

# OBJECTION TO EXECUTIVE NOMINATIONS

Mr. GRASSLEY. Madam President, pursuant to a public letter to Secretary Sebelius dated September 24, 2009, there is a pending objection to unanimous consent requests for the following nominees: Jim Esquea, nominated for HHS Assistant Secretary for Legislation, and Richard Sorian, nominated for HHS Assistant Secretary for Public Affairs. I ask unanimous consent that a public letter dated September 24, 2009, be printed in the RECORD.

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

SEPTEMBER 24, 2009.

Hon. KATHLEEN SEBELIUS,  
*Secretary, Department of Health and Human  
Services, Washington, DC.*

DEAR SECRETARY SEBELIUS: America's 11 million seniors enrolled in the Medicare Advantage program deserve to be informed of any actions by the federal government that could affect this program and its broad implications. Medicare Advantage Plans and Prescription Drug Plans that provide services through the Medicare program have a constitutional right to provide information about these Medicare programs to their customers. Therefore, I hope you can understand our grave concern with the recent Centers for Medicare and Medicaid Services directive barring all such providers from any and all communications of this kind with America's seniors. This gag order must be immediately lifted.

As the Supreme Court has repeatedly recognized, our constitutional tradition is one of "a profound commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open." Health plans, of course, have the right to speak on matters of public concern—a fundamental principle that your Department, until recently, had recognized and respected. Specifically, the Department of Health and Human Services (HHS) previously noted that there was no legal authority to justify prohibiting a health plan "from informing its members of proposed legislation and exhorting them to express their opinions" about it. In fact, HHS had previously determined that shutting down communication of this sort "would violate basic freedom of speech and other constitutional rights of the Medicare beneficiary as a citizen."

Now, the Obama administration has reversed this longstanding HHS decision—in the midst of a critical debate about the future of health care services in our country—to shut down communication between private companies and America's seniors on an issue that has a direct impact on their health care. And your Department has done so by imposing an industry-wide gag order without apparent justification or basis in law and completely contradictory to your past public guidance and the plain language and spirit of the First Amendment, among the most sacred tenets of our democracy.

America's seniors and the health plans that serve them deserve to have their free speech rights respected. Their rights should not be subject to the whims of any Administration, and the health plans that serve them should not be threatened with punishment if they speak out on a matter of public concern simply because the Administration disagrees with their position.

Until your Department rescinds its gag order and allows seniors to receive information about matters before Congress, we will

not consent to time agreements on the confirmation of any nominees to your Department or associated agencies.

Thank you for your consideration of this matter of such great importance to America's seniors.

Signed,

MITCH MCCONNELL.  
JON KYL.  
LAMAR ALEXANDER.  
JOHN CORNYN.  
LISA MURKOWSKI.  
JOHN THUNE.  
MICHAEL B. ENZI.  
CHUCK GRASSLEY.

## FREMONT COUNTY FLOODING

Mr. ENZI. Madam President, this past week, Fremont County in my home State of Wyoming has been hit hard by flooding. I want to take this opportunity to commend the communities in Wyoming that have come together and worked so hard to respond to the flooding, to help protect each other's homes, and whose willingness to step up and volunteer to help their neighbors really shows the true Wyoming spirit.

I want to thank the individuals who have been filling sandbags all week. Literally hundreds of thousands of sandbags have been filled to help hold back the floodwaters and protect homes and businesses. I am told that there are more sandbags if we need them and I know that people in my home State won't hesitate for a second to do the hard work that will help protect a neighbor's home or a community business. This truly is a community effort, and I am proud of the example that our small businesses, our community organizations, and Wyoming's volunteers are making.

Nearly 240 Wyoming National Guard members are in Fremont County right now. Their service is critical to our communities in times like these, and I want to recognize and thank them for their hard work. They are making a huge difference in helping make sure that communities like Lander, Ethete, Fort Washakie, and many other places have the help they need.

The extent of the damage from this disaster is still unclear, but our communities—both in Wyoming and in other States that have been hit by natural disasters—must have the resources to recover and put their towns and neighborhoods back together. For those agricultural producers affected by this flood, this is the very reason why I worked with my colleagues during the 2008 farm bill to enact a permanent disaster program—so funding would be available when it is most needed and would not require emergency congressional action.

I know Senator BARRASSO and Representative LUMMIS are working hard to make sure Fremont County can get the support it needs. Their energy and hard work have been critical to the teamwork that we do. Wyoming is a big State, so I am glad that we have always worked together to make sure we

can get different jobs done in different places.

I want to thank everyone who has helped respond to this disaster for their hard work and persistence. They have truly demonstrated what it means to part of the Wyoming community. Our prayers are with everyone at this difficult time.

## FLAG DAY

Mr. CARDIN. Madam President, today I commemorate the 233rd Flag Day in the United States. On June 14, 1777, nearly a year after our Nation declared its independence, the Second Continental Congress approved the design of our national flag. The 13 stripes that alternate red and white and the white stars on a field of blue have proudly stood as a beacon of liberty and justice around the world ever since.

Flag Day—the anniversary of the Flag Resolution of 1777—was officially established by the Proclamation of President Woodrow Wilson in 1916. While Flag Day was celebrated in various communities for years after Wilson's proclamation, it was not until 1949 that President Truman signed an act of Congress designating June 14 of each year as National Flag Day and the corresponding week as National Flag Week.

My home State of Maryland plays an integral role in the rich history of our flag. The flag was the source of inspiration for Francis Scott Key's "Star Spangled Banner" which became our national anthem. That most famous of American flags flew over Fort McHenry in Baltimore Harbor. It bravely withstood the torrent of British buckshot and still hangs today in the Smithsonian Museum of American History. Each year the National Flag Day Foundation of Baltimore, MD, sponsors a moving ceremony at the Fort McHenry National Monument and Historic Shrine which brings our community together in celebration and remembrance of our glorious past.

America's flag graces classrooms, statehouses, courtrooms, and churches, serving as a daily reminder of this Nation's past accomplishments and ongoing dedication to safeguarding individual rights. The brave members of our Armed Forces carry "Old Glory" with them as they fulfill their mission to defend the blessings of democracy and peace across the globe; our banner flies from public buildings as a sign of our national community; and its folds drape the tombs of our distinguished dead. The flag is a badge of honor to all and a sign of our citizens' common purpose.

This week and throughout the year let us do all we can to teach younger generations the significance of our flag. Its 13 red and white stripes represent not only the original colonies

but also the courage and purity of our Nation, while its 50 stars stand for the separate but United States of our Union. Let us pledge allegiance to this flag to declare our patriotism and raise its colors high to express our pride and respect for the American way of life.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO PETER AND SUZIE ARNOLD

• Mr. KOHL. Madam President, the State of Wisconsin has a long and proud tradition of lands conservation. Wisconsin was home to John Muir and Aldo Leopold—two of our Nation's great conservationists. It is also home to Senator Gaylord Nelson who established the first Earth Day 40 years ago. At the first Earth Day, Senator Nelson noted that his goal was not just one of clean air and water, but also "an environment of decency, quality and mutual respect for all other human beings and all other living creatures." He knew that this goal was achievable through grassroots efforts by every day Americans.

Today I am pleased to congratulate Peter and Suzie Arnold for recently being named the Wisconsin Conservation Farmer of the Year Award Recipients by the Wisconsin Land and Water Conservation Association. Their leadership and dedication to land conservation over the last 11 years has been a model for grazing lands conservation. Through the years their farm near Edgar, WI, has served to educate other dairy farmers on the benefits of grazing lands conservation and served as a research site for the U.S. Department of Agriculture's Dairy Forage Research Center.

The Arnolds have adopted a number of conservation practices to improve soil, air, and water quality on their farm. Over the past several years the organic matter levels in their soils have increased from an average of 2.7 percent to 6 percent while attaining the highest Soil Quality Index score measured by the Natural Resource Conservation Service. This is a true testament to their commitment to conservation. I congratulate the Arnolds for their strong commitment to environmental stewardship and their willingness to continue Wisconsin's proud conservation legacy. The Arnolds are showing that Senator Nelson's vision of "an environment of decency, quality and mutual respect for all other human beings and all other living creatures" is achievable through grassroots efforts by every day Americans.●

##### RECOGNIZING AGAR, SD

• Mr. THUNE. Madam President, today I recognize Agar, SD. Founded in 1910, the town of Agar will celebrate its 100th anniversary this year.

Located in Sully County, Agar possesses the strong sense of community

that makes South Dakota an outstanding place to live and work. Agar is a little town with a big heart, and has continued to be a strong reflection of South Dakota's greatest values and traditions. The community of Agar has much to be proud of and I am confident that Agar's success will continue well into the future.

The town of Agar will commemorate the 100th anniversary of its founding with celebrations held June 11 through June 13. I would like to offer my congratulations to the citizens of Agar on this milestone anniversary and wish them continued prosperity in the years to come.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY THAT WAS ORIGINALLY DECLARED IN EXECUTIVE ORDER 13466 OF JUNE 26, 2008, WITH RESPECT TO THE CURRENT EXISTENCE AND RISK OF THE PROLIFERATION OF WEAPONS-USABLE FISSILE MATERIAL ON THE KOREAN PENINSULA—PM 62

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the Federal Register for publication the enclosed notice stating that the national emergency declared in Executive Order 13466 of June 26, 2008, is to continue in effect beyond June 26, 2010.

The existence and the risk of proliferation of weapons-usable fissile material on the Korean Peninsula constitute a continuing unusual and extraordinary threat to the national se-

curity and foreign policy of the United States. For this reason, I have determined that it is necessary to continue the national emergency and maintain certain restrictions with respect to North Korea and North Korean nationals.

BARACK OBAMA.  
THE WHITE HOUSE, June 14, 2010.

#### MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

##### ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 6, 2009, the Secretary of the Senate, on June 14, 2010, during the adjournment of the Senate, received a message from the House announcing that the Speaker has signed the following enrolled bill:

S. 3473. An act to amend the Oil Pollution Act of 1990 to authorize advances from Oil Spill Liability Trust Fund for the Deepwater Horizon oil spill.

##### ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on June 14, 2010, she had presented to the President of the United States the following enrolled bill:

S. 3473. An act to amend the Oil Pollution Act of 1990 to authorize advances from Oil Spill Liability Trust Fund for the Deepwater Horizon oil spill.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-6186. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Sodium 1,4-Dialkyl Sulfosuccinates; Exemption from the Requirement of a Tolerance" (FRL No. 8825-2) received in the Office of the President of the Senate on June 9, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6187. A communication from the Director, National Institute of Food and Agriculture, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Competitive and Noncompetitive Nonformula Federal Assistance Programs—Administrative Provisions and Subpart K for Biomass Research and Development Initiative" (RIN0524-AA61) received in the Office of the President of the Senate on June 9, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6188. A communication from the General Counsel of the Department of Defense, transmitting proposed legislation entitled "Procedures for Judicial Review of Certain Military Personnel Decisions"; to the Committee on Armed Services.

EC-6189. A communication from the General Counsel of the Department of Defense, transmitting proposed legislation relative to Extension of Maximum Age for Appointment to Service Academies for Limited Number of Exceptional Candidates; to the Committee on Armed Services.

EC-6190. A communication from the General Counsel of the Department of Defense,