secretary, reconsider that decision of Acting Secretary Frizzell and reinstate the commitment to the Northern Cheyenne if you find that there is secretarial authority to pay those costs?

(4) Unless the U.S. Supreme Court decides otherwise in the *Hollowbreast* case, the tribal ownership of approximately one-half of the Northern Cheyenne coal reserve will in June of 1976 leave the tribe and vest in a group of 2,000 to 3,000 individuals. This group includes a substantial number of nonmembers of the tribe; people who have no interest in the welfare and survival of the Northern Cheyenne people as a tribe.

If this transfer occurs, it is very likely if not certain that a frantic coal rush will occur on that reservation. In fact, speculators have already appeared on the scene and have engaged in questionable transactions with individuals who might acquire mineral interests. Many of these holders of future interests are ill prepared to deal at arm's length with these speculators and have perhaps already been cheated out of their interest. Just as the oil rich Oklahoma Indians lost their reservations and future in the early part of this century, the coal rich Northern Cheyenne may lose their homeland in these circumstances.

Therefore, what steps will you take, as Secretary of the Interior, to insure that any coal development on that reservation would occur without exploitation, with the concurrence of the tribe and with the safeguards on adverse impact involved in the development on the reservation and on the people?

That's about it.

Senator METCALF. Thank you very much, Mr. Spang. Would you leave the notes from which you read for the benefit of the reporter, and they will be returned to you, if you wish, sir.

This concludes today's session on Congressman Kleppe's confirmation. The committee will continue to have the matter before us. Several questions have been propounded that need to be decided by the full committee.

The record will be kept open until October 1 for Mr. Kleppe's responses and for any additional material that may be submitted. It may be kept open after that.

I can't predict when there will be final action on the confirmation, but it will not be until after we have a complete response on the questions, so that will be after October 1.

Thank you all. Thank you for being very patient. We are in recess. [Whereupon, at 1:20 p.m., the hearing was recessed.]

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APPENDIXES

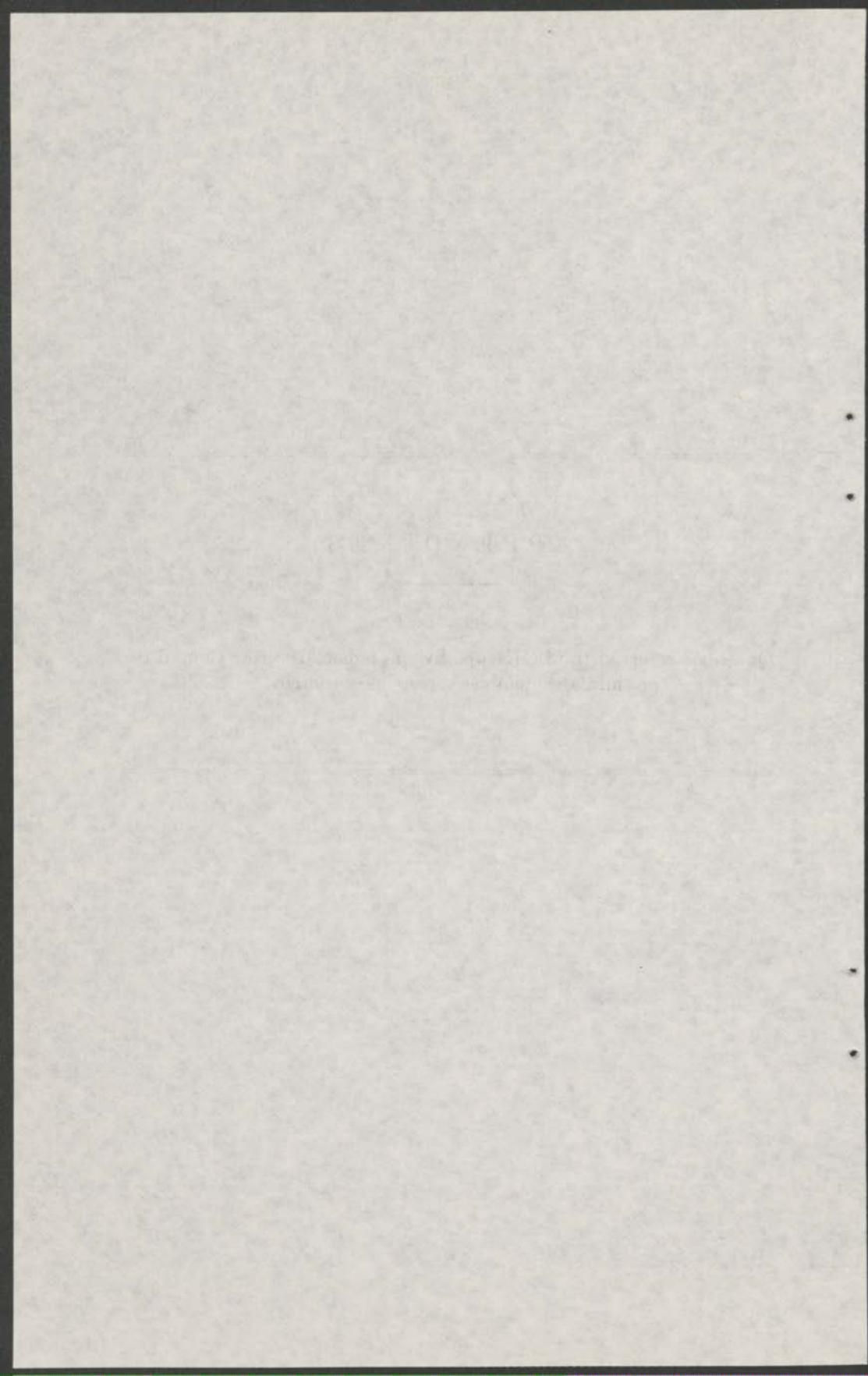
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APPENDIX I

Questions referred to Mr. Kleppe by the Senate Interior Committee  
and the nominee's responses thereto

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INTERIOR  
Kleppe nomination - questions

COPY

September 29, 1975

The Honorable Thomas S. Kleppe  
Secretary of the Interior - Designate  
U. S. Small Business Administration  
Washington, D. C. 20416

Dear Mr. Kleppe:

Enclosed is a copy of a self-explanatory letter I have received from Senator James Abourezk that you respond to certain questions for the record. The Senator's questions are also enclosed.

It will be appreciated if you will provide the information requested at your earliest convenience.

Sincerely,

Henry H. Jackson  
Chairman

HBJ:omh  
Enclosures:

*Questions for record*

HENRY M. JACKSON, WASH., CHAIRMAN  
 FRANK CHURCH, IDAHO  
 LEE METCALF, MONT.  
 J. BENNETT JOHNSTON, LA.  
 JAMES ABDOUREK, N. DAK.  
 FLOYD R. HASKELL, COLO.  
 JOHN SLEVIN, OHIO  
 RICHARD STONE, FLA.  
 DALE BUMPERS, ARK.  
 GRENVILLE BARBIDE, SPECIAL COUNSEL AND STAFF DIRECTOR  
 WILLIAM J. VAH NESS, CHIEF COUNSEL

PAUL J. FRANK, ARIZ.  
 CLIFFORD P. HANSEN, WYO.  
 MARK O. HATFIELD, OREG.  
 JAMES A. NICOLSON, IDAHO  
 DEWEY F. BARTLETT, OKLA.

## United States Senate

COMMITTEE ON  
 INTERIOR AND INSULAR AFFAIRS  
 WASHINGTON, D.C. 20510

September 25, 1975

Hon. Henry M. Jackson  
 U.S. Senate  
 Committee on Interior and Insular Affairs

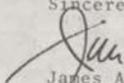
Dear Scoop:

I would appreciate your cooperation in providing the attached questions to Mr. Kleppe concerning his pending nomination as Secretary of Interior.

In addition I would like the questions and Mr. Kleppe's responses included in the record of the hearings on his confirmation.

Thank you for your assistance.

Sincerely,



James Abourezk  
 United States Senate

enc

1. Preference of public bodies and cooperatives to the power generated by the Missouri River hydroelectric system is a long-established principle in federal law. As Secretary, will you see that this principle is carried out fully by assuring that this preference includes the use of the federal transmission facilities by these public and non-profit organizations?

x x x x x x x x x x x

2. I have suggested a study by the Energy and Research and Development Administration of the potential of generating power from the wind, integrating that power with the federal power resources of the region. I have asked the Bureau of Reclamation for their support and cooperation in this study. Will you support that study proposal?

x x x x x x x x x x x

3. The lowest cost power available in the Missouri River is power from the Missouri River dams. The Department has announced a tentative increase in rates for this power, effective Jan. 1, 1977. This cost increase is proposed at a time when revenues from sale of this power are at an all-time high. Since the proposed increase is tentative, will you reconsider this decision concerning these rates?

x x x x x x x x x x x

4. The O'Mahoney Milliken amendment to the Flood Control Act of 1944 provides that states west of the 98th meridian (upstream states) have a prior right to use of water for consumptive purposes over use downstream. How will you assure that the water rights of the upstream states are protected?

x x x x x x x x x x

5. Do you support the diversion of water from the mainstem Missouri to the coal fields of Montana and Wyoming?

x x x x x x x x x x

6. In addition to industrial and agricultural utilization of Missouri River water there have been several proposals for pipeline to service municipal water needs in states like South Dakota. Would you support feasibility studies concerning these proposals?

HENRY M. JACKSON, WASH., CHAIRMAN  
 FRANK CHURCH, IDAHO  
 LEE McKEALP, MONT.  
 J. BENNETT JOHNSTON, LA.  
 JAMES ABUREZK, R. DAR.  
 FLOYD K. HASKELL, COLO.  
 JOHN SLENN, OHIO  
 RICHARD STONE, FLA.  
 DALE BUMPERS, ARK.

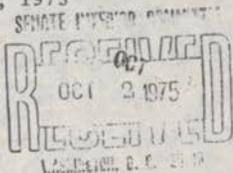
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 JAMES A. MCCLURE, IDAHO  
 DEWEY F. BANTLETT, OKLA.

NEVILLLE GARRIS, SPECIAL COUNSEL AND STAFF DIRECTOR  
 WILLIAM J. VAN HEEB, CHIEF COUNSEL

## United States Senate

COMMITTEE ON  
 INTERIOR AND INSULAR AFFAIRS  
 WASHINGTON, D.C. 20510

September 29, 1975



Hon. Henry M. Jackson  
 Chairman  
 Committee on Interior and Insular Affairs  
 U.S. Senate

Dear Scoop:

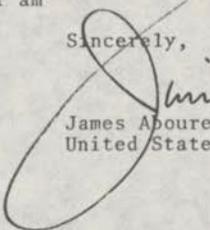
I would appreciate your assistance in including the attached letters relating to the nomination of Thomas Kleppe as Secretary of Interior into the record of the confirmation hearings.

In addition, I would also appreciate your submission of the attached question to Mr. Kleppe and inclusion of it and his response in the record.

Thank you for your cooperation.

With best regards, I am

Sincerely,

  
 James Abourezk  
 United States Senate

enc

The Interior Department since the early 1960's has cooperated with the consumer-owned systems of the Missouri Basin in establishing the Missouri Basin Systems Group, a power pool, and by working out mutually beneficial arrangements by which the power developed by the consumer systems has been integrated with the federal power and transmission systems. As secretary, will you work to continue and improve these relationships to help provide the expanding needs of these systems?



The Honorable James Abourezk  
U.S. Senate  
Washington, D.C. 20510

BOX 311 SOUTH SAINT PAUL, MINNESOTA 55075

September 18, 1975

AS *Gleick*

Dear Senator Abourezk:

Our organization has been increasingly concerned about the attitude of our administration toward the natural resources of the people of the United States.

Other than energy policy, the most blatant example of this is the successive appointments to the Interior of mediocre individuals hostile to environmental quality, the rights of the public in natural resources questions and friendly to big business.

Thomas Klumbe's record in the Small Business Administration is clear to most members of the Senate. His environmental record is non-existent. The President has ignored the many qualified Republicans in the environmental and administrative ranks including Governors McCall and Petersen and Mr. Ruckelshaus. This is shameful.

Our organization would hope that the Senate would stand up to the President on this issue and use the advise and consent power to force a resource policy on the White House that is more in the tradition of Teddy Roosevelt than Teapot Dome.

Some will say, "The President must live with his own appointments. The President must have his own man, etc." The Senate must remember that this is an extraordinary president. He was appointed under duress by a White House in a shambles. He has no national mandate as an elected president would command. The Senate, our senior elected body must exercise leadership and reject this appointment.

Sincerely,

*Rodney G. Lorer* (by seal)

Rodney G. Lorer  
President,  
Clear Air-Clear Water, Unlimited

RGL:sgw

Smaller Manufacturers Council

336 Blvd. of the Allies  
Pittsburgh, Pennsylvania 15222  
Telephone 412-391-1822

September 23, 1975



The Honorable James G. Abourezk  
1105 New Senate Office Building  
Washington, D. C. 20510

Dear Senator Abourezk:

The Smaller Manufacturers Council, a Pittsburgh-based trade association of nearly 600 small manufacturing companies, strongly urges the approval of the nomination of Thomas S. Kleppe as Secretary of the Interior.

Mr. Kleppe, in his four years as Administrator of the U.S. Small Business Administration, has shown himself to be an able administrator, a knowledgeable person not afraid to adopt new ideas, an innovative government official who has greatly expanded the scope of activities of his agency without the customary explosion in the hiring of federal employees, and a man who took a lethargic SBA and transformed it into an agency of advocacy for small business.

Under Mr. Kleppe, the SBA has become visible to the community it was established to assist. Local advisory councils have been expanded to include small businessmen and women. The National Advisory Council now carries representatives of regional small business organizations such as ours, so that the voice of small business is heard more clearly in Washington.

Mr. Kleppe's service as Mayor of Bismarck, North Dakota, as Congressman, and as SBA Administrator has prepared this man for Cabinet rank; his record in those three positions clearly qualifies him for this important post of Secretary of the Interior. We are confident he will bring the same knowledge, skills, and aptitude to serve the Interior Department with distinction.

The small business community will miss Tom Kleppe personally, but the SBA he has administered these past four years will carry out the goals he has set, and the role of succeeding Administrators will be that much easier because of the tremendous work of Thomas S. Kleppe.

We sincerely urge your prompt approval of this nomination.

Sincerely,

*John W. Hannon*  
John W. Hannon  
President

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Executive Vice President  
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JWH:rmc

The following question was submitted to Mr. Kleppe for response in writing at the request of Senator Metcalf.

NORTHERN GREAT PLAINS RESOURCES PROGRAM

You may be familiar with the Northern Great Plains Resources Program which the Interior Department has been conducting for the last three years. I have strongly supported this effort which involves, in addition to Interior, Agriculture, Environmental Protection Agency, and representatives of the Governors of the five Northern Great Plains states. The Interior Department issued the interim report of this group on August 1.

I believe that the group should be continued. If confirmed, do you intend to continue it? If you have no views on this subject now, will you, after you become Secretary, let the Committee know what you intend to do about the program, after taking office, within 30 days?

RUSSELL B. LONG, LA., CHAIRMAN  
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 HARRY F. BYRD, JR., VA.  
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 BILL BROCK, TENN.

MICHAEL STERN, STAFF DIRECTOR  
 DONALD V. MOOREHEAD, CHIEF MINORITY COUNSEL

## United States Senate

COMMITTEE ON FINANCE  
 WASHINGTON, D. C. 20510

September 22, 1975

The Honorable Henry M. Jackson  
 Chairman  
 Committee on Interior and Insular Affairs  
 United States Senate  
 Washington, D. C. 20510

Dear Scoop:

I appreciate this opportunity to address questions to the nominee for Secretary of the Interior Mr. Tom Kleppe.

As the committee is certainly aware, the issues concerning Alaska which the Interior Department must handle are numerous and complex. My constituents in Alaska would like an indication of the view and philosophies held by Mr. Kleppe which would reflect the kind of policy we may anticipate from him as Interior Secretary.

Since these questions are detailed and will undoubtedly require research I respectfully request that Mr. Kleppe respond in writing for the record of your committee and to me personally.

I would like to further request that these responses be submitted for the record of this committee prior to action on Mr. Kleppe's confirmation.

Kindest regards.

Sincerely,



Mike Gravel

Responsibility to Alaska Natives:

As you may know, over 20 percent of the population of Alaska is "Alaska Native". These Alaskans are of Eskimo, Indian, or Aleut decent. As Alaska Natives, these individuals have a special relationship with the Federal government through the Department of Interior. Not only does the department have particular responsibilities for the implementation of the Alaska Native Claims Settlement Act, which I shall address later in my questioning, but it also has a long history of responsibility for the health, education, and welfare of these Alaskans.

Significant in defining the relationship between the Department and Alaska Natives is the concept of "Indian Self Determination", both as a matter of federal law and department policy. Important to my constituents in the Alaska Native community is the program to contract to Natives for the operation of many public services heretofore provided directly by the Bureau of Indian Affairs. Therefore, I am interested in knowing your philosophy toward the department's responsibilities in the area of services for Alaska Natives and also your personal convictions with respect to a policy of "Indian Self Determination".

Natural Gas Pipeline Construction:

As you are aware, construction is now underway on a trans Alaska oil pipeline from Prudhoe Bay to Valdez, Alaska. Since construction began last spring, two consortiums have formed and are now requesting a permit to build a gas pipeline to deliver natural gas from that same field to market. The process, of course, will involve the Interior Department's consideration of the impact to federal lands the line would cross, and the question of the best routing of such a pipeline.

How do you view the Interior Department's responsibility in considering the questions surrounding the routing of a gas pipeline to deliver North Slope gas to market?

Do you feel that in the process of this consideration, the social and economic impact to Alaska should be an integral part of the impact study?

OCS Leasing in Alaska:

Of major concern to Alaskans is the lease sale #39, tentatively scheduled to be held in December, 1975. Alaskans are conscious of the vast oil and gas resources that we possess, and we are willing to do our part to support a goal of energy independence. But we feel that our cooperation should be matched by cooperation from the federal government in confronting and resolving the problems that will occur to the state from development of the OCS.

Before I can support a lease sale, it is imperative that the regulations controlling OCS development be revised. Legislation has passed the Senate which would do that and will be taken up in the House shortly. The Department in their press release of August 12, announced plans to involve coastal states more fully in OCS development decisions.

1) Would you be willing to work with the Congress to expedite the revision of these regulations? Would you make such revisions a prerequisite for the Northeast Gulf of Alaska sale?

2) A major problem for communities facing OCS development is lack of financial resources for their planning activities. Planning monies in advance of the actual lease sale are crucial for any meaningful State and local involvement in the area community planning. Do you support a concept of revenue-sharing of OCS funds. Do you support and will you work for a financial scheme that would make funds available to the states and communities for advance planning prior to actual leasing of the lands off their shores?

Easements

As I am certain you are aware, the Secretary of Interior has certain responsibilities under the terms of the Alaska Native Claims Settlement Act passed by Congress in 1971. One of those responsibilities deals with the matter of identifying public easements on Native selected lands in advance of final conveyance of some 44 million acres of land to Village and Regional Corporations formed under the terms of the Act.

A great deal of discussion has taken place in Alaska and in Washington with respect to the manner in which easements are to be identified. Alaska Natives, the Bureau of Land Management, the Joint Federal State Land Use Planning Commission, the State of Alaska, and sportsmen user groups have all been involved in these discussions in addition to Interior's Alaska Task Force.

Is it your view that guidelines for the definition and identification of these easements should be just that - internal administrative guidelines - or should they become a part of the Code of Federal Regulations after appropriate procedures have been followed for their adoption?

Transfer of Naval Petroleum Reserves to Interior:

Several proposals have been advanced to transfer management of all Navy Petroleum Reserves in the United States, including Pet 4 in Alaska's Arctic, from the Department of the Navy to Interior. Interior has had experience in managing public lands and has developed processes for public dialogue on the various land uses. Would you favor this transfer? If not, why not?

Federal - State Relationships and D-2 Lands:

What is your view of Federal-State relationships in states where the Federal government holds title to a major portion of public land within the state? What kind of input do you consider appropriate for the states to have in decisions of federal land uses within their boundaries? What kind of state/federal management structure should be created, if any, to deal with the question of management of the so called D-2 lands in Alaska? When do you foresee the D-2 questions being settled? In general, what is your disposition toward the idea of adding over 80 million acres of land to the "four-systems" in Alaska?

Primary Corridors:

Is it your belief that the "Primary Corridor" study prepared by the Bureau of Land Management is sufficient to justify reservation of easements across federal lands soon to be conveyed to Alaska Natives for use as utility corridors for future pipelines, roads, railroads and the like?

Do you feel reservation of these easements at this point in time, based on the information prepared by BLM, is sensible public policy which fairly involves the State of Alaska in the planning process and equitably treats Native landowners?

Questions Senator Cranston wishes to be asked of  
Secretary of the Interior nominee Thomas Kleppe

1. Do you feel the Interior Department should actively engage in a program to purchase private lands and mineral rights on lands within national parks and monuments to protect these areas?
2. What do you think about strip mining in Death Valley National Monument?
3. Do you foresee any circumstances under which the energy crisis could justify destroying any portion of the national park system?

GEORGE MILLER  
7th District, California  
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EDUCATION AND LABOR  
COMMITTEE ON  
INTERIOR AND INSULAR AFFAIRS  
1532 LONGWORTH HOUSE OFFICE BUILDING  
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CHARLES S. HURLBY  
ADMINISTRATIVE ASSISTANT

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September 24, 1975

Senator Henry M. Jackson  
Chairman  
Committee on Interior and Insular Affairs  
137 Russell Senate Office Building  
Washington, D.C. 20015

Dear Senator Jackson:

Tomorrow, September 25, the Senate Interior committee will continue its questioning of Interior Secretary-designate Thomas S. Kleppe. During the hearing on Tuesday, Mr. Kleppe stated that he was willing to consider the possibility of a short delay in the leasing of the California outer continental shelf territory scheduled for next month. On other critical matters concerning Californians, however, he was less definite.

I suggest that there is a serious need for more explicit answers from Mr. Kleppe regarding this most important issue. As Secretary of Interior, he would preside over the greatest transfer of public resources to the private sector in the history of the world. Before confirming him in that office of high responsibility, I would hope that your committee receive firm answers to the central questions concerning not only the California O.C.S. leases, but the policies he will pursue as Secretary in terms of national offshore oil and gas development, including:

- Revision of the terms under which leases are granted, providing an alternative to the bonus bid and fixed royalty arrangement under which billions of dollars from a public resource enrich the coffers of private multi-national companies rather than the public treasury;
- Whether or not there ought to be a separation of exploration and development in O.C.S. territory;
- Coordination of O.C.S. development with affected State governments to assess the on-shore and environmental impact;

- 2 -

- Diversion of a proportion of the profits from the Federal to coastal state treasuries, as is presently the case with other natural resource development;
- What actions Mr. Kleppe would undertake as Secretary to discern the true number of Federal leases capable of producing oil which are at this time deliberately being withheld from production (the Dingell subcommittee in the House reported 168 such leases comprising nearly 788,000 acres);
- How he would eliminate the substantial illegal conflict of interest alleged by the General Accounting Office to exist within the U.S. Geological Survey, which supervises private development of O.C.S. territory, establishes minimum rates for production, maintains production accounts and collects royalties based upon those records. The G.A.O. concluded in a March 31, 1975 report that no fewer than 22 per cent of those USGS employees required to file financial disclosure statements showed interests directly in violation of law, mainly relating to ownership of securities in oil and gas producing companies.

The Department of Interior today announced a two month delay in the California lease sale. But I have been informed by the Department that this postponement resulted from administrative necessities and is not reflective of a reconsideration of Interior's leasing schedule or O.C.S. policy in general. Nor, I was informed, is the postponement indicative of any policy decision by Mr. Kleppe.

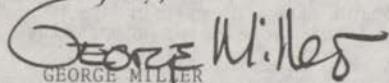
It was not very long ago that I was informed that to delay the California sale beyond September would imperil the national energy program. Then the sale was delayed until October; now until December. I believe that it would be interesting to know what timetable Mr. Kleppe favors.

The decision by Interior to delay the sale obviously was made some time ago, as it is due to the review periods required by law. Yet the Congress was not informed of the delay until the last moment, and neither was the State of California. This is only the latest piece of evidence that the Department of Interior is unconcerned with the opinions and interests of the State and its representatives in Congress. I would be most interested to know Mr. Kleppe's plans to revise this policy.

- 3 -

Admittedly these are challenging questions. But I think it is fair to ask the man who wishes to head the Department of Interior to give his frank responses before he is confirmed in that high office. Sadly, the Congress has had a minimum of influence with Secretaries once they have taken office.

Sincerely,



GEORGE MILLER  
Member of Congress  
Seventh District

GM:jal

cc: Senate Interior Committee  
Senator Alan Cranston  
Senator John V. Tunney

The following questions were prepared by the staff of the Subcommittee on Conservation, Energy, and Natural Resources of the House Government Operations Committee and were submitted to Mr. Kleppe for response in writing.

Following are suggested questions for Mr. Kleppe regarding the recent decision by the Interior Department to transfer jurisdiction over three western game ranges to the Bureau of Land Management.

1. Mr. Kleppe, earlier this year Interior Secretary Morton decided to transfer administration of the Charles M. Russell National Wildlife Refuge (Montana), the Charles Sheldon Antelope Range (Nevada), and the Kofa Game Range (Arizona) to the Bureau of Land Management (BLM). Previously, these ranges had been administered jointly by the BLM and the Fish and Wildlife Service. This has proven to be an extremely controversial decision, and has resulted in a court suit by the Wilderness Society, which has temporarily blocked the transfer. As Secretary of the Interior, would you be willing to re-examine the basis for this decision?
2. The most controversial portion of this decision concerns the Kofa Range. Secretary Morton, in direct contradiction of the advice offered to him by both the BLM and the Fish and Wildlife Service, decided on his own to transfer Kofa to BLM. It has been alleged that this was a decision based on political considerations rather than concern for sound public land management policy. Do you feel it is appropriate for a development-oriented agency such as the BLM to be given

Questions re: Game Range Transfer

2

responsibility for managing the last vestiges of America's great western game ranges? Isn't this a more appropriate function for the Fish and Wildlife Service?

3. Mr. Kleppe, it has come to our attention that, on lands administered under the Taylor Grazing Act, the BLM charges approximately \$1.00 per animal unit month, whereas grazing fees on comparable Fish and Wildlife Service lands generally range from \$2.50 to \$6.00 per animal unit month. Does this seem justifiable to you, particularly in light of the fact that the BLM so desperately needs additional funds for improved range management programs?
4. Mr. Kleppe, the Fish and Wildlife Service is operating under a personnel ceiling which prevents accepting sole jurisdiction over the three game ranges in question. If the Congress or the Interior Department determines that the Fish and Wildlife Service is the appropriate agency to manage any of these game ranges, would you as Interior Secretary support the additional funding necessary to hire enough management personnel to accommodate the increased management responsibility?
5. Mr. Kleppe, what is your philosophy regarding the usage of public lands which have proven wildlife or wilderness value and potential mineral or mining resources? Would you agree there are certain sections of the public domain which have such great environmental significance that they simply must be preserved for posterity in their natural state? Could you cite examples?

Questions re: Game Range Transfer

3

6. Mr. Kleppe, it is well documented that BLM's past management of rangeland has been inadequate. One recent BLM report, entitled "Range Condition Report," prepared for the Senate Appropriations Committee, documents the fact that only 17 per cent of the rangeland administered by BLM is in satisfactory or better condition, while 83 per cent is classified as being in fair to poor condition. As Secretary of the Interior, what steps would you take to improve this situation? Do you feel that this rather poor record of public land management justifies transferring additional responsibilities to BLM?

The following suggested questions concern the National Park Service's management of the activities of concessioners in the National Park System.

1. The Concessions Policy Act of 1965 has been criticized as permitting the concessioners in the National Parks to become so firmly entrenched and so powerful that concession policy management by the Park Service has become less effective. This Act permits the Park Service to grant long-term contracts of up to 30 years to concessioners, and grants the right of preferred renewal to existing concessioners when their contracts expire. Do you feel that this is appropriate? Would you recommend that the Concessions Policy Act be amended?
2. Mr. Kleppe, it is disturbing to me that there has been a recent movement by the Park Service to contract with large corporations for concession operations in our National Parks. For example, the Music Corporation of America controls almost the entire concessions operation in Yosemite Park; TWA Services, Inc., is the sole concessioner in Zion Bryce Canyon and operates part of the concession operation in the Grand Canyon; and General Host is the sole concessioner in Yellowstone. As past director of the Small Business Administration, does it bother you that a larger and larger percentage of National Park

concessions are being handled by the big corporations to the exclusion of "mom-and-pop" operations? What would you suggest be done to deal with this problem?

3. Mr. Kleppe, a recent report by the General Accounting Office regarding National Park Concession operations concludes that, for a number of reasons and in a number of different ways, the Park Service is doing a totally inadequate job of supervising concession contracts. Are you familiar with this report? If not, would you as Interior Secretary expect to meet with Park Service Director Everhardt in order to determine how the GAO recommendations can be implemented?
  
4. Mr. Kleppe, the Park Service has recently conducted a series of workshops around the country in order to receive information from the general public concerning a master plan for Yosemite Park. A similar process is presently being undertaken for several other National Parks. This is in response to the criticism that the concessioners have been playing too great a role in the planning process, while the public has not been given a sufficient opportunity to make its views known. What do you feel is the appropriate role for the public in matters such as these which affect the future of the public lands?

Questions re: National Park Service

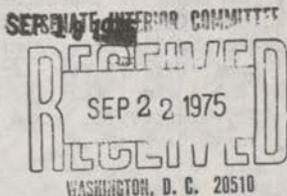
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5. Mr. Kleppe, it is a well-documented fact that one of the reasons the Park Service has been unable to meet its obligations in concession management and other areas is that it has been kept well under its authorized personnel ceiling of approximately 8,500 employees. In light of the fact that very recent statistics indicate that park visitor usage this year is increasing about 10 per cent compared to last year, do you feel that it is justifiable policy to continue holding the personnel ceiling for the Park Service at such a low level? Would you as Secretary of the Interior recommend an increase in permanent positions for Park personnel if you were convinced the positions were needed?

WALLACE CARROLL  
WINSTON-SALEM, N. C. 27102

September 15, 1975

Senator Henry M. Jackson  
Chairman  
Senate Interior Committee  
U.S. Senate  
Washington, D. C.



Dear Senator Jackson:

I read with satisfaction that you will "explore with great care" the qualifications of Thomas S. Kleppe when you consider his nomination to the position of Secretary of the Interior.

May I respectfully request that you try, among other things, to get a clear statement from him of his position on the flooding of the New River valley by the proposed Blue Ridge power project?

The problem, in brief, is as follows:

Appalachian Power Company, a subsidiary of American Electric Power, proposed to dam the New River at two places on the Virginia-North Carolina border in order to build a pumped storage complex. The flow of water between two large lakes would be used to meet peak power demands. The project would consume three units of electricity to produce two. It would therefore do nothing to ease our energy shortage; quite the contrary.

To achieve this negative result, the project would (1) drive three thousand mountaineers from the homes founded by their ancestors in the eighteenth century; (2) flood forty thousand acres of the best food-producing bottomland in the region; (3) damage the agricultural economy and tax base of the mountain counties; (4) destroy these counties' system of communications and compel some children to travel as much as eighty miles a day to attend school; (5) wipe out forever one of the oldest river valleys in the world with its unspoiled beauty and unexplored archeological treasures, and (6) afflict the region with two mud-rimmed lakes that would be a continuing eyesore. And on top of this, not one kilowatt of electricity would come to the afflicted region!

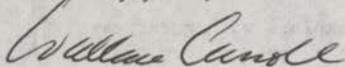
To avert this catastrophe, the North Carolina General assembly, by a unanimous vote of both houses, passed a bill taking a 26-mile stretch of the river into the state's scenic river system. Governor Holshouser then appealed to the Secretary of the Interior, Mr. Hathaway, to take this same stretch into the national scenic river system. Rogers Morton, when he was Secretary of the Interior, had

Senator Henry M. Jackson  
Page 2  
September 15, 1975

promised to do so, and it is our understanding that if the secretary would take this action, which he has the authority to do, the power project would be checkmated. The authority to do this would lie with Mr. Kleppe if he should be confirmed.

Let me emphasize, Senator Jackson, that this matter is a gut issue in North Carolina. I know there is some contrary opinion in Virginia and West Virginia, but their people are not being robbed of their birthright. If you can do anything to get a clear and favorable commitment from Mr. Kleppe (or whoever the next secretary may be) you would win the eternal gratitude of the people of North Carolina.

Sincerely yours,



Wallace Carroll

WC:dh

P. S. Dorothy Fosdick can give you my credentials.

852 Wellington Road  
Winston-Salem, N. C. 27106

The following questions were submitted to Mr. Kleppe for response in writing at the request of the Energy Policy Task Force of the Consumer Federation of America.

(1) The Interior Department is nearing a decision-point as to whether to proceed with a proposed lease-sale of 1.6 million acres of OCS lands off Southern California. Do you believe that the terms of this proposed lease-sale--calling for a 16 2/3% royalty payment to the U.S. government--adequately protect the interests of the American taxpayer?

(2) Would you give this committee a commitment that you will personally review the terms and conditions of this proposed sale, should you be confirmed, and attempt to insure that no notice of the sale is published in the Federal Register until you have completed such a review?

(3) Have you arrived at any conclusions as to the desirability of using other methods of calculating the Federal Government's share of OCS revenues or profits? Do you believe that other proposed methods--such as specifying a minimum percentage share of the net profits to be reserved to the U.S.; or making the share of profits, instead of the amount of the cash bonus, the determinant of accepting bids--might better protect the public's interest?

(4) Until some permanent revision of leasing procedures for the OCS is enacted(similar to S. 521, which has passed the Senate), do you believe that leasing on frontier areas of the OCS should continue at the projected pace?

(5) Are you aware of the amount of already-leased OCS lands that are currently in non-producing status? Is the Department prepared to make

an all-out effort to speed up production from those areas already leased before launching a massive effort to lease frontier areas on the OCS?

[ As of December 31, 1974, according to the Geological Survey, there were almost 4.1 million acres of leased OCS lands that were non-producing, almost one million acres more than were actually producing. ]

## PROPOSED SOUTHERN CALIFORNIA OCS LEASE-SALE

## I THE PROPOSED SALE

In January of 1974, the Interior Department called for nomination of tracts for development of oil and gas on the OCS off Southern California. The sale, covering about 1.6 million acres, would be the first by the Federal government off Southern California since the Santa Barbara blowout in 1969.

Since the call for nomination, a programmatic Environmental Impact Statement was released in October of 1974 and public hearings have been held in a number of sites.

At the present time, the status of the proposed sale is as follows (according to Frank Edwards, Assistant Director for Minerals Management of the Bureau of Land Management in Interior):

.At the present time, BLM is still compiling the information to be submitted to the Secretary of the Interior prior to publication in the Federal Register of a notice of sale on which tracts in the proposed lease-sale area will be offered;

.Prior to publication of this notice in the Register, the Secretary must decide whether the sale shall go forward. If he decides that it shall, the notice is published.

.Thirty days after the date of publication of the notice, the sale takes place (i.e., bids are submitted by the companies for tracts in which they are interested).

.Interior then examines the bids for thirty days, and within that period of time decides whether to accept or reject bids on particular tracts. The Secretary must again formally make this decision. If the bids are accepted, the lease-sale process is over for those tracts on which bids are accepted.

According to Mr. Edwards, the Department had been shooting for October 15 as the date for publication in the Register of the notice of sale. However, it appears unlikely that this target will be met, and could be delayed for several weeks beyond this date. This implies that the first decision point for the Secretary will come sometime between October 15 and the early part of November, with the second decision point (i.e., whether to accept bids on particular tracts) following approximately two months later.

According to Edwards, the first decision point--whether to publish the notice of sale in the Register--could be made without Kleppe having been confirmed, with the decision made by the Acting Secretary.

## II BASIC FACTS OF THE PROPOSED LEASE-SALE OIL AND NATURAL GAS RESOURCES

### (1) QUANTITIES OF OIL AND NATURAL GAS

In 1974, two widely differing estimates of the recoverable oil and natural gas resources in the lease-sale area were used.

The Western Oil and Gas Association released the industry's basic estimates of the potential for the lease-sale area:

"WOGA geologists estimate that 6 to 19 billion barrels of oil may be found and produced from the 1.6 million acre sales area.... Production estimates are reasonably placed at 14 billion barrels.... Natural gas should be produced along with the oil in the ratio of 2,000 cf per barrel and natural gas reserves are estimated to be 28 trillion Mcf." (Richard Manning, Western Oil and Gas Association, Hearings before the National Ocean Policy Study Subcommittee, Santa Monica, Calif., September 27, 1974)

The Geological Survey's estimate differed quite sharply from that of WOGA:

"...the resource potential of the Southern California OCS is better known....It is estimated that there may be from 1.6 to 2.7 billion barrels of oil and from 2.4 to 4.8 trillion cubic feet of gas there." (David Lindgren, Deputy Solicitor, Dept. of Interior, Ocean Policy Subcommittee hearings, September 28, 1974).

Subsequent to these hearings, the WOGA changed its position and now states that it can make no reasonable estimate of the oil and natural gas potential of the Southern California lease-sale area.

### (2) PRODUCTION COSTS

On October 8, 1974, Under Secretary of the Interior John Whitaker testified before the Interior Appropriations Subcommittee of the House. He was testifying on behalf of the Administration's accelerated leasing schedule on the OCS. During that testimony he stated that "It is estimated, for example, that, excluding bonus payments, OCS oil costs from \$1.50 to \$3.50 per barrel to produce, compared to about \$10 less any profits returned to this country, for imported oil."

Added to these production costs are bonus payments (which in the Southern California lease-sale will probably be no higher than the

-3-

\$2 to \$3 billion range) and royalties to the U.S. government (which for this sale, as for most others, will be  $16 \frac{2}{3}\%$  of the value of production) and taxes. In addition, the government requires small per acre lease payments.

While no thorough economic analysis of the lease-sale has yet been done, the apparent gross sales value of the oil and natural gas contained in the Southern California sale area (computed at \$13 per barrel for oil) would be well over \$180 billion over the life of the field.

The total costs of development would include \$3 billion for bonuses (estimate), approximately \$42 billion for lifting and transporting the oil (using the WOGA estimate of 14 billion barrels and the upper end of Whitaker's production estimate--\$3 per barrel) and approximately \$30 billion in royalties. This totals about \$75 billion, or \$105 billion less than the estimated potential value of the field's production.

It must be noted that these are extremely rough estimates and do not include the discounted cost of money or future variations in the sale price of the oil and natural gas. Including these variables could make very substantial differences in the potential profit to be realized from this lease-sale. Yet the magnitude of the very rough figures should at least lead to some questioning of the basis for computing the U.S. royalty percentage from this sale.

The following questions were submitted to Mr. Kleppe for response in writing at the request of the United Mine Workers of America.

Currently the Department of Interior has the responsibility for enforcing the 1969 Coal Mine Health and Safety Act through the Mining Enforcement and Safety Administration. The history of that administration's performance leaves much to be desired. Coal miners are well aware that as the pressure for production increases, as presently is the case, the concern for safety decreases.

\*Do you believe that the responsibility for enforcing mine safety laws should rest within the same agency responsible for increasing production?

\*What is your opinion of the legislation before this Congress that would transfer safety responsibility to the Department of Labor?

When Congress passed the 1969 Act, it realized that one of the strongest detriments to unsafe mining practices is the assessment and collection of fines for unsafe practices. The failures of the Department of Interior in this regard are well known.

\*If Interior remains responsible for this function how would you improve the system in order to actually carry out the intent of Congress?

Your predecessor stated that the next head of MESA would have training and experience in mining.

\*What qualifications do you feel the new Administrator of MESA should possess?

\*Do you believe it is helpful in policy formulation to maintain open lines of communication with groups directly affected by Interior policies?

For example, on matters affecting mine safety do you intend to solicit the views of labor and management?



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

September 26, 1975

Honorable Henry M. Jackson  
Chairman  
Committee on Interior and Insular Affairs  
United States Senate  
Washington, D. C. 20510

Dear Mr. Chairman:

During the course of my appearance before your Committee on September 23, 1975, you asked that I reply, for the record, to certain questions concerning the views and philosophies that I now hold with respect to some of the issues before the Department of the Interior. The questions and my answers follow.

I am grateful for the understanding which your Committee has shown with respect to my reluctance to commit to specific positions on issues prior to taking the oath of office and having the opportunity to become thoroughly familiar with all relevant facts. I will make a consistent effort to approach every issue with an open mind and without predisposition.

On the basis of my short discussions with Interior Department officials and the fundamental philosophies that I hold, I have attempted to respond generally to your questions. I would welcome the opportunity at a later time to explore these issues in greater depth with you.

[The 5 following questions were submitted by the staff of the Senate Committee on Interior and Insular Affairs]

PROPOSED SOUTHERN CALIFORNIA OCS LEASE-SALE

1. The Interior Department is nearing a decision-point as to whether to proceed with a proposed lease-sale of 1.6 million acres of OCS lands

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off Southern California. Do you believe that the terms of this proposed lease-sale--calling for a 16-2/3% royalty payment to the U. S. government--adequately protect the interests of the American taxpayer?

ANSWER: I am informed that the 16-2/3% royalty payment does not represent the total remuneration received by the American taxpayer for lease-sales of OCS lands. In addition, substantial bonus moneys are paid by the successful bidder for the right to develop the lease. I realize there is considerable concern that the heavy front-money commitment in bonus bidding may confine bidding to the largest companies, may depress competition for leases, and reduce total bonus bids. Nevertheless, I am advised that the Department's bid rejection procedures ensure that leases are not sold for less than fair market value. This is the primary method of protecting the interests of the American taxpayer. I also understand that, over the last year, a number of steps have been taken to tighten these bid rejection procedures.

2. Would you give this Committee a commitment that you will personally review the terms and conditions of this proposed sale, should you be confirmed, and attempt to insure that no notice of the sale is published in the Federal Register until you have completed such a review?

ANSWER: Since the Department has just announced, on September 24, 1975, that the proposed sale will not be held until early December, I can assure this Committee that, if confirmed, I will personally review the terms and conditions of the proposed sale and make no decision on the publishing of the notice of sale until I have reviewed the final environmental impact statement and public comment thereon and am fully convinced that the development of our energy resources off the coast of southern California will take place in a responsible manner.

3. Have you arrived at any conclusions as to the desirability of using other methods of calculating the Federal Government's share of OCS revenues or profits? Do you believe that other proposed methods--such as specifying a minimum percentage share of the net profits to be reserved to the U.S.; or making the share of profits, instead of the amount of the cash bonus, the determinant of accepting bids--might better protect the public's interest?

ANSWER: No, I have not. I would want to examine this question to see if a way could be found to give all qualified bidders a chance while ensuring that the public's interest is fully protected.

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4. Until some permanent revision of leasing procedures for the OCS is enacted (similar to S. 521, which has passed the Senate), do you believe that leasing on frontier areas of the OCS should continue at the projected pace?

ANSWER: I believe that it is important for us to proceed with the consideration of the frontier areas for leasing in an effort to reduce our reliance on expensive foreign imports and assist us in our economic recovery.

It is my understanding that the OCS program is being significantly modified. State participation in the leasing process before departmental decisions has been expanded; a comprehensive program of environmental baseline and monitoring programs has been initiated; procedures are being developed to require lessees to provide States with information relative to onshore development and to give States an opportunity to review development plans, again before departmental decision; and proposed rulemaking has been issued both to impose a ban on joint bidding among major oil companies and to provide for early disclosure of geophysical and geological data. All of these actions are taking place under the current OCS Lands Act.

5. Are you aware of the amount of already-leased OCS lands that are currently in non-producing status? Is the Department prepared to make an all-out effort to speed up production from those areas already leased before launching a massive effort to lease frontier areas on the OCS?

ANSWER: I am advised that the Department is revising its diligence requirements to ensure that lessees explore and develop their leases during the 5-year primary term. Some leases are, of course, non-productive and revert to the Government. Other leases are extended if there are legitimate equipment constraints.

Providing an opportunity for development in each major region of the OCS as soon as possible increases the probability that the best prospects will be found and production brought on line soon enough to have a substantial impact on our reliance on imports over the next 5 to 15 years.

[The 5 following questions were submitted by Senator Harrison A. Williams, Jr.]

#### MINE HEALTH AND SAFETY

6. Some high officials of the Administration have been quoted as saying that some of the nation's economic ills could be alleviated by

relaxing safety standards for American workers. Do you believe that such views are inconsistent with the mandate in our safety laws to assure the maximum health and safety of the American worker?

ANSWER: I am not aware that any high officials of the Administration are making such statements. With respect to the mining industry, the first priority of the industry, and indeed its most important resource, should be the miner himself. Vigorous enforcement of mine safety laws is not, therefore, inconsistent with the nation's goal of increased mining and energy production.

7. As Secretary of Interior, you will be responsible for the operation of the Mining Enforcement and Safety Administration. Are you aware of the current controversy surrounding the administration of MESA and the charges that the agency seems to be unable to enforce the safety and health provisions of the 1966 Metal and Nonmetallic Mine Safety Act and the 1969 Coal Mine Health and Safety Act, as evidenced by the continuing very high injury and fatality rates?

ANSWER: I am not aware of any basis for the charge that MESA is unable to enforce safety and health provisions of our mining laws. To the contrary, the Annual Report for the 1974 calendar year of MESA indicates that there have been major reductions in both fatal and non-fatal injuries during the past few years, as programs under this relatively new agency have been more fully implemented by Interior. I will lend my best efforts to ensure that such favorable trend in both the absolute decline in injuries and the rate of such decline will continue.

8. As a specific example, since the 1969 Coal Mine Health and Safety Act became law, 48 million dollars in penalties for safety violations have been assessed against the coal operators, but only 30% of this has been collected. Are you aware of this and do you have any specific ideas on how to improve the system?

ANSWER: I am advised that the figures cited in the question do not present an accurate picture of penalty enforcement. Prior to August, 1974, the procedures in effect often resulted in high proposed penalty assessments, many of which could not be supported in fact or in law. They were frequently reduced by subsequent judicial and quasi-judicial appellate proceedings.

Since August of 1974, improved penalty assessment and collection procedures have been instituted and enforced, and collection amounts have been dramatically increased.

If confirmed, I will continue to review procedures and performance to ensure that penalties are assessed and collected in a timely and legally enforceable manner.

9. At present, the position of Administrator of the Mining Enforcement and Safety Administration is unfilled. What qualifications do you think a person should have to enable him to be an effective Administrator of MESA?

ANSWER: I think the most important qualification for the post of Administrator of MESA is extensive experience regarding the mining problems and issues presented by this unique agency. I also believe that good management ability would be important. Only a balanced background in the unique problems of mining operations would enable the Administrator effectively to manage MESA in identifying and implementing its enforcement, research, and education and training responsibilities.

I would do my best to expedite the hiring process, because I believe that it is important to have the Administrator of MESA in office quickly.

10. One of the concerns of Congress is the role of the Department of Interior in its responsibility to maximize the production of minerals and energy fuels, while at the same time, enforcing the mine safety laws vigorously. The conflict between the two is apparent. How would you attempt to resolve this conflict?

ANSWER: As I stated in my response to question 6, I do not believe these two goals are in conflict. It will never be my objective to achieve increased production at the expense of injury and death to miners.

[The 7 following questions were submitted by Senator Mike Gravel]

#### RESPONSIBILITY TO ALASKA NATIVES

11. As you may know, over 20 percent of the population of Alaska is "Alaska Native." These Alaskans are of Eskimo, Indian or Aleut

decent. As Alaska Natives, these individuals have a special relationship with the Federal Government through the Department of Interior. Not only does the Department have particular responsibilities for the implementation of the Alaska Native Claims Settlement Act, which I shall address later in my questioning, but it also has a long history of responsibility for the health, education, and welfare of these Alaskans.

Significant in defining the relationship between the Department and Alaska Natives is the concept of "Indian Self Determination," both as a matter of Federal law and Department policy. Important to my constituents in the Alaska Native community is the program to contract to Natives for the operation of many public services heretofore provided directly by the Bureau of Indian Affairs. Therefore, I am interested in knowing your philosophy toward the Department's responsibilities in the area of services for Alaska Natives and also your personal convictions with respect to a policy of "Indian Self Determination."

ANSWER: I am informed that the Department, through the Bureau of Indian Affairs, is currently spending approximately \$40 million annually in the State of Alaska to provide social, economic and educational services to Alaska Natives. The Alaska Native Claims Settlement Act directed that a study be undertaken to determine the future management and operations of programs primarily affecting Alaska Natives. I have been advised that this study has been completed and submitted to the Congress.

Regarding Indian Self Determination, I would also like to point out that a great part of my effort at SBA has been directed toward assisting people to enter into businesses and to become self-sufficient. The concept of Indian Self Determination is something that I personally support.

#### NATURAL GAS PIPELINE CONSTRUCTION

12. As you are aware, construction is now underway on a trans Alaska oil pipeline from Prudhoe Bay to Valdez, Alaska. Since construction began last spring, two consortiums have formed and are now requesting a permit to build a gas pipeline to deliver natural gas from that same field to market. The process, of course, will involve the Interior Department's consideration of the impact to Federal lands the line would cross, and the question of the best routing of such a pipeline.

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How do you view the Interior Department's responsibility in considering the questions surrounding the routing of a gas pipeline to deliver North Slope gas to market?

Do you feel that in the process of this consideration, the social and economic impact to Alaska should be an integral part of the impact study?

ANSWER: In order to rule on the application for permits to construct any gas pipeline system, the Department will have to consider the environmental, economic, and social consequences of such a project, as well as the impacts of the major alternatives. I understand that, in addition to an EIS, the Department has initiated studies aimed at the economic and other important issues involved in such a decision, and an economic feasibility report will be furnished to Congress on or before November 16, 1975. In addition, the FPC will have to prepare an EIS on the competing applications it is considering. As a result of these efforts, I can assure the Committee that the impact on the State of Alaska will be carefully considered before a final decision is reached.

#### OCS LEASING IN ALASKA

13. Of major concern to Alaskans is the lease sale #39, tentatively scheduled to be held in December, 1975. Alaskans are conscious of the vast oil and gas resources that we possess, and we are willing to do our part to support a goal of energy independence. But we feel that our cooperation should be matched by cooperation from the Federal Government in confronting and resolving the problems that will occur to the State from development of the OCS.

Before I can support a lease sale, it is imperative that the regulations controlling OCS development be revised. Legislation has passed the Senate which would do that and will be taken up in the House shortly. The Department in their press release of August 12, announced plans to involve coastal states more fully in OCS development decisions.

1) Would you be willing to work with the Congress to expedite the revision of these regulations? Would you make such revisions a prerequisite for the Northeast Gulf of Alaska sale?

2) A major problem for communities facing OCS development is lack of financial resources for their planning activities. Planning monies in advance of the actual lease sale are crucial for any meaningful State and local involvement in the area community planning. Do you support a concept of revenue-sharing OCS funds. Do you support and will you work for a financial scheme that would make funds available to the states and communities for advance planning prior to actual leasing of the lands off their shores?

ANSWER: 1) As you know, I have made clear my desire to work with the Congress on every occasion that I can. However, I also believe that it is important for the Department to proceed with consideration of the frontier areas, including the Gulf of Alaska, for leasing in an effort to reduce our dependence on expensive imports and to speed economic recovery.

It is my understanding that a concerted effort has been made by the Department of the Interior to improve the OCS leasing program under the existing legislation. States have been given access to decisions at key points throughout the process. The quantity and quality of environmental and special studies has been improved, and the rules and regulations have been adjusted to ensure that proper value for offered tracts is received. All these actions are being taken under the OCS Act.

2) I have not yet had an opportunity to become fully acquainted with either of these complex issues. If confirmed, I will review these issues in order to determine what steps are necessary and feasible.

#### EASEMENTS

14. As I am certain you are aware, the Secretary of Interior has certain responsibilities under the terms of the Alaska Native Claims Settlement Act passed by Congress in 1971. One of those responsibilities deals with the matter of identifying public easements on Native selected lands in advance of final conveyance of some 44 million acres of land to Village and Regional Corporations formed under the terms of the Act. A great deal of discussion has taken place in Alaska and in Washington with respect to the manner in which easements are to be identified. Alaska Natives, the Bureau of Land Management, the Joint Federal State Land Use Planning Commission, the State of Alaska, and sportsmen user groups have all been involved in these discussions in addition to Interior's Alaska Task Force.

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Is it your view that guidelines for the definition and identification of these easements should be just that -- internal administrative guidelines -- or should they become a part of the Code of Federal Regulations after appropriate procedures have been followed for their adoption?

ANSWER: It is my understanding that the Act calls for a "Secretarial determination" of the easement question. There is no specific mandate for the establishment of Federal regulations.

The real question is whether the decision-making process will be an open one made in full consultation with the interested parties.

I am informed that there has been a series of public hearings as well as meetings with State and Native leaders and other interested groups, and, if confirmed, I will ensure that the eventual decision is fair and equitable.

#### TRANSFER OF NAVAL PETROLEUM RESERVES TO INTERIOR

15. Several proposals have been advanced to transfer management of all Navy Petroleum Reserves in the United States, including Pet 4 in Alaska's Arctic, from the Department of the Navy to Interior. Interior has had experience in managing public lands and has developed processes for public dialogue on the various land uses. Would you favor this transfer? If not, why not?

ANSWER: The Administration's main concern is to get the reserves explored and into production and to set up a strategic storage system. I believe that the Interior Department, if given jurisdiction over exploration and development has the expertise and experience to carry out a successful program.

#### FEDERAL - STATE RELATIONSHIPS AND D-2 LANDS

16. What is your view of Federal-State relationships in states where the Federal Government holds title to a major portion of public land within the State? What kind of input do you consider appropriate for the states to have in decisions of Federal land uses within their boundaries? What kind of State/Federal management structure should be created, if any, to deal with the question of management of the so called D-2 lands in Alaska? When do you foresee the D-2 questions being settled? In

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general, what is your disposition toward the idea of adding over 80 million acres of land to the "Four-Systems" in Alaska?

ANSWER: Where the Federal Government holds title to a major portion of the public lands within a State, I feel that it is imperative that the State be consulted and involved in the decision-making process which affects both jurisdictions of Government. In addition to direct contact with the Governor and State officials, I am apprised that there is a Federal-State Land Use Planning Commission in Alaska, which allows State input into the Federal land use planning process. The Alaska Native Claims Settlement Act mandates that the D-2 question must be settled before December 18, 1978. I have not reviewed the recommendations which would add over 80 million acres of land to the "Four Systems" in Alaska. I understand that congressional hearings will be scheduled on these recommendations. I am looking forward to working with Congress on this issue.

#### PRIMARY CORRIDORS

17. Is it your belief that the "Primary Corridor" study prepared by the Bureau of Land Management is sufficient to justify reserval of easements across Federal lands soon to be conveyed to Alaska Natives for use as utility corridors for future pipelines, roads, railroads and the like?

Do you feel reservation of these easements at this point in time, based on the information prepared by BLM, is sensible public policy which fairly involves the State of Alaska in the planning process and equitably treats Native landowners?

ANSWER: I am not completely familiar with the BLM Utility Corridor Easement Study. I understand that the issue is extremely complex, involving both the Native corporations and the State of Alaska. I am told that there have been a number of public hearings throughout Alaska on the corridor issue. There has also been a series of meetings with State and Native leaders, and I understand that a tentative decision has been reached. However, this is a matter which, if confirmed, I would review carefully before making a final decision.

[The 11 following questions were submitted by the Subcommittee on Conservation, Energy and Natural Resources of the House Government Operations Committee]

GAME RANGE TRANSFER

18. Mr. Kleppe, earlier this year Interior Secretary Morton decided to transfer administration of the Charles M. Russell National Wildlife Refuge (Montana), the Charles Sheldon Antelope Range (Nevada), and the Kofa Game Range (Arizona) to the Bureau of Land Management (BLM). Previously, these ranges had been administered jointly by the BLM and the Fish and Wildlife Service. This has proven to be an extremely controversial decision, and has resulted in a court suit by the Wilderness Society, which has temporarily blocked the transfer. As Secretary of the Interior, would you be willing to re-examine the basis for this decision?

ANSWER: While I do not believe it is possible to re-examine all the decisions made by the Department in the last years, I will thoroughly review the game range issue, on a case-by-case basis because of the broad controversy that has arisen on that subject.

19. The most controversial portion of this decision concerns the Kofa Range. Secretary Morton, in direct contradiction of the advice offered to him by both the BLM and the Fish and Wildlife Service, decided on his own to transfer Kofa to BLM. It has been alleged that this was a decision based on political considerations rather than concern for sound public land management policy. Do you feel it is appropriate for a development-oriented agency such as the BLM to be given responsibility for managing the last vestiges of America's great western game ranges? Isn't this a more appropriate function for the Fish and Wildlife Service?

ANSWER: I am not personally familiar with the Kofa Game Range. However, in my re-examination of the game range question, I will include a close review of the professional views of BLM and the Fish and Wildlife Service, as well as the specific characteristics of the Kofa Range itself. I would add that the mission of the BLM is multiple use, and is balanced between multi-use development and protection of the public lands. I am informed that the BLM has approximately 140 wildlife biologists and manages more wildlife habitat than all other Federal agencies combined.

Parenthetically, I feel that it is unfair to characterize BLM as a "development-oriented agency," and inaccurate to state that BLM is "given responsibility for managing the last vestiges of America's great western game ranges." I am also advised that the statement that Secretary Morton's decision on the transfer of the Kofa Range was in direct contradiction with advice offered

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by both BLM and the Fish and Wildlife Service is not in accordance with the facts.

20. Mr. Kleppe, it has come to our attention that, on lands administered under the Taylor Grazing Act, the BLM charges approximately \$1.00 per animal unit month, whereas grazing fees on comparable Fish and Wildlife Service lands generally range from \$2.50 to \$6.00 per animal unit month. Does this seem justifiable to you, particularly in light of the fact that the BLM so desperately needs additional funds for improved range management programs?

ANSWER: I am advised that the grazing fees on public lands were maintained at \$1.00 per animal unit per month last year because of the extremely serious economic condition of the livestock industry. It is my belief that fees should continue to be charged on a schedule which moves toward fair market value. I am not yet sufficiently informed of the details of this issue to indicate what the fees should be for the next year.

In light of the statement that BLM desperately needs additional funds for improved range management programs, it should be noted that funds for such programs do not now depend, and have never depended, upon the level of grazing fees charged. All grazing fee revenues go to the Treasury, and the range management program must be operated from direct appropriations.

21. Mr. Kleppe, the Fish and Wildlife Service is operating under a personnel ceiling which prevents accepting sole jurisdiction over the three game ranges in question. If the Congress or the Interior Department determines that the Fish and Wildlife Service is the appropriate agency to manage any of these game ranges, would you as Interior Secretary support the additional funding necessary to hire enough management personnel to accommodate the increased management responsibility?

ANSWER: Within overall Department priorities, I would support levels of funding and manpower necessary to manage adequately the game ranges irrespective of which managing agency is given jurisdiction. Further, I would vigorously advocate within the Administration any additional funding needed for adequate staffing.

22. Mr. Kleppe, what is your philosophy regarding the usage of public lands which have proven wildlife or wilderness value and potential mineral

or mining resources? Would you agree there are certain sections of the public domain which have such great environmental significance that they simply must be preserved for posterity in their natural state? Could you cite examples?

ANSWER: I am unable to cite examples, but I am in accord with the view that there may be sections of the public domain whose environmental significance is so unique that they should receive special protection. I am informed that BLM has an active program to establish Primitive Areas on the public domain, and I support the principles of that program.

23. Mr. Kleppe, it is well documented that BLM's past funding for management of rangeland has been inadequate. One recent BLM report, entitled "Range Condition Report," prepared for the Senate Appropriations Committee, documents the fact that only 17 per cent of the rangeland administered by BLM is in satisfactory or better condition, while 83 per cent is classified as being in fair to poor condition. As Secretary of the Interior, what steps would you take to improve this situation? Do you feel that this rather poor record of public land management justifies transferring additional responsibilities to BLM?

ANSWER: I have been informed by the Department about the serious and deteriorating condition of the public range. I believe that the Department has an inherent responsibility to upgrade and maintain the health and productivity of the public range. We must be stewards and protectors, as well as users, of this great natural resource. While I believe that the BLM has done a fine job within its budgetary and manpower restrictions, I will place a priority on seeking to improve this disturbing condition.

#### NATIONAL PARK SERVICE

24. The Concessions Policy Act of 1965 has been criticized as permitting the concessioners in the National Parks to become so firmly entrenched and so powerful that concession policy management by the Park Service has become less effective. This Act permits the Park Service to grant long-term contracts of up to 30 years to concessioners, and grants the right of preferred renewal to existing concessioners when their contracts expire. Do you feel that this is appropriate? Would you recommend that the Concessions Policy Act be amended?

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ANSWER: It is my initial impression that the principle to be followed with respect to length of contract terms is that they should be as short as is consistent with a reasonable profit. This principle obviously calls for a case-by-case examination of the economic prospects of each concession operation to make a reasoned judgment as to what an appropriate term might be.

I believe that a preferential right to renewal of concession contracts should be granted only where necessary to attract qualified concessioners. Again, this would call for a sophisticated, case-by-case analysis of the economic viability of each concession operation.

Until I have had the chance to become fully informed on this subject, I will not be in a position to know whether legislation would be appropriate.

25. Mr. Kleppe, it is disturbing to me that there has been a recent movement by the Park Service to contract with large corporations for concession operations in our National Parks. For example, the Music Corporation of America controls almost the entire concessions operation in Yosemite Park; TWA Services, Inc., is the sole concessioner in Zion Bryce Canyon and operates part of the concession operation in the Grand Canyon; and General Host is the sole concessioner in Yellowstone. As past director of the Small Business Administration, does it bother you that a larger and larger percentage of National Park concessions are being handled by the big corporations to the exclusion of "mom-and-pop" operations? What would you suggest be done to deal with this problem?

ANSWER: I believe very strongly in the encouragement of small business. But, at the same time, it is clear that the size of a particular concession operation, both in terms of investment and management responsibility, must dictate the size of the concessioner. This requires case-by-case analysis, and a "mom-and-pop" operation may simply not prove feasible in some park areas.

26. Mr. Kleppe, a recent report by the General Accounting Office regarding National Park Concession operations concludes that, for a number of reasons and in a number of different ways, the Park Service is doing a totally inadequate job of supervising concession contracts. Are you familiar with this report? If not, would you as Interior Secretary expect to meet with Park Service Director Everhardt in order to determine how the GAO recommendations can be implemented?

ANSWER: I am not familiar with the General Accounting Office Report. If confirmed, I intend to familiarize myself with the report and meet with Director Everhardt to discuss the situation.

27. Mr. Kleppe, the Park Service has recently conducted a series of workshops around the country in order to receive information from the general public concerning a master plan for Yosemite Park. A similar process is presently being undertaken for several other National Parks. This is in response to the criticism that the concessioners have been playing too great a role in the planning process, while the public has not been given a sufficient opportunity to make its views known. What do you feel is the appropriate role for the public in matters such as these which affect the future of the public lands?

ANSWER: Valuable information can be gained from both the general public and knowledgeable concessioners. . . it should not be a question of either/or. I am certainly interested in, and desire input from, the public on any issue affecting the public lands.

28. Mr. Kleppe, it is a well-documented fact that one of the reasons the Park Service has been unable to meet its obligations in concession management and other areas is that it has been kept well under its authorized personnel ceiling of approximately 8,500 employees. In light of the fact that very recent statistics indicate that park visitor usage this year is increasing about 10 per cent compared to last year, do you feel that it is justifiable policy to continue holding the personnel ceiling for the Park Service at such a low level? Would you as Secretary of the Interior recommend an increase in permanent positions for Park personnel if you were convinced the positions were needed?

ANSWER: At this point, I am not sufficiently informed to know whether additional personnel should be allocated to the Park Service within the Department of Interior. I would make such an allocation if I deemed it appropriate and it was within my authority. If I become convinced that a legislative authorization of additional personnel is required for this purpose, I will vigorously advocate this position within the Administration.

[The following question was submitted by Mr. Wallace Carroll of Winston-Salem, North Carolina]

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NEW RIVER

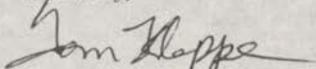
29. Please state your position on the flooding of the New River valley by the proposed Blue Ridge power project.

ANSWER: The State of North Carolina has filed an application with the Interior Department seeking inclusion of 26.5 miles of the New River in the nation's Wild and Scenic River System. The State at present is correcting certain minor deficiencies in its application.

In the meantime, the Department's Bureau of Outdoor Recreation is preparing the required environmental impact statement on the New River proposal. Additionally, the law requires that the State's application be circulated to appropriate Federal agencies for a 90-day comment period. Should I be confirmed, I will study the impact statement, agency comments, and all other factual information that may become available on this issue that is pertinent to a decision.

A major complication in the issue is a pending court action to decide the validity of the Federal Power Commission license granted an electric company for construction of a power plant on the river. The outcome of this litigation would be a factor in resolving whether the New River segment under study by the Department legally could be included in the system.

Sincerely,



Thomas S. Kleppe  
Secretary-Designate  
Department of the Interior



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

September 30, 1975

Honorable Henry M. Jackson  
Chairman  
Committee on Interior and Insular Affairs  
United States Senate  
Washington, D. C. 20510

Dear Mr. Chairman:

At the conclusion of my testimony before your Committee on September 23, 1975, you asked that I reply, for the record, to certain additional written questions concerning the views and philosophy that I now hold with respect to some of the issues before the Department of the Interior.

As I stated in my letter of September 26, 1975, responding to written questions submitted to me earlier, my answers are based upon relatively short discussions with Department of the Interior officials and fundamental philosophies that I hold. My answers are, therefore, necessarily general. I would welcome the opportunity at a later time to explore these issues in greater depth, when I have had the opportunity to become thoroughly familiar with all relevant facts and to hear the opinions of experts on all sides of the issues.

[The 3 following questions were submitted by the staff of the Senate Committee on Interior and Insular Affairs]

COAL MINE HEALTH & SAFETY

1. Currently the Department of Interior has the responsibility for enforcing the 1969 Coal Mine Health and Safety Act through the Mining Enforcement and Safety Administration. The history of that Administration's performance leaves much to be desired. Coal miners are well aware that as the pressure for production increases, as presently is the case, the concern for safety decreases.

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- a) Do you believe that the responsibility for enforcing mine safety laws should rest within the same agency responsible for increasing production?

ANSWER: If both mine safety enforcement and production were within the scope of responsibility of the same personnel, potential conflict could arise. Such is not the case, however. The clear division of responsibility, I am informed, was a principal reason for creating the Mining Enforcement and Safety Administration as a separate entity within the Department of the Interior, independent of the Bureau of Mines. This structure, whereby the two entities report to and through separate Bureau heads who are themselves each appointed by the President by and with the consent of the Senate, ensures that the necessary independence of these two functions will be preserved, while at the same time preserving within the Department of the Interior the complementary expertise of both.

- b) What is your opinion of the legislation before this Congress that would transfer safety responsibility to the Department of Labor?

ANSWER: Mining is a highly specialized industry. The methods and technologies used in mines have no counterpart in other industries, and create unique occupational hazards. It appears to me that an intimate understanding of mining methods and related technologies is essential to the development and enforcement of effective safety and health standards in this area. The research and development, technological and other mining-related resources found elsewhere in Interior are, I am informed, a vital support to MESA's activities. These collateral resources are necessary to the mission of the Department, and just as necessary to the efficient functioning of MESA. Duplication of these supporting resources in another agency would appear to be difficult and expensive, as well as impracticable, and I am not satisfied that the Interior Department cannot do the job effectively.

2. When Congress passed the 1969 Act, it realized that one of the strongest detriments to unsafe mining practices is the assessment and collection of fines for unsafe practices. The failures of the Department of Interior in this regard are well known.

If Interior remains responsible for this function how would you improve the system in order to actually carry out the intent of Congress?

3

ANSWER: I am informed that the procedures in effect prior to August 1974 presented some administrative difficulties in the assessment and ultimate collection of penalties. Since that time, improved penalty assessment and collection procedures have been instituted and enforced, and collection amounts have been dramatically increased.

I am philosophically opposed to maintaining any system of penalties that cannot be, or is not, enforced fully and fairly. It is destructive to the attitude of all concerned. If confirmed, I will continue to review procedures and performance to ensure that penalties are assessed in a uniform, timely and legally enforceable manner.

3. Your predecessor stated that the next head of MESA would have training and experience in mining.

- a) What qualifications do you feel the new Administrator of MESA should possess?

ANSWER: I think the most important qualification for the post of Administrator of MESA is extensive experience regarding the mining problems and issues presented by this agency. I also believe that good management ability would be important. Only a balanced background in the unique problems of mining operations would enable the Administrator effectively to manage MESA in identifying and implementing its enforcement, research, and education and training responsibilities.

I would do my best to expedite the nomination process, because I believe that it is important to have the Administrator of MESA in office quickly.

- b) Do you believe it is helpful in policy formulation to maintain open lines of communication with groups directly affected by Interior policies?

For example, on matters affecting mine safety do you intend to solicit the views of labor and management?

ANSWER: Yes, I believe that open lines of communication are not merely helpful, but absolutely necessary, in the formulation of such policies as are involved in the proper administration of MESA. I would, of course, actively solicit the views of both labor and management in the formulation of that policy, and continue the efforts of MESA to ensure that the health and safety of each individual miner are protected.

[The following question was submitted by Senator Lee Metcalf]

NORTHERN GREAT PLAINS RESOURCES PROGRAM

4. You may be familiar with the Northern Great Plains Resources Program which the Interior Department has been conducting for the last three years. I have strongly supported this effort which involves, in addition to Interior, Agriculture, Environmental Protection Agency, and representatives of the Governors of the five Northern Great Plains states. The Interior Department issued the interim report of this group on August 1.

I believe that the group should be continued. If confirmed, do you intend to continue it? If you have no views on this subject now, will you, after you become Secretary, let the Committee know what you intend to do about the program, after taking office, within 30 days?

ANSWER: While I have not yet formulated a position concerning continuation of the Northern Great Plains Resources Program, I am pleased that you have apprised me of your interest in the program. Should I be confirmed, I will let the Committee know what I intend to do about this program within 30 days after I take office.

[The 3 following questions were submitted by Senator Alan Cranston]

MINERAL DEVELOPMENT IN NATIONAL PARKS AND MONUMENTS

5. Do you feel the Interior Department should actively engage in a program to purchase private lands and mineral rights on lands within national parks and monuments to protect these areas?

ANSWER: I personally believe that the protection of our National Park System is of the utmost importance. The question of the Department of the Interior engaging in the purchase of private mining rights or private lands within the Park System is complex. Absent further study, it is impossible to determine the feasibility of such a program.

6. What do you think about strip mining in Death Valley National Monument?

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ANSWER: I am advised that the Department of the Interior does not have the administrative authority to withdraw lands from mining in Death Valley since Congress has specifically legislated the application of the mining laws to Death Valley. Bills have been introduced in both houses of Congress which would repeal the application of the mining laws to Death Valley. I can assure you that the Department will cooperate with the Congress, and offer comment on the proposed legislation, during the course of the hearings on these measures.

7. Do you foresee any circumstances under which the energy crisis could justify destroying any portion of the National Park System?

ANSWER: The purpose for which the Congress established the National Park System was to preserve beautiful and unique areas of this country for the enjoyment of the nation's people, and the mission of the Department of the Interior is to administer the Park System accordingly. It is my belief that solutions to our national energy problems can and must be found by the Administration and Congress without destroying the National Park System.

[The 2 following questions were submitted by Congressman George Miller]

#### CALIFORNIA OCS DEVELOPMENT

8. During the hearing on Tuesday, Mr. Kleppe stated that he was willing to consider the possibility of a short delay in the leasing of the California outer continental shelf territory scheduled for next month. On other critical matters concerning Californians, however, he was less definite.

I suggest that there is a serious need for more explicit answers from Mr. Kleppe regarding this most important issue. As Secretary of Interior, he would preside over the greatest transfer of public resources to the private sector in the history of the world. Before confirming him in that office of high responsibility, I would hope that your Committee receive firm answers to the central questions concerning not only the California OCS leases, but the policies he will pursue as Secretary in terms of national offshore oil and gas development, including:

- a) Revision of the terms under which leases are granted, providing an alternative to the bonus bid and fixed royalty arrangement

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comment on proposed development plans before departmental decisions, and to establish an OCS policy advisory board, will create a better Federal-State relationship.

I will certainly encourage future State participation along these lines.

- d) Diversion of a proportion of the profits from the Federal to coastal state treasuries, as is presently the case with other natural resource development;

ANSWER: I am not well enough acquainted with the subject to offer a position on it at this time. However, if confirmed, I can assure the Committee that I will examine the question with great care, recognizing that any such arrangement would be a major policy change.

- e) What actions Mr. Kleppe would undertake as Secretary to discern the true number of Federal leases capable of producing oil which are at this time deliberately being withheld from production (the Dingell subcommittee in the House reported 168 such leases comprising nearly 788,000 acres);

ANSWER: I am advised that the Department is revising its diligence requirements to ensure that lessees explore and develop their leases during the 5-year primary term, and I am in favor of that revision. Some leases are, of course, non-productive and revert to the Government. Other leases are extended if there are legitimate equipment constraints.

- f) How he would eliminate the substantial illegal conflict of interest alleged by the General Accounting Office to exist within the U. S. Geological Survey, which supervises private development of OCS territory, establishes minimum rates for production, maintains production accounts and collects royalties based upon those records. The GAO concluded in a March 31, 1975 report that no fewer than 22 per cent of those USGS employees required to file financial disclosure statements showed interests directly in violation of law, mainly relating to ownership of securities in oil and gas producing companies.

ANSWER: It is my understanding that the Department has promulgated and is enforcing new conflict of interest regulations. I would continue the vigorous actions initiated by Secretary Hathaway to ensure that there are no such illegal conflicts of interest within the Department of the Interior.

under which billions of dollars from a public resource enrich the coffers of private multi-national companies rather than the public treasury;

ANSWER: I have not come to any definite conclusion regarding alternative bidding systems at this time. I realize that there is concern that the heavy front-money commitment in bonus bidding may confine bidding to the largest companies, may depress competition for leases, and reduce total bonus bids. Nevertheless, I am advised that the Department's bid rejection procedures ensure that leases are not sold for less than fair market value. As I assured Senator Haskell in our colloquy on this subject during the course of the hearing on September 23, 1975, I will want to examine this question to see if a way can be found to give all qualified bidders a chance, while ensuring that the public's interest is fully protected.

- b) Whether or not there ought to be a separation of exploration and development in OCS territory;

ANSWER: It is my understanding that the recent proposal of the Department to require lessees to provide states with information relative to onshore development and to give states an opportunity to review and comment on development plans before departmental decisions is a significant step toward improving the states' participation in the OCS leasing process. If confirmed, I will study the issue of separation of exploration and development in more detail.

- c) Coordination of OCS development with affected State governments to assess the on-shore and environmental impact;

ANSWER: I welcome cooperation with the states and local governments in the leasing program. As I mentioned in my answer to question 8b, it is my understanding that the OCS program has been and is being significantly modified to encourage State participation.

The design and conduct of studies, tract selection, environmental impact statements, public hearings, pipeline rights-of-way and the location of onshore facilities all provide the states an opportunity to play an important role in the decision-making process. I am advised that Interior's proposals to require lessees to provide states with information relative to onshore development, to give the states an opportunity to review and

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9. It was not very long ago that I was informed that to delay the California sale beyond September would imperil the national energy program. Then the sale was delayed until October; now until December. I believe that it would be interesting to know what timetable Mr. Kleppe favors.

The decision by Interior to delay the sale obviously was made some time ago, as it is due to the review periods required by law. Yet the Congress was not informed of the delay until the last moment, and neither was the State of California. This is only the latest piece of evidence that the Department of Interior is unconcerned with the opinions and interests of the State and its representatives in Congress. I would be most interested to know Mr. Kleppe's plans to revise this policy.

ANSWER: I do not have any recommendations, at this time, regarding an OCS leasing timetable. If confirmed, I will review the present proposed lease schedule carefully and make a decision based on all the factors involved.

As I mentioned previously, it is my understanding that the Department has been and is continuing to modify procedures and adjust programs to encourage the participation of the states in the leasing process. It is my intention, if confirmed, to make every effort to continue this policy, thereby allowing the states and the Congress every opportunity to express their opinions and interests regarding the OCS program prior to departmental decisions.

[The 10 following questions were submitted by Common Cause]

#### CONFLICT OF INTEREST

10. While the Department's new conflict of interest regulations should go a long way toward strengthening enforcement, there remains much to be done. The new regulations contain no requirements for public financial disclosure by Interior policy-makers. Nor do the new regulations set any restrictions on taking employment with regulated companies after leaving the Department. And yet the revolving door between Interior and the energy industry has been dramatically illustrated in recent years.

Mr. Kleppe should be asked if he will:

- a) Issue regulations requiring Department officials at GS-15 or above to file annual public reports covering their financial holdings, outside sources of income, gifts and honorariums, indebtedness, and severance arrangements with former employers;

ANSWER: I am advised that current Interior Department regulations require employees to file, for departmental review and enforcement, confidential annual reports based on existing Executive Order and Civil Service regulations. Both the Executive Order and Civil Service regulations require confidentiality. Public disclosure of this information is prohibited by the Privacy Act unless the employee concerned consents to its release. If I am apprised of any specific deficiencies in the existing regulations of the Department in this area, I will consider appropriate modifications.

- b) Promulgate recruitment procedures and standards to limit the number of Interior officials with backgrounds in regulated companies and to place individuals with diverse backgrounds in policy-making positions;

ANSWER: It is my objective to find the best qualified individuals for all jobs, consistent with Civil Service merit standards. It has been my consistent practice to seek a wide range of viewpoints which can best be provided by a staff with diverse backgrounds and experience. If the best qualified individual has a background in a regulated company, particular care will be taken to assure that this background does not result in a conflict of interest situation.

- c) Adopt regulations prohibiting Interior officials from taking employment for a specified period after leaving the Department with companies which were affected by their duties;

ANSWER: I am advised that Interior Department regulations follow the requirements of 18 U.S.C. 207 regarding post-employment activities. Under the U.S. Code, employees are prohibited from representing a company before the Department for one year on matters that were within the boundaries of their official responsibility, and for life on matters in which they participated personally and substantially. If I am apprised of any specific deficiencies in the existing regulations of the Department in this area, I will consider appropriate modifications.

- d) Issue regulations requiring former Department officials to report to the Department Counselor, for a period of two years after leaving Interior, their present occupation and place of employment;

ANSWER: I am not aware of any statutory basis, other than 18 U.S. C. 207, for restricting the activities of former employees or for requiring reports on those activities. I am advised that requirements imposed without such a statutory basis would be legally unenforceable.

- e) Pledge not to accept employment himself with companies affected by his duties for two years after leaving the Department.

ANSWER: I will abide by the requirements and prohibitions regarding conflict of interest as defined in Title 18 of the U.S. Code during and after my tenure as Secretary of the Interior.

11. Last July Common Cause submitted to former Secretary Hathaway a model conflict of interest regulation. This proposal contains specific provisions on financial disclosure and post-employment restrictions which we believe the Department should adopt. The model regulation is attached. We urge that the Committee obtain preconfirmation review and comment from Mr. Kleppe on the regulation.

ANSWER: I understand that the Department of the Interior has recently issued revised conflict of interest regulations. If confirmed, I will satisfy myself as to the adequacy of these regulations. In that process, I will review the materials submitted by Common Cause.

#### LOGGING OF OUTSIDE CONTACTS

12. Will you promulgate a regulation requiring Department officials at GS-15 or above to log all contacts and written material from outside parties on the public record?

Common Cause has submitted to the Department, in our meeting last July with former Secretary Hathaway, a model regulation on logging of outside contacts. This regulation is attached. We urge that the Committee obtain preconfirmation review and comment from Mr. Kleppe on the regulation.

ANSWER: I am advised that the Interior staff is analyzing the Common Cause proposal to log outside contacts as well as the practices of other agencies in that regard. If confirmed, I will study the matter, including

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review of the Common Cause materials, and decide what policy would be appropriate.

#### BALANCED REPRESENTATION ON ADVISORY COMMITTEES

13. What steps will you take to ensure the representation of diverse interests in the National Petroleum Council and other Department advisory committees?

ANSWER: Most Advisory Committees are governed by the Federal Advisory Committee Act, and I intend to adhere fully to the requirements of that Act. Under the Act, advisory committees are subject to periodic review by the Secretary. I intend to see that during such reviews, consideration is given to all of the requirements of the Act, including those relating to membership.

As regards membership of the National Petroleum Council, that is one of the central issues in a lawsuit presently pending in the Federal District Court for the District of Columbia -- Metcalf v. Morton. I understand that the Department's position in that case is that the membership of the Council which, as presently constituted, includes representation from labor, environmental interests, and consumer oriented groups, meets the requirements of the Act.

#### LEASING PROCEDURES

14. Do you favor revised leasing arrangements to ensure that all new leases on coal and onshore oil and gas be issued through competitive bidding?

ANSWER: The question of proper leasing arrangements involves complex legal and legislative considerations, matters with which I am not yet well enough acquainted to comment on in detail. It is my understanding that the Department is reviewing proposed amendments to the 1872 mining law and the 1920 Mineral Leasing Act.

If confirmed, I will become informed on the issues and will recommend, as appropriate, necessary changes to update and upgrade the mining and mineral leasing laws.

15. Do you favor stronger lease provisions requiring coal and oil companies to develop leased reserves in a diligent fashion, and increased rental and royalty rates with respect to future leases?

ANSWER: I am informed that changed diligence requirements and rental and royalty rates are under discussion within the Department, with a view toward ensuring more expeditious development of leases. I am in favor of such revisions. These questions are clearly of great importance at a time when expanded supplies of energy are urgently needed. I will carefully review the Department's proposals, and I will direct any changes which I conclude are in the public interest and permissible under the law.

16. Do you support requirements that all new leases for coal and onshore oil and gas be initiated by the Interior Department in accordance with a comprehensive land-use plan?

ANSWER: I am generally in favor of planning as a tool to assist in managing the energy resources of the public lands. It is my understanding that the Bureau of Land Management has a planning system which now governs many leasing decisions. I will acquaint myself in detail with the working of this system, and direct any improvements I conclude are necessary.

17. Do you believe coal and oil companies should be required to submit to the US Geological Survey, as a condition for obtaining a lease, copies of all raw, processed and interpretive data with respect to the reserves they wish to lease?

ANSWER: The Department has published proposed new rules on data submission, and has revised them on the basis of comments received. I am advised that the new rules will address the public need to evaluate better the affected public resource.

#### COAL LEASING MORATORIUM

18. New coal leasing regulations must be adopted that contain strong requirements for diligent development, competitive bidding, increased rental fees and royalty rates, comprehensive land-use planning and data disclosure by

coal companies. The industry should be required to undertake the development of coal reserves they now hold before any new leases are considered.

ANSWER: It is my understanding that new proposed coal leasing procedures have been developed and described by the Department in the programmatic final environmental impact statement recently released. I have not had the opportunity to study these procedures as yet. I intend to do so. Until the legal requirements of the National Environmental Policy Act have been met, it would be inappropriate for me to prejudge the decisions which I will be required to make on this matter if confirmed.

19. The comprehensive surface coal mining and reclamation standards contained in the strip mining bill twice passed by Congress and vetoed by the President should be enacted into law. The clear inadequacy of the Department's recently proposed strip mining regulations demonstrates the need for legislation in this area.

ANSWER: The Department recently published new coal mining regulations for public review. If Common Cause feels they are inadequate, I hope it will submit comments to that effect. If I am confirmed, and if these regulations have not been finally promulgated by that time, I will take the Common Cause comments into account, with comments from others, in deciding on changes in the proposed rules. The ideal resolution of the issue would be by legislation passed by the Congress and signed into law by the President.

[The 5 following questions were submitted by the Environmental Policy Center]

#### ALLEGED DEPARTMENTAL SECRECY

20. Is Mr. Kleppe going to be so zealous a promoter of Garrison Diversion that he continues Interior's policy of secrecy on the project, a policy which keeps crucial information away from the State Department, Canada, and the people of North Dakota? We urge this Committee to obtain from Mr. Kleppe a pledge that he will end the secrecy within the Department on this project. We also urge the Committee to obtain a pledge from Mr. Kleppe that he will seek to end the misrepresentations made concerning water development projects when the Bureau of Reclamation testifies to Congress.

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ANSWER: I can assure the Committee that I have no intention to keep from it, from other appropriate governmental bodies, or from the general public information pertaining to the activities of the Department of the Interior. I expect to comply in every respect with the Freedom of Information Act.

#### GARRISON DIVERSION UNIT

21. In testimony to the House Appropriations Committee this past spring, Commissioner Stamm of the Bureau stated in response to a question about Garrison Diversion: "The issue with Canada relates only to the return flows from the Souris Loop division." This is a flagrant misrepresentation of Canada's position and an attempt to cover up the seriousness of the problems posed by Garrison Diversion. Canada's objections do not relate solely to the Souris Loop but rather concern the impacts of the project on both the Souris and Red Rivers. Canada recognizes that an attempt to correct the very serious water quality problem in the Souris River could lead to a shifting of salty return flows to the Red River Basin which would still be unacceptable. The Environmental Policy Center's concern here is that Mr. Kleppe in his eagerness to get Garrison Diversion built will allow these misrepresentations to continue and not make a bona fide effort to correct the abuses and help prevent a violation of the Boundary Waters Treaty with Canada.

ANSWER: The reference to secrecy regarding the Garrison Project apparently relates to a decision made by the Department in January of this year not to disclose the results of certain cost/benefit estimates of alternatives to the Souris Loop, a part of the Garrison Project. I am advised that the Department considered such estimates to be preliminary and incomplete and felt their release before finalization would be misleading and inappropriate. All of the technical data about the project has been made available to the Canadians and the Department of State, as well as the local interested parties.

#### MINING IN CANADA

22. One of our great national parks, Glacier National Park in Montana, is currently threatened by a private strip mining operation in Canada.

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Can Mr. Kleppe voice strong objection on behalf of the National Park Service and ask the Government of Canada to halt this operation when another agency within his Department is constructing a project on which Canada has urgently requested a moratorium?

ANSWER: With respect to the Glacier mining operation in Canada, I will closely examine the proposed development and resulting impacts on American territory. If circumstances warrant it, I will communicate with the Canadian Government through the State Department.

#### WATER AUGMENTATIVE MEASURES

23. Because of the fierce and growing competition for Western water the Department of the Interior has admitted that shortages may occur in the Upper Colorado Basin as early as the 1990s and that in order to meet the water requirements for the first commercial coal gasification plants to use Colorado water, "water augmentative measures will be in the public interest." Water augmentative measures can mean one or all of three things: 1) interbasin transfers from the Columbia or Missouri River Basins into the Colorado River Basin; 2) weather modification; or 3) seizure of water from existing users and holders of reserved rights. Each of these measures has serious ramifications both environmentally and politically.

ANSWER: In regard to the transfer of water from other drainage basins into the Colorado, the Department is bound by the Colorado River Basin Project Act. That Act provided that no such importation studies would be undertaken prior to September 30, 1978. I would certainly respect that prohibition.

I understand the Department is considering an extensive 13-year research program by the Bureau of Reclamation in precipitation management. The technology of this program is sufficiently developed to consider demonstration programs of winter cloud seeding in the mountainous areas of Western Colorado.

While solution of the technical problems of weather modification is well advanced, I recognize there are many remaining social, legal, and environmental problems. I will closely monitor the demonstration program to assure that these considerations are resolved before full-scale programs are attempted.

I can assure the Committee that one of the greatest challenges to me as Secretary is the broad issue of Western water. This problem will be among my first and high-priority considerations.

#### MARKETING OF MISSOURI RIVER WATER

24. We urge the Committee to make a special effort to question Mr. Kleppe as to his positions on states' rights, agricultural rights, and Indian rights. Will the agricultural economy of the Upper Missouri Basin, where a great deal of our nation's livestock and small grains originate, take second place to energy development? Will Mr. Kleppe, as Secretary of the Interior, refrain from selling water from the Upper Missouri and Colorado River Basins until State water plans are developed and Indian water rights are determined and adjudicated? How does Mr. Kleppe plan to deal with the tremendous shortages facing the Colorado River Basin now that oil shale and gasification are demanding enormous quantities of water? What is the position of Mr. Kleppe regarding interbasin transfers of water, particularly in the Colorado and Upper Missouri Basins? Will the new Secretary seek State and congressional approval before any further sales of industrial water are made in these basins? What plans, if any, does Mr. Kleppe have to promote the agricultural economy of the West in terms of water projects?

ANSWER: It is my understanding that it is the policy of this Administration to encourage the states to take a leadership role in the allocation and use of Western water, provided consideration is given to Indian water needs.

The Memorandum of Understanding between the Department of the Interior and the Department of the Army for the marketing of water from Federal reservoirs on the main stem of the Missouri River for industrial use was intended to clarify jurisdictional responsibilities and establish administrative procedures between the two Departments.

I am advised that State water laws and rights are fully protected, and that no water under the agreement has been marketed. I am informed that Interior is simply examining applications, submitting them to the respective states for consideration under the policy of giving states a "first right to contract" for every water service application from the

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six main stem Federal projects, and in several instances, writing environmental impact statements with the concerned State.

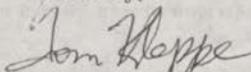
I am advised that the Northern Great Plains Resources Report suggests that for the highest projected coal development by the year 2000, 915,000 acre-feet of water would be required, in contrast to the assertion that 2.6 million acre-feet is said to be necessary from the Yellowstone River. Approximately 21 million acre-feet are available for all future uses. The maximum projected water demand for energy purposes is around 4 per cent of this available water.

CORRECTION TO LETTER OF SEPTEMBER 26, 1975

Mr. Chairman, it has been called to my attention that, in the second paragraph of my answer to question 20 on page 12 of my letter of September 26, 1975, I stated erroneously that all grazing fee revenues go to the Treasury, and the range management program is operated from direct appropriations. In fact, a portion of the grazing fee is earmarked by law for range improvement programs. I would be grateful, therefore, if you would strike the entire second paragraph from my answer to that question.

I will provide you as promptly as possible with answers to the questions of Senator Abourezk which you forwarded to me yesterday.

Sincerely,



Thomas S. Kleppe  
Secretary-Designate  
Department of the Interior



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

September 30, 1975

Honorable Henry M. Jackson  
Chairman  
Committee on Interior and Insular Affairs  
United States Senate  
Washington, D. C. 20510

Dear Mr. Chairman:

I am pleased to respond for the record to the questions of Senator Abourezk which you forwarded to me on September 29, 1975. My answers are provided in the same spirit, and within the same limitations, as those provided in my letter of September 26, 1975 and my earlier letter today.

MISSOURI RIVER HYDROELECTRIC POWER PREFERENCES

1. Preference of public bodies and cooperatives to the power generated by the Missouri River hydroelectric system is a long-established principle in Federal Law. As Secretary, will you see that this principle is carried out fully by assuring that this preference includes the use of the Federal transmission facilities by these public and non-profit organizations?

ANSWER: I am advised that public bodies and cooperatives by law have preference in the purchase of Federal power and in the use of Federal facilities to the extent necessary to deliver such power. As to the application of the preference clause to the use of surplus capacity in Federal transmission facilities, I am not sufficiently informed on this complex matter to make a commitment. However, I believe we should work closely with our preference customers in the use of this surplus capacity and cooperate with them to the maximum extent practicable for our mutual benefit.

STUDY ON POWER FROM WIND

2. I have suggested a study by the Energy Research and Development Administration of the potential of generating power from the wind, integrating that power with the Federal power resources of the region. I have asked the Bureau of Reclamation for their support and cooperation in this study. Will you support that study proposal?

ANSWER: Considering the urgency of developing new sources of energy to meet the Nation's future requirements, research and development of wind power should be pursued. The proposal which you have suggested appears to cover a logical area needing further study, and it merits serious consideration.

MISSOURI RIVER HYDROELECTRIC POWER RATES

3. The lowest cost power available in the Missouri River is power from the Missouri River dams. The Department has announced a tentative increase in rates for this power, effective January 1, 1977. This cost increase is proposed at a time when revenues from sale of this power are at an all-time high. Since the proposed increase is tentative, will you reconsider this decision concerning these rates?

ANSWER: I am advised that the Department's latest studies indicate that rate increases are necessary to meet repayment requirements. However, the amount of the presently proposed increase in rates is only tentative and will be fully reconsidered during the review process.

O'MAHONEY-MILLIKEN AMENDMENT

4. The O'Mahoney-Milliken amendment to the Flood Control Act of 1944 provides that states west of the 98th meridian (upstream states) have a prior right to use of water for consumptive purposes over use downstream. How will you assure that the water rights of the upstream states are protected?

ANSWER: I share the Senator's interest in seeing that the terms of the O'Mahoney-Milliken amendment are observed. As states' rights and water laws are involved, as well as Indian and Federal rights, I would expect to work closely on this matter with appropriate states' representatives and Members of Congress, as well as other interested parties.

MISSOURI RIVER WATER DIVERSIONS

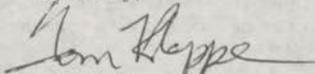
5. Do you support the diversion of water from the mainstem Missouri to the coal fields of Montana and Wyoming?

ANSWER: I understand that the possibility has been raised to divert water from the main stem of the Missouri River. Any proposal along this line would have to be carefully studied, giving full recognition to alternative uses of water, State water rights, Indian water rights, and environmental matters.

6. In addition to industrial and agricultural utilization of Missouri River water there have been several proposals for a pipeline to service municipal water needs in states like South Dakota. Would you support feasibility studies concerning these proposals?

ANSWER: As you may know, there is a requirement that feasibility level studies must be specifically authorized by legislation. I am informed that Congress is considering authorizing a number of potential studies of municipal and industrial water supplies covering portions of the western Dakotas and eastern Wyoming and Montana. Municipal and industrial water supply studies in connection with the Garrison Diversion Unit and the Oahe Unit Pick-Sloan Missouri Basin Program areas were authorized and are well underway.

Sincerely,



Thomas S. Kleppe  
Secretary-Designate  
Department of the Interior



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

October 2, 1975

Honorable Henry M. Jackson  
Chairman  
Committee on Interior and Insular Affairs  
United States Senate  
Washington, D. C. 20510

Dear Mr. Chairman:

The staff of your Committee has asked that I make a general response to the testimony of Mr. William H. Wilcox, Secretary of Community Affairs, State of Pennsylvania, before your Committee on September 25, 1975. Mr. Wilcox was highly critical of the job that SBA did in providing disaster relief to the citizens of the State of Pennsylvania following Hurricane Agnes in the summer of 1972. I vigorously disagree with Mr. Wilcox' assessment of our effort in that disaster.

Mr. Chairman, at the outset I would like to note that the primary legislative mission of SBA is to aid, counsel, assist and protect small business. Our functions in the administration of Federal disaster programs are strictly ancillary. At the same time, I want to emphasize my belief that SBA does a very good job with its assigned responsibility in major disaster situations, responding immediately to recovery needs of affected areas, not only in the business sector where we have expertise, but also in the residential sector.

In 1971, the disaster activity of SBA was increasing. At that time, the Agency was engaged in a decentralization of all of its activities. We had set up a special disaster cadre in each of the ten regional offices

and five cadres at the national level. Each of the cadres was comprised of team members with expertise in the fields essential to establishing an operating disaster office.

In the spring of 1972, we were working on more than 50 disasters scattered throughout the country. We were just recovering from a series of small disasters, the major flooding in Corpus Christi, and the earthquake in California's San Fernando Valley, when we were hit with the Rapid City, South Dakota flood, followed closely by Hurricane Agnes. Agnes was the worst disaster ever to hit the United States.

In order to cope with the massive destruction of Agnes, we opened over 80 operating disaster offices. We activated all disaster cadres and drew from those areas not affected more than 100 full-time SBA employees, including Central Office staff.

In Pennsylvania, which was hardest hit by Agnes, we provided well over 800 temporary employees, contracted for loss verification, and moved approximately 100 permanent employees from other regions, the Comptroller of the Currency, the FDIC, and the Home Loan Bank Board to assist the victims in their recovery efforts.

In the first two months, SBA approved 57,000 loans amounting to \$334 million. SBA ultimately approved 215,000 applications for \$1.5 billion in disaster loans in fiscal year 1973. This effort equaled the entire effort for the 19 previous years of SBA's existence.

Mr. Chairman, there can be no question that SBA made some mistakes in the handling of this emergency, but we were responding under very heavy public pressure with very limited resources.

Numerous other Federal agencies, as well as State agencies, were involved in providing relief. There were some problems in coordination which, in retrospect, must be considered minor. In some cases, high State officials, for their own purposes, attempted to gain control of the disaster program, even though their staffs were totally unqualified for the purpose. Substantial disagreements did arise between SBA personnel and the office of Governor Milton Shapp of Pennsylvania. It seems possible that Mr. Wilcox' view of our performance in Pennsylvania is colored, to some extent, by those problems.

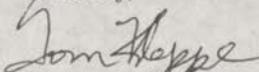
We had discovered, through substantial experience, that we would have to maintain control of the program if we were to provide prompt and effective service to the disaster victims. The need for tight control at the time of Agnes was unusually acute, in that the rules of the game were in a state of flux; the Congress passed new disaster legislation pertaining to Agnes after the disaster occurred.

In an effort to minimize the coordination and communication problems, we assigned a disaster ombudsman to handle routine complaints and to work closely with State and local officials. This was a good decision, since it opened up a direct line of communications between problem areas and the control centers of our operations. The elderly, the poor and the handicapped were the chief and grateful beneficiaries of this effort.

Mr. Wilcox confronted me personally with the accusation that SBA was the last government agency to arrive on the disaster scene. This is absolutely false, in that our disaster personnel were on the scene on the day the flood waters crested, even before it was possible to evaluate damages and proceed with financial relief.

I am very proud of the way SBA's staff responded to this disaster. They put in 16 hours a day, 7 days a week; spent weeks at a time away from their families to render this service; and they deserve credit for a job well done. As a testimonial to their performance, I would offer either the foregoing statistics -- the numbers of loans and dollars in disaster relief provided -- or numerous letters of thanks received from disaster victims. I understand that you have already heard directly from members of the Pennsylvania delegation, and I assume that this will be sufficient.

Sincerely,



Thomas S. Kleepe  
Secretary-Designate  
Department of the Interior



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

October 2, 1975

Honorable Henry M. Jackson  
Chairman  
Committee on Interior and Insular Affairs  
United States Senate  
Washington, D. C. 20510

Dear Mr. Chairman:

The staff of your Committee has asked that I respond, for the record, to certain questions asked by Mr. Raymond Spang, Northern Cheyenne Indian Tribe Council Member, in his testimony before your Committee on September 25, 1975. I am pleased to do so in the same spirit, and within the same limitations, as I have answered the previous questions submitted to me concerning the Department of the Interior. Mr. Spang's requests and my replies follow.

1. I would like your affirmation that if confirmed you would recognize these pledges [pledges of Secretary Morton "to preserve the environment and culture of the Northern Cheyenne Tribe and...not subvert those interests to anyone's desire to strip mine that Reservation" and "that strip mining on the Northern Cheyenne Reservation would not occur unless freshly approved and supported by the Northern Cheyenne Tribe"] as binding and irrevocable commitments of the Secretary of Interior on which the Northern Cheyenne Tribe may continue to rely.

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ANSWER: Although I am not familiar with all of Secretary Morton's actions, I do know that his June 1974 decision on the Northern Cheyenne coal leasing petition is one of his most significant Indian decisions. Any Secretary, of course, must have the flexibility to reconsider previously decided issues; I would expect my successors to view my decisions in that light and I shall so view those of my predecessors. Accordingly, I would expect the Tribe and others to continue to rely on decisions made by Secretary Morton and other Secretaries, with that qualification.

2. As Secretary, would you cancel that hearing ["hearing in the Office of Hearings and Appeals of the Department of the Interior concerning allegations that certain persons and firms had acquired strip mining rights for purely speculative purposes in violation of law"] if you found that the Tribe's claim of prejudice is indeed meritorious?

ANSWER: The basis for ordering the hearing, as I understand it, was that the interests of the Department, as trustee, and of the various parties could best be served by such a proceeding. However, if the Tribe or other parties make a persuasive case I would be willing to consider another approach.

3. Will you, as Secretary, reconsider that decision of Acting Secretary Frizzell [that the Secretary does not have clear authority to pay costs and legal expenses which might be incurred by the Tribe in the administrative hearings and litigation between the Tribe and coal companies] and reinstate the commitment [to pay such expenses] to the Northern Cheyenne if you find there is Secretarial authority to pay those costs?

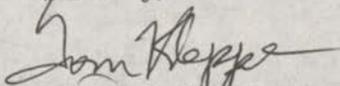
ANSWER: I understand that Acting Secretary Frizzell agreed that, prior to submitting to Congress any proposed legislation on the attorney fees issue, he will discuss this problem with the Chairman and ranking minority member of this Committee, as well as with other interested members of Congress. I would also like the benefit of their views before taking any other action on the question of the Secretary's authority to pay tribal attorney fees.

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4. What steps will you take, as Secretary of the Interior, to ensure that any coal development on that Reservation [Northern Cheyenne Reservation] would occur without exploitation, with the concurrence of the Tribe and with the safeguards on adverse impact involved in the development on the Reservation and on the people?

ANSWER: First, I understand that the Interior Department has supported the position of the Tribe and has asked the Department of Justice to bring its views to the attention of the Supreme Court. Should the ultimate decision of the Court be adverse to the Tribe, I will study carefully the alternatives presented at that time, consider the Department's trust responsibilities to the Indians, and then decide how best to proceed.

Sincerely,



Thomas S. Kleppe  
Secretary-Designate  
Department of the Interior



OFFICE OF THE ADMINISTRATOR

U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

October 2, 1975

Honorable Henry M. Jackson  
Chairman  
Committee on Interior and Insular Affairs  
United States Senate  
Washington, D. C. 20510

Dear Mr. Chairman:

The staff of your Committee has asked that I respond to certain questions raised about SBA program and staff activities by a Common Cause witness appearing before your Committee in connection with the pending confirmation proceeding. I am pleased to do so. The Committee staff also provided me with the Common Cause "annotations" to their testimony, which give the specific background of certain of the questions raised by them. I will also deal with those specifics.

1. Alleged SBA Involvement in "Responsiveness Program."

Common Cause refers to certain "Watergate papers" which imply the involvement of SBA in a "responsiveness program."

As I testified before your Committee on September 23, 1975, in response to a question posed by Senator Stone, I categorically deny any involvement by SBA in a "responsiveness program." The only contact that I recall in this regard was a visit to our SBA staff meeting by Mr. Fred Malek, of the White House staff, in 1972, prior to or during the presidential campaign. He did not mention any "responsiveness program," but pointed out that if SBA expected to announce a major procurement contract, or a major economic development loan, or some similar SBA participation in a project of significant interest with

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which the President or Vice President might wish to be identified, we should advise the White House. I had no difficulty in agreeing with that proposition. There was no suggestion at any time that SBA should make loans to supporters of President Nixon or that we should deny assistance to persons friendly to his opponents. I would not have sat still for such a suggestion.

The annotations to the Common Cause testimony misleadingly state that Dan Kingsley, "a major participant in the Haldeman-Malek group at the White House was hired after the campaign as an Associate Administrator for Field Operations." In fact, Mr. Kingsley was not hired by SBA until March, 1975. Before making an offer of employment to Mr. Kingsley, we contacted both the office of the Watergate Special Prosecutor and the staff of the Senate Watergate Committee to assure ourselves that there was no evidence of any wrongdoing on the part of Mr. Kingsley. We were completely satisfied in that regard. I should add that I believe that Mr. Kingsley is highly qualified, by education, experience and ability, for the position he holds, and that he is doing a fine job.

2. SBA Loans Alleged to Have Been Made because of White House Pressure or to Repay Political Favors.

Common Cause has made general allegations to the effect that SBA loans of a questionable nature have been made to persons who headed various local Nixon-for-President groups, or were otherwise improperly made because of White House pressure.

Applicants for SBA assistance frequently appeal to the White House, as well as to their congressmen, for assistance. In spite of the fact that various officials at the White House respond to thousands of citizen requests by forwarding such inquiry to the Government agencies concerned, certain people persist in misinterpreting White House inquiries as White House pressure. This is no more true of a White House inquiry than it is of a congressional inquiry.

At the time of the oversight hearings before the Subcommittee on Small Business of the House Committee on Banking and Currency in November and December of 1973, I carefully reviewed with my senior staff certain allegations which had been made about improper grants of SBA assistance.

At that time I was unable to determine that any responsible Agency official had any knowledge that any applicant for, or recipient of, SBA assistance had contributed to the Committee to Re-elect the President or otherwise made political contributions. The records in SBA's Office of Finance and Investment showed that during 1971 it received 14 inquiries from the White House concerning loans; during 1972 it received 29 inquiries from the White House; and during 1973 it received 20 inquiries. The total number of inquiries over the two and one-half year period received by the Office of Finance and Investment was 63. Of the 63 loans, 7 were approved. Four of these 7 were disaster loans, which ordinarily have high incidence of approval. These statistics do not indicate that SBA is vulnerable to White House pressure.

The White House policy in this area was reiterated to me in a forcefully-worded letter from Mr. T. C. Karologas, Deputy Assistant to the President, dated May 23, 1973;

"I feel it important to emphasize it is this Administration's firm policy that all decisions regarding individual small business grants and loans be made by your agency exclusively on the merits of the fact circumstances involved. Therefore, while we regard it as proper to forward citizen inquiries such as the attached to the SBA for your agency's review and consideration, I am sure you will understand that in referring any particular matter, we have no desire to imply, or even appear to imply, our support or opposition to the merits of the claim presented."

### 3. Alleged Improper Loan to Mr. Benny McRae.

It has specifically been alleged that SBA made a loan to Mr. McRae solely as a result of White House pressure. We do not believe that the facts bear this out.

Two loans to Mr. McRae's company, one a regular business loan for \$125,000 and a "companion" line of credit loan for \$150,000, were approved on March 27, 1973, on a guaranteed basis with the Bank of Hampton Roads, Virginia. Prior to disbursement of these loans, the President of the participating bank went on a three-week vacation. During

this period the Benny McRae Construction Company urgently needed funds in connection with a HUD construction contract. A second bank, the Bank of Virginia Peninsula, Newport News, Virginia, was willing to extend a line of credit loan to the firm, totalling \$110,000, on an SBA-guaranty basis. This loan was disbursed in four installments during June of 1973, and the two previously-approved loans were cancelled without disbursement. Thus, the only SBA involvement with Mr. McRae is the \$110,000 loan to his company.

The statement that Mr. McRae's contractor's license had expired on December 31, 1972, is correct. However, when he negotiated the HUD contract in June of 1972, the license was in effect and we are informed that under Virginia licensing authority he would have been permitted to finish the HUD construction project even after expiration of his license. The SBA loan, of course, was used in connection with that particular project.

Late in the spring of 1973, Mr. McRae applied for an additional SBA direct loan in the approximate amount of \$100,000. When his attempts to receive the additional \$100,000 SBA direct loan failed, he appealed for assistance to the White House. The White House staff placed a call to SBA's then Deputy Administrator. The call was returned by Mr. Townsend Burden, then Special Assistant to the Deputy Administrator. Mr. Burden was asked to look into the loan application, with the admonition that "This is not a request to make a bad loan." Mr. Burden called the Richmond office, the office in which the application was pending, to find out the status of the loan application and to talk to the loan officer involved. Mr. Burden also received a call from the Richmond District Director. Both of Mr. Burden's calls were in the nature of an inquiry, and in both he said that no pressure was being applied to make a loan.

Mr. Burden was later concerned that there might be some feeling on the part of the Richmond office that pressure was being applied, and he advised SBA's then Associate Administrator for Operations of his concerns. The Associate Administrator for Operations placed calls to the Regional Director, the District Director, and the senior loan officer to tell them to give Mr. McRae no more consideration than they showed anyone else, and not to make a bad loan. When the senior loan officer said that Mr. McRae had told him that he had pull at the White House that should get him the loan, the Associate Administrator for Operations gave a short and unprintable answer, which the loan officer dutifully noted in the file. The loan did not go through.

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Mr. McRae did not give up. He telegraphed the White House again in September of 1973 to ask them to have his case reopened, and Mr. McRae included new information about collateral he was going to pledge. SBA was again asked to look at these new facts. We did, and on October 4, 1973, the Washington office ruled, once more and finally, against the loan.

It is only through gross misrepresentation that this situation could be interpreted to indicate SBA yielding to White House pressures.

Additional detailed information concerning the transactions with Mr. McRae may be found at page 380 of the record of the hearing held by the Small Business Subcommittee of the House Banking and Currency Committee for December 4, 1973.

#### 4. H&R Printing Co. Loan.

The annotations to the Common Cause testimony refer to a St. Louis Post Dispatch article dated March 27, 1974 which revealed that the head of Black Citizens for Effective Government in St. Louis, an organization of black Democrats and Independents who supported the re-election of President Nixon, was given a loan of \$55,000 after defaulting on a loan of \$25,000.

The loan was an SBA Economic Opportunity Loan made to H&R Printing Co. Mrs. Elsa D. Hill, a principal of the printing company, was indeed the head of Black Citizens for Effective Government, and was also a registered lobbyist for the Organization of Black Entrepreneurs. We have no knowledge of the scope of the activities of Black Citizens for Effective Government.

The second loan in the amount of \$55,000 was made even though there was a poor record of repayment on the original loan of \$25,000 because the firm had received a substantial contract from McDonnell Aircraft for printing. A credit judgment was made that the developing new business justified the additional financing. Failure of the firm to perform on the McDonnell contract led to a default on the second loan. Following default, SBA obtained a judgment against Mrs. Hill and has pursued usual collection efforts through the Department of Justice.

If SBA is to be criticized for making either loan to Mrs. Hill, such criticism should be tempered by recognition of SBA's efforts to assist minorities and other disadvantaged individuals, in accordance with the mandate of Congress expressed in the Equal Opportunity Loan legislation. The files on the loans, which were approved at the District Office level, contain no information whatsoever indicating the presence of political pressure. Any pressure exerted was more likely to have come from minority/equal opportunity interests.

5. Leveo V. Sanchez.

The annotations to the Common Cause testimony state that "memoranda presented to the Senate Watergate Committee showed that a Washington, D. C. businessman, Leveo V. Sanchez, was removed from an SBA program when it was determined that he was an active democrat."

Mr. Sanchez is the President of Development Associates, Inc., a consulting firm headquartered in Washington, D. C., with branch offices in Houston, Denver, Los Angeles and San Antonio (as of 12/31/72).

In September of 1972, a determination was made by SBA's Philadelphia Regional Office, which was responsible for the 8(a) assistance to Mr. Sanchez' firm, that the firm was viable, that it could function independently of further Government procurement contract assistance, and that it should be "graduated" from SBA's 8(a) program. This determination was twice appealed; was carefully discussed and reviewed by Regional Office and Central Office staff; and was twice upheld.

SBA's 8(a) program is intended to provide Government procurement contract support for companies until they can operate profitably on an independent basis. Unfortunately, SBA's resources available for the program are extremely limited, and many more companies would like to participate in the program than we are able to serve. When a participant in the program reaches the point of independence, we must "graduate" him to make room for a more deserving applicant. The "graduation" is seldom a joyous event; it was not in the case of Mr. Sanchez. I have no indication, however, that his "graduation" was not based on a sound program decision.

Parenthetically, I might note that I am informed that Mr. Sanchez' firm has prospered and expanded without the 8(a) program support.

There can be no doubt that active Democrats, and active Republicans, are removed from SBA's programs from time to time. I know of no instance, however, where the political activity was the basis for the removal, and I would not tolerate such a thing. If the Watergate Committee has any evidence of improper action in this regard, I trust that it will initiate the appropriate criminal investigation.

6. Assistance to Entities Controlled by Dr. Thomas Matthew.

Allegations have been made that SBA improperly provided assistance, for political purposes, to entities controlled by Dr. Matthew, and participated in "obstruction of justice."

Late in the summer of 1970, Robert Finch, then Counsellor to the President, spoke with Dr. Matthew concerning the use of Dr. Matthew's organization as a pilot project to implement the President's commitment to get people off welfare and on job roles. On April 9, 1971, this project became a Government-wide responsibility, with SBA's then Deputy Administrator in charge of securing the Government resources necessary to make Dr. Matthew's businesses successful.

Dr. Matthew, who is a black neurosurgeon, furnished a series of projects to deal with the untrainable, drug addicts, etc. He did receive SBA assistance in the form of loans and 8(a) contracts.

A direct loan in the amount of \$100,000 was approved by SBA's New York District Office to DOMCO Textiles, Inc., an entity controlled by Dr. Matthew, on April 10, 1970. Subsequent to loan approval but prior to disbursement information developed that Dr. Matthew was under sentence for tax evasion. His sentence was commuted by the President.

The fact of sentence caused SBA to prepare a letter stating that the loan authorization would be cancelled. This is in accordance with SBA's usual practice and procedure which would disqualify the applicant on the basis of lacking "good character." Because of previous White House

interest in Dr. Matthew, it was felt that this matter should be discussed with White House staff prior to release of the cancellation letter. This was done by the then Deputy Administrator on June 12, 1970. The Agency was subsequently advised that, in the opinion of the Attorney General, the fact of sentence should not be determinative, and that we should be guided solely by credit consideration. Accordingly, the letter of cancellation was withheld, and the loan subsequently disbursed.

Three additional SBA Equal Opportunity Loans to Dr. Matthew enterprises were approved before the end of June, 1971, and disbursed. Total loans aggregated \$175,000. Outright Government grants were also made.

Following default on loans and contracts, the matter was promptly referred to the Department of Justice in July of 1972. SBA requested action on collection, civil penalties and review for possible criminal reference. In its referral, SBA stated that its files, including audits and investigations, would be made available to the FBI, and these were subsequently supplied through SBA's Office of Security and Investigations. The FBI started an investigation as directed by Mr. Henry Peterson, Assistant Attorney General. Criminal charges were brought against Dr. Matthew by the State of New York. While Dr. Matthew was convicted by the trial court, his conviction was upset on appeal. We are advised that on June 24, 1975, the U. S. Attorney for the Southern District of New York declined prosecution against Dr. Matthew.

Based on the SBA referral in July, 1972, civil suit was filed by the U. S. Attorney in the Federal District Court, Southern District of New York, in October, 1972. The defendants were: DOMCO Textiles, Inc., Dr. Matthew and 7 other individuals and companies.

Judgments were obtained, and continuing efforts at collection are being made by the FBI and the U. S. Attorney. Collection efforts have so far been unsuccessful.

We believe that all of the actions taken by SBA to provide assistance to the entities controlled by Dr. Matthew were entirely consistent with proper, and non-political, objectives established by the White House, and all actions taken by SBA after the project encountered difficulties were likewise prompt and appropriate.

For further details on the Dr. Matthew case reference may be made to page 50 of the record of the oversight hearing of the Small Business Subcommittee of the House Banking and Currency Committee on April 9, 1974.

7. Reappointment of Richard D. Murray.

It has been noted that Richard D. Murray, who was appointed SBA District Director in Madison, Wisconsin in October of 1970, resigned from that office in July of 1972, became employed by the Committee to Re-elect the President, and was reappointed Madison District Director on November 29, 1972. It has been suggested that this sequence of events indicates an impropriety in which I participated.

In fact, it is my firm belief that Mr. Murray left SBA with no expectation or desire to return to the Agency. In the first place, I had specifically stated that the position in Madison would not be held open, and that I have long held a general philosophy against rehiring any individual who left my employ. Second, it appears that Mr. Murray expected that, following the presidential campaign, he would be able to find higher-level employment with the Government. In fact, he actively sought positions at a higher level before returning to SBA. Third, the Regional Director responsible for the Madison District Office actively recruited for a replacement for Mr. Murray, making tentative offers, although such recruitment effort was unsuccessful.

In spite of our best efforts, we presently find that an average of 6 to 8 months is required to fill District Director vacancies. The fact that the Wisconsin position remained unfilled for 4 months, from the end of July to the end of November, 1972, is not at all unusual.

When the Regional Director was unsuccessful in identifying a suitable candidate for the position of Madison District Director, he approached Mr. Murray. Since Mr. Murray had not been successful in obtaining a better Government position, he was interested. Mr. Murray was rehired on recommendation of the Regional Director.

To the best of my knowledge, there was absolutely no irregularity or impropriety in the rehiring of Mr. Murray, and the action was taken in the best interests of the Government.

The annotations to the Common Cause testimony raise a question about a potential conflict of interest involving a loan, the approval of which was recommended by Mr. Murray. This matter was explored in great detail during the course of the oversight hearings of the Subcommittee on Small Business of the House Banking and Currency Committee in November and December of 1973 and April of 1974. The details of the matter are spelled out on pages 6 and 7 of the Report for the April 9, 1974 session. It should be noted that personnel of SBA's Office of General Counsel reviewed the matter and, on the basis of the facts known to them, determined that no conflict of interests existed. The matter was, however, subsequently referred to the local U.S. Attorney's office in December of 1973, and the investigation is still designated as "pending."

#### 8. Richmond Office Irregularities.

The Common Cause testimony and the annotations raise the subject of the irregularities discovered in SBA's Richmond District Office in the fall of 1973. These irregularities were the principal subjects of the oversight hearings of the Small Business Subcommittee of the House Banking and Currency Committee in November and December of 1973. The record of those hearings describes the detailed exploration of all of those problems.

There is one matter erroneously stated in the Common Cause annotations which I would like to correct. It is stated that SBA undertook no corrective action until an investigation by the staff of the Small Business Subcommittee charging major irregularities was made public. The investigation of the Small Business Subcommittee was made public on November 12, 1973. Several weeks earlier, on October 20, 1973, an SBA Portfolio Review Team had already started work in Richmond on the problem, and by November 7, 1973, the decision had been reached by SBA to relieve the Richmond District Director of loan-making authority and to replace him pending completion of the investigation.

Extensive personnel actions were taken in order to correct the deficiencies of the Richmond District Office and the Philadelphia

Regional Office which had supervisory responsibility over the Richmond office. Adverse actions included three removals, one retirement in the face of removal, two demotions with reassignment, and one simple demotion. In addition, 27 reassignments were made for improvement of operations in the Philadelphia Regional Office and Richmond District Office.

9. Los Angeles Compensating Balance Scheme.

The Common Cause annotations note that the staff of the Small Business Subcommittee of the House Banking and Currency Committee concluded that SBA officials had devised a scheme to assist banks participating in SBA's guaranty loan program to obtain improper compensation and collateralization of loans by means of compensating balances. This conclusion, like many of the other allegations made by the Committee staff at the time of those hearings, was ultimately determined to be completely without foundation. Detailed information on this subject may be found at page 22 of the record of the hearings before the Subcommittee on Small Business of the House Committee on Banking and Currency for April 9, 1974. Subsequent to those hearings, FBI investigation of the allegations of involvement by SBA personnel in the improper scheme was renewed, with the FBI concluding that there was no basis for such allegations.

10. Alleged Political Influence in Personnel Practices.

In August of 1974 the Civil Service Commission issued a report with respect to alleged violations of merit staffing principles at SBA. Following the issuance by the Commission of press releases with respect to that report, a number of allegations were made concerning political influence in hiring practices and other personnel actions at SBA. Because of the fact that charges against certain SBA employees are quite serious, and remain to be resolved by legal process, we have felt that it was inappropriate for us to respond to the many unfounded charges that have been made or to attempt to "try the matter in the press."

In the course of an audit of the personnel practices of SBA by the General Accounting Office, the GAO sent a series of questions to me relating to the Civil Service Commission report. On January 29, 1975, I responded to those questions, setting forth in part SBA's views on a number of the charges made by the Civil Service Commission.

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At the request of Senator Morgan, my response to the GAO questions was made a part of the record of hearings conducted on April 21 and 22, 1975 by the Subcommittee on Small Business of the Senate Banking, Housing and Urban Affairs Committee. A copy of my letter to the GAO, including the answers to the GAO questions, is attached for your information. I would direct your attention particularly to my answers to questions 5 and 13, beginning on pages 10 and 16, respectively, dealing with alleged political influence at SBA.

The annotations to the Common Cause testimony refer specifically to the Bert F. Teague case and the C. Mack Kehoe case. Both of these cases are dealt with in detail by my answers to the GAO questions. The annotations also refer to a St. Louis Post Dispatch article of April 14, 1975. The subject matter of this article is likewise dealt with in my answers to the GAO questions.

#### 11. Personnel Actions Concerning Loren J. Rivard.

In June of 1973, SBA's Chicago Regional Director approached me regarding the possibility of considering my Special Assistant, Loren Rivard, for the District Director position in Madison, Wisconsin. The position of my Special Assistant was then non-career GS-15, while the Madison District Director was career GS-15.

On July 31, 1973, Mr. Rivard received his career GS-15 eligibility from the Civil Service Commission. During the beginning of August, 1973, a formal selection of Mr. Rivard for the District Director position was made by SBA. This selection was referred by SBA to CSC for certification on August 23, 1973. The CSC rated the candidates, and Mr. Rivard was rated highest.

CSC did not act on the request for certification, however. SBA received information that it was being delayed while a review of non-career conversions to career was taking place. The CSC indicated that it was especially cautious in this area as a result of congressional inquiries.

On March 15, 1974, some seven months after our request to CSC for certification, I sent a letter to Chairman Hampton requesting the

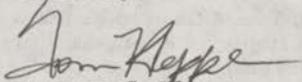
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return of Mr. Rivard's application. On April 1, 1974, the Agency requested approval of Mr. Rivard for the position of Deputy Associate Administrator for Operations, GS-16 Limited Executive Assignment. This position, which entailed a promotion, was approved shortly thereafter by the CSC.

I am not aware that any knowledgeable person has questioned Mr. Rivard's qualifications for that position, and he has, in my opinion, been performing his responsibilities in that area in an outstanding manner.

Mr. Chairman, most or all of the foregoing subjects have been looked into in great depth either by one of SBA's congressional oversight committees, or by the General Accounting Office, or by law enforcement authorities. I am aware that the staff of your Committee has already examined certain of the oversight reports and GAO reports. If they would like to make further reference to such materials or contact appropriate law enforcement personnel, they may wish to contact my SBA staff for assistance.

Sincerely,



Thomas S. Hleppe  
Secretary-Designate  
Department of the Interior



U.S. GOVERNMENT  
SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

January 29, 1975

Mr. David P. Sorando  
Deputy Director  
United States General Accounting Office  
Washington, D. C. 20548

Dear Mr. Sorando:

Attached are my responses to the 14 questions submitted on December 10th by members of your staff. The answers are complete and accurate to the best of my knowledge. Several of my answers, particularly as they relate to the details of individual personnel actions indicated in my answer to question #13, are based upon data and information submitted to me by members of my staff. It would be my desire that the names of individuals identified in item #13 be considered confidential. They have been furnished to facilitate your review but with the hope that your report might still be made without their disclosure. I would be pleased to make available such pertinent correspondence contained in the files of this office, as suggested in your December 10th communique, upon request.

During my four years tenure as Administrator of SBA, I have directed my staff, and have striven personally, to improve all aspects of operation, including the personnel function. I am proud of our accomplishment; I believe we have one of the finest personnel programs in the Federal Government. I welcome the opportunity, as I have stated in the past, to be interviewed personally by appropriate officials; to make all pertinent correspondence available; to cooperate freely in every way possible; and to appear before Congress should such action be desired.

I look forward to your review and am confident that the results will provide much better perspective of our personnel actions than has been experienced heretofore.

Sincerely,

Thomas S. Kleppe  
Administrator

RESPONSES TO GAO QUESTIONS OF DECEMBER 10, 19741. In detail, what do you believe are the strong features and weak areas of SBA personnel programs and management?

Since my incumbency as Administrator, in January 1971, the personnel management program in SBA has been significantly upgraded in all personnel functional areas. I believe that the current status of our personnel programs, and their management, compares most favorably with those of other Federal agencies and that substantial and meaningful program improvements have taken place both in the Central Office and Agencywide. I should like to highlight some of the personnel achievements in the following paragraphs. I am, also, attaching a summary of Office of Personnel accomplishments for Fiscal Years '72, '73, '74 and '75 (to date):

A. Office of Personnel capability

The following are significant activities which were designed to increase the competence of the personnel staff:

- (1) The managerial staff was upgraded by the appointment of a new Director (in August, 1971), and the elevation of this position to supergrade status, and new Chiefs for Employment, Organization and Position Management, Training, Employee Relations, Policy Development and Program Evaluation. Additionally, there were established positions of an Associate Director and an Assistant Director for Executive Manpower.

- (2) Key staff were added by the appointment of a number of highly qualified senior professionals,
- (3) A professional development program was inaugurated within the Office of Personnel,
- (4) A Career System for all SBA personnelists, Central Office and field, was developed and implemented.

B. Programs and Systems

- (1) The training program was completely revitalized and a series of comprehensive training programs for supervisors and managers, to improve their operational and technical proficiency, as well as their personnel management capability, was developed and over 300 trained Agencywide.
- (2) A Finance and Investment Career System, covering approximately 25% of the workforce was developed and implemented to improve the quality of the F. & I. workforce and to expedite the filling of positions with better quality candidates.
- (3) A Position Management Program to assist managers in establishing and maintaining efficient and economical organization and position structures was established and is fully functioning.
- (4) An on-site Personnel Management Evaluation Program was established to survey the personnel management programs at the regional and district level, to identify strengths and weaknesses in the programs, to make improvement recommendations, and to provide guidance and assistance.

- (5) A framework of policies, procedures, standards and guidelines designed to contribute directly to the effective accomplishment of the SBA mission, has been instituted.
- (6) An innovative and comprehensive personnel program planning and self-evaluation system was developed and implemented for the Central Office and the field.
- (7) An automated personnel processing system was developed and installed.
- (8) Early in 1972, the Executive Development Program was redesigned and reenergized, utilizing the most advanced techniques of assessment and individual development planning. The system is now well-developed and 125 potential and active executives have been identified and are receiving developmental assignments. Both short and long-range planning have contributed to the increasing placement of internal candidates into top-level managerial positions. A survey conducted approximately six months ago indicated that over 70% of our top level positions were filled from within.
- (9) The establishment of a video communications network linking the field with the Central Office to increase management/supervisory training.
- (10) A new merit promotion plan, designed to expedite the filling of positions with better quality candidates, has been implemented.

### C. Development of Field Personnel Programs

- (1) Personnel Conferences were held in 1971, 1972 and 1974, attended by administrative officers and regional personnelists throughout the Agency. The 1974 conference was a 3-day skills-oriented session attended by all SBA personnel staff members.
- (2) Numerous staff visits have been made to the field to provide on-site guidance and assistance.
- (3) A Special Notice publication series was developed to provide greater guidance to field personnelists in implementing field personnel programs.
- (4) Commencing in June 1971, each of the 10 regions, and its district offices, have had an on-site two-week program evaluation survey. The evaluation cycle has been completed twice; i. e., each region has had two such surveys.
- (5) A program was established aimed to achieve full personnel delegation to the field through grade GS-15 and to render increased staff assistance to the field geared toward helping them achieve and carry out this increased delegation.

### D. Assistance to Management

- (1) Assistance was rendered in all phases of the 1973 field realignment, including development of functions, on-site guidance in personnel adjustments, and training programs for new functions.
- (2) Eleven labor contracts (plus 2 in process) were negotiated, embodying greater flexibilities for management.

- (3) There was greatly increased activity in position surveys and analytical studies, including more recent studies on Minority Enterprise and Management Assistance.
- (4) There was initiated greater executive recruitment capability both in Central Office and the field. A recent example was a campaign which resulted in 1200 candidates for seven District Director positions. Four of these positions were eventually filled internally.
- (5) Classification Studies were conducted for Procurement Center Representatives, Certificate of Competency Specialist, Public Information Officer and Loan Officer positions which resulted in sustaining current grade levels which had been challenged by the U. S. Civil Service Commission.
- (6) There was successful achievement of average grade goals.
- (7) Upward Mobility Program was developed which the U. S. Civil Service Commission is using as a model for other Federal agencies.
- (8) An Executive Manpower Resources Board, composed of members from the Agency's Management Board, was established to provide greater top management involvement in the personnel area: an ideal organization structure and supergrade plan was formulated and presented to the CSC, with periodic updates.

With respect to weaknesses in the personnel management program, I am confident that there are no current serious program deficiencies and that

full, and more than satisfactory, coverage is being given to all phases of personnel management and administration. Nevertheless, there are areas to which we are directing effort and attention, where we feel that further advancements and improvements can be made. These are reflected in our program plans and include:

- a. Labor Relations
- b. Employee Counseling and Advisory Services
- c. Decentralization of grievance procedures
- d. Employee Morale enhancement
- e. Improvement of service to the field
- f. Further refinement of field self-evaluation systems to help pinpoint areas meriting concern and which can result in increased field competence.
- g. Improved employee suggestion program
- h. Expanded supervisory training

2. Do you have any recommendations for corrective action in problems identified in Question No. 1 above or any considerations for the Congress?

As indicated in the concluding paragraph in answer to Question No. 1 above, we are aware of those areas internally in which further steps toward progress is indicated and we are taking necessary actions to produce the desired results. Although, again, I would welcome the opportunity to appear before Congress if so desired.

With regard to the CSC, I believe there are a number of areas where improvements could be made, such as:

- a. A clearer definition of what is political pressure - what is not. If the CSC truly wants to end any possibility of political pressure, let them exclude all Executive Branch career positions from references from Congress.
- b. A clearer definition of what a career, a non-career, and L.E.A. positions are.
- c. A reduction in CSC processing time (they were always unconscionably long and have recently been increased by 50%.) In one recent case, it took the CSC 11 months to resolve a single procedural question on the most minimal type of adverse action, a loss in status action. However, one again suspects CSC motives in such a ridiculously long delay.
- d. More positive assistance - the only meetings we have had with the CSC have been at our request and initiative.
- e. Greater recognition of the unique problems of smaller agencies in handling personnel actions.

3. Please comment on the effectiveness and usefulness of the periodic Civil Service Commission personnel management evaluation of SBA offices.

As indicated under Question No. 1 above, the on-site personnel evaluation survey system began in June, 1971. Since October, 1971, these on-site surveys have been conducted by a joint CSC/SBA team. While in the initial phases the team was led by CSC, the team leadership soon alternated between CSC and SBA. Of the 20 evaluations conducted, CSC and SBA have each led 10. Of the 6 joint CSC/SBA reviews planned for FY '75, SBA will lead 5 of the 6. This cyclical schedule was developed by the current Director, Office of

Personnel, soon after his entrance on duty. Given the status of the personnel program at that time, reliance could not be placed on what had happened in the past. The first evaluation cycle was completed in March 1973. This complete circuit was required to establish a data base. It emphasized personnel management problem identification in each of the regions and resulted in comprehensive reports and corrective actions to be taken. It provided us with both an assessment of our field personnel program and of our field personnel staff capabilities. The record evaluation cycle, which began in May 1973, was completed in November 1974. It was geared toward measuring improvements and program accomplishments based on a resolution of problems initially identified. This joint survey program between CSC and SBA has proven both effective and useful. It is regrettable that apparently the left hand doesn't know what the right hand is doing at the CSC. While the CSC field evaluation teams have been helpful, and as their reports indicate, have shown substantial improvement in SBA personnel programs, other offices of CSC seem bent solely on a biased, illogical, incomplete, "snap shot in time" approach designed solely to compare existing situations against some ethereal newly developed secret "ideal." One suspects motives other than a sincere attempt to improve the service.

4. Do you have any knowledge that qualification requirements for positions have been tailored to fit an individual's personal qualifications to assure his being selected for employment or promotion?

No. It is my understanding that virtually all of our positions are in the competitive service and hence CSC Handbook X-118, "Qualifications Standards for White Collar positions under the General Schedule," which is mandatory in application, is used. There are a few "Single-Agency" standards which have been approved for use in SBA by the Civil Service Commission. Virtually the only standards established by the Agency are those relating to Disaster Loan Making positions. More qualification standards were published in August, 1972 and are a matter of record.

5. Has political pressure been applied to make appointments, promotions, reassignments, or any other personnel action? Please relate the circumstances of your actions.

In the four years that I have been in SBA, I have no idea whatsoever how many telephone calls I have received from Congressmen, Senators, and other individuals in the political arena regarding appointments, promotions, reassignments, loans, contracts, or other matters pertaining to SBA and its programs. Each one of these contacts might be interpreted as political pressure, otherwise why would they call me?

However, I have contended and still do that these men are contacting me in good faith to let me know the character of the individuals involved are sound and solid and that they are residents of their areas. I would be less than candid if I didn't recite that some of the nicest letters I have received from Congressmen or Senators have been written as a result of my turndown of their requests based on a sound reason. On the other hand, I would be less than candid if I did not recite that I have been rather severely abused by some people because we have not bent to their desires and pressures in the selection of certain people for certain jobs.

Certainly, we have been open and suggested that people in the political arena could and should suggest candidates for certain appointments in SBA. Why should they be excluded from the recommendation process any more than anybody else? On more than one occasion, I have indicated to members of the political scene that "if you are going to make recommendations, don't send me any turkeys." I told them we are looking for the highest quality we

can get because the job we have to do is very often a difficult administrative one and we cannot put up with mediocrity. I think clearly our record of appointments and the quality of people we have placed in the various jobs will stand this test above and beyond anything else that can be shown in the Federal Government structure.

On top of the personnel contacts I have received, I get literally hundreds on both the Republican and Democratic side that make certain recommendations to me with respect to individual program cases. I object to and resent any connotation that we have reacted improperly to political influence in our work at SBA. If one would sit beside me and listen to my conversations with many of these people in the political scene, they would know and understand how we have not bent to political pressures but, rather, have gone the route of quality in the case of people and in the case of loans, we have used our best credit judgment. On top of this, we have something in excess of 22,000 Congressional contacts in our Congressional Relations Office per year. If one wanted to, most of these calls could be interpreted as political pressure. Having been in Congress myself, I know and understand the working habits and the desires of these people. They are looked upon by their constituents as a point of contact and a source of recommendation. In this regard, we in SBA have been sensitive to their requests and will continue to be but we have not caved in to every whim and wish of a member of the political scene in regard to our decisions in SBA.

We do not have and did not have a political unit in SBA. One of the first things I did when I became Administrator was to request all contacts which might represent political pressure to be referred to me personally. That policy has never changed and so I handle all politically sensitive matters.

The net of the Civil Service castigating report could easily be interpreted as the following:

If you are a Republican and you recommend another Republican for an appointment and he turns out to be the best man and is appointed, according to Civil Service that violates the law. I say that is clearly unfair and discriminates and breaks another law all by itself. Some things in life are fair and some things are unfair and this Civil Service report falls in the category of being unfair and we are ready to stand up before any committee and court any place and so state.

6. To your knowledge, did anyone in SBA have access to or use a special personnel manual, known as the Malek Manual, which described ways of circumventing the merit system?

No. I never heard of such a manual until several months ago when reference to it appeared in the press.

7. Has your office maintained a list of political eligibles for filling SBA positions?

No, and we don't now and never have had a special referral unit either.

8. Have candidates for key positions been identified as to political party; has political party been a consideration for appointment or promotion?

Sometimes political party can be assumed by knowing the political party of an individual who refers a candidate for consideration; sometimes an applicant may mention it, particularly in a Schedule C position. However, appointments and promotions are made solely from among the best qualified for the position.

9. Are district directors normally provided from within SBA or from external sources? In the case of those hired from outside SBA, why could the position not be filled from within?

In filling district director positions, our aim is to get the best qualified candidate either from outside or within SBA. Of the current 64 district directors, 34 were filled from within SBA and 30 from outside, as follows:

	<u>Internal</u>	<u>External</u>
Prior to 1969	8	2
CY 1969	2	3
1970	2	5
1971	3	5
1972	2	1
1973	9	7
1974	6	7
1975 (committed)	<u>2*</u>	<u>-</u>
	34	30

In each case where a non-SBA employee was selected, he was, in our judgment, the better candidate. It has been my constant objective, as

\*In process

stated previously, to improve operations at SBA. For a number of reasons, not the least of which are CSC regulations which make inter-disciplinary training, experience, and promotions extremely difficult if not impossible, the government tends to develop excellent technicians, but not enough good general managers. To improve our operations in a reasonable period of time, it has been necessary to call upon resources from the private sector.

10. How are district directors recruited and selected? Is there a written plan for filling the positions based on merit staffing?

District directors are recruited and selected on a merit basis. In order to fill such positions with the best qualified person available, recruitment from the outside is generally accompanied by an internal search. For example, as mentioned in answer to Question No. 1 above, a recent recruitment effort to fill seven district director positions generated 1,200 applications. Three of the positions (San Francisco, Philadelphia and St. Louis) were filled from among outside candidates; four were filled from among SBA employees (Los Angeles, Pittsburgh, Wichita and Birmingham in process). A copy of our written plan for filling district director positions on the basis of merit staffing is attached (Special Notice N. 3-23, December 16, 1974). Although this plan is of recent date, it reflects the method of filling such positions which has been in use over the past several years.

11. Why do district offices, in relation to the regional offices, have little authority or control over hiring or other personnel actions?

District offices have complete control and authority over all their personnel actions, including appointments. While the district directors are selected by regional directors, who are next in line of authority, all other personnel

selections and all personnel actions involving positions below the district director are accomplished by that official or his subordinates. For reasons of efficiency and economy, personnel services are centralized in the regional offices, each of which is staffed by a group of professional personnelists. Because of the size of most district offices, it would be impractical for each to maintain a competent and trained personnel staff. The regional personnelists, in effect, work for the district director and process his personnel actions in accordance with legal and regulator, requirements.

12. Have the following been used for either reward or punishment by any manager in SBA?

To the best of my knowledge:

- A. Geographic rotation - No.
- B. Travel - No.
- C. Downgrades - No.
- D. Reassignments - No.

Such actions are not used for reward or punishment. There have, of course, been downgrades and reassignments, some of which have involved geographic relocation. These have been accomplished in accordance with applicable Civil Service regulations and have been made after a determination that the action would serve the best interests of the service. To be sure, some have resulted either from the poor performance of the individual concerned or by an effort to improve his utilization through an assignment more commensurate with his skills and abilities.

13. Commission report on alleged political influence at SBA

I have to disagree with the Commission conclusion that the "investigation produced clear evidence that persons were appointed to district director positions, which are in the competitive civil service, because of their political affiliations or support and other non-merit factors." Although some of the Commission's "facts" may be beyond dispute, conclusions based on those facts are far from clearly justified and, indeed, should be characterized as exaggerations. In addition, as I pointed out in our letter to the Commission on October 7, 1974 (which I understand you have a copy of) concerning the actions we took on their recommendations to improve our personnel procedures, I could not necessarily agree with their findings on specific cases since some of the matters involved my office and the Commission investigators did not even deem it appropriate to interview me.

It is my view that the report is based on subjective conclusions resulting from extremely narrow findings which, in many cases, are based on statements taken out of context. It would appear that there was a certain amount of prejudgement in many of the matters addressed in the report and only that evidence which would tend to support these prejudgements was considered. As an example, certain numbered "tabs" were furnished as supporting material and referenced in the report. These consist primarily of affidavits. Yet, 41 such affidavits, far more than the

number used to support the investigatory conclusions, were not made available for either review or comment.

It is of importance to note that all allegedly improper actions were taken in full compliance with applicable laws and Commission regulations. Contrary to what may have occurred with respect to similar situations in other Federal agencies, no corrective action was required by the Commission with respect to any of the allegedly improper personnel actions.

In view of the fact that the report is based on four district director cases and eight other cases in one of our regions (out of perhaps a thousand personnel actions effected in the last several years), I should like to take this opportunity to comment both on the events which led to the investigation and on the 12 cases themselves.

#### Initiation of the Investigation

A number of questions are raised relating to the purpose and motivation of the individual (Mr. Thomas Sweeney) whose allegations led to the Commission's investigation. It is a matter of concern that these purposes and motivations were not addressed in the Commission's report specifically.

If preferential treatment within SBA and, particularly, Region IX, had been operative for a number of years, why had he waited until fairly recently to request an investigation?

What was his role in implementing the alleged preferential actions?

Did the Commission inquire into the circumstances surrounding his original appointment to a position with SBA?

Did he actively seek promotion as a price of keeping silent?

What did the Commission's review of personnel management of Region IX in March, 1973, prior to the presentation of his allegations, indicate with respect to his performance of assigned duties and responsibilities?

Why did he not present his allegations to the Commission's review team in March, 1973?

Was there a correlation between his reassignment as a result of his substantially inferior performance over a period of years, pointed up by the March, 1973 Commission inspection, and the presentation of his allegations to the Commission?

General Comments re: District Director appointments

None of these individuals cited was appointed either in violation of CSC regulations or the SBA Merit Promotion Program. While, in each case, appointments were made as an exception to Merit Promotion procedures, the exception (appointment from a CSC register of an individual without prior Federal service) is one provided by Civil Service regulations. It is of interest to note that these exceptions were continued under the recently revised CSC regulations on Merit Promotion.

All of the District Directors cited were appointed from Civil Service registers. In no instance did the inspection report indicate that the individual selected was not fully qualified or that he was improperly selected from a register.

Stanley Goldberg

It should be noted that this alleged improper appointment occurred in June 1969, about one and one-half years before I was appointed Administrator.

The fact that the report concludes that "Mr. Goldberg assumed that the change in Administration would mean a Republican District Director in Phoenix" does not justify a conclusion that this was the basis for his appointment. We do not dispute the allegations that Mr. Goldberg applied through Congressional channels. However, there is nothing wrong in the act of a member of Congress or any other partisan source referring an individual to a federal agency for possible employment. By the same token, we are in no position to control press releases which members of the Congress choose to release.

In view of the fact that CSC regulations do not require the maintenance of placement records for more than two years, we are not in a position to state, over 4 years later, what other candidates were considered for this position.

Other than Mr. Goldberg's statement and references to certain newspaper

articles, there is no evidence that any preferential treatment was accorded to Mr. Goldberg.

Harold Schnurer

With respect to the reassignment of Mr. Harold Schnurer, it is an established fact, under CSC regulations, that an employee may be reassigned, even though a geographical relocation is involved, when the Agency has determined that this action would serve the best interests of the Agency.

The report, in an "Epilogue," speaks to actions involving Mr. Schnurer, the former District Director, following the appointment of Mr. Goldberg. We fail to see the relevancy of these matters with respect to Mr. Goldberg's appointment. The only significant facts pointed out are that Mr. Schnurer was involved in two personnel actions, both of which were appealable to the CSC. Mr. Schnurer chose not to appeal in either of these situations. Any conclusions, therefore, based on these events, would appear to be invalid.

David K. Nakagawa

The Commission report does not speak to the issue as to why an alleged switch, presumably initiated by Mr. Shiroma in late 1968, was not consummated until 3 years later, in October 1971. It would appear that, if Mr. Shiroma's assumptions were correct; i. e., that his job was in jeopardy because of the change in Administration, the alleged switch would not have been delayed for this length of time.

The conclusion of the CSC that SBA officials were in violation in responding to Mr. Shiroma's proposal is invalid when the 3-year time lapse is considered.

Bert F. Teague

The conclusion of the report that there is no evidence that any other candidates were ever considered for the Concord District Director position is incorrect. At least two other candidates were interviewed by Mr. Heilner, the Regional Director -- Ms. Kathleen Ward, a member of an Advisory Council in Boston; and Mr. John Kinner, with the Economic Development Administration, Department of Commerce.

The statement made in the report to the effect that "By letter dated February 26, 1973, a U. S. Senator from New Hampshire informed Administrator Kleppe that Bert Teague is the person agreed upon by the two Congressmen from New Hampshire and myself for the position as Director for the SBA in Concord" is incorrectly quoted and misleading. The letter (Exhibit 55A) actually states: "Bert Teague is the person ... should (underlining supplied) the position as Director for the SBA in Concord ... become vacant."

There is an allegation that "acting on instructions from officials in SBA headquarters, the Boston Regional Director told Mr. Benoit (the incumbent District Director) that he had been instructed by his supervisor to remove Mr. Benoit from the District Director position. The Regional Director offered Mr. Benoit two choices: another assignment (as a Bank Relations Officer) or retirement." There is no affidavit on file (which was furnished to us)

to substantiate this statement. The only fact in evidence is that Mr. Benoit retired voluntarily. It should be noted that Mr. Benoit was 73 years of age at the time of his retirement although this fact is not stated in the report.

The statement is made that Mr. Teague's SF-171 lists two Congressmen as references. We are not aware that this is illegal or inappropriate.

Why was no affidavit taken (or if one was taken, it was not furnished) from Mr. Josaphat Benoit?

Ottley R. Tschache

Why was no affidavit taken from Mr. George Schotte, the former DD? (If one was taken, it was not furnished.)

The fact that Mr. Tschache listed a Congressman and a Republican State Chairman as references on his application is neither illegal or inappropriate.

The proposed reassignment of Mr. George Schotte as Special Assistant to the Regional Director in Denver was in accordance with CSC regulations which provide that an employee may be reassigned, even though a geographical relocation is involved, when the Agency has determined that this action would serve the best interests of the service. The fact that Schotte chose to remain in Helena at a lower grade, with SEA consent, does not invalidate the appropriateness of the original reassignment. There is no question but that this downgrade, in lieu of reassignment to Denver, was voluntary on Mr. Schotte's part.

## REGION IX CASES

Daisy E. Brooks

Hired for 60 days on a disaster appointment in the L. A. District Office. There was a need for such personnel because of the disaster work in the LADO. It is our policy that all disaster appointments are temporary and, initially, do not exceed 6 months.

With respect to the allocation of a disaster space for Ms. Brooks, this was a prerogative of the Central Office based on known disaster case workload in the LADO.

Richard Burns

It is alleged that in August, 1970, Burns was contacted by a White House representative and, at that time, expressed interest in appointment as a Supervisory Loan Officer, GS-13 in the LADO. He eventually was first contacted by SBA in December, 1971 and appointed as a Loan Specialist (Comm) GS-12 in March, 1972.

If "influence" was involved, why was there a delay of 1 1/2 years in effecting the appointment, and why a GS-12 instead of a GS-13? The interval of time (1 1/2 years) would tend to disprove the connection between the two events.

The report indicates that Burns had CSC eligibility at GS-13; if "influence" was involved, why was he eventually appointed at GS-12? There was no question about Burn's qualifications because he was certified from the

Mid-level examination by the Civil Service Commission.

The report states in its "Conclusion" that "The SF Region was given an increase in ceiling to hire him (Burns) at a time when critical vacancies were left unfilled because of staffing limitations." There is no evidence offered to support this alleged increase in ceiling. Although a TWX to Singer (Exhibit 27C) dated January 19, 1972, requested such a space, there is no evidence that such a space was ever provided. Because Burns was not appointed until March 1, 1972, it is more likely that a vacancy had arisen prior to his appointment and, in this way, a space became available.

Jeri Ellis

There was nothing basically wrong in referral of Jeri Ellis by a member of the Committee to Re-elect the President.

The vacancy in the position involved was genuine due to the then pending reassignment of the present incumbent. A special effort was then being made within SBA to recruit and place women in professional positions in accordance with the provisions of the Federal Women's Program. Throughout SBA, several women were placed in similar positions.

Contrary to the allegations in the report, there is nothing wrong in crediting experience gained in a disaster appointment toward a career service position.

C. Mack Kehoe

Although Kehoe received 2 QSI's illegally within a one-year period, corrective action was immediately taken after the matter was pointed out in a CSC review. Kehoe repaid the money to the Government.

The Administrator had the authority to make a direct award of a QSI, although he was not authorized to confer the second award of the QSI within the same year as a previous QSI.

The CSC has made no attempt to demonstrate that Kehoe did not deserve the Special Achievement Award. On the contrary, this award was merited based on his disaster operations work. Although he was not legally entitled to another QSI, there is no question about his entitlement to the Special Achievement Award.

The statement is made in the CSC report that "Kehoe did not know why he received the award (Affidavit No. 33)." This is misleading because in Affidavit No. 33, Mr. Kehoe states: "I know that Mr. Kleppe was aware of my performance in the National Disaster Loans Program in six states. I believe this was the reason Mr. Kleppe gave me the second QSI." Kehoe further states: "I was never told why I received the \$250.00 Special Achievement Award and I assumed that Mr. Kleppe personally directed it because of my National Disaster Programs effort, so I felt no need to question it."

Franklin D. Schwengel

We cannot agree that Schwengel should have been deprived of consideration for Federal employment because his father was a Congressman. Schwengel

was well-qualified for the position of Loan Specialist, GS-12. There was a need for his services in the LA disaster operations. The need for his services is established by the CSC report which states that Schwengel was retained on disaster duty for 9 months after receiving a career appointment in LADO.

There was nothing wrong in assigning Schwengel to disaster duty after he was selected for career-conditional appointment. It is SBA practice, for good reason, to detail regular employees to disaster work because they are the ones with the experience and know-how to accomplish the tasks. The fact that he was retained on disaster duty would indicate that he was doing a good job in that effort.

Again, there was and is nothing wrong in crediting experience gained in disaster operations toward a career-conditional appointment.

The fact that Schwengel was converted to a permanent-type position from his disaster appointment is in accord with standard SBA practice to use disaster appointments as a recruitment source for regular positions. Such persons, who have demonstrated quality performance in SBA work, are prime candidates for regular appointment.

Loretta Siciliano Silverman

According to the report, Mr. Montano gave instructions to do "everything you can to put her on ..." The report states: "This referral was interpreted, in effect, to mean that Ms. Siciliano had to be hired by any means." This "interpretation" is not evidenced by Mr. Montano's statement. In fact, Mr. Montano's statement was misinterpreted by Mr. Sweeney and his

Mary Alice Young

The facts in the CSC report are misleading:

While Ms. Young was reinstated as a Clerk-Steno, GS-4/10, on 2-22-'71, the report states she was promoted (to a Clerk-Steno) GS-5/10, on 11-14-'71, and 3 months later reassigned to Loan Closing Assistant, GS-5/10. In March 1973, her title was changed to Miscellaneous Documents Examiner.

The actual service records indicate that on 6-2-'71, her position title was changed to Clerk (DMT), GS-4/10. On 11-14-'71, she was promoted to Loan Closing Asst., GS-5/10 (not to a Clerk-Steno position). She was not reassigned to Miscellaneous Documents Examiner until 12-9-'73.

The CSC report states: "Ms. Young was selected for promotion to Miscellaneous Documents Examiner, GS-5/10 in late fall 1971." She did not go into this position until 2 years after that date.

The CSC report states that, "Advise her we would post a position at the grade 5 level in approximately 90 days (after appointment)." Actually, Ms. Young was not promoted until 9 months later. There would appear to be, therefore, a dim connection between the two actions.

Even though "alleged pressure" was to get her a GS-7 or 8 position, the fact is she wound up with a GS-4 position, and eventually, in a GS-5 job.

subordinate staff. The alleged manipulations were accomplished primarily by orders of Mr. Sweeney and not by Mr. Montano.

Although the CSC report tries to make a point that Ms. Siciliano was 9th on a CSC referral list, the Commission does not allege that her selection from the referral list was improper. All of the "Failed to reply," "Declines" and "Non-selections" were in proper procedural order.

Howard Whiteaker

Although there was alleged pressure to hire Mr. Whiteaker as a GS-13, the report states that "SBA Central Office would not approve his appointment at that grade."

The report states that even though SBA received an inquiry from a White House source re: Whiteaker, there is no indication that (Central Office) interest was other than routine.

Whiteaker was certified from a Mid-Level Examination by the Civil Service Commission. There is no evidence that his selection was improper although he was fourth on the list. One candidate failed to reply, and two were interviewed and declined. The CSC report implies that one declined, "possibly having been led to believe that he would be hired for another job." There is no affidavit from the candidate, or other evidence, to support that conclusion. The CSC report states that a position in the "Law Administration Division" was moved to P&MA. We do not have a Law Administration Division in SBA.

Mr. Jenks denied having said that he hired Whiteaker to "repay a political chit."

14. Disciplinary actions taken, or to be taken, based on CSC investigation.

With respect to whether disciplinary action has been taken or is being contemplated where allegations have been made that employees operated a political referral system, I simply do not concede that such a referral system existed or now exists in the SBA that I know and am responsible for. In connection with the charges that have been made against two SBA officials and the disciplinary action ordered against them by the Commission, any disciplinary action by me is premature. Both officials, as I understand it, are challenging the Commission's charges and will undoubtedly ask for a hearing. And, as is implied in the Agency reply to the Commission's charges in my letter dated November 5, 1974 (a copy of which was furnished to GAO representatives at our preliminary meeting), we have tried to stay out of the merits of these cases as much as possible so that if any determination is made that jurisdiction to discipline rests with the Agency -- be it because the Federal courts so rule in connection with the pending GSA cases on similar charges, or because the Commission charges the Agency with such a responsibility -- we will be in a better posture to deal objectively with the cases.

With respect to individuals identified in the Commission Report, I do not plan any disciplinary action at this time. Individuals identified in the report include the two mentioned above who have charges currently pending, and as I indicated disciplinary action against them is premature; a third who has already been given a letter of admonishment by the Commission; individuals

not in a position of authority; individuals no longer with the Agency; and me. Not being sure at this time of the justification for the proposed disciplining of the two officials formally charged by the Commission, I see little justification for taking adverse action against individuals whom the Commission, if we acknowledge their expertise in this area, has not seen fit to charge. With respect to me, I am mentioned more or less prominently in some of the cases discussed in the report; I find it hard to believe that my involvement in these cases warrants the implication that disciplinary action should seriously be considered. When you find the kind of distortion that I see in these cases and discussed above, you have to wonder about the justification for the Commission finding of "clear evidence" of impropriety and a "pattern and practice of preferential treatment," and for suggesting that wholesale disciplinary action is necessary.

I have an obligation to see that the laws and regulations are enforced in my Agency. I also believe in the old American way that a man is innocent until proven guilty. When the cases now pending proceed to that point, I'll carry out my duty as I deem it then to be.

ATTACHMENTS

**SPECIAL NOTICE**

OFFICE OF PERSONNEL

Special Notice No. E-23

Date: December 16, 1974

Subject: Recruitment Plan for District Director Vacancies

To: See Distribution Below

In order to assure an effective recruitment program for District Directors, a concerted and systematic approach must be taken to identify exceptional and outstanding candidates who are available. To this end, the Agency's Recruitment Plan was developed for your immediate and uniform implementation.

The enclosed Plan must be adhered to in our future efforts to staff District Director vacancies.

*Carl E. Grant*  
Carl E. Grant, Director  
Office of Personnel

Enclosure

For Further Information: Fred Hollingsworth, 202/382-7815

Distribution: Asst. RD's for Admin., Regional Personnel Offices (2)  
Office of Personnel (10), Asst. Admin./Admin., Assoc. Admin./Operations

E-23 (3)

## RECRUITMENT PLAN FOR DISTRICT DIRECTOR VACANCIES

## I. Recruitment

- A. All recruitment efforts will conform to provisions of the recent Merit Promotion Policy, SOP 33 35 1.
- B. When a pending District Director vacancy becomes known to a Regional Director, his first step is to look at the specific office situation and determine any special factors or skills which will be relevant to selecting highly-qualified replacement candidates.
- C. Next, the Regional Director will consider candidates on a Repromotion or Reconsideration Roster prepared by the regional personnel staff.
- D. If no appropriate candidate is found on the Repromotion or Reconsideration Roster, the Regional Director will consult with the Director, Office of Personnel or his designee to determine, jointly, if strong contenders exist within SBA, or if outside recruitment is desired. The consultation will include a review (with the Associate Administrator for Operations) of those persons in the Executive Development Program of the Agency, to determine if any currently are ready for reassignment to the vacancy, or for automatic consideration along with other candidates under merit promotion procedures.
- E. If a reassignment is to be made, the Regional Director will initiate a SF-52 which will be forwarded to the Central Office Employment Division. When a reassignment is not undertaken, the 52 will specify recruitment "in only" or "in and out," and will describe any selective placement factors and job related elements to be used in the recruitment process.
- F. If recruitment is to be internal only, the vacancy will be posted throughout SBA by the Central Office Employment Division.
- G. If recruitment is to be "in and out," the following steps will be taken:

ACTIONBY WHOM

- |                                   |                |
|-----------------------------------|----------------|
| 1. Vacancy posted throughout SBA. | Central Office |
|-----------------------------------|----------------|

E-23 (4)

<u>ACTION</u> (Cont'd)	<u>BY WHOM</u>
2. CSC Senior Level open certification requested or informal review of candidates made.	Region
3. Announcements sent to other governmental agencies in local area.	Central Office & Region
4. Announcements sent to professional, minority and women recruitment sources locally.	Region
5. Same as (4) for national sources	Central Office
6. Review of applicant supply files.	Central Office
7. Direct referrals obtained from key leaders in banking, business or other community functions.	Region
8. Display advertising in local papers using display type ads on financial pages. (This step is done at the option of the Region.)	Region
9. CSC executive inventory informal search conducted. (This step is done at the option of the Central Office Employment Division.)	Central Office

## II. Consideration and Evaluation

- A. Basic qualifications will be reviewed based on the revised qualification standard of July 5, 1974, e. g. residency will not be a factor.
- B. Provisions of Special Notice No. E-16A "Application From Political and Other Sources" will be complied with.
- C. An ad hoc panel system will be used for determining best-qualified.

FISCAL YEAR 1972 ACCOMPLISHMENTS

In Fiscal Year 1972, the Office of Personnel completed the following:

1. Payroll and Personnel Employee Records System (PAPER). Finalized the design and implemented the personnel segment of the automated PAPER system.
2. Special Emphasis Recruitment Program for Women. We have appointed nine women to senior level positions and have one appointment pending. In addition, we have promoted four, with two pending, into these positions. Placement of women in senior level positions was restricted because of reduction in staffing by five percent and the need to reduce the Agency's average grade level.
3. Field Evaluation. An evaluation team conducted personnel management reviews of four regions; Region I (Boston), Region II (New York), Region IV (Atlanta), and Region V (Chicago). We also implemented findings of CSC's evaluation of Region III (Philadelphia).
4. Upward Mobility. The Civil Service Commission approved an upward mobility training agreement. We have received approximately 110 applications from employees who are interested in participating in the program. Interviews have been conducted with 70 employees and 88 supervisors.
5. Training Agreement for Digital Computer Operators. The Civil Service Commission approved a training agreement specifically designed to provide computer operators and keypunch operators with the means of entering the computer programmer career field, one which has been closed to most of them in the past.
6. Career Intern Program. Developed a comprehensive Career Intern Program which will supersede the Management Intern Program.
7. Financial Assistance Training. A financial assistance training program has been developed and Phase I has been completed. Phase I involved meetings of all regional and district chiefs of financing and loan administration and all community economic development (CED) regional chiefs and district CED personnel to review goals, policies, procedures, changes, and other topics relative to improving SEA operations. They also examined technical training needs of their staffs and completed a preliminary assessment of the magnitude of these needs. In Phase II, the chiefs will return to their regions and develop training programs to meet the identified training needs.
8. Personnel Management Workshop for First Level Supervisors. The Personnel Management Workshop, which is a required training course for

first level supervisors has been extended two days to include three programs; Upward Mobility, Alcoholism Program, and Equal Employment Opportunity.

9. Executive Development. Reviewed executive development guidance from the Civil Service Commission and the Office of Management and Budget and translated it into a proposed program for SBA.

10. Training Courses. During fiscal year 1972, approximately 3300 employees received intra-agency training, 1100 inter-agency, and 60 out-service.

11. Reduction of Average Grade. Developed the Agency plan for the reduction of average grade in compliance with Office of Management and Budget Circular No. 72-4. Agency grade was reduced from 9.17 on June 30, 1971 to 9.11 as of May 27, 1972, despite the fact that restrictions on hiring plus a 5% reduction in staff made even this reduction very difficult to meet.

12. Loan Specialist Study in Region III (Philadelphia). In response to a Civil Service Commission requirement to review the grade levels of our field loan specialist position, a study of this occupation was conducted in Region III and a report was made to the Commission. As soon as we receive their reaction, we will require a similar study to be made in the other nine regions.

13. Procurement Center Representative and Certificate of Competency (COC) Position Study. In response to Civil Service Commission criticism of the grade levels of field Procurement Center Representatives and COC specialist positions, we required all regions to review their positions from a classification point of view and send their findings to the Central Office. This phase has been completed. An evaluation of these positions and a response to the Civil Service Commission is now being prepared.

14. Loan Closing Assistant Positions. Standard position descriptions, i.e., staff guides, were developed and sent to the field for Loan Closing Assistant, GS-7, positions. This position provides promotional opportunity for incumbents of miscellaneous documents examiner positions.

15. Personnel Management in Disaster Operations. Two projects were completed to improve personnel management in disaster offices. A package of standard position descriptions which provide the maximum flexibility in position management was developed. Approval was also obtained from the Civil Service Commission to extend our disaster appointing authority from six months to two years without prior approval of the Commission.

16. Labor-Management Relations. A formal contract was negotiated between Central Office management and the local union. Plans have been completed and a schedule established for a series of labor-management seminars to be held in each region.

17. Alcoholism Program. For the first time in the Agency's history, a program was developed to emphasize the rehabilitation rather than the punishment of alcoholism. This includes the development of a policy statement, procedures, and a supervisory training course.

18. Occupational Safety and Health Program. A new occupational safety and health program has been established in the office.

19. Intergovernmental Personnel Act. Implemented Title IV of the Intergovernmental Personnel Act of 1970 which permits the assignment of Federal employees to state and local governments and to institutions of higher learning for periods up to two years without loss of employee rights and benefits. Federal agencies may also arrange for state and local government employees to serve them for similar periods. Currently, an agreement is being negotiated in order to assign one SEA employee to the State of Arizona.

ADMINISTRATION SMALL BUSINESS ADMINISTRATION SMALL BUSINESS ADMINISTRATION

OFFICE OF PERSONNEL

SUMMARY OF SIGNIFICANT ACCOMPLISHMENTS, FISCAL YEAR 1973

Organization and Position Management

- Reduction in Average Grade. The average grade of permanent, full-time employees was reduced from 9.10 as of June 30, 1972, to 8.92 as of June 30, 1973. The Agency's goal for the end of the fiscal year was 8.97.
- Position Classification Titling Guide. A position classification titling guide was developed for Central Office and Regional Office classifiers. There are approximately 451 different position titles now established in the Payroll and Personnel Employee Records System (PAPER).

Position Description Guide. A guide was developed for Regional Administrative Officers and classifiers for use in submitting classification requests for positions in grades GS-13 and above.

Manpower Allocation and Control. An SOP was drafted to provide a more effective means of controlling authorized personnel ceilings and the number of permanent on-board employees. Ceiling information will be maintained and updated by the Organization and Position Management Division.

Reorganizations. The regional offices are in the process of being reorganized. District offices are being established in cities where regional offices are located. Reorganizations were made in the Central Office in the following organizations:  
 (1) Associate Administrator for Operations, (2) Associate Administrator for Finance and Investment, (3) Office of Personnel, (4) Office of Management Systems, (5) Office of Budget and Finance, and (6) Office of Audits and Investigations.

PAPER System. The incentive awards and health benefits programs and severance pay were programmed into the computer and will be automated in July, 1973.

Procurement Center Representative, Certificate of Competency Specialist and Loan Specialist Position Studies. Studies were completed of these positions in the field at the request of the Civil Service Commission, and the final report was submitted to the CSC.

## Employment

### - Special Employment Programs - (Central Office)

- John F. Kennedy Jr. Fellowship Program. Nine students were hired under this summer employment program. It is designed to provide summer and vacation employment for outstanding high school seniors who plan to attend college and need employment in order to pursue their education.
- Wharton Public Policy Fellowship Program. Seven students of the Wharton School of Finance, University of Pennsylvania, were hired for the summer of 1973.
- Disadvantaged Youth Program. Twenty-three disadvantaged youths were hired as summer aids.
- Regular Summer Employment. Nineteen regular summer employees were hired.
- Federal City College Cooperative Education Program. An accounting student was employed under this program. This is a cooperative education program in which a student works full time for the Federal Government, for a period of six months, to gain practical experience related to his course of study.
- Upward Mobility. A Policy Statement and an SOP were developed and issued to field offices. Eight persons in the Central Office were assigned to Upward Mobility positions.
- Merit Promotion Plan. The Merit Promotion Plan was revised and a draft was submitted to all supervisors and the unions for comments. All employees were informed of the proposed changes and invited to submit their comments to the unions or Office of Personnel by August 1, 1973.

## Training

### - Training Courses

- SBA Participants. 1098 employees participated in formal training courses. 856 employees received intra-agency training, 125 attended interagency courses, and 117 were enrolled in out-service sessions.
- Effective Supervision Course. A new course was designed for first-level supervisors. Two courses were held in Silver Spring for employees from Regions I, II, III, IV, and those in the Central Office. One was conducted in Kansas City for employees of Regions VI and VIII, and one in San Francisco for employees of Regions IX and X.

Interviewing for Results Course. Courses were conducted in Silver Spring, New York, Dallas, Hartford, Boston, Concord, Seattle, and Portland.

Self-Study Technical Training. Programmed instruction courses were developed for Loan Servicing Assistants. A PI course was also designed for loan processors to promote lender participation. A pilot test of the latter course was made by two loan officers in the Washington, D.C., District Office. As a result, revisions are being made and it will be completed and distributed in the first quarter of fiscal year 1974.

Optical Character Recognition (OCR) Training Course. OCR equipment was installed in the Central Office to replace keypunching as a method of entering data into the Agency computer system. Six training courses were conducted to familiarize Central Office and field personnel with new OCR procedures.

Correspondence Courses. Arrangements were completed with several Federal agencies to permit SBA employees to enroll in correspondence courses in a variety of subjects.

Orientation Course. An orientation course, designed for new employees in the field offices, and including 200 visual aids, was prepared and distributed.

Career Trainee Program. This program is a forerunner to the Agency's Career Management Program and will replace the Career Intern Program in FY 74. 102 positions were identified in the field offices as being appropriate for hiring at the trainee level, grades GS-5/7. During fiscal year 1973 under the Career Intern Program, seven interns completed orientation in the Central Office program and support offices and were assigned to the following field offices: two in Boston, one in New York; one in Atlanta, two in San Francisco and one in Los Angeles.

Executive Development Program. The new Executive Development Program was approved by the Administrator and a Policy Statement and SOP were issued. The Executive Manpower Resources Board selected 23 candidates as participants in the program. The first Executive Development candidate was selected for attendance at the Civil Service Seminar Center in Berkeley.

Civil Service Executive Seminars. Twenty-two employees attended seminars. Four women (one of whom is minority) and five minority males were participants. Nineteen space requirements for fiscal year 1974 were submitted to the Civil Service Commission.

Financial Assistance Career Program. A program for this career field was developed and a final draft submitted to regional and Central Office personnel for comment.

#### Employee Relations

- Labor-Management Relations. Ten Labor-Management Relations seminars were conducted for regional and district office personnel responsible for the labor-management program in their respective areas. Four new union contracts were negotiated and two were renegotiated.
- Intramangement Communication and Consultation. As required by section 7(e) of E.O. 11491, a system of intramangement communication and consultation with supervisors, or associations of supervisors, was established.
- Incentive Awards. The Seventh Annual Awards Program was held in September 1972. 597 employees were recipients of awards in fiscal year 1972. There were 353 Quality Step Increases, 95 Outstanding Performance Ratings, 96 Special Achievement, 5 Gold Medal, 7 Silver Medal, and 41 Agency Honor awards. The William A. Jump Memorial Foundation selected an SBA employee to receive its 24th annual award which recognizes outstanding service in the field of public administration.

#### Personnel Policy and Evaluation

- Field Evaluations. A joint CSC/SBA team conducted evaluations of personnel management in Regions VIII (Denver), VI (Dallas), VII (Kansas City), X (Seattle), IX (San Francisco), and III (Philadelphia). A self-evaluation plan was developed for the regions and is expected to be operational in fiscal year 1974.
- Office of Personnel EEO Plan of Action. For the first time, a formal EEO plan of action for the Office of Personnel was prepared and a quarterly evaluation system established. A plan for fiscal year 1974 was also formulated.

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PART TWO: OFFICE OF PERSONNELSUMMARY OF SIGNIFICANT ACCOMPLISHMENTS, FISCAL YEAR 1974Position Management Studies in the Central Office

Position management studies were conducted in the following Central Office organizational segments:

- Collection Activities Branch and Data Automation Branch, Denver Fiscal Office, Office of Budget and Finance
- Reports Management Division, Office of Management Services
- Office of Portfolio Review, AAF & I
- Liquidation Section, Accounting Branch, Office of Budget and Finance
- Assistant Administrator for Management Assistance
- Public Information function under the Assistant Administrator for Congressional and Public Affairs
- SBA Print Shop
- Procurement function, Administrative Services Division

Position Management Studies of Field Positions

The following studies of field positions were conducted and current status or result is indicated:

- The Loan Specialist occupation which resulted in criteria to differentiate between the GS-11 and GS-12 levels.
- The Procurement Center Representative occupation which resulted in published grade level criteria.
- The Certificate of Competency specialist occupation which resulted in published grade level criteria.
- The Public Information Officer occupation which resulted in published grade level criteria.
- The reestablishment of the technical services/appraisal function which resulted in a report for consideration by top management.
- Attorney positions which has resulted in a draft of grade level criteria.
- 8(a) Program positions which has resulted in a report which is now being considered by management.

-6-

- Surety Bond Program positions which resulted in a report prepared in draft form.

#### Reorganization

Assistance was provided to management in the implementation of the following reorganizations:

- Realignment of the total field position structure including development of functions, on-site guidance in personnel adjustments, and training programs for new functions.
- Realignment of the Assistant Administrator for Minority Enterprise.
- Three reorganizations of the Associate Administrator for Finance and Investment.
- Two reorganizations of the Associate Administrator for Procurement and Management Assistance.
- Establishment of the Assistant Administrator for Management Assistance.
- Realignment within the Data Management Division.
- Realignment within the Reports Management Division.

#### Automated Personnel System

- The Personnel Organization Roster was refined and purified. Guidelines to correct errors were developed.
- Table showing position title codes was revised to reduce time needed by coders of personnel actions.
- Systems changes were made to produce warnings to ensure that:
  - (a) Employees do not work beyond the time limits specified in their appointments.
  - (b) Employees are not credited with time in a LWOP status toward a within grade increase.

#### Key Position and Executive Recruitment

Staffing of GS-13, 14, and 15 vacancies in the Regions received top priority during the fiscal year and a total of 359 such positions were filled. (258 in the regions and 101 in the Central Office). Numerous measures were instituted to improve the effectiveness of regional recruitment:

- Recruitment operations and control were assigned as a full-time responsibility to a single senior staffing specialist assisted by a professional trainee and two full-time clerks;

-7-

- In-depth discussions with the Chief, Senior Level Section, CSC were held to determine better ways and means to expedite staffing of positions;
- Memoranda were sent to Regions outlining more effective procedures and increased responsibilities for greater success in staffing GS-13 and above positions;
- Permanent repromotion rosters were furnished to Regions to reduce time-lags in recruitment;
- Increased telephonic contacts were made with Regions to keep them informed of recruitment progress;
- Security-designations of two positions, ARD/A and ARD/MA, were reevaluated thereby eliminating the full-field investigative requirement and reducing considerable lag time.

#### Merit Promotion Program

The new merit promotion program was implemented in the Central Office on June 23, 1974 because of labor contract provisions. It will be implemented in the field on July 29, 1974. Through use of employee self-applications, annual performance appraisals, and job-related elements, it is expected to materially reduce processing time affecting new appointments or promotions.

#### Finance & Investment Career Program

This career program which became operational in May 1974 is designed to provide a cadre of highly qualified candidates for any given mid-level and senior-level position nation-wide. The program streamlines normal staffing procedures and requirements otherwise associated with a merit promotion program e.g. vacancy announcement time, qualification rating, etc.

#### Effective Supervision

Five courses were conducted and 130 employees satisfactorily completed this five-day supervisory development program.

#### Federal Personnel Administration Career Program

This Government-wide program was developed and is now being implemented among the personnel specialists throughout the Agency. Special emphasis will be placed on the continued development of technical skills among personnellists. Cross-training, whenever possible, will be encouraged.

#### Video Tape System

An Agencywide video tape system was approved. Equipment is now being delivered to Central and field offices. A studio for professional production of training programs, speeches, etc., is being installed in the Silver Spring Training Center. Delivery of equipment to field offices (record and playback capability to regions; playback to districts) is now in progress and should be completed by the end of October 1974. The total system will be operational by January 1975.

#### Personnel Management for District Directors

Development of a 2½ day program on personnel management for District Directors was initiated. The course will be ready for presentation by September 1, 1974.

#### Personnel Administration Conference

The Personnel Conference for all ARD/A's and field and Central Office personnel specialists was conducted at the Training Center on May 6-8. The purpose of the conference was to increase the personnel management capabilities of the participants through comprehensive skills orientation sessions.

#### Executive Development Program

108 employees were enrolled in this program this year. 69 of those reporting have received some type of developmental training (classroom, details, "acting" roles, etc.). All of the GS-15 enrollees completed a two-day assessment workshop conducted by Leadership Systems, Inc.

#### Labor Relations

A new Central Office labor contract was negotiated embodying greater flexibilities for management.

#### Incentive Awards

During FY 1974, 83 employees received Outstanding Performance Ratings, 45 were given Special Achievement Awards, and 70 received Quality Step Increases. 11 employee suggestions were adopted.

#### "Special Notice" System

The Office of Personnel implemented a uniform system for distributing to the field, and for use in the Central Office, all staff guides, qualification standards, and any other guidance or instructions not included in the SOP system. These issuances are called "Special Notices" and are used only for instructions which are applicable on an SBA-wide basis. The normal distribution is to Assistant Regional Directors for Administration, Regional Personnel Offices, Assistant Administrator for Administration and Associate Administrator for Operations. When appropriate a wider distribution is made. 55 Special Notices were issued; 8 were cancelled.

-9-

Standard Operating Procedures (SOP's)

Two new SOP's were prepared and published: SOP 32 52, Delegations of Personnel Authority; and SOP 33 12, Position Management Program, to assure the most economical and effective use of position structures.

SOP 33 35 1, Merit Promotion and Placement Program, was completely rewritten and will become effective on July 29, 1974. SOP 36 30 1, Leave, was rewritten and is ready for printing. This SOP contains a new chapter on the restoration of forfeited annual leave and many other substantive changes, resulting from the recent passage of legislation governing the administration of annual leave.

Revisions were to the following SOP's: AOP 33 16, Disaster Personnel Authority; SOP 34 11, Upward Mobility Program; SOP 34 51, Incentive Awards Program; SOP 37 71, Employee Complaints, Grievances and Appeals; SOP 33 00 A, Recruitment and Appointment; SOP 34 30, Performance Evaluation; and SOP 35 30, Occasional Overtime and Holiday Work.

Approximately 57 regional SOP's, concerning personnel management, were reviewed for conformity with FPM and SBA policies.

Personnel Management Program Planning and Review

The SBA Personnel Management Program for FY 1975, which lists the personnel management program goals and objectives that are to receive priority attention within SBA during the coming year, was published on April 1, 1974. Each region has developed a similar program document based on local program needs. During FY 1974, quarterly personnel management program status reports were furnished to management officials in the Central Office and in field activities.

Personnel Management Program Evaluation

- On-site evaluations of personnel management were conducted in six regions - I (Boston); II (New York); IV (Atlanta); V (Chicago); VI (Dallas); and VIII (Denver).
- On-site guidance and assistance to the personnel staffs of all regions reviewed during FY '74 was provided in:
  - a. Recognizing and using the flexibilities built into the Federal personnel system.
  - b. Regulatory compliance to be observed on staffing, classification and adverse action cases.
  - c. Providing Central Office viewpoints and rationale on SBA personnel policy and procedures.
  - d. Assessing and making recommendations to improve the field's self-evaluation programs to assure accomplishment of stated personnel objectives for FY '74.

-10-

- e. Developing a close and mutually respected working relationship between SBA regional personnel staffs and their counterparts in local CSC offices.
- The capability of the field personnel staffs was developed by including four regional personnelists as full team members on evaluations of personnel management in other regional offices. This provided them the opportunity to learn how to self-evaluate their own programs and receive first hand knowledge of what constitutes a top flight personnel program both in the viewpoint of the Central Office and the CSC.
- An awareness and a better understanding of field personnel operations was developed by including Central Office personnelists on evaluation teams. This fiscal year four Central Office personnelists have benefited from this participation.

#### Assessment of Field Personnel Programs

- The first evaluation cycle from June, 1971 through March, 1973, emphasized personnel management problem identification with comprehensive evaluation reports and corrective action for all ten regions to provide us with a "handle" on field personnel programs and personnel staff capabilities.
- The second evaluation cycle which began in May, 1973, and will end in November, 1974, is geared primarily toward total personnel program improvement in the regions once the problems identified during the first cycle are resolved. Only achieved a limited amount of success with this second phase of the evaluation program due to the following:
  - a. Only five of the ten regional personnel offices have been fully staffed during this cycle.
  - b. When fully staffed (by ceiling allocation) some regions do not appear to have the manpower to fully administer all personnel programs. Many field personnelists are required to cover a variety of field personnel programs which limits their activity, at best, to the day-to-day processing of personnel actions with very little time for program development, implementation and/or improvement.
- Given the circumstances mentioned above, the regional personnel staffs have made progress in the area of personnel program improvement but to arrive at total program improvement and to increase delegated personnel management responsibilities will first require a study of the current and projected capability and staffing of field personnel offices. Such a study is programmed for early FY '75.

SIGNIFICANT PLANS AND ACCOMPLISHMENTS-FISCAL YEAR 1975

- \* 1. The establishment of a video communications network linking the field with the Central Office and increased managements/ supervisory training utilizing this network.
- \* 2. The development and implementation of a 2½ day personnel management training course for District Directors.
- 3. Staff assistance visits to District Directors and field program managers by the AA/A and Director, Office of Personnel, to improve their personnel management capabilities.
- \* 4. The establishment of a program aimed to achieve full personnel delegation to the field through grade GS-15 and to render increased staff assistance to the field personnel program.
- \* 5. The implementation of a new merit promotion plan designed to expedite the filling of positions with better quality candidates.
- \* 6. Increased emphasis on on-site executive recruitment and the staffing of positions on a planned basis.
- 7. The development and implementation of a Management Assistance Career program.
- 8. The conduct of on-site personnel management surveys in six regions (3 completed).
  
- \* Implemented.

OCT 7 1974

Mr. Bernard Rosen  
Executive Director  
U. S. Civil Service Commission  
1900 E Street, N.W.  
Washington, D. C. 20416

Dear Mr. Rosen:

This letter is in response to the CSC report on Alleged Political Influence in Personnel Actions in the Small Business Administration, which was received August 19, 1974.

As I am sure Assistant SBA Administrator for Administration Coleman made quite clear at a meeting with representatives of the Commission in connection with this letter, the Agency and I want to cooperate fully in correcting or improving those procedures found to be deficient, or in installing procedures not heretofore prescribed by the Commission. Having said that, I want to stress that I am not necessarily agreeing with the Commission's findings on specific personnel actions discussed in the report, particularly since some of these matters involve my office and the Commission's investigators did not even deem it appropriate to interview me.

With respect to required action No. 1, Attachment No. 1 (Recruitment Plan for District Director Vacancies) represents the improved procedure to be followed by all Agency personnel in filling SBA District Director position vacancies.

With respect to required action No. 2, a thorough review has been conducted of all appropriate SBA policies concerning recruitment and staffing. These include SOP 32 52 Delegation of Personnel Authority, SOP 33 00 Recruitment and Appointment, SOP 33 05 Executive Assignment Board, SOP 33 35 1 SBA Merit Promotion and Placement Program. This review reveals that personnel laws, merit principles, related executive orders and CSC rules, regulations and policies established by the Agency have been previously, clearly set forth (Attachment No. 2). In addition to the aforementioned basic policy guidance, the Agency has continually kept appropriate officials

2.

Informed of their responsibilities under the merit system. Attachments No. 3 (pamphlet entitled: The Federal Manager's Responsibilities Under the Merit System, April 23, 1974 and Special Notice, subject: Guidance Regarding Appointments to the Federal Service, April 15, 1974) are current examples. Other positive steps that were under way prior to our receipt of your report was the development of a two and one-half day Personnel Management Institute for District Directors. The first session for 12 District Directors began September 24, 1974. A significant part of this Institute concerns their responsibilities in adhering to applicable laws, CSC regulations and SBA policy governing the recruitment and selection of employees. The Assistant Administrator for Administration and the Director, Office of Personnel are scheduled to begin a series of conferences in October with regional management. The purpose of the conferences is to improve the understanding and acceptance of correct personnel management practices.

Attachment No. 4 (SOP 32 00 Personnel Management in SBA) is a draft SBA policy, soon to be published, which in one policy document explicitly assigns responsibility, assigns the necessary oversight with respect to that responsibility, and states clearly that necessary corrective action and/or disciplinary action will be taken when violations of appropriate Agency policy, CSC regulations and laws occur.

With respect to corrective action No. 3, Attachment 5 (Consideration of Outside Applicants for Vacancies) will be issued under the Office of Personnel's Special Notice System to managers, supervisors and personnel staffs throughout the Agency and will govern the receipt, consideration, processing and disposal of applications for employment. This will assure strict compliance with the Agency's Merit Promotion Program SOP 33 35 1, Section 7. 1 of CSC Rule 7; Section 4.2 of CSC Rule 4; 5 USC 3303; and EO 11222, Part IV Section 403(c).

With respect to corrective action No. 4, Attachment No. 6 (draft Special Notice, subject: Clarification of Grade Level Evaluation Method and Criteria for District Director Positions) will be issued in a few days and will assure that the grade levels assigned to

3.

District Director positions are in strict compliance with relevant position classification standards. An evaluation analysis of all District Director positions within the Agency will be completed by June 30, 1975.

Sincerely,

*TSK (signed)*

Thomas S. Kleppe  
Administrator



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

Honorable Henry M. Jackson  
Chairman  
Committee on Interior and Insular Affairs  
United States Senate  
Washington, D. C. 20510

Dear Mr. Chairman:

I am pleased to answer the question of Senator Abourezk which you forwarded to me with your letter of October 3, 1975. My answer is provided in the same spirit, and within the same limitations, as those which I have previously submitted concerning the Department of the Interior.

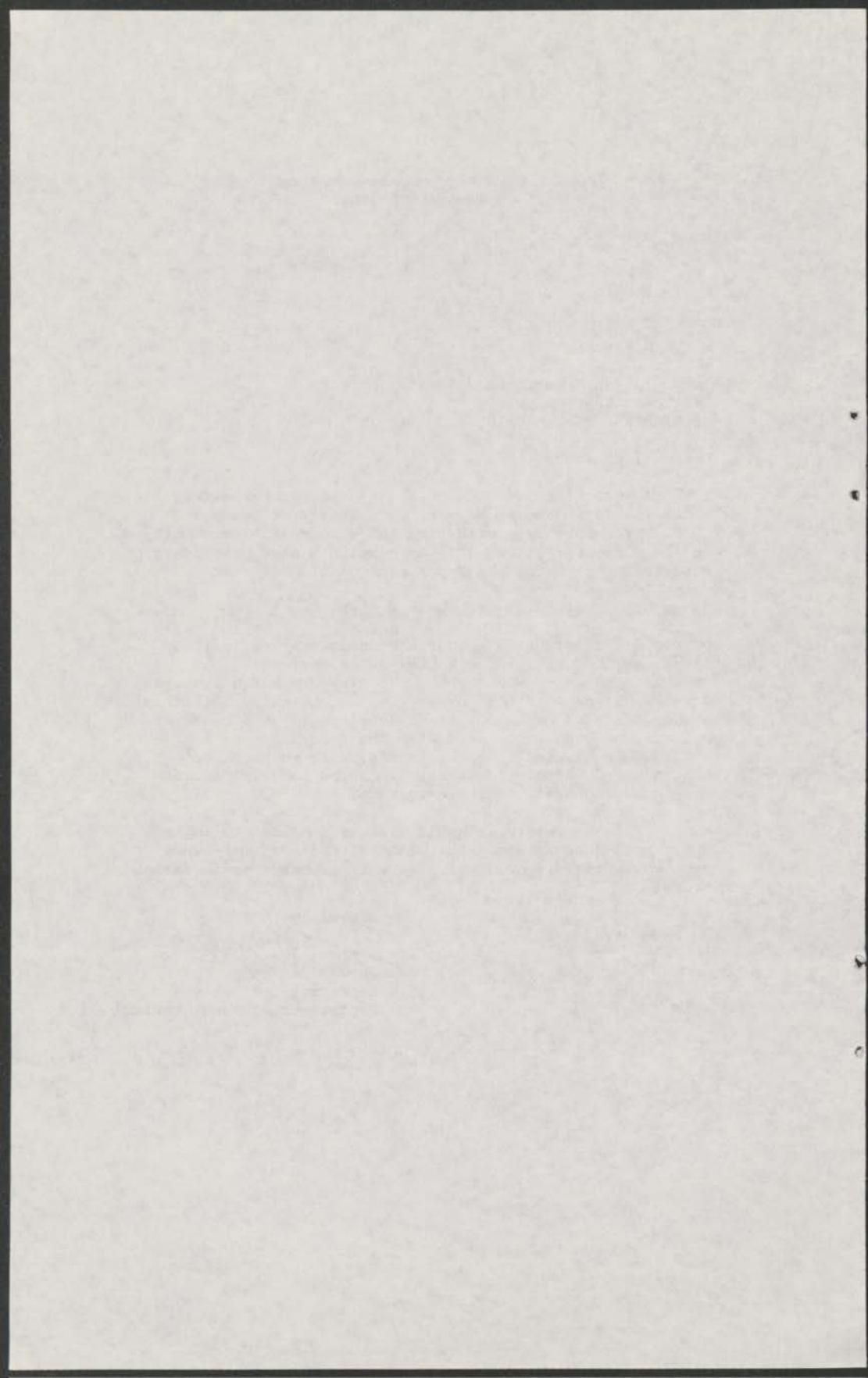
Cooperation with Missouri Basin Systems Group

QUESTION: The Interior Department since the early 1960s has cooperated with the consumer-owned systems of the Missouri Basin in establishing the Missouri Basin Systems Group, a power pool, and by working out mutually beneficial arrangements by which the power developed by the consumer systems has been integrated with the Federal power and transmission systems. As Secretary, will you work to continue and improve these relationships to help provide the expanding needs of these systems?

ANSWER: As Secretary, I would work to continue to improve and expand such arrangements with all the consumer-owned systems in the Missouri Basin as well as other power marketing areas.

Sincerely,

Thomas S. Kleppe  
Secretary-Designate  
Department of the Interior



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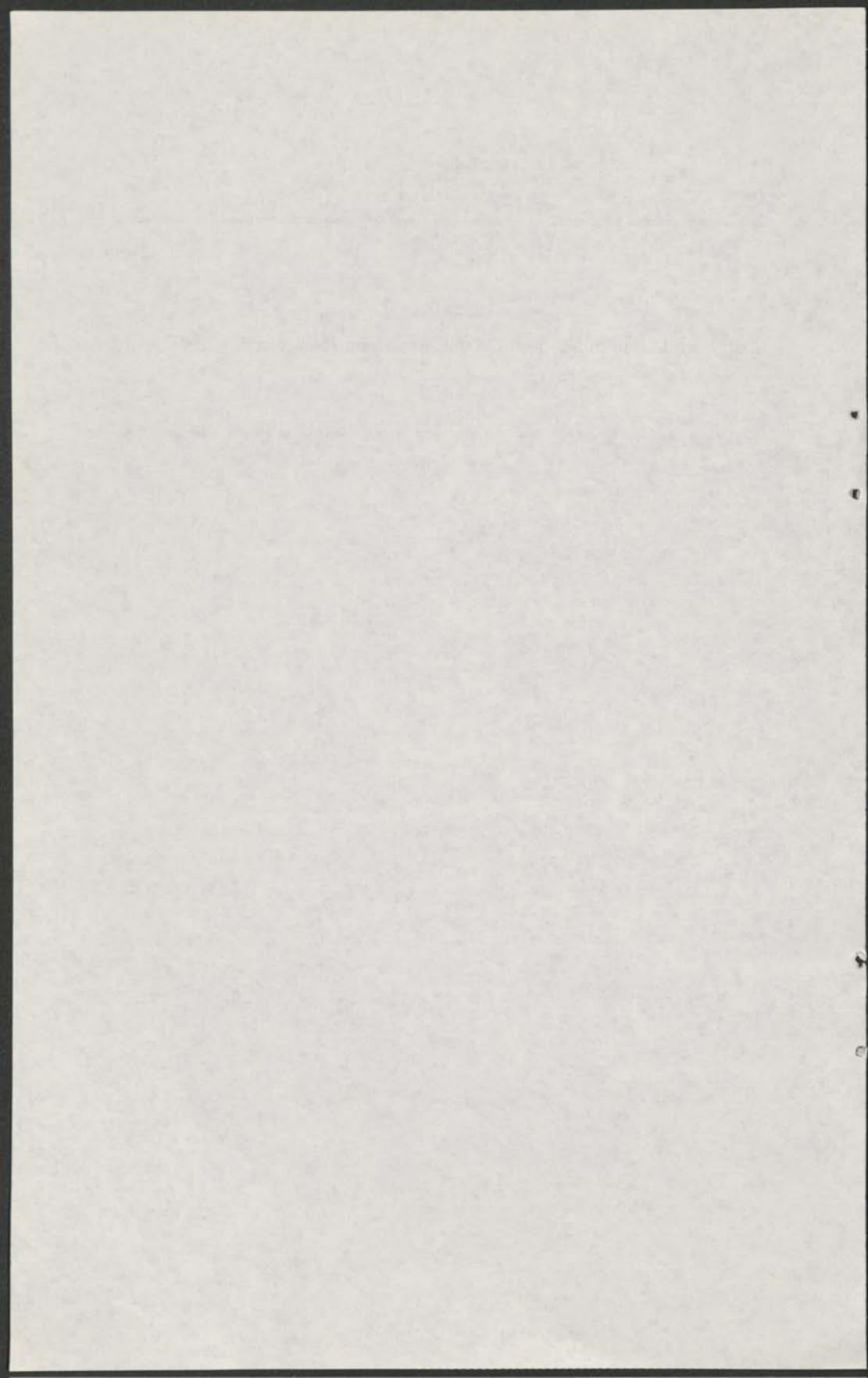
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APPENDIX II

Additional Statements and Communications Received for the Record

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STATEMENT OF THE ENVIRONMENTAL DEFENSE FUND  
BEFORE THE SENATE INTERIOR COMMITTEE  
ON THE NOMINATION OF THOMAS KLEPPE  
AS SECRETARY OF INTERIOR  
SEPTEMBER 25, 1975

Members of the Committee, my name is Arlie Schardt and I am Executive Director of the Environmental Defense Fund (EDF). EDF is a coalition of scientists, attorneys and other citizens, with a national membership of some 50,000 persons. Our role is to bring scientific data and legal action to bear on environmental problems.

EDF's concerns about the direction of America's natural resources policy, and the importance of the post of Secretary of Interior, have been the subject of detailed comments to this Committee in recent hearings. For brevity, I would only summarize those comments and their relevance to the present candidate.

We are at an historic point in the history of the Department of Interior. The decisions which will be made in the next few months and years will determine for generations our ability to husband our finite world, its resources, indeed our quality of life. Philosophies which were valid in the past - that resources exist to be exploited, that growth in consumption can be carried on indefinitely - no longer apply.

The position of Secretary of Interior is vital to these concerns and must be looked at in a new light. In the past the

Department of Interior has been the familiar agent of natural resource exploitation. The Department must be redirected to serve as the steward, the trustee of our public resources. The Secretary of Interior must be a person with proven understanding of and dedication to policies of conservation, in order to ensure that our nation has a proponent of resource stewardship at the highest level of government. The Executive branch already has many high officials representing the interests of business and industry. What is lacking in this administration is a balancing voice for conservation, for the public interest. This voice should be embodied in the office of the Secretary of Interior.

For these reasons we are disappointed at the administration's nomination of Thomas Kleppe to this critical post. Mr. Kleppe does not come from a background of natural resource management, conservation policy or environmental experience. At a time when the department needs redirection, Mr. Kleppe does not appear to bring with him clear and constructive resource policies or knowledge of where our policies should be directed. His record as administrator of the Small Business Administration does not reflect an eagerness to serve the broad needs of the full public spectrum, or an understanding of the individual accountability that adheres to every public official.

Such a nomination is all the more disappointing in view of the many available candidates with strong environmental records,

proven environmental leadership and administrative ability. Indeed, it seems another example of the Ford Administration's pointed downgrading of America's crucial environmental problems that the primary reason for selecting the present nominee appears to be his virtually complete lack of exposure to any of the issues for which he will be responsible.

Naturally, we sincerely hope that the candidate confirmed by this Committee will justify the Committee's confidence and be the architect of sound policies and programs. No such analysis can be made on the record now before the Committee. We hope that members of this Committee will seek positions and commitments from the candidate, on the record, on the specific issues and policies which were of concern in the recent confirmation hearings of Mr. Stanley Hathaway. Finally we hope that the questions will prompt considered answers from the candidate which will enable the Committee to evaluate his caliber and fitness for confirmation. Thank you.

HARRISON A. WILLIAMS, JR., R.I., CHAIRMAN  
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 EDWARD G. KENNEDY, MASS.  
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 WILLIAM D. HATHAWAY, MAINE  
 DONALD ELIASSON, GENERAL COUNSEL  
 MARJORIE M. WHITTAKER, CHIEF CLERK

JACOB K. JAVITS, N.Y.  
 RICHARD S. SCHWEIKER, PA.  
 ROBERT TAFT, JR., OHIO  
 J. GLENN BEALL, JR., MD.  
 ROBERT T. STAFFORD, VT.  
 PAUL LARALE, NEV.

## United States Senate

COMMITTEE ON  
 LABOR AND PUBLIC WELFARE  
 WASHINGTON, D.C. 20510

September 17, 1975

The Honorable Henry M. Jackson  
 Chairman  
 Interior and Insular Affairs  
 United States Senate  
 Washington, D. C.

Dear Mr. Chairman:

On Tuesday, September 9, 1975, the Senate received the nomination of Thomas S. Kleppe to become Secretary of the Interior. As Chairman of the Committee on Labor and Public Welfare, I have a very strong interest in this appointment because the Mining Enforcement and Safety Administration (MESA) is within the Department of the Interior.

I previously stated my deep concern for the health and safety of the nation's miners when the nominations of Secretary Hathaway and Assistant Secretary Carlson were before your Committee. Unfortunately, death and injury in the mining industry remain at a very high level, and the results of our mine safety programs are very discouraging. Whether or not this is in part due to a lack of leadership resulting from the continued vacancy of both the position of Secretary of the Interior and Administrator of the Mining Enforcement and Safety Administration would be difficult to determine. However, I feel certain that filling these positions is a first step towards improvement of the MESA administration.

In formulating Departmental policy it is important that the Secretary realize that he is ultimately responsible for effective mine safety enforcement and other mine safety programs. He must also realize that there may be pressure on him to curtail mine safety programs in the interest of increased production, particularly in light of the nation's energy needs.

The Honorable Henry M. Jackson  
September 17, 1975  
Page Two

The Administration has already stated its position on occupational health and safety which indicates a reluctance to provide strict enforcement of the safety laws because of the costs and alleged decrease in production. Former Secretary Morton has been quoted as saying, "We must maintain a balance between production and safety", which suggests that safety is not the prime consideration. It is my sincere hope that Mr. Kleppe, if confirmed, will take a different viewpoint.

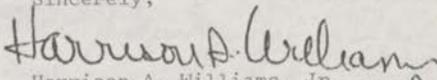
I note from looking at a brief biography of Mr. Kleppe that he does not appear to have much background in mining and associated industries, and it, therefore, will be necessary for him to rely on the technical expertise of his subordinates.

For this reason, it is important that an Administrator of MESA be appointed shortly after the Secretary of Interior is confirmed. As Chairman of the Committee with jurisdiction of that nomination, I would want to accelerate the confirmation process so that both positions will be filled in the very near future.

Again, I want to express my appreciation for the consideration you have given me in matters of mutual concern, and feel quite confident that you share my views in our efforts to promote workers' safety.

With best wishes,

Sincerely,

  
Harrison A. Williams, Jr.  
Chairman 

HAW:dew

318-A STREET S.E.  
WASHINGTON, D. C. 20003

DALY FOUNDATION FOR WORLD PEACE  
82 BEAVER STREET  
NEW YORK, N. Y. 10005

OFFICE OF THE PRESIDENT

(212) 648-0767

Sept., 27, 1975

Senator Henry M. Jackson, Chairman  
Committee on Interior and Insular Affairs

Dear Senator Jackson:

My name is Harold Daly, President of the DALY FOUNDATION FOR WORLD PEACE. I am originally from New York City but now a confirmed Washingtonian. I have been a do-gooder lobbyist at the United Nations and Capitol Hill for the past fifteen years, accepting no fees for my lobbying services.

I, like you and Thomas S. Kleppe have given up lucrative business positions to be a patriotic American.

like

I would/to go on record complimenting President Ford on his choice in naming Mr. Thomas Kleppe as the new Secretary of Interior.

If we could obtain additional men like Mr. Kleppe to give up their lucrative Corporation Chairmanships and agree to become members of President Fords Cabinet or even assist President Ford as patriotic Americans, I am sure we could bring this the greatest country in the World out of this recession in this coming Bicentennial Year.

Hoping you will confirm Mr. Kleppe as quickly as possible so he can get on with his important work.

Wishing you continued good health,

Sincerely,

*Harold Daly*  
Harold Daly, Pres

DALY FOUNDATION FOR WORLD PEACE

HD:li

## National Land for People

1759 FULTON, ROOM 7, FRESNO, CALIFORNIA 93721 (209) 233-4727

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### COUNSEL

Art Brunesser  
 Olmes & Frampton

September 15, 1975

Senator Henry Jackson, Chairman  
 U.S. Senate Interior Committee  
 Senate Office Building  
 Washington, D.C.



Re: new Secretary of Interior  
and policies on railroad  
lands and reclamation laws

Dear Senator Jackson:

Our organization works with small farmers and would-be small farmers who desire to acquire western lands irrigated by federal projects. According to the terms of two laws enacted by Congress they should have access to these lands, but access is denied by the lax policies of the Bureau of Reclamation and the Department of Interior.

We believe that the confirmation hearings for a new Secretary of Interior is an appropriate time to thoroughly air these lax policies, for they are fostering -- in these heavily-subsidized irrigation projects -- monopolistic economic conditions and undemocratic political conditions. It is our conviction that the Secretary of Interior-designate should pledge to change these lax policies or his nomination should be rejected.

At this time we are particularly concerned with the Westlands Water District in California. This district contains 600,000 acres, the largest district ever furnished with subsidized irrigation water by the Bureau of Reclamation. The biggest landowner is the Southern Pacific Railroad. It holds in this one district, 20% of the land, 106,000 acres, which equals a one-mile strip of land, 170 miles long. SP, the largest private landowner in California and several other western states, got its properties through century-old grants from the Federal Government. The condition of these grants was that after the railroad was built, SP was to sell the land to settlers for \$2.50 an acre. This has not been done. Three years ago an administrative complaint was filed on this point with the Department of Interior. Our group assumed the plaintiff's interest this year. The Department has been studying the matter. No answer has been given.

We have waited -- those of us who want land -- for the Department of Interior to answer. Nothing.

Meanwhile, SP continues to reap the profits from these illegal holdings. We believe the new Secretary of Interior should act immediately on this question. Every new day of delay makes a mockery of the law, of justice, of the Republic -- and most importantly of our legal right to the land.

*La tierra pertenece al que la trabaja...*

*The land belongs to those who work it*

page 2 -- Senator Henry Jackson -- September 15, 1975

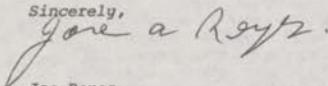
The Westlands Water District and SP are subject to another law -- the reclamation law -- which also is being subverted by the Department of Interior. The excess land provision of this law requires that large landowners pledge, in a contract with the Federal Government, to sell their holdings over 160 acres within 10 years as a condition for receiving federally-subsidized irrigation water. SP has signed such contracts; yet SP is making long-term farm investments in the Westlands, with the approval of the Department of Interior.

National Land for People is now compiling the final documents on these SP land manipulations. When completed this evidence, entirely from public records, will be submitted to the Senate.

The Secretary of Interior-designate should pledge to change these present lax policies and the responsible personnel or his nomination should be rejected.

Please enter this letter as part of the confirmation hearing record. We will furnish the additional material within two weeks.

Sincerely,



Joe Reyes,  
vice president

Copies: all members of the interior committee and Senator Gaylor Nelson,  
chairman of the Senate Small Business Committee.



Hon. Henry M. Jackson

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September 30, 1975

responsibility, in our judgment, even if one unsatisfactory appointment after another is presented to it, requiring one rejection after another.

The Secretary of the Interior has, first of all, serious responsibilities in the administration of the National Park System, with which this organization is deeply concerned. We need a better policy with respect to the management of concessions in the National Parks, as you well know. We need better protection for the roadless and wilderness areas in the parks and more restraint in the construction of roads and internal facilities of all kinds.

We need an across-the-boards federal policy to spread out the visitation which is concentrated in the parks and to get more of it into the National Forests, the public domain, and the big reservoir areas.

We need a vigorous and determined effort to provide free public transit inside the parks and paid public transit operated by concessioners from the regions around the parks into the parks. This kind of work can be led only by a Secretary of the Interior with experience in the management of the federal public lands and a very clear dedication on the record to the protection of the National Park System and the forests which also come under his responsibility.

The Secretary of the Interior has serious obligations in respect to the protection of wildlife. These responsibilities became a focus of controversy in respect to the Hathaway

appointment, and they are no less serious in respect to the Kleppe appointment, if only because Mr. Kleppe has no significant record in these matters.

The implementation of the Endangered Species Act, particularly at the moment in respect to endangered plants, is the responsibility of the Secretary of the Interior. There is no reason to believe that Mr. Kleppe has the necessary background to administer this work.

Predator control on the public lands has again become an issue, and it will be resolved only by a Secretary of the Interior who is determined to protect the predators just as he has a duty to protect all other wildlife on the public lands.

There is also the issue of the shift which has been taking place in respect to the responsibility of the Fish and Wildlife Service for the management of game ranges, transmission corridors across wildlife ranges, and so forth. There is no justification for management being turned over to the Bureau of Land Management, and a responsible Secretary of the Interior can prevent this change.

There is a very serious problem of mining in the National Parks. Mining within the National Park System is an anachronism and will not help in any substantial degree in the energy crisis. Mining is now permitted in Glacier Bay National Monument, Death Valley National Monument, Coronado International Memorial, Mount McKinley National Park, Organ Pipe Cactus National Monument, and Crater Lake National Park. It ought to be eliminated, but this will be done only if the Secretary of the Interior takes the initiative.

Hon. Henry M. Jackson

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September 30, 1975

There are grave issues of budgetary policy affecting lands within the responsibilities of the Secretary of the Interior. As you are well aware, the allocations from the Treasury into the Land and Water Conservation Fund should be greatly enlarged; there will be questions of the authorization and appropriation of money out of the Land and Water Conservation Fund; and there have been, are now, and will be, grave issues of the expenditure of appropriations.

All of the resources management agencies in the Department of the Interior need more money on the line now. These agencies are protecting the capital assets of the American people; unless what might best be referred to as the maintenance and repair expenditures are made, these capital assets will be impaired, far beyond any savings which can be effectuated by tight-fisted budgetary policies. But the leadership in these matters in terms of the relationship of the Department of the Interior to the Office of Management and Budget and otherwise must come from the Secretary of the Interior.

The new Secretary will have serious obligations in respect to the selection of areas to be added to the National Park System and the Wild and Scenic Rivers Systems. The Wild Rivers System should be extended; for example, to protect the New River in West Virginia. We need a Tall Grass Prairie Park, the Congaree Swamp, the Channel Islands, the addition of Valley Forge to the Historic Park System, and a great number of new historic sites. The Secretary of the Interior should be pressing now for the approval of the proposed Meeting House plan

Hon. Henry M. Jackson

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September 30, 1975

for historic preservation in connection with the Bicentennial; this program might lend some substance to a Bicentennial celebration which may otherwise turn out to be nothing more than pomp and ceremony.

The Alaska public interest lands need a strong protector in the Secretary of the Interior. Eighty million acres of magnificent wildlife, forests, and scenic country are at stake. Most of this land should go into the National Park or Scenic Rivers System. The rest of it should go into the Wildlife Refuge System. In both categories these units should be protected against hunting; the introduction of hunting, with the possible exception of genuine native subsistence, into the great wilderness parks within the Park System would be an intolerable blow to the integrity of Park System management in all 50 states of the Union. If hunting is to be permitted, it should be in recreation areas where the practice has been established, but if lands are to be classified as recreation areas then they should be protected against mining and other commercial exploitation as most of the National Parks are.

Under no circumstances should any of the public interest lands be turned over to the U.S. Forest Service until the Forest Service rescinds its give-away policies in respect to Alaska timber. The Bureau of Land Management is not the agency to be trusted with the protection of the public interest lands in Alaska. These are just a few of the issues in respect to which the new Secretary of the Interior must stand up and be counted.

Hon. Henry M. Jackson

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September 30, 1975

At the moment, the controversy is deepening over the problem of personnel levels in the National Park System. The heavy increase in visitation in the National Park System last summer shows that the pressures of overcrowding and traffic in the System are not going to go away. Interdepartmental and inter-agency programs must be developed for the dispersion of visitation and for public transit. Comprehensive reservation systems must also be provided. But in addition, visitors to the parks are entitled to enough rangers to protect their personal safety; they are entitled to adequate interpretative services to explain the parks and help them follow protective policies themselves; and the American public is entitled to get adequate research done by the National Park Service to make protection possible.

All of these public activities require public personnel; they cannot be carried on by a Service crippled by an inadequate number of people to do the job. But given the attitudes of the OMB, the Service is not going to get the personnel it needs unless we have a Secretary of the Interior who is determined to fight for these things. And the same goes for the Fish and Wildlife Service, the Office of Endangered Species, and the Bureau of Outdoor Recreation.

While the NPCA is primarily concerned with the parks and thereafter with forestry and wildlife, we are also deeply involved in the conservation of all natural resources, including mineral resources, and in issues like energy. We need not remind you of the responsibilities the Secretary of the Interior has with respect to the outer continental shelf, the deep seabeds,

Hon. Henry M. Jackson

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September 30, 1975

and the mineral resources of the United States.

Participation in the formulation of a deep seabeds mineral policy, in the exploration and exploitation of the oil and other mineral resources of the continental shelves, in the protection of the oceanic fisheries, in the possible development of the oil shale deposits of the west, in the utilization of the immense coal resources of the west without destroying the land, in the conservation of water supplies in areas being drilled and mined, and in the formulation of a rational energy policy (based on international interdependence, not an illusory independence), all these authorities, which devolve upon the Secretary of the Interior, and for which he has inescapable duties to the American people, require training, background, experience, and points of view which can be found combined in very few people. It is a search for highly competent personnel to fill this critical post which should concern the Committee; to be satisfied with anything less than such high competence will mean a failure on the part of the Committee to discharge its own trust responsibilities to the American people.

The present Administration has a considerable number of competent and dedicated public officials with the qualifications of statesmen who could be appointed to the position of Secretary of the Interior; we have recommended to the President that he appoint the Honorable Russell W. Peterson, the Honorable Russell E. Train, or the Honorable Nathaniel P. Reed to this position. Anyone of the three could discharge these responsibilities with distinction. The only drawback, in our judgment, would be that

Hon. Henry M. Jackson

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September 30, 1975

all of them are practically indispensable in their present positions. But we are well satisfied that a careful review of potential nominees at the White House level or by responsible Senate and House Committees could produce a significant list of excellent choices from among present or former Senators and Congressmen, present or former Governors, or persons in academic, scientific, or business positions at present outside the government, but with government experience.

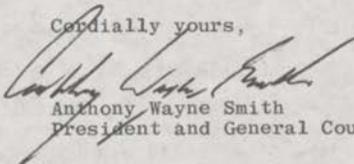
We would be happy to support any action which your Committee might wish to take in making recommendations to the President for nominations which might have the wholehearted support of your Committee and the public service organizations devoted to the protection of the public interest in the conservation and utilization of natural resources.

But we are strongly of the opinion that the Secretary of the Interior must be a Great Conservator; he must be a man of proved distinction and outstanding ability on the level of statecraft if he is to qualify for this position.

As against such standards, the record of the present nominee does not justify confirmation of the appointment.

With renewed thanks for your invitation to submit these comments,

Cordially yours,



Anthony Wayne Smith  
President and General Counsel

AWS:as



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

Honorable Mark Hatfield  
United States Senate  
Washington, D. C. 20510

Dear Senator Hatfield:

While I believe that you and I have a complete understanding as to my posture with respect to O&C lands, I would like to clarify any uncertainties that may have arisen in the minds of others by reason of our exchange during the course of my testimony before the Senate Committee on Interior and Insular Affairs on September 23, 1975.

Throughout the confirmation process, I have been careful to make absolutely no commitments as to how I would decide various substantive issues before the Department after I have taken the oath of office. On the other hand, I am pleased to state as clearly as I can what my present plans or beliefs are.

With respect to O&C lands, I have no plans whatsoever to reorganize or change the status quo.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tom", written over the typed name.

Thomas S. Kleppe  
Secretary-Designate  
Department of the Interior

cc: Hon. Henry M. Jackson ✓  
Chairman  
Senate Committee on Interior  
and Insular Affairs

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▶ HONORABLE HENRY M JACKSON  
 CHAIRMAN OF THE COMMITTEE ON INTERIOR AND  
 INSULAR AFFAIRS  
 U S SENATE  
 WASHINGTON DC 20510



DEAR SENATOR JACKSON

I WOULD BE GRATEFUL IF MY COMMENTS BELOW REGARDING THE APPOINTMENT OF THOMAS KLEPPE TO THE POSITION OF SECRETARY OF INTERIOR COULD BE ENTERED IN THE RECORD.

I WOULD LIKE TO TELL OF THE EVOLUTION OF THE WATER BANK PROGRAM, NOW FEDERAL LAW, WHICH TESTIFIES TO MR KLEPPE'S HISTORY OF INVOLVEMENT IN REGARD FOR OUR NATIONS NATURAL RESOURCES. THIS PROGRAM HELPS RETAIN OUR NATIONS WETLANDS IN THEIR NATURAL STATE FOR PROPAGATION OF WATER FOWL AND OTHER WILDLIFE BY PAYING THE OWNERS OF THE WETLANDS FOR THEIR GUARANTEE NOT TO DRAIN OR ALTER THIS PRECIOUS WILDLIFE HABITAT.

IN 1968 WHEN I WAS PRESIDENT OF THE NORTH DAKOTA ASSOCIATION OF SOIL CONSERVATION DISTRICT, I WAS ASKED TO INFORM THOMAS KLEPPE, THEN U.S. REPRESENTATIVE FROM NORTH DAKOTA OF THE WATER BANK PROPOSAL, A LONG TIME IDEA OF THE NORTH DAKOTA CONSERVATION DISTRICT. I DID THIS INFORMALLY WHILE I WAS IN WASHINGTON ON OTHER BUSINESS, MR KLEPPE IMMEDIATELY REALIZED THE IMPORTANCE OF THIS PROGRAM TO THE NATION AND GAVE US FULL SUPPORT, AND DID IN FACT SPEARHEAD THE INTRODUCTION AND PASSAGE OF THIS LEGISLATION, ON THE BASIS OF THIS RECORD AND MY OTHER KNOWLEDGE OF MR KLEPPE I WOULD RECOMMEND THIS APPROVAL AS SECRETARY OF INTERIOR.

ANDREW MORK  
 DIRECTOR REC MOR GRAN SOU REC  
 DIRECTOR BASIN ELECTRIC POWER COOPERATIVE  
 DIRECTOR NORTH DAKOTA STATEWIDE ASSOCIATION OF RURAL ELECTRIC COOPERATIV  
 E

17:17 EST

MGMWSHT HSB

