

U.S. DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Daphne, AL, June 17, 1999.
DISTRICT ENGINEER,
U.S. Army Corps of Engineers,
Mobile, AL.

DEAR SIR: This is the report of the U.S. Fish and Wildlife Service (Service) concerning public notice AL99-01811-F, in which the applicant, Boise Cascade Corporation, is proposing to hydraulically maintenance dredge approximately 2,000 cubic yards of silt, sand, and clay, per year, for five years from the Tombigbee River, near mile 89, Washington County, Alabama. All excavated material would be placed in the applicant's upland disposal site. The proposed maintenance dredging is currently authorized by Department of the Army General Permit Number ALG98-02923-E. This report is prepared in accordance with the requirements of the Fish and Wildlife Coordination Act (16 U.S.C. 661-667e) and is to be used in your determination of 404(b)(1) guidelines compliance (40 CFR 230) and in your public interest review (33 CFR 320.4) as they relate to protection of fish and wildlife resources.

We do not believe that this project would have significant impacts on non endangered fish and wildlife resources. However, we have determined that the federally threatened gulf sturgeon (*Acipenser oxyrinchus desotoi*) occurs in the project area. Our records indicate that this species has been found in the Tombigbee River both upstream and downstream of the proposed dredge site. The Gulf Sturgeon is an anadromous fish that migrates from salt water into coastal rivers to spawn and spend warm months. The majority of its life is spent in fresh water. Major population limiting factors are thought to include barriers (dams) to historical spawning habitats, loss of habitat, poor water quality, and over fishing. However, we have determined that the proposed project will likely not affect this species if the following recommendations are adopted and used:

(1) No dredging work shall be performed during the months November through April.

(2) No work should be conducted across the entire river channel at any one time. (All underwater activity shall be limited to one general location within the river channel at any time.)

(3) No work barges or vessels should be moored in shallow waters along the shorelines from November through April.

If the applicant agrees to these conditions, formal consultation under the Endangered Species Act, Section 7, will not be necessary at this time. Implementation of these measures should provide adequate protection to avoid any impact on Gulf sturgeon inhabiting these waters during winter months or migrating to/from the Gulf of Mexico. Therefore, if they are followed, no further endangered species consultation will be required for this portion of the project unless: (1) the identified action is subsequently modified in a manner that causes an effect on this listed species; (2) new information reveals the identified action may affect another Federally protected species or a critical habitat in a manner or to an extent not previously considered; or (3) a new species is listed or a critical habitat is designated under the Endangered Species Act that may be affected by the identified action. Our positions on the proposed maintenance dredging project is based on the assumption that Best Management Practices will be followed and the Alabama State Section 401 CWA certification is not violated.

If you have any questions, please contact Mr. Dean Heckathorn at 334/441-5181.

Sincerely,

E.R. ROACH,
Acting Field Supervisor.

Mr. LOTT. This letter clearly states that dredging can only occur during six months of the year, and at no time can work be conducted across the entire river channel. It is clear to me, and it is clear to all my colleagues in the chamber today that dredging will be stopped. Also, on May 10, 1999, the FWS office in Daphne, Alabama, again wrote the Mobile Corp about another maintenance dredging project in Mobile. I ask unanimous consent that this letter to the Mobile Corp of Engineers be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Daphne, AL, May 10, 1999.
DISTRICT ENGINEER,
U.S. Army Corps of Engineers,
Mobile, AL.

DEAR SIR: This is the report of the U.S. Fish and Wildlife Service (Service) concerning public notice AL99-01328-S in which the applicant, Kimberly-Clark Corporation, is proposing to maintenance dredge within an existing dry dock slip on David Lake, near Mobile River, Mobile County, Alabama. A 200-foot-long by 52-foot-wide area would be dredged to a depth of minus 24 mean low water (MLW). All material would be placed within an existing upland disposals area. This report is prepared in accordance with the requirements of the Fish and Wildlife Coordination Act (16 U.S.C. 661-667e) and is to be used in your determination of 404(b)(1) guidelines compliance (40 CFR 230) and in your public interest review (33 CFR 320.4) as they relate to protection of fish and wildlife resources.

The Service does not object to this proposed project. However, the federally listed Gulf sturgeon (*Acipenser oxyrinchus desotoi*—Threatened) and the proposed for listing, Alabama sturgeon (*Scaphirhynchus alkutkus*) are found in these waters. The Gulf sturgeon is an anadromous fish which migrates from salt water into large coastal river to spawn and spend the warm months. According to our records the Gulf sturgeon seasonally occurs and the Alabama sturgeon is a permanent resident within the Mobile River. Throughout their ranges these species have had their forage and spawning habitats adversely affected from dams. In addition, dredging, desnagging, and spoil deposition carried out in connection with channel improvement and maintenance represent an ongoing threat to these sturgeon species.

In order to avoid adverse impacts to these species covered by the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531 et seq.) (ESA), we recommend that the applicant implement appropriate Best Management Practices (BMPs) including the use of turbidity screens, as necessary to minimize turbidity downstream of the project site. Dredging activities should not exceed ambient water clarity of more than 50 Nephelometric turbidity units (NTU's). The Service believes that your project will not have an adverse effect on these sturgeon species, if these BMPs are followed. If these conditions are not acceptable then further consultation with this office is recommended in accordance with Section 7 of the ESA.

Should you have any questions or require additional information, please contact Mr. Dean Heckathorn at (334) 441-5181.

Sincerely,

E.R. ROACH,
Acting Field Supervisor.

Mr. LOTT. This letter stated "dredging, desnagging, and spoil disposition

carried out in connection with channel improvement and maintenance represent an ongoing threat to these sturgeon species." Again this proves dredging will be stopped, and the FWS will not hold true to its oral promises here in Washington.

During this time frame a lawsuit has also been pending in the United States District Court for the Middle District of Alabama, styled Alabama Sturgeon, et al. v. Bruce Babbitt, as Secretary of the Interior, et al. Two months ago, on April 26, 1999, the court issued an Order noting the parties were engaged in "settlement negotiations" which were likely to lead to dismissal of the lawsuit. Four days later, on April 30, 1999, for some unknown reason the court issued the Order proposing to dismiss the lawsuit upon the payment of \$20,000 in attorneys' fees and costs to the plaintiffs by the government. Neither the Court Order nor the Joint Stipulation of Dismissal and Notice of a Compromise Settlement of Attorney's fees and Costs makes any attempt to justify the rationale for this result. For some reason the Justice Department apparently decided to simply make a gift of \$20,000 to the lawyers in this case.

This Administration has not only given away \$20,000 to these lawyers to sweep this lawsuit under the rug, it also stole more than \$400,000 designated for sturgeon restoration. I am disappointed by these actions.

It is my firm belief that Alabama's Federal partner is not motivated by a desire to restore the sturgeon. Clearly, making a decision to list the Alabama Sturgeon as an endangered species, while having no new scientific information must be based in politics—not science. Why an adversarial approach? The solution to this politically driven problem is simple. Let Alabama finish its 5-year program. The Fish and Wildlife Service action is wrong for Alabama . . . wrong for Mississippi . . . wrong for America. We all must continue to press forward in this fight to do the right thing for the Alabama Sturgeon in spite of these actions by FWS.

AMBASSADOR JAMES R. SASSER

Mr. BINGAMAN. Mr. President, I want to take a moment to call the attention of my colleagues to an important day for one of our former colleagues; and that is, Senator Jim Sasser, who is returning from China where he has served this country very well as our Ambassador for the last 3½ years. He was confirmed in this Senate on December 19, 1995, and with an overwhelming vote.

We are proud of the service he has performed, particularly in recent months, because of the strained relations we have had and the genuine misunderstanding which has existed concerning the bombing of the Chinese Embassy in Belgrade.

I think all of us were proud to see the way former Senator Sasser, Ambassador Sasser, conducted himself, and how all of the American Embassy personnel conducted themselves in that circumstance. I think that is typical of the service he provided throughout the time he was in China.

We are glad to see him back in the United States. We, of course, look forward to many years of friendship with him in the future.

I think it is worth noting, because I understand he is returning today from China and has distinguished himself in that position and deserves recognition.

Mr. President, I yield the floor.

Mr. FEINGOLD. Mr. President, I rise to honor one of our former colleagues, Jim Sasser, who today completes his term as United States Ambassador to China.

I was honored to serve with Jim Sasser during my first two years as a member of this body. He served the people of Tennessee with distinction. As a member of the Senate Committee on Foreign Relations, I was pleased to support his nomination to be our Ambassador to China both in Committee and on the Senate floor. Although I have serious concerns about United States policy toward China, I believe that Ambassador Sasser served this country admirably during a period of immense strain in the complex relationship between the two countries.

In particular, he displayed enormous poise and courage in the days that followed the unfortunate, tragic, and accidental bombing of the Chinese embassy in Belgrade. For more than four days, Ambassador Sasser and numerous staff members were literally trapped inside the United States embassy in Beijing as thousands of demonstrators chanted anti-American slogans and threw rocks at the embassy from the streets outside. I commend him for the calm and diplomatic manner in which he dealt with this tense situation. He reminded us that ambassadors are more than just the official representatives of the United States; they are also the chiefs of mission with responsibility for the staff of many U.S. agencies, as well as the responsibility for the safety of American citizens living or traveling in the countries in which they serve. Our former colleague carried out all of these functions admirably under difficult conditions.

I wish Ambassador Sasser well in his future endeavors.

Mr. CONRAD. Mr. President, I would like now to take a moment to acknowledge the accomplishments of my former colleague and friend James Sasser, the United States Ambassador to the People's Republic of China. I need not remind the Senate of the quality of his leadership as fellow member, and former chairman, of the Budget Committee. It is not his 18 year tenure in the Senate that I want to discuss at this time, but his distinguished work as Ambassador to China.

Over the past three years, the People's Republic of China has been turbu-

lent both socially and economically. From the reversion of Hong Kong in 1997, to the heightened concern about human rights violations, to the recent developments in Kosovo, it is an understatement to say that the task set before James Sasser was daunting. From the onset of his appointment in 1996, during the Chinese missile testing in the Taiwan straits, James Sasser has worked tirelessly towards a "strong, stable, prosperous China," and towards the realization of an equally healthy relationship with United States.

The frontier of Chinese-US relations is a fast changing one, and Sasser's efforts have been considerable. Through the continued promotion of tariff reduction he has helped to launch American business towards the exploration of the Chinese market and helped to secure important trade commitments in the negotiations of the PCR's accession by the WTO.

There has also been considerable progress on the human rights front during the term of Sasser's Ambassadorship. Coupled with the release of prominent political and religious leaders, the PRC's ratification of the International Covenant of Economic and Social Rights is one of the most significant signs of progress with respect to civil rights in China. Sasser has also pioneered agreements with the PCR concerning the nonproliferation of nuclear technology, striving "to cooperate on the peaceful uses of nuclear energy and halt the spread of nuclear weapons technology."

It is with regret that I acknowledge James Sasser's departure. His counsel will be greatly missed. His accomplishment as US Ambassador to China will be remembered as important in advancing the opportunity for a sound relationship between the two countries. I would like to extend my sincere thanks for a job well done.

Mr. DASCHLE. Mr. President, I want to take a few moments to congratulate one of our former colleagues and a dedicated public servant, Jim Sasser, who leaves Beijing this week as our longest-serving ambassador to the People's Republic of China. I commend him for his distinguished and accomplished record in that demanding post.

I was proud to serve with Jim Sasser for eight years here in the Senate. I observed his fine work as Chairman of the Budget Committee, and as a key member of the Appropriations, Banking and Government Affairs Committees. He did much for the people of his home state of Tennessee, and for the people of this Nation.

When Senator Sasser assumed the chairmanship of the Budget Committee in 1989, we faced growing budget deficits as far as the eye could see. When he left the Senate in 1995, he had worked to set us on a course of fiscal discipline that has created unprecedented economic prosperity and led to the largest budget surpluses in our history. He made the hard choices, he made the tough political judgments,

and he displayed tremendous legislative skill in helping put an end to the huge budget shortfalls that plagued our country for far too many years.

We were fortunate, then, when Jim Sasser again answered the call to public service when his third term in the Senate came to an end. As our ambassador to China, he has confronted important issues and major problems at a crucial time in our relationship. He traveled first to Beijing during the crisis in the straits of Taiwan in early 1996. He comes home in the wake of the accidental bombing of the Chinese embassy in Belgrade. In the three-and-one-half years in between, Ambassador Sasser has worked tirelessly to ensure that such incidents will not fundamentally alter the course of our relations with the world's most populous nation.

During Ambassador Sasser's tenure, we have seen the exchange of visits between our countries' presidents and the very successful U.S. tour of Premier Zhu Rongji. Those exchanges highlight the hundreds of less prominent, but no less productive, meetings and negotiations that have taken place at various levels of government and business over these 40 months.

Clearly, we have important differences with the Chinese. They existed before Jim Sasser went to China, and they will persist after his departure. But the interests that unite us—in trade, in a cleaner environment, in combating drugs and terrorism, in controlling the spread of weapons of mass destruction—also remain the same. By helping find the common ground on these issues, by maintaining a constructive dialogue based on those common interests even at the worst of times, Ambassador Sasser has strengthened one of our most important bilateral relationships. And he has done it with the personal touch and political skill those of use who were privileged to serve with him in the Senate know so well.

So, today I say thank you to Jim Sasser. Thank you again for your service as a member of the United States Senate, and thank you for skillful diplomacy as our ambassador to China. I know all my colleagues will join me in congratulating Ambassador Sasser for a job well done, and in welcoming him and his wife Mary back home.

Mr. BYRD. Mr. President, today marks another milestone in the remarkable career of a remarkable man—former Senator James Sasser of Tennessee. Today, after three-and-a-half tumultuous years, Jim Sasser formally relinquishes his post as U.S. Ambassador to the People's Republic of China and prepares to return home.

I am told that Henry Kissinger gave a speech in Beijing the other day and called Jim Sasser "the best Ambassador we have sent to China." Having served with Jim for 18 years in the United States Senate, I am not surprised at the accolades he has received for his service as U.S. Ambassador in one of the most difficult and sensitive posts in the world.

Jim Sasser is a man of decency, integrity, and honor. Throughout his globe-spanning career, as a lawyer, a United States Senator, and a diplomat, he has never strayed far from his rural west Tennessee roots, where he learned the core values that have guided his actions ever since. In 1989, when I became chairman of the Appropriations Committee, Jim took over the chairmanship of the Senate Budget Committee. Together, we successfully tackled many of the thorny budget and appropriations issues that arose in the early 1990's. I was privileged to work closely with him for many years on the Senate Appropriations Committee, where he served with distinction as Chairman of the Military Construction Subcommittee.

It is clear that the hard work, talent, and leadership that he demonstrated throughout his Senate career served Jim well when he took over the post of Ambassador to China in 1996. U.S. relations with that nation have experienced dizzying swings during Jim's tenure, reaching their lowest point when the U.S. embassy in Beijing came under siege during the Kosovo conflict, but Jim has always remained above the fray, earning the respect of U.S. and Chinese officials alike. Few of us who know him can forget the haunting photograph of Jim Sasser standing behind the shattered window of the embassy at the height of the anti-American demonstrations in China just two months ago.

Mr. President, four-and-a-half years ago, I stood in this spot to bid Senator Sasser farewell upon his retirement from the Senate. Today, I am pleased to welcome him home to America again. He has served our nation with distinction, and I am confident that he will continue to do so in the coming years wherever the future may lead him.

Mr. BAUCUS. Mr. President, I rise today to honor a friend and former colleague of many of us in this Chamber, Jim Sasser. Jim will complete his assignment as our Ambassador in Beijing this week, an assignment that has lasted forty months, longer than any previous American Ambassador to China.

After three terms in the Senate, including his excellent leadership as Chairman of the Budget Committee, Jim spent a year in the private sector before taking up residence in Beijing in February of 1996. Since then, Jim has watched over the U.S.-China relationship during an incredibly tumultuous period.

Jim arrived in Beijing just as the crisis began in the Taiwan straits in early 1996. Three years later, he watched over the first exchange of Presidential visits between our two countries when Jiang Zemin visited the United States and President Clinton paid a return visit to China earlier this year. I had the distinct honor to lead the Congressional delegation accompanying the President to China and can attest that

I was profoundly impressed by Jim Sasser's understanding and management of this critically important and complex bilateral relationship.

Then, most recently, we all watched with great worry and anticipation as Jim was trapped inside the Embassy during the violent demonstrations against the United States. We saw him ably represent and defend American interests during that extremely difficult and tense week.

Jim Sasser has represented this country through the most difficult of circumstances. When Jim left the Senate, I was proud that to have served in this body with him. As he leaves China, I am proud that he was my country's representative there. I wish him the best and know that my colleagues do so as well.

Mr. AKAKA. Mr. President, I rise today to pay tribute to our former colleague, a dear friend and a great American, Ambassador James R. Sasser, whose distinguished service as United States Ambassador to the People's Republic of China ended yesterday. Ambassador Sasser helped guide US-China relations through an interesting and complicated period, and as he and his family return to the United States I want to thank him for his dignified representation of our country.

I was privileged to serve with Jim Sasser when he was a member of the United States Senate. From 1977-1995, Jim Sasser distinguished himself first as the junior Senator, then later as the senior Senator from the State of Tennessee. While a member of the United States Senate, Senator Sasser served as chairman of the Senate Budget Committee and as chair of numerous subcommittees on a variety of domestic and foreign policy areas. During his tenure in the Senate, Senator Sasser introduced legislation to improve child nutrition, increase regulation of savings institutions and enhance research and training for geriatric diseases. However, Senator Sasser was best known for his role as chairman of the Senate Budget Committee where he worked with the White House to secure passage of the 1993 Budget Reconciliation and Deficit Reduction Act, an accomplishment that is in large part responsible for the unprecedented period of economic growth our nation enjoys and the transformation of an escalating federal budget deficit into an impressive surplus.

Moreover, Senator Sasser distinguished himself on foreign policy issues, courageously speaking his mind on issues such as the Reagan Administration policies in Central America. He was well respected by his colleagues and was known for his sharp intellect and genial personality. His campaign slogan during his 1976 Senate campaign was "in behalf of a government that reflects our decency." Senator Sasser lived up to that promise through his distinguished record in the United States Senate.

After returning to private life in 1995, Jim Sasser served as a Fellow at the

Kennedy School of Government at Harvard University before he was nominated as Ambassador to China. On January 10, 1996, Jim Sasser was sworn in by Vice President AL GORE as United States Ambassador to the People's Republic of China. Knowing that Sino-American relations were at an all time low, Ambassador Sasser went to the People's Republic of China with the same diligence that distinguished him as a Senator. The first motto that he graced the Chinese Embassy with, "We may doze, but we never close," typifies the job that Ambassador Sasser did for three remarkable years.

Ambassador to China is one of the most difficult assignments for a diplomat. Dealing with the government of the most populous country in the world can be an intimidating task. Ambassador Sasser rose to the challenge and quickly established amicable relationships with President Jiang Zemin and most recently with premier Zhu Rongji. So tight were these bonds that Premier Zhu said after his trip to America with Jim Sasser last year, "I would never have made it without the Ambassador." The relationships allowed Ambassador Sasser to navigate through the tough times in United States-China relations and have helped build and sustain cordial relations between the President of the United States and the President of the People's Republic of China. Moreover, his 18 years of distinguished service in the U.S. Senate helped prepare him for dealing with domestic and foreign policymakers in both countries.

Just weeks after Ambassador Sasser was sworn in, his diligence was tested when China began missile tests over the Taiwan Strait. Recently, United States-China relations were strained once again by the tragic, accidental bombing of the Chinese Embassy in Belgrade during NATO air strikes and reports of Chinese espionage of our national nuclear weapons laboratories. Ambassador Sasser distinguished himself and the entire American contingent of diplomats in China by acting in a respectful and sympathetic manner to the Chinese government during this unfortunate incident. I will never forget the photographs of Ambassador Sasser in the ruins of our embassy in Beijing. The calm, composed, and dignified manner in which he responded to the siege at our embassy and ambassador's residence are the benchmark for grace under fire and will forever symbolize the sacrifice and skills of our nation's diplomatic corps and foreign service personnel.

I had the opportunity to visit and talk with Ambassador Sasser on numerous occasions in Beijing. His assistance and advice was always courteous and on point. From human rights issues to intellectual property copyrights, Ambassador Sasser has done a tremendous job representing and communicating American interests in the People's Republic of China. During his 40 months of service as American Ambassador to China, the longest tenure

of any American Ambassador to China, Jim Sasser has accomplished so much in helping to improve Sino-American relations. His achievements are numerous and commendable. Ambassador Sasser's service has helped advance cooperation between American and Chinese political and security officials. Economic relations between our two countries have improved under Ambassador Sasser's leadership including ongoing negotiations for admitting China into the World Trade Organization. In the area of nuclear nonproliferation, Ambassador Sasser has seen the Chinese government address U.S. concerns about providing assistance to rogue nations, as well as issuing a State Council directive controlling export of dual-use items with potential nuclear weapons uses. The U.S. Embassy in China has also helped to secure relief assistance to Chinese earthquake victims. The list of accomplishments of Ambassador Sasser and his corps of diplomatic officials goes on and on. His record as Ambassador speaks for itself.

Although United States-China relations have been damaged by the accidental bombing of the Belgrade embassy, we can say that relations with China are better now than they were 3 years ago when Ambassador Sasser assumed his post in Beijing.

Now that Jim and Mary have returned safely home, I would like to take one final opportunity to thank them and his family for their courageous service and commitment to serving America in China. I have to agree with former Secretary of State Henry Kissinger's assessment of Ambassador Sasser as "the best Ambassador to China we've ever had". To Jim Sasser and his family, I say maholo nui loa, thank you very much, for your service and bid you aloha, welcome home.

CHANGES TO THE BUDGETARY AGGREGATES AND APPROPRIATIONS COMMITTEE ALLOCATION

Mr. DOMENICI. Mr. President, section 314(b)(5) of the Congressional Budget Act, as amended, requires the chairman of the Senate Budget Committee to adjust the appropriate budgetary aggregates and the allocation for the Appropriations Committee to reflect an amount provided for an earned income tax credit compliance initiative.

I hereby submit revisions to the 2000 Senate Appropriations Committee allocations, pursuant to section 302 of the Congressional Budget Act, in the following amounts:

[In millions of dollars]			
	Budget authority	Outlays	
Current allocation:			
General purpose discretionary	533,971	543,967	
Violent crime reduction fund	4,500	5,554	
Highways		24,574	
Mass transit		4,117	
Mandatory	321,502	304,297	
Total	859,973	882,509	
Adjustments:			
General purpose discretionary	+144	+146	

[In millions of dollars]		
	Budget authority	Outlays
Violent crime reduction fund		
Highways		
Mass transit		
Mandatory		
Total	+144	+146
Revised allocation:		
General purpose discretionary	534,115	544,113
Violent crime reduction fund	4,500	5,554
Highways		24,574
Mass transit		4,117
Mandatory	321,502	304,297
Total	860,117	882,655

I hereby submit revisions to the 2000 budget aggregates, pursuant to section 311 of the Congressional Budget Act, in the following amounts:

[In millions of dollars]			
	Budget authority	Outlays	Deficit
Current allocation: Budget resolution	1,428,920	1,415,349	-7,267
Adjustments: EITC compliance	+144	+146	-146
Revised allocation: Budget resolution	1,429,064	1,415,495	-7,413

THE SUPREME COURT'S END-OF-TERM DECISIONS

Mr. LEAHY. Mr. President, the Supreme Court ended its term last week with a trio of deeply disturbing decisions regarding the role of the States and Congress in our federal system. In *Alden v. Maine*, the Court made it impossible for State employees to enforce their rights under the Fair Labor Standards Act, which for decades has guaranteed public and private employees nationwide a fair minimum wage.

In *College Savings Bank*, the Court deprived private parties of the ability to enforce federal unfair competition law against the States. And in *Florida Prepaid*, the Court held that Congress can execute its constitutional mandate to protect patents as against States only if the Court is satisfied that there is a sufficient "pattern of constitutional violations" of patent rights by the States. The Court also made an unprecedented suggestion about how we must write legislation: that we must expressly invoke a constitutional provision before it will honor our authority to legislate.

These three decisions, all by the same bare majority, are disturbing on three fronts. First, they seem to be premised on obsolete notions of natural law, with no basis in the text of the Constitution, and they expressly depart from established constitutional precedent. Second, they will make it harder for ordinary Americans to enforce their federally-protected rights against States. Third, they will make it far more difficult for Congress to enforce uniform policies on matters of national concern.

Justice Souter has eloquently explained how the Court's decisions will harm individuals. Dissenting in the *Alden* case, Justice Souter pointed out that the majority's decision left Maine's employees with a federal right to get paid for overtime work, but no

way to enforce it. This flies in the face of logic, precedent, and common sense. As every first-year law student knows, where there is a right, there must be a remedy.

The maintenance of State sovereignty is clearly a matter of great importance. For this reason, I have been critical of the increasing intrusion of federal regulation into areas traditionally reserved to the States.

In particular, I have expressed concern about the seemingly uncontrollable impulse to react to the latest headline-grabbing criminal caper with a new federal prohibition. This Congress has also extended the federalization of State laws to civil law matters traditionally the province of the States, as in the Y2K bill. But though I watch the federalization of the law with concern, I cannot agree with the Court's decisions, which privilege States' rights over those of both the individual citizen and the federal Government. It is one thing to say that Congress should forbear from interfering in areas that are adequately regulated by the States; it is quite another thing to say that Congress may not exercise its constitutionally-delegated authority even when the national interest so demands.

We on the Senate Judiciary Committee hear a good deal of rhetoric about judicial activism. Here we have the real thing. The Court's so-called conservatives, who routinely limit individual constitutional rights on the basis of supposed strict adherence to the constitutional text, have suddenly developed a natural law concept of State sovereignty that even they admit has no basis in the constitutional text.

These conservative activists have reached out to overrule solid legal precedent. Thirty-five years ago, in *Parden v. Terminal Railway Company*, the Court held that States may lose their immunity by engaging in ordinary commercial ventures. This makes a good deal of sense.

Why should States that choose to act outside their core sovereign powers and compete in the marketplace get an edge over their regulated private competitors? Certainly, nothing in the Constitution suggests that they should. By overruling *Parden*, the Court's "conservatives" abandoned all pretense of judicial restraint.

Let me turn now to the flip-side of the Court's new emphasis on States' rights. In strengthening the power of the States, the Court has weakened the power of Congress and the federal Government.

We should, I believe, pay particular attention to the Court's restrictive reading of Congress's authority to enforce the Fourteenth Amendment.

This amendment grants the Congress the power to enforce, by appropriate legislation, federal constitutional rights. Last week, for the second time in as many years, the Court invalidated an Act of Congress because of the perceived deficiency of the legislative