burned in the world now than ever before, and it is unregulated. We do burn coal better than anyone else, and we can even do it better if the government will work with us. All we are asking for is a partnership.

It doesn't matter who is elected as the Administrator of the EPA. If the President plans to use the EPA to regulate the coal industry out of existence, it doesn't matter who it is. It could be Ms. McCarthy or someone else because it is the President and the administration that will be calling all the shots. That is my fight, and it is a fight where I wish we could sit down and work together. It is a fight we cannot lose as the United States of America. There is too much at stake.

Coal is America's most abundant, most reliable, and most affordable source of energy. In fact, coal keeps the lights on and provides nearly 40 percent of the electricity in this country—40 percent. Almost half of the population of the United States of America depends on coal for their energy. It is the source of energy that built America. It made the steel that built the factories and defends our country with guns and ships. It has done it all. All we are asking for is a partnership so we can continue to keep the lights on.

With all the clean coal technologies we have—and will continue to have for decades—we can use it in a way that strikes a balance between the environment and the economy. There should always be a balance. It can't be all or nothing. It seems as if we have these extremes today where a person is either on the right or on the left, absolutely for an issue or absolutely against an issue. If there is never a compromise, how can we make it work?

There is nobody in West Virginia who wants to breathe dirty air or drink dirty water. Nobody in America wants to do that. We have a responsibility to do it better. In fact, in the last two to three decades, we have cleaned up the environment more than ever in the history of this country.

For the last 40 years, every President has talked about how to end our country's addiction to foreign oil in order to achieve energy independence. We know our dependence on oil has taken us to places in the world to fight wars that have sacrificed American men and women as well as the precious resources of this great country. We have been fighting wars we shouldn't be in because of our dependence on foreign oil.

We need to stop demonizing one energy resource—and I do mean demonizing it. When people say, I hate this or I hate that or I can't stand this—turn the lights off. Turn the air-conditioning off. Turn it all off and see how well you like it or don't like it.

If we start using all of our resources, we can, once and for all, end our dependence on foreign oil. If we end our dependence on foreign oil, we will be a stronger and more secure Nation. We can do that within this generation and keep our economy more secure and our economy producing jobs for generations to come.

All I ask is for a level playing field. I ask that our government—in this beautiful country of ours—partner with me and West Virginia so we can work together.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PEREZ NOMINATION

Mr. ALEXANDER. Mr. President, later today we will vote in the Senate on the question concerning whether the President's nomination of Thomas Perez to be the Secretary of Labor should be confirmed. I will vote no. I will vote against the confirmation of Mr. Perez. I do not believe he is the right man for this job.

The Secretary of Labor has immense influence over the lives of workers and the conduct of business in today's economy. Employees, employers, and unions must be able to trust the Secretary to faithfully and impartially execute our Nation's labor laws.

At a time when the official unemployment rate stands at 7.6 percent—meaning millions of Americans are looking for work and can't find it—and at a time when there is a growing gap between our workers' skills and our employers' needs, we need serious leadership on labor policy. We need someone who understands how to create an environment in which the largest number of Americans can find good new jobs. We need leadership that is committed to working in the best interests of the country. Unfortunately, I don't believe Mr. Perez meets that standard.

Mr. Perez's life story is one with many worthy accomplishments in public service, a devotion to representing disadvantaged individuals, and I commend him for that. But he has demonstrated throughout his career that he is willing to, in his words, push the envelope to advance his ideology.

I believe there are three significant problems with the nomination of Mr. Perez:

No. 1, in my view, his record raises troubling questions about his actions while at the Department of Justice and his candor in discussing his actions with this committee.

The Department of Justice inspector general recently published a detailed report that discussed problems in the voting rights section. It talked about a politically charged atmosphere of polarization. Mr. Perez has administered that section since 2009. The report talked about the unauthorized disclosure of sensitive and confidential information and about blatantly partisan political commentary. It specifically criticized the management of the Department and Mr. Perez's actions while at the Department. When questioned by members of our Committee on Health, Education, Labor and Pensions, Mr. Perez's answers were vague and nonresponsive.

No. 2, to preserve a favorite legal theory, Mr. Perez orchestrated a quid pro quo arrangement between the Department of Justice and the City of St. Paul in which the Department agreed to drop two cases in exchange for the city withdrawing a case, the Manger case, before the Supreme Court.

Mr. Perez's involvement in this whole deal seems to me to be an extraordinary amount of wheeling and dealing outside what should be the normal responsibilities of the Assistant Attorney General for Civil Rights. To obtain his desired results, Mr. Perez reached outside of the Civil Rights Division at the Department of Justice into the Minnesota U.S. Attorney's Office and into the Department of Housing and Urban Development. This exchange cost American taxpayers the opportunity to potentially recover millions of dollars and, more importantly, violated the trust whistleblowers place in the Federal Government. His testimony has been contradicted by the testimony of other witnesses in contemporaneous documents.

In short, it seems to me that Mr. Perez did not discharge the duty he owed to the government to try to collect money owed to taxpayers. He did not discharge the duty to protect the whistleblowers, who were left hanging in the wind. At the same time, he was manipulating the legal process to remove a case from the Supreme Court in a way that is inappropriate for the Assistant Attorney General of the United States.

No. 3, Mr. Perez's use of private e-mail accounts to leak nonpublic information is troubling to me.

Federal officials in this administration seem to have a penchant for using private e-mails to conduct official business. The Federal Records Act is designed to ensure that the government is held accountable to the American people to prevent the opportunity for a shadow government to operate outside of the normal channels of oversight. Using personal e-mails robs the Nation of the ability to know if the government is behaving appropriately.

Since Mr. Perez apparently is going to be confirmed despite my vote, I hope he will pledge to stop using personal e-mails to conduct official business.

For these three reasons, I cannot support the Perez confirmation. I will support and have supported the President's right to have an up-or-down vote on his Cabinet members. I always have. So I voted for cloture.

But what we have seen over the last several weeks—and I believe the reason the Senate did not come to a screeching halt this week—is that there is a widespread misunderstanding about what Senate Republicans have done with respect to President Obama's nominees for his Cabinet. The reality is that Republicans have respected the right of the President to staff his Cabinet. In fact, never in our Nation's history has the Senate blocked a Cabinet official from confirmation by a filibuster. Let me say that again. The number of Presidential nominees for Cabinet in our Nation's history who have been denied his or her seat by a filibuster, by a failed cloture vote, is zero.

The Washington Post and the Congressional Research Service have said that President Obama's Cabinet appointees in his second term are moving through the Senate at about the same rate as President George W. Bush's and President Clinton's.

Senators on both sides of the aisle have a long history of using the constitutional authority for advice and consent to ask questions. We have done that in the Committee on Health, Education, Labor and Pensions concerning Mr. Perez for the last 122 days. We have a historical right—and we have exercised it in a bipartisan way—to use our right to ask for 60 votes in order to advance our views. That is a part of the character of the Senate. But it is important to know that these fairy tales that have been suggested about Republicans somehow blocking President Obama's nominees are just that.

I ask unanimous consent to have printed in the RECORD at the end of my remarks an op-ed I wrote for the Washington Times yesterday supporting my remarks. The op-ed points out that most of this week's nuclear option debate about whether Senators should be permitted to filibuster Presidential nominees was not about filibusters, it was instead about whether a majority of Senators should be able to change the rules of the Senate at any time for any purpose.

Former Senator Arthur Vandenberg of Michigan once offered the precise trouble with this idea. He said:

If a majority of the Senate can change the rules at any time, the Senate has no rules.

In other words, all of this fuss was a power grab.

In fact, most of the filibustering that has been done to deny Presidents confirmation of their nominees has been done by our friends on the other side. As I mentioned earlier, the number of Cabinet members who have been denied their seats by a filibuster is zero. The number of district judges in the history of the country who have been denied their seats by a filibuster is zero. The number of Supreme Court Justices who have been denied their seats by a filibuster is zero. There was the incident in 1968 when President Johnson engineered an opportunity for Abe Fortas to get a 45-to-43 vote so he could feel better about staying on the Court after a majority of the Senate clearly wasn't going to confirm him for the Supreme Court. But throughout our history, the right to advise and consent has been exercised by a majority vote even in the most controversial cases. The vote on Clarence Thomas for the Supreme Court was a majority vote. The vote denying Robert Bork an opportunity to go to the Supreme Court was a majority vote. While there never has been a Supreme Court nominee blocked by a filibuster, about a quarter of all of the Supreme Court nominees have been withdrawn or blocked by majority vote.

So elections have consequences, and I respect that whether it is a Republican or a Democratic President. Our tradition was that nominees were not denied their seat by a failed cloture vote. Other than Fortas, the only exception is that in 2003, about the time I came to the Senate, the Democrats, for the first time in history—the first time in history—filibustered 10 of President George W. Bush's nominees. That produced Republicans who wanted to change the rules of the Senate, and fortunately cooler heads prevailed. But five Republican judges—very meritorious people, such as Miguel Estrada; a real tragedy—were denied their seats by a filibuster.

So the usual and expected happened. Republicans have since denied two Democratic seats by a filibuster.

So my preference is much that Presidents have the opportunity to appoint their Cabinet members, to appoint their Supreme Court Justices, and if we don't like them, we can vote against them. There have been occasions where sub-Cabinet members have been denied their seats. The total number is seven, all since 1994, and there may be more again.

A simple objection by Republicans to the motion of the majority leader to cut off debate may simply mean we want more information. In the case of Senator Hagel, the majority leader sought to cut off debate 2 days after his nomination came to the floor, and we voted no. We were not ready to cut off debate. Then, 10 days later, we voted to confirm Senator Hagel.

I am glad that this week the Senate regained its equilibrium, so to speak, and stopped this talk of creating the Senate as a body where a majority of the Senate can change the rules at any time, which would make this a Senate without any rules.

I hope we do not hear any more about it because that is not appropriate. It is not appropriate in this body. John Adams, Thomas Jefferson, George Washington, Senator REID himself, and others have said that this body is different. It is a place where you have to come to a consensus. We are coming to one, for example, on student loans today. The President made a good recommendation to solve the student loan problem on a permanent basis. The House of Representatives passed something much like the President's, and hopefully we can do that later today.

So I believe the President deserves an up-or-down vote on his nomination for the Secretary of Labor and his nominee for any other Cabinet member. But in this case, for the reasons I stated, I am voting no on confirmation.

I see the Senator from Georgia is here.

I yield the floor.

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

[From the Washington Times, July 17, 2013]

THE POWER GRAB BEHIND THE CROCODILE TEARS

DEMOCRATS TRY TO CHANGE THE RULES WHEN THEY CAN'T GET THEIR WAY

(By Lamar Alexander)

This week's ''nuclear option'' debate about whether U.S. senators should be permitted to filibuster presidential nominations was not about filibusters.

It was instead about whether a majority of senators should be able to change the rules of the Senate anytime for any purpose. Former Sen. Arthur Vandenberg of Michigan once offered the precise trouble with this idea: ''If a majority of the Senate can change its rules at any time, there are no rules.''

In other words, this was a power grab.

Despite Democrats' crocodile tears, filibusters—the requirement of securing 60 senators' votes to allow a vote on a nomination—have done little to frustrate presidential nominations.

According to The Washington Post, President Obama's Cabinet nominees during his second term are moving through the Senate about as rapidly as those of Presidents Clinton and George W. Bush.

According to the Congressional Research Service, in the history of the Senate, the number of times filibusters have denied a seat to a nominee for the Supreme Court, the president's Cabinet or federal district judge is zero. (The only arguable exception is President Lyndon Johnson's engineering of a 45–43 cloture vote in favor of the nomination of sitting Supreme Court Justice Abe Fortas to be chief justice in order to lessen the embarrassment of Fortas' failure to attract the support of a majority of senators for confirmation.)

Ironically, most of the frustrating of presidential nominations by filibusters has been done by the Democrats themselves. The number of federal court of appeals nominees who have been denied their seats by filibusters would also be zero were it not for the decision by Democratic senators in 2003 to filibuster 10 of President George W. Bush's appellate court nominees. This led to the ''Gang of 14'' compromise that allowed five of those to be confirmed, but discarded the other five. Since then, Republicans have retaliated by denying two of Mr. Obama's appellate nominees.

Over the years, there have been seven sub-Cabinet nominees blocked by filibuster—three Republicans and four Democrats, all since 1994.

So the grand total of presidential nominees who have been blocked by filibusters (failure to obtain 60 votes to cut off debate) is 14. And it is fair to say that Democrats sowed the seeds of the current controversy when they filibustered Mr. Bush's appellate judges in 2003.

So, what were Democrats complaining about?

For many Democrats, getting rid of the filibuster for nominees is the first step in turning the Senate into an institution where the majority rules lock, stock and barrel.

The Senate would become like the House of Representatives, in which a majority of only one vote could establish a Rules Committee with nine members of the majority and four of the minority. Every meaningful decision would be controlled by the majority. The result: The minority, its views and those it represents would become irrelevant. It would be the same as having the power to add an inning or two to a baseball game if you don't like the score in the ninth inning.

Alexis De Tocqueville, the young Frenchman who traveled the United States in the 1830s, warned against this kind of governance. He wrote that the two greatest dangers to the American democracy were Russia and the ''tyranny of the majority.''

In his book on Thomas Jefferson, Jon Meacham writes of an after-dinner conversation between President Adams and Vice President Jefferson. Adams said that ''no republic could ever last which had not a Senate and a Senate deeply and strongly rooted, strong enough to bear up against all popular passions'' and that ''trusting to the popular assembly for the preservation of our liberties was [unimaginable].''

John Adams was right. And so was then-Minority Leader HARRY REID in 2005 when, opposing Majority Leader Bill Frist's effort to use the ''nuclear option'' to kill the filibuster on judicial nominations, he said: ''And once you open that Pandora's box, it was just a matter of time before a Senate leader who couldn't get his way on something moved to eliminate the filibuster for regular business as well. And that, simply put, would be the end of the United States Senate.''

The only real confirmation issue before the Senate is Mr. Obama's use of his recess appointment power to install two members of the National Labor Relations Board when the Senate was not in recess, a blatant affront to the constitutional separation of powers that the District of Columbia Circuit Court of Appeals said was unconstitutional. Fortunately, a compromise has been reached in which the president is sending to the Senate two new, untainted nominees for the board. This week's debate, however, shows the threat to the end of the United States Senate lingers.

Those Democrats still seeking to create a Senate in which a majority can change the rules whenever it wants should be prepared for what could happen next. Their dream of a Democratic freight train running through a Senate in which a majority can do whatever it wants might turn into their nightmare if, in 2015, that freight train is the Tea Party Express.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. ISAKSON. Mr. President, first, before the Senator from Tennessee leaves the floor, if he was getting ready to, I wish to commend him on his activities over the last 8 days. For the second time in a decade, we came to the brink of making a bad mistake in the Senate. But we proved—and Senator ALEXANDER really proved through the facts, which are stubborn things—that if you study history and you read the history of the Senate, you understand there is a purpose for the cloture rule, there is a purpose for the filibuster, but there is also a purpose for being judicious in its use.

I commend the Senator on his historic history lesson, his personal experiences as being one who has gone through the process himself when he was nominated to be Secretary of Education, and I appreciate very much his leadership on the Committee of Health, Education, Labor, and Pensions.

I will be brief, but I would like to speak for a minute about the nomination of Thomas Perez.

The Labor Department is an important Department in the United States of America, and jobs are an important need we have in this country. We need an aggressive leader at the Department of Labor who is trying to get the Workforce Investment Act passed, trying to get people trained, trying to get wrongs righted, trying to be a leader. But what we do not need to have is one who throws up stumbling blocks to progress, stumbling blocks to jobs, and stumbling blocks to business.

Thomas Perez has a history of using disparate impact to enforce or to move toward where he wants to go in terms of the regulations he has had responsibility for in the past, namely at the Department of Justice.

Disparate impact is where you take unrelated facts, pull them together to get a pattern or practice, and then make a case against somebody for something that because of those disparate facts you think could draw you to a conclusion that they discriminated or they overcharged or they redlined or whatever it might be. Disparate impact is a very difficult thing to use. It is an even more difficult thing to defend yourself against. It would certainly be the wrong way to run the Department of Labor.

We know from Thomas Perez's experience in St. Paul, MN, with a whistleblower that his use of disparate impact caused him to work with the City of St. Paul to deny a whistleblower what he deserved in terms of his rights and the American people in terms of what they deserved in being reimbursed for the money that had been lost because of the actions the whistleblower uncovered.

It is important for us to understand that the Department of Labor is a job creator, not a job intimidator. We have had an issue in the last 4 years with the Department of Labor about the fiduciary rule—a rule that, if put in place, would cause the American saver and investor, the small saver and the small investor—it would deny them investment advice or cause them to pay so much for investment advice that the cost of that advice would be more than the yield on the investment they have. That would be the wrong thing do. I fear Thomas Perez will regenerate the fiduciary rule—which we fortunately beat back 2 years ago—and try to bring it forward again.

Going back to disparate impact, with the regulation of OSHA, the Mine Safety and Health Administration, MSHA—all the things that are done by the Department of Labor—to begin to use disparate impact as a pattern or practice to enforce mine safety laws, occupational safety laws, or any other type of laws which are very definitive in the way they should be enforced would be the wrong direction to go.

But most importantly of all, the nomination of Thomas Perez demonstrates why it is important to have cloture, why the filibuster, used judiciously and timely, can be a benefit to the Senate.

I ask unanimous consent to have printed in the RECORD a letter dated July 8, 2013, from the Chairman of the Oversight and Government Reform Committee in the House of Representatives, DARRELL ISSA.

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

CONGRESS OF THE UNITED STATES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC, July 18, 2013.

Hon. THOMAS E. PEREZ,
Assistant Attorney General, U.S. Department of Justice, Washington, DC.

DEAR MR. PEREZ: I am in receipt of a letter dated June 21, 2013, from Peter J. Kadzik, Principal Deputy Assistant Attorney General, regarding your extensive use of a non-official e-mail account to conduct official Department of Justice business. I am extremely disappointed that you continue to willfully disregard a lawful subpoena issued by a standing Committee of the United States House of Representatives.

The subpoena issued on April 10, 2013, requires you to produce all responsive communications to and from any of your non-official e-mail accounts referring or relating to official business of the Department of Justice. The Department has represented that about 1,200 responsive communications exist, including at least 35 communications that violated the Federal Records Act. On May 8, 2013, Ranking Member Cummings and I wrote to you requesting that you produce to the Committee all responsive documents in unredacted form, as the Committee's subpoena requires. As of today, you have not produced a single document to the Committee; therefore, you remain noncompliant with the Committee's subpoena.

Your continued noncompliance contravenes fundamental principles or separation of powers and the rule of law. I once again ask that you immediately produce all responsive documents in unredacted form as required by the subpoena. Until you produce all responsive documents, you will continue to be noncompliant with the Committee's subpoena. Thank you for your attention to this matter.

Sincerely,

DARRELL ISSA,
Chairman.

Mr. ISAKSON. This letter demonstrates that Mr. Perez, as of that day, had still failed to comply completely with a subpoena issued on April 10, 2013, for information to be considered.

I recognize that Mr. ISSA is not a Member of the U.S. Senate, but he is the head of the Oversight and Government Reform Committee in the U.S. House of Representatives. He deserves to be responded to, and we deserve to know the facts.

I attended the hearing on St. Paul, MN, and the whistleblower there, Mr. Newell, when I went to the House about 2 months ago. I know there are unanswered questions, and the American people deserve them.

Cloture should be used judiciously, but this is a time—the reason I voted

no on cloture last night is because this is a time where we need all the answers. This is an appointee whose record demonstrates that he may be dangerous for the Department of Labor, not positive for the Department of Labor. I think it is important, when used judiciously, we get all the answers people need to know so that when we vote to approve or to deny an appointee, it is based on all the facts—not based on intimidation but all the facts the American people deserve.

For that reason, I will oppose the nomination today of Thomas Perez to be the Secretary of Labor for the United States of America.

I yield back my time.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BARRASSO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HEALTH CARE

Mr. BARRASSO. Mr. President, today I would like to address two topics. One is that within the hour President Obama is going to be delivering remarks about his health care law. I would like for all Americans to pay close attention to the President's remarks and see if he continues to make promises he knows he cannot keep.

Is he going to once again say that if you like what you have, you can keep it? Well, if so, we know that is not true. Just ask the unions that recently wrote a letter to Majority Leader REID and to NANCY PELOSI about how this law is not allowing them to keep the insurance they have.

Is the President going to call it affordable and say again that premiums will decrease by an average of $2,500 per family? Well, if so, we know that is not true. Just ask the folks in Ohio, where the average individual market health insurance premium in 2014 is going to cost about 88 percent more.

Is the President going to say again that the law is working as it is supposed to work? Well, if so, we know that is not true. Just ask the administration why they decided to delay the disastrous employer mandate that is making it harder for employers to hire new workers and for Americans to find full-time jobs.

Is the President going to say this law is good for young Americans? If so, we know that is not true. Just ask the young, healthy adults who will see insurance rates double or even triple when they look to buy individual coverage starting next year.

It is time for the President to level with the American people. This law has been bad for patients, it has been bad for providers—the people who take care of those patients, the nurses and the doctors—and it is terrible for taxpayers. We need to repeal this law and replace it with real reforms that help Americans get the care they need from a doctor they choose, at lower cost.

McCARTHY NOMINATION

Mr. BARRASSO. Mr. President, the second topic I would like to address is the issue of energy and a national energy tax, which the President essentially proposed in his June 25 speech. At that time he unveiled what I believe is a national energy tax that is going to discourage job creation and increase energy bills for American families.

This announcement that he made about existing powerplants—existing powerplants—came after the administration has already moved forward with excessive redtape that makes it harder and more expensive for America to produce energy. It also came as a complete surprise to Members of the Senate, especially since Gina McCarthy, the President's nominee to lead the Environmental Protection Agency—a nominee whom we will be voting on today—since that nominee told Congress that it was not going to happen. She is currently the Assistant Administrator of the Air and Radiation Office at the EPA. Here is what she told the Senate about regulations on existing powerplants, the ones the President talked about on June 25. She said:

> The agency is not currently developing any existing source greenhouse gas regulations for power plants.

None.

> As a result we have performed no analysis that would identify specific health benefits from establishing an existing source program.

So I would say it is clear with President Obama's June 25 announcement on existing powerplants that Gina McCarthy is either out of the loop or out of control. She either did not tell the truth to the Senate in confirmation hearings in response to questions or she does not know what is going on in her own agency. Either way, she is not the person to lead the EPA.

I would encourage all of my colleagues to oppose McCarthy in her nomination. This has nothing to do with ideology and everything to do with having an agency that is accountable to the elected representatives of the American people. I believe this behavior is indicative of the way the EPA has been run during Gina McCarthy's reign as an Assistant Administrator of the EPA.

Many of my colleagues on the Senate Environment and Public Works Committee have expressed concerns with the lack of transparency at this specific agency. One of the major areas of concern is the use of the so-called sue-and-settle tactics. This is where environmental activist groups sue the EPA or they sue other Federal agencies to make policy. Often, they find like-minded colleagues and allies in the EPA. Here is how it works. If environmental activists want to impose new restrictions on, say, farms, it is easy to sue the government to impose those restrictions. At the EPA, rather than fight the restrictions, they agree to this and they say: OK. We will do a court settlement. The EPA does not contest the new restrictions because the EPA wanted them in the first place. The agency just did not want to have to go through a lengthy rulemaking process with public comments in the light of day. The judge signs off on the agreement, and in a matter of weeks the law is made.

So I asked the nominee in writing: Do you believe sue-and-settle agreements are an open and transparent way to make public policy that significantly impacts Americans?

She stated in her answer:

> I recognize that this committee has focused many of its questions on EPA settlement practices and, if confirmed, I commit to learning more—

Learning more—

> about the Agency's practices in settling litigation across its program areas.

Well, some of the most egregious sue-and-settle agreements have dealt with the Clean Air Act, and she has been in charge of the air office at EPA for almost all of President Obama's first term. I find it very difficult to believe she did not know what was going on. In fact, in answering my next question to her—I asked: Do you believe States and communities impacted by sue-and-settle agreements should have a say in court agreements that might severely impact them—she said:

> [M]ost litigation against EPA arises under the Clean Air Act. . . .

Of course. So my question is, either she knew what was going on with regard to the Clean Air Act lawsuits against the Agency, the area that she completely was in control of, or she does not know what is going on in her own department. Once again, either way, such a person should not be confirmed to be in charge of the entire EPA.

As most folks know, my home State, Wyoming, is a coal State. The administration has actively sought to eliminate this industry from the American economy. It is no surprise to some that many of us coal-State colleagues fight vigorously to oppose the President's anti-coal policies. Ms. McCarthy has been the President's field general in implementing these policies. These policies greatly affect families all across Wyoming and across the country. So even though I strongly oppose these policies, I still wanted to meet with the nominee so I could explain to her how this administration's policies are hurting real people in my home State and across the country.

I believed if we had a face-to-face meeting I might be able to convince her to alter or alleviate the worst impact of the policies pursued by this administration through the EPA. In that personal meeting with me, the nominee