

**HEARING ON THE NOMINATIONS OF ROBERT
PERCIASEPE TO BE DEPUTY ADMINISTRATOR
OF THE EPA AND CRAIG HOOKS TO BE
ASSISTANT ADMINISTRATOR, ADMINISTRATION
AND RESOURCES MANAGEMENT, OF THE EPA**

HEARING
BEFORE THE
COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

—————
JULY 8, 2009
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COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ONE HUNDRED ELEVENTH CONGRESS
FIRST SESSION

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HEARING ON THE NOMINATIONS OF ROBERT PERCIASEPE TO BE DEPUTY ADMINISTRATOR OF THE EPA AND CRAIG HOOKS TO BE ASSISTANT ADMINISTRATOR, ADMINISTRATION AND RESOURCES MANAGEMENT, OF THE EPA

WEDNESDAY, JULY 8, 2009

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

The full committee met, pursuant to notice, at 2:40 p.m. in room 406, Dirksen Senate Office Building, Hon. Barbara Boxer (chairman of the full committee) presiding.

Present: Senators Boxer, Inhofe, and Cardin.

Senator CARDIN [presiding]. Chairman Boxer requested that I convene the hearing, start the hearing, of the Environment and Public Works Committee. She will be joining us shortly.

I had anticipated being next to Bob Perciasepe to introduce him, and I still will do that in my time on opening statement. Bob hails from Baltimore, and it is a pleasure to have him nominated for this very important position.

I also welcome Craig Hooks.

At this time, I am going to yield to the Ranking Republican on the Environment and Public Works Committee for his opening statement.

Senator Inhofe.

**OPENING STATEMENT OF HON. JAMES M. INHOFE,
U.S. SENATOR FROM THE STATE OF OKLAHOMA**

Senator INHOFE. Thank you, Mr. Chairman. I also confided in the Chairman that I have worked with Robert Perciasepe over the years in many incarnations and have enjoyed that relationship, and so I am very supportive of both of these nominees.

However, I do have an opening statement that I want to put in the record that, quite frankly, I regret to say, has nothing, well, no, actually, I joyfully say, has nothing to do with you.

[Laughter.]

Senator INHOFE. From the beginning of the Administration, the current Administration, and from the moment that Administrator Lisa Jackson became the head of the EPA, we were told that there would be an overwhelming transparency in the operation of that agency. And we were lectured about the Bush administration's al-

leged failure to follow sound science. We were told there would be a new era with no suppression of discussion, no matter what the view is or who conveys it.

Well, last week we saw the reality behind those words. A 35-year veteran EPA employee questioned the science behind the EPA's headlong rush to regulate greenhouse gases. He was told to keep quiet about his findings, not once, but four separate times. And his work was then buried. This was back in March at the very time that we, on this committee, were getting straight-faced assurances that there would be, that this would not occur.

Worse yet, this did not happen with some minor administrator or administrative matter. It happened with perhaps the most important public policy issue that we will be dealing with.

In her first memo to all EPA employees, dated January 23, 2009, Administrator Jackson emphasized, and I am quoting now, she said science must be the backbone of the EPA programs. When scientific judgments are suppressed, misrepresented or distorted by political agendas, the American can lose faith in their Government. That is all in a quote.

Then she finished by saying, I pledge that I will not compromise the integrity of the EPA's experts in order to advance a preference for a particular regulatory outcome.

And in her testimony before this very committee, she repeated those pledges.

Now, we have proof that EPA has rejected science, suppressed scientific judgment for the critical agenda, and compromised the integrity of EPA's experts for the sake of a particular regulatory outcome being pushed by the Obama administration.

That is why last week I demanded an investigation of the suppression of the March 9, 2009, direct report on the endangerment of finding for greenhouse gas emissions under the Clean Air Act. The report warned of several inconsistencies and problems with scientific data behind the Administration's proposed endangerment finding and called on EPA to conduct a serious review of the science before making a determination.

In other words, it called upon the EPA to do the very things that Administrator Jackson had stated should be done.

There is another matter that I need raise. I have asked each of the nominees before the committee to respond with equal vigor to the requests for information from either side of the aisle. I have been repeatedly assured that this will be the case. In fact, back in April, Administrator Jackson herself issued a memo to all EPA staff directing them to provide Congress with the information we need to do our jobs.

Yet, in the months since the Administration took office, I have made several requests for information that have not been received fair and equal treatment. When I do get replies to my questions, they have sometimes been vague and unresponsive.

I know other colleagues on this committee have had the same problems, the same experiences. This lack of responsiveness is a real impediment to us in fulfilling our constitutional duties over oversight.

Now, to the nominees at hand, I have something that you have no control over, and that is that I have observed each time we have

a new nominee, even though I have supported, I think, all of them, they are all from the Northeast. I would just hope that you folks would look very carefully, as issues come along, and think of the entire country, think of our part of the country out in Oklahoma and other areas. I know this was nothing intentional, but it turned out to be that way. So that is something that I would like to have you folks, well, at question time I will probably ask something to that effect.

This is not a one size fits all type of situation. We are dealing with issues that affect different parts of the country differently. Certainly, in the current debate that we are having on cap-and-trade, the costs are disproportionate. It is the Heartland that is paying for the East Coast and the West Coast. And these are things that we, I think, should keep in mind.

Having said that, I look forward to serving with both of these nominees and for confirming their nominations.

[The prepared statement of Senator Inhofe follows:]

STATEMENT OF HON. JAMES M. INHOFE,
U.S. SENATOR FROM THE STATE OF OKLAHOMA

Madam Chairman, I am pleased to join you today to review the two latest nominees for senior level positions at the Environmental Protection Agency. I congratulate them on their nomination and appreciate their commitment to public service.

Before I get to them, I have something to say about the administration they wish to join.

From the beginning of the Obama administration, and from the first moment Administrator Lisa Jackson became head of EPA, we were told there would be "overwhelming transparency" in the operation of that agency. We were lectured about the Bush administration's alleged failure to follow "sound science." We were told there would be a new era, with no suppression of discussion, no matter what the view is or who conveys it.

Well, last week we saw the reality behind those words. A 38-year veteran EPA employee questioned the science behind EPA's headlong rush to regulate greenhouse gases. He was told to keep quiet about his findings, not once, but four separate times, and his work was then buried. This was back in March, at the very time we on this committee were getting straight-faced assurances that this would not occur. Worse yet, this didn't happen with some minor administrative matter that doesn't really make a difference—it happened with what is perhaps the most important public policy issue of our time.

In her very first memo to all EPA employees, dated January 23 of this year, Administrator Jackson emphasized, "Science must be the backbone for EPA programs." She added, "When scientific judgments are suppressed, misrepresented or distorted by political agendas, Americans can lose faith in their government." Then she added the kicker: "I pledge that I will not compromise the integrity of EPA's experts in order to advance a preference for a particular regulatory outcome."

And in her testimony before this very committee, she has repeated those pledges. Now, we have proof that EPA has rejected science, suppressed scientific judgment for a political agenda, and compromised the integrity of EPA's experts for the sake of a particular regulatory outcome being pushed by the Obama administration.

That is why last week I demanded an investigation of the suppression of the March 9 draft report on the endangerment finding for greenhouse gas emissions under the Clean Air Act. The report warned of several inconsistencies and problems with the scientific data behind the Administration's proposed endangerment finding and called on EPA to conduct a "serious review of the science" before making a determination. In other words, it called on EPA to do the very things Administrator Jackson has said she is committed to doing.

There is another matter I need to raise. I have asked each of the nominees before us to commit to responding with equal vigor to the requests for information from either side of the aisle. I have been repeatedly assured this will be the case. In fact, back in April, Administrator Jackson herself issued a memo to all EPA staff directing them to provide Congress with the information we need to do our jobs. Yet in the months since this Administration took office, I have made several requests for information that have not received fair and equal treatment. When I do get replies

to my questions, they have sometimes been vague and unresponsive. I know other colleagues on this committee have had the same experience. This lack of responsiveness is a real impediment to us in fulfilling our constitutional duties of oversight.

Now to the nominees at hand. I've have had a chance to speak to each of these gentlemen. I have nothing against them personally, and I wish them success in their service to our Nation. I note, however, a trend I've pointed out before. Each of these senior level nominees either comes from or has spent the better part of his life out East.

Mr. Perciasepe has had two tours of duty at EPA, both times at headquarters, and he has worked in or near Washington for his entire career. Mr. Hooks is also a veteran EPA headquarters staff member, although at least he got his education from schools in Florida and Texas.

I have nothing against those who choose to work in one part of the country or another. But when virtually the entire leadership of a key Federal agency is from one area, in this case the Northeast, and the agency's mission is to address national issues, it raises concerns for those of us from other regions. The Nation's environmental challenges are not one-size-fits-all. We suffer from policy decisions that do not take into account their effect on the rest of the country. I saw that time and again during my time as mayor of Tulsa, and I keep seeing it in the regulations coming out of Washington even now. It is said that personnel is policy, and if we fill senior positions with persons of one mindset, we will see policies that reflect that mindset.

Madam Chairman, I look forward to hearing the testimony today and asking a few follow up questions. Thank you.

Senator CARDIN. Thank you very much, Senator Inhofe.

Let me point out that, in regards to the specific concern that you expressed, the individual at the EPA is an economist, and it is our understanding that his findings were attached to the documents that are being transmitted.

Senator INHOFE. Yes, well I have heard her response on that. However, that does not respond to all of the particular investigative questions that we had offered. In fact, at question and answer time, I will be a little bit more specific and ask the two of you to perhaps jointly join in on an investigation of some specific things that affect your area of expertise.

Senator CARDIN. Thank you, Senator Inhofe.

**OPENING STATEMENT OF HON. BENJAMIN L. CARDIN,
U.S. SENATOR FROM THE STATE OF MARYLAND**

Senator CARDIN. Let me first welcome our two nominees, Robert Perciasepe, nominated to be the Deputy Administrator of the Environmental Protection Agency, and Craig Hooks, nominated to be the Assistant Administrator, Administration and Resources Management, Environmental Protection Agency.

I had asked Chairman Boxer if I could be permitted to introduce Bob Perciasepe. I do that because he hails from Baltimore. His first major public responsibility was working for the city of Baltimore under Mayor William Donald Schaefer, revitalizing the city's Inner Harbor into a world class destination. We very much appreciate his public service then and his career in helping at all levels of government.

He knows about State issues. In State government, he served as a Cabinet Secretary for the State of Maryland, overseeing the State's environmental programs. He knows about regional cooperation. He served as Chair of the Chesapeake Bay Program's Principle Staff Committee where he coordinated efforts among the States of Maryland, Virginia and Pennsylvania, as well as the District of Columbia, to restore the Chesapeake Bay.

And he knows about national issues. He already has served in two major leadership positions with the EPA, first as the Director of Water and later as the Director of the Air Program. He knows about working outside of government, too. For the last 8 years, he has worked in a senior leadership position in one of America's oldest and most respected national natural resource advocacy groups, the National Audubon Society.

Bob Perciasepe brings to this position a record of excellence in the areas of responsibility that would fall under this new responsibility once he is confirmed in the position in the Environmental Protection Agency.

So, I thank President Obama for making this appointment, and I hope that we would quickly confirm his nomination.

I also want to take this time to talk about the two nominees together. Management of our Federal agencies often gets insufficient attention. But we provide these Federal managers with large budgets, large staffs and broad ranging responsibility. The American people deserve strong stewardship of their tax dollars and management of these agencies.

These two nominees are competent managers who give us confidence that the Environmental Protection Agency will be in good hands.

We look forward to their testimony and we look forward to their prompt consideration by this committee and the U.S. Senate.

And with that, I will turn it over first to Mr. Perciasepe. I would ask that you would first introduce members of your family that may be here so that we might have a chance to meet them. And the same thing with Mr. Hooks. And then we will be glad to hear from you.

Mr. PERCIASEPE. Thank you, Mr. Chairman.

Senator CARDIN. Just a side conversation about Mayor Schaefer. Once you meet Mayor Schaefer, you always know Mayor Schaefer. He is still around.

Senator INHOFE. And I have to say this. You do not look old enough to have worked with him because I was there in Tulsa when he was mayor of Baltimore.

[Laughter.]

Mr. PERCIASEPE. Well, it was a pleasurable time of my life, working for a can do kind of person. So, I appreciate those comments very much.

Thank you, Mr. Chairman, for those introductions and for all of the work that both of you do on this Senate committee and the leadership that you show for the country.

I want to, as you suggested, introduce my family who are here today. First, Lee Palmer, who is my wife, my youngest daughter, Julia, right behind me here, and my older daughter, Laura, who is right there. I am glad they were able to be here today. They may not know it, but they give me inspiration every day.

The other thing I want to mention, by introduction. Shall I just go with my introduction?

Senator CARDIN. Yes. Well, Mr. Hooks, would you like to introduce your family. That way we will know who is looking at us here.

Mr. HOOKS. I would love to do that. Thank you. I have with me my father, Perry Hooks, Dorothea Hooks, his wife, my youngest

daughter, Kyla, my wife, Austria, my best friend, Louis Castro, a wonderful family friend, Ramona Morano, my middle daughter, Brianna, my oldest daughter Zoraya, and my cousin Bridgette. I think that is it.

Senator INHOFE. I would observe that with that crowd here it would be awfully hard not to be nice to you.

[Laughter.]

Senator CARDIN. Well, we thank your families because we know the sacrifices they make for your service, for your public service, and we know that the challenges of the offices that you are seeking are going to be long hours. It is a sacrifice of not only yourselves but your families, and we appreciate that very much.

Mr. PERCIASEPE. Thank you.

Senator CARDIN. We have now been joined by our Chairman.

Senator BOXER [presiding]. Thank you.

Thank you, Mr. Chairman, for chairing this. Feel free to continue to chair it or, if you need to go, I will take the gavel. But I am not going to give it to Senator Inhofe because I do not want him to get any ideas about the future here.

[Laughter.]

Senator BOXER. Even though I know he has a lot of good ideas about the future.

**OPENING STATEMENT OF HON. BARBARA BOXER,
U.S. SENATOR FROM THE STATE OF CALIFORNIA**

Senator BOXER. I would like to begin today's hearing by welcoming Mr. Perciasepe and Mr. Hooks. You each have been nominated to fill essential positions within the EPA at a pivotal point in the Agency's history. You each bring a wealth of experience and a record of dedication to achieving EPA's mission of protecting public health and the environment.

The Deputy Administrator assists the EPA Administrator in implementing the President's policies. The Deputy Administrator also helps to provide leadership to EPA's programs and activities and keeps the Agency focused on safeguarding the air we breathe, the water we drink, and the land that sustains our Nation.

Mr. Perciasepe, the Agency has a full agenda as it moves the country toward a clean energy future while also implementing and strengthening public health and environmental protections. Administrator Jackson, in my opinion, is doing an excellent job and, with more help, the EPA can accomplish even more for the American people. As her right hand, you will fill a critical role at the Agency.

Mr. Hooks, your decades of experience working in different parts of the EPA are a great fit for the Office of Administration and Resource Management. That office helps to manage all of the other parts of the Agency, and it increases or shifts resources to where they are most needed.

This office also works with State and local governments that rely on Federal resources to implement public health safeguards. And it plays a central role in working with other agencies to reduce pollution and increase the sustainability of their operations.

Mr. Hooks, your background at EPA and your clear commitment to public service will ensure that you make a valuable contribution to the Agency's work.

I look forward to hearing both of your testimony.

At this time, did you speak already, Senator?

Senator INHOFE. Yes, we did that already.

Senator CARDIN. We are ready for Mr. Perciasepe's opening comments.

STATEMENT OF ROBERT PERCIASEPE, NOMINEE TO BE DEPUTY ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY

Mr. PERCIASEPE. OK, I will try to be actually brief because I think that you probably have all seen my statement.

First, thanks again, Madam Chairwoman. I mentioned before, and I want to mention again while you are here, my appreciation to the full committee and yourself, in particular, for the leadership that you have been showing on the environment and public health in the United States. It is going to be a pleasure to be working with all of you if I am confirmed.

I want to start by simply saying how humbled and honored I am that the President of the United States has nominated me to this position. And also, I want to express my thanks and appreciation to Administrator Jackson who has the confidence in me also to help on some of those minor details that the Chair was just talking about.

Senator Cardin, you mentioned quite a bit of my public service background so I am not going to reiterate that too much, just to make a couple of key points. Public service is a very important thing to me. It is something that is a calling that I think many of us have. I think that, what I want to emphasize about those parts of my career that bring me to this point, is that diversity of experience and how I think that is going to be able to help EPA.

This city experience you mentioned, part of my job, in addition to working on the Harbor and the Chesapeake Bay there, I also helped the city to manage its construction budget and the water and sewer systems. So, I had a lot of experience which much aligns with what EPA works on with local governments.

At the State government, as you know, working with the Chesapeake Bay Program, some of the interstate issues with the States around, and also agriculture, quite a bit of time with agricultural interests on the DelMarVa peninsula and in other parts of the State.

At EPA, with the air and the water programs, I think I bring some experience to EPA of having at least managed some of those larger programs. Certainly not all of them, but some of them.

And finally, at the National Audubon Society, I have been the Chief Operating Officer for the last 5 years of service there. In that time, I have managed budget planning, annual performance planning, all of the other kinds of management issues that you really need to bring to bear to a well managed institution, including a Federal agency.

I feel very confident that those experiences are really going to serve me well to help the President and Administrator Jackson with the tasks at hand.

I want to just quickly say something about, well, I will just wait for the questions on the East Coast and the rest of the things. I have some thoughts on that.

But I will just end right now by simply saying that we do have a set of core values that have been laid out by the Administrator, and I want to reiterate my support for those core values of strong science, transparency and the rule of law in terms of how EPA conducts its business.

Also, I have to say, and Craig will be involved with these as well, that we are stewards of public funds, and we have a responsibility to make sure that they are used in a wise and effective way, and that is another thing that I am really going to pay attention to if you all confirm me to this job.

We also need a strong and empowered work force. Our work force is, you know, 90 percent of what EPA's strength is are the people that work there. I want support them and make sure that they have the resources that they need to get their work done.

So, if confirmed, I will put all of my skills, and all of my energy, into this task and working closely with Administrator Jackson to achieve these goals.

Thank you.

[The prepared statement of Mr. Perciasepe follows:]

**Statement of Robert Perciasepe
Hearing on Nominations
Committee on Environment and Public Works
United States Senate**

July 8, 2009

Thank you, Madam Chairman.

I would like to start by expressing my gratitude and thanks to Chairman Boxer and Ranking Member Inhofe for holding this hearing and to all the members of the Committee for their leadership.

I would also like to introduce Lee Palmer, my wife and our two amazing daughters Laura and Julia. They inspire me everyday.

I am humbled and honored to be nominated by President Obama to be the Deputy Administrator for the Environmental Protection Agency. I want to express my thanks to Administrator Lisa Jackson for her confidence in me and wanting me as a critical member of her team.

Public Service means so much to me. I started my career in Baltimore City and worked my way up to become the head of the entire city's construction budget, and

then, Assistant Director of Planning. My time there was rewarding and work at the community level where we often think the “rubber meets the road” is everything people say about it. I learned to manage large budgets, integrate work across city agencies, and be responsive to the citizens we served.

I was appointed to serve in the newly-created Maryland Department of the Environment. I held several jobs there and was finally appointed to the job of Secretary. Working with the rural western part of the State, the urban center, and the agricultural areas on the eastern shore of the Chesapeake was a necessary part of the job.

This experience grounded me firmly in the operations of State environmental agencies that work in partnership with EPA to achieve the environmental and public health goals set by Congress and our State legislatures.

In 1993 I had the honor of being appointed and confirmed as EPA’s Assistant Administrator for Water. I worked closely with State agencies and Governors on projects including the Great Lakes, the Mississippi River and Gulf, and improving implementation of key programs such as the state revolving fund and wetland

protection. I worked closely with Congress and this Committee on the reauthorization and improvement to the Safe Drinking water Act.

My service to EPA expanded when, in 1997, I was appointed and confirmed again to be the Assistant Administrator for Air and Radiation. I served in that position until 2001. Important work during that time included the revisions to gasoline fuel and tailpipe standards for automobiles and diesel fuel improvements coupled with heavy duty vehicle tailpipe standards.

I also would get personally involved with local issues, for example, I worked directly with Governor Kempthorne and his staff to resolve difficult air quality issues in Boise, Idaho.

All through my time at EPA I worked closely with members of Congress.

After leaving EPA I went to work for the National Audubon Society. Over the last 5 years I have been the Chief Operating Officer for them. In that role I have developed improved management structures to enhance the work of a very distributed organization (80 locations across the country with 23 State-level offices). An annual planning process to align work and annual benchmarks were a

key component of that. Audubon's budget performance has improved every year while we continued to grow key programs.

These experiences have prepared me for the job the President and Administrator Jackson are asking me to do. The Deputy Administrator at EPA can be seen as the Chief Operating Officer. My local and State experiences give me unique insight to EPA's work with States and communities; my time at EPA has built a strong knowledge of the work of some of the major programs and appreciation for the work force; and, recent experience as a Chief Operating Officer has enhanced my management skills.

Administrator Jackson has made transparency in EPA's work, assuring strong science, and rule of law cornerstones for EPA values. These values have guided me in my own career. As a foundation for these values, EPA must continue to soundly manage the public funds that we are the stewards for, and to assure that they are used most effectively toward environmental and public health protection. EPA needs to maintain a strong, empowered and motivated work force that serves proudly.

If confirmed, I will work with Administrator Jackson, to put all my skills and energy toward assuring the smooth and efficient operations of the day to day work and the longer term management of this remarkable Agency.

**Questions and Answers for
The Senate Committee on Environment and Public Works
July 8, 2009
Robert Perciasepe**

Questions from:

Senator Thomas R. Carper

Question 1. Last week, the EPA posted state data on water-pollution enforcement cases on its website. Administrator Jackson wrote: "In many parts of the country, the level of significant non-compliance with permitting requirements is unacceptably high and the level of enforcement activity is unacceptably low."

You were closely involved with the Safe Drinking Water Act Reauthorization in the 1990s as EPA's Assistant Administrator for Water. How did that experience shape your perspective on water protection and the federal government's role? How do you intend to address these inadequacies in clean water enforcement?

Response: It is important that we recognize the important role the Clean Water Act plays in protecting the nation's drinking water supply. In many ways, I see the Clean Water Act as the "first line of defense" in safeguarding drinking water. When the Safe Drinking Water Act was reauthorized in 1996, it specifically made this important link through a new "Source Water Protection" program that made coordination between the two statutes a priority. I believe that this is an important link and Clean Water enforcement efforts should take drinking water supplies into account.

I support the steps Administrator Jackson laid out last week to improve the nation's water quality by increasing the transparency and effectiveness of the agency's national Clean Water Act enforcement program. If confirmed, I will work closely with states to ensure compliance with the Clean Water Act and the protection of our water resources, and engage all stakeholders to share information about EPA's activities.

Senator James M. Inhofe

Question 1. The previous administration set up a results tracking system called EcoStat, which pulled together in one place all of EPA's performance so the staff and the public could see how the Agency was doing. It also allowed employees to see how their efforts produced measurable results. The tracking system doesn't seem to have been continued by this Administration. As EPA's chief operating officer, how would you determine whether the Agency is being successful, and how would you publicize those results so they were readily available to the public?

If confirmed, as part of my role as Deputy Administrator at EPA, I will embark on a full assessment of existing mechanisms in place to ensure strong performance and management across EPA. This assessment will be conducted to ensure EPA is best positioned to deliver on its important commitments and that EPA continues to provide performance management leadership within the federal government. I will ensure that the *EPAStat* program and its components will be examined as part of that assessment to ensure EPA is on the right path to successful utilization of the most appropriate management approaches to drive high performance.

Question 2. EPA changed its employee performance appraisals from a pass-fail system to a multilevel system. Some employees appreciate the chance to be evaluated in a way that differentiates high performers from low performers, while other employees don't like the change. What is your philosophy on multi-level performance appraisal systems, and do you intend to keep or change EPA's system?

The Obama Administration has already made it clear that meaningful performance management is an important part of managing employee compensation, evaluation and awards. If confirmed, I plan to work with the Assistant Administrator for Administration and Resources Management to determine the best way to evaluate our employees. I fully support the Administration and look forward to working with OPM Director Berry as OPM reviews pay and performance management issues across the Government.

Senator CARDIN. Thank you.
Mr. Hooks.

STATEMENT OF CRAIG E. HOOKS, NOMINEE TO BE ASSISTANT ADMINISTRATOR, ADMINISTRATION AND RESOURCES MANAGEMENT, U.S. ENVIRONMENTAL PROTECTION AGENCY

Mr. HOOKS. Thank you.

I would first like to take this opportunity to express my gratitude to Chairman Boxer and to Ranking Member Inhofe for holding this hearing.

I am deeply honored to have been nominated by President Obama to serve as Assistant Administration for the Office of Administration and Resources Management, OARM, at EPA. It is a privilege to work with Administrator Jackson and, if confirmed, I look forward to becoming a member of her team, as well as working closely with this committee and Congress to continue to improve management and performance at EPA.

OARM's role within EPA is to provide national leadership, policy, and management of many essential support functions for the agency, including human resources management, acquisition activities, grants management, and management and protection of our facilities and other critical assets nationwide.

In over two decades of experience in public service, I have held a variety of both programmatic and administrative positions in the Federal Government. After beginning my career at the National Oceanic and Atmospheric Administration, I joined EPA in 1988.

Most recently, as EPA's Acting Assistance Administrator for OARM, I also serve as the agency's Senior Resource Official for the Recovery Act activities. In this role, I have focused my efforts on rewarding funds in a prompt, fair and reasonable manner, while also ensuring transparency and accountability in an effort to achieve both economic and environmental results. At this time, over 62 percent of EPA's Recovery Act funds have been awarded.

Prior to my current position as Acting Assistant Administrator for OARM, I served as the Director of EPA's Office of Wetlands, Oceans, and Watersheds, or OWOW. OWOW promotes a watershed approach to manage, protect and restore water resources and aquatic ecosystems of the Nation's marine and fresh waters. I have also served as Director of the Federal Facilities Enforcement Office, which ensures that Federal agencies meet multi-billion dollar clean up commitments and comply with environmental law.

As Associate Director of the Administration and Resources Management Support Staff within that office, I was also responsible for guiding annual resource requests, managing mission contracts, and supporting information technology, personnel and facilities activities.

President Obama and Administrator Jackson have made clear the three core values they expect EPA to uphold: scientific integrity, the rule of law, and transparency in our actions. If confirmed, I am committed to keeping these values at the center of everything I do.

I welcome the opportunity to focus on workplace issues emphasized by Administrator Jackson: labor management relations, work force planning, work force development, diversity, and work-life

amenities. I believe that by creating an atmosphere of mutual trust and respect, we can work with our unions to identify and solve workplace issues.

I would proactively focus on our future work force needs, as EPA faces the retirement of one-third of our employees over the next 10 years. I would continue the Agency's efforts to create a work force that is representative of America by providing opportunities to all employees. And, I would continue EPA's focus on work-life balance in order to maintain a motivated and engaged work force.

As the next generation of environmental professionals enters the work force, we will continue to create a workplace that attracts the best talents and fosters their development and ensures that EPA continues to fulfill its mission in the future.

In terms of facilities management, my priorities would be to ensure employee health and safety, as well as managing EPA's environmental footprint. To ensure that EPA's buildings and practices reflect our mission, the Agency implements a range of strategies to reduce the environmental impact of its facilities and operations, from building new, environmentally sustainable structures to improving the energy efficiency of our older buildings.

If confirmed, I pledge to ensure that EPA's contracts and grants management processes are run according to the laws and regulations governing Federal procurement, to ensure that Federal funds are used responsibly to deliver meaningful environmental results.

In conclusion, if confirmed, I pledge to uphold the laws by EPA is directed, to implement the priorities of the President and Administrator Jackson, to conduct agency business in a transparent manner, to be responsive to the inquiries of this committee and Congress, and to uphold the mission of the EPA.

Once again, thank you for this opportunity. I am happy to answer any questions that you may have.

[The prepared statement of Mr. Hooks follows:]

**Statement of Craig E. Hooks
Hearing on Nominations
Committee on Environment and Public Works
United States Senate**

July 8, 2009

I would first like to take the opportunity to express my gratitude to Chairman Boxer and Ranking Member Inhofe for holding this hearing. If I may, I would like to introduce my family and friends. I am pleased to be joined today by: my wife of 22 years, Austria Hooks; my three teenaged daughters, Zoraya, Brianna and Kyla; my father, a lifelong public servant, Perry Hooks, and his wife Dorthea Hooks; my cousin, Bridgette Hooks; and, my best friend, Luis Castro.

I am deeply honored to have been nominated by President Obama to serve as Assistant Administrator for the Office of Administration and Resources Management (OARM) at the Environmental Protection Agency (EPA). It is a privilege to work with Administrator Jackson, and if confirmed, I look forward to becoming a member of her team, as well as working closely with this Committee and Congress to continue to improve management and performance at EPA.

OARM's role within EPA is to provide national leadership, policy, and management of many essential support functions for the Agency, including:

human resources management, acquisition activities, grants management, and, management and protection of our facilities and other critical assets nationwide.

In over two decades of experience in public service, I have held a variety of both programmatic and administrative positions in the federal government. After beginning my career at the National Oceanic and Atmospheric Administration (NOAA), I joined EPA in 1988. Most recently, as EPA's Acting Assistant Administrator for OARM, I have served as the Agency's Senior Accountable Official on Recovery Act activities. In this role, I have focused my efforts on awarding funds in a prompt, fair, and reasonable manner, while also ensuring transparency and accountability in an effort to achieve both economic and environmental results. At this time, over 62 percent of EPA's Recovery Act funds have been awarded.

Prior to my current position of Acting Assistant Administrator for OARM, I served as the director of EPA's Office of Wetlands, Oceans, and Watersheds (OWOW). OWOW promotes a watershed approach to manage, protect, and restore the water resources and aquatic ecosystems of the nation's marine and fresh waters. I have also served as the Director of the Federal Facilities Enforcement Office, which ensures that federal agencies meet multi-billion dollar cleanup commitments and

comply with environmental law. As Associate Director of the Administration and Resources Management Support Staff in the Office of Enforcement and Compliance Assurance (OECA), I was responsible for guiding annual resource requests, managing mission contracts, and supporting information technology, personnel, and facilities activities.

President Obama and Administrator Jackson have made clear the three core values they expect EPA to uphold: scientific integrity, the rule of law, and transparency in our actions. If confirmed, I am committed to keeping these values at the center of everything I do.

I welcome the opportunity to focus on workplace issues emphasized by Administrator Jackson -- labor-management relations, workforce planning, workforce development, diversity, and work-life amenities. I believe that by creating an atmosphere of mutual trust and respect, we can work with our unions to identify and solve workplace issues. I would proactively focus on our future workforce needs, as EPA faces the retirement of one-third of our employees over the next 10 years. I would continue the Agency's efforts to create a workforce that is representative of America by providing opportunities to all employees. And, I would continue EPA's focus on work-life balance in order to maintain a motivated

and engaged workforce. As the next generation of environmental professionals enters the workforce, we will continue to create a workplace that attracts the best talent and fosters their development to ensure that EPA continues to fulfill its mission in the future.

In terms of facilities management, my priorities would be to ensure employee health and safety, as well as managing EPA's environmental footprint. To ensure that EPA's buildings and practices reflect our mission, the Agency implements a range of strategies to reduce the environmental impact of its facilities and operations, from building new, environmentally sustainable structures to improving the energy efficiency of our older buildings.

If confirmed, I pledge to ensure that EPA's contracts and grants management processes are run according to the laws and regulations governing federal procurement, to ensure that federal funds are used responsibly to deliver meaningful environmental results.

In conclusion, if confirmed, I pledge to uphold the laws by which EPA is directed, to implement the priorities of the President and Administrator Jackson, to conduct

Agency business in a transparent manner, to be responsive to the inquiries of this Committee and Congress, and to uphold the mission of the EPA.

Once again, thank you for this opportunity. I am happy to answer any questions you might have.

**Questions and Answers for
The Senate Committee on Environment and Public Works
July 8, 2009
Craig E. Hooks
Nominee for Assistant Administrator for
Administration and Resources Management**

Questions from:

Senator Thomas R. Carper

1. One of the important duties of the Office of Administration and Resource Management is the management of EPA's facilities. For decades now, federal agencies have been subject to energy intensity reduction goals or mandates. The current goals require federal agencies to reduce energy intensity by three percent each year, or 30 percent by 2015 compared to 2003 energy intensity levels. Is the EPA on track to meet these goals?

What sort of projects will you prioritize to ensure EPA facilities meet energy targets?

Response: Yes, EPA is meeting and, in fact, is exceeding energy goals. Also, OMB Energy Scorecard requirements mandate that EPA reduce energy intensity 9% in FY 2008 and 12% in FY 2009, from an FY 2003 baseline. EPA reduced energy use 17.5% in FY 2008 based on energy reductions alone. When green power credits and co-gen credits are added, EPA reported a 24.4% reduction.

If confirmed, I will support EPA's activities during FY 2009 and FY 2010:

- (1) Conducting required energy audits and re-commissioning at 25% of EPA's covered facilities;**
- (2) Refocusing B&F funds on projects which directly or indirectly impact energy reduction and efficiency;**
- (3) Continuing green power purchases to keep EPA at 100% green power, and**
- (4) Reviewing renewable energy opportunities.**

Questions from Senator James M. Inhofe

Question 1. In this position, you will help manage a federal agency with 17,000 employees. Your job in particular touches every single EPA employee, be it handling personnel issues, or facilities, or security. You will have to make tough decisions for the greater good, decisions that won't please everyone. But unlike most political appointees, you know many of its employees personally, since you've been at EPA as a career employee for 22 years. How, then, do you make management decisions that affect your friends and colleagues? To whom do you listen, and how do you make your choices?

Response: I am proud to have served in various management positions at EPA. While serving in those positions as well as serving as the Acting Assistant Administrator for Administration and Resources Management (OARM), I made management decisions using sound judgment and impartiality. If confirmed, my OARM management team and career staff will continue to provide me with factual operational information which I will use to make my own decisions. I pride myself with working well with career and political management and staff and can bring this collaborative approach to the job. As always, my decisions and recommendations will be based on the best interests of the Agency and taxpayers.

Question 2. EPA used to have Office of General Counsel attorneys physically located in the Office of Acquisition Management to make sure contracts were being handled correctly. But last year, the Acting General Counsel moved those attorneys to another building. I've heard that the contracts professionals at EPA were very concerned about this development, and frankly, so am I. I recall the days when EPA's inability to deal with contracting irregularities was the source of much Congressional concern. What is your take on the situation?

Response: Strong contract management practices are of utmost importance to me. As the Chief Acquisition Officer, I want to be sure that my organization will continue to deliver high quality contracting support to the Agency. I am aware that recently the Office of General Counsel relocated several contracts attorneys from the Office of Acquisition Management space in the Ronald Reagan building to main OGC offices in the Ariel Rios North building, where their managers, team leader, and another contract attorney were already located. Both the Ariel Rios and the Ronald Reagan buildings are part of the EPA Federal Triangle complex. The contract attorneys maintain office hours in their previous location to ensure a high-level of service. If confirmed, I will monitor this matter and will direct the procurement office to advise me of any change in the quality or availability of legal advice as a result of the move.

Question 3. One of your responsibilities will be to serve as EPA's chief environmental officer. I understand the Agency has developed a comprehensive energy and water strategy for its facilities, called the E2PLAN. What specific steps have you taken to implement it?

Response: EPA has long been a leader among federal agencies on environmental and energy stewardship, especially in pursuing sustainability for EPA's own facilities and operations. In my past positions and as Acting Assistant Administrator, I have provided the necessary leadership to ensure that EPA will reduce its energy and water consumption, greenhouse gas emissions, and overall environmental footprint. I have also endorsed the performance requirements as outlined in the Plan as laudable goals to pursue.

Question 4. Last year, the Agency began to consolidate its human resources service centers, going from 15 to 3. What is the status of that effort, and will it continue?

Response: A year ago, EPA began transitioning from 15 different human resources offices to three new Human Resources (HR) Shared Service Centers located in Cincinnati, OH; Las Vegas, NV; and Research Triangle Park, NC. Over the past year, we have made tremendous strides in laying and building the foundation for these Shared Service Centers to strengthen the Agency's human resources transactional functions.

Accomplishments to date include:

- 88% of EPA's regional and program office employees are now being serviced by one of these three centers;
- 94% of Shared Service Center staff positions have been filled;
- Tracking system access has been provided to program and regional contacts to facilitate their monitoring of the progress of hiring actions, and
- 36 standard operating procedures have been developed (14 issued and 22 to be issued by September 2009).

Senator CARDIN. Well, let me thank both you for your testimonies. I am going to have to leave in a moment, but I just want to ask one question related to the interagency issues.

Mr. Perciasepe, we had a chance to talk yesterday about the challenges of the different Federal agencies that you have to work with. I must tell you, I have been pleased this year to see EPA and DOD working together on clean up issues in my own State, both at Fort Meade and Fort Detrick, where we have made significant progress. But is it not easy working with other Federal agencies.

So, I want to ask you a question about OMB, which does not always see eye to eye with EPA on budget requests. This committee is very interested in the State Revolving Fund and the Drinking Water Revolving Fund. We have legislation pending to try to increase the authorized amount.

As Deputy Administrator, if confirmed, you will be responsible to try to deal with OMB in getting the appropriate funding levels so that we can move forward with our water infrastructure in this country. And these are programs that are critically important.

I just want to know how you would see your role in working with OMB to make sure that we get the appropriate resources in this country to rebuild the infrastructure and the needs in our communities.

Mr. PERCIASEPE. Thank you, Senator. In my past time at EPA, I spent quite a bit of my time working with the different agencies and, in particular, with the Office of Management and Budget. I have a great appreciation in the role that they play in managing the entire Federal Government. They certainly have their own set of challenges.

I think it is, well, this may sound almost like diplomacy and I do not mean it to sound that way, but in recognizing where each agency is coming from in terms of its perspective and in terms of its charge that Congress has given to them in many cases, for instance, the Department of Agriculture or the Department of Transportation or the Department of Defense. It really is important that people at EPA in the responsible positions, you know, can communicate in a way of mutual respect and find the right way to proceed.

And I think that I have quite a bit of experience and success in that area. I have a lot of respect for my colleagues that are in those other agencies. I have not had the opportunity yet, because I have not yet been confirmed, to really get to know them in detail. But I certainly will approach that interagency area of work with that kind of attitude, but also one that is aimed toward solving the problems and moving the ball forward.

Senator CARDIN. Well, the Congress, in a bipartisan manner, has added funds to these accounts over the President's budget because of the importance that we place on moving forward and modernizing our infrastructure. I give the examples frequently in Maryland where River Road became a river and downtown Baltimore was flooded out and the trains could not run. The funding of these programs is very important and I am pleased to hear that you will be fighting within the Administration so that perhaps we will have an easier lift in Congress in passing budgets that are adequate in this area.

Madam Chair, thank you, I am going to turn it over to Senator Inhofe.

Senator INHOFE. Thank you, Mr. Chairman.

Well, first of all, I ask both of you the same question. If you are confirmed, which you will be confirmed, will you commit to answering requests for information and documents from the minority and respond the same as you would those requests coming from the majority?

Mr. PERCIASEPE. Yes, Senator, I would.

Mr. HOOKS. Yes, sir.

Senator INHOFE. OK, thank you.

Mr. Perciasepe, first of all, I have always enjoyed working with you, as I said earlier, in the past, and I look forward to it again. You heard us talking about the alleged suppression of the information that went into the endangerment decision and the fact that the information was not used. We have requested an investigation of that.

Let me just ask you, since you will be coming in to the second position. Will you make your own independent, go in with a fresh look and make it an investigation and share with us what your feelings are as to the accuracy of the accusations that have been made? Would you do that for me and get back in a timely fashion? It does not have to be formalized or anything.

Mr. PERCIASEPE. You know, I am not familiar, other than what I read in the press about this.

Senator INHOFE. And that is dangerous.

Mr. PERCIASEPE. And I do know that the Administrator, I was watching the hearing yesterday on television, and I know that the Administrator responded, I thought, with some specificity. So, I would want to work with the Administrator on whatever reviews that they are doing and to make sure that information is available.

Senator INHOFE. Well, if you would rather not do it independently, I can understand that, but would you go back, if we gave you some of the specifics we would like addressed, and try to help us with that?

Mr. PERCIASEPE. Any information that you provide I will certainly make sure that it gets to the right people at EPA.

Senator INHOFE. All right. You have been watching what we are doing now with this Clean Water Restoration Act. We are all familiar with this. We remember the background, where it started, we are familiar with the two court decisions and then, of course, what this would attempt to do would to be put all, in my opinion, my interpretation of the Act, would be to put all waters under Federal jurisdiction. How far do you think that should go? Are their exceptions to the Federal jurisdiction?

All right, let me ask you more specifically. A farm pond that is unconnected to any other body of water, should that be Federal jurisdiction?

Mr. PERCIASEPE. Well, it is hard to answer in the abstract of a particular pond or a particular water body. Let me just say, step back for just a moment on this. Based on my own past experiences, and what I have watched unfold over the last number of years with certain Supreme Court decisions, is that one of the things that is really clear to me is that there needs to be some work on this by

the Congress to help create certainty in the current situation. Because for both people who might have a farm pond, and people who are worried about wetlands restoration and preservation, all of them have, you know, whatever perspective you are bringing to that issue, there is a degree of uncertainty right now.

I think that the Administration did lay out some broad principles on this, and what I can say to you is that I would pledge to make sure that I would work with this committee in any way that you see your needs, so that we can find the kind of common sense approach that we need to take under those principles that the Administration had laid out.

But it is hard to say——

Senator INHOFE. Yes, but——

Mr. PERCIASEPE. Can I just finish? It is hard to say, like a particular pond, you would have to know what the——

Senator INHOFE. Well, what about water that collected in a ditch? You see, this is what I am really concerned about——

Mr. PERCIASEPE. Yes, I understand——

Senator INHOFE. That it would go so far and, quite frankly, if you feel, if you do not feel, that the Federal jurisdiction should come to these areas, that is a great concern. It is not going to affect your confirmation. But it is going to put me in a position where if I talk to the ag people and say that this Administration is not even going to say that you are exempt if you have water in ditch or in your farm pond that is unconnected, that is of concern to me.

Mr. PERCIASEPE. Well, I do not think that anybody wants, I can say this categorically, but not being involved with the current discussions even on the legislation, but nobody wants some impractical jurisdictional determination that gets into rain puddles and things of this nature that you hear about.

Senator INHOFE. OK. Let me do this a different way then. I am going to run down a list of six bodies of water. And all I am going to ask you do to do is say should the Federal Government have a jurisdiction over these. If you do not say yes or no, just say it depends or something. I just want to get you on record, so that if I have to go to someone and say, even water collecting in a ditch is one that might be subject to it, then that at least gives me something specific. These are my concerns.

So, we have an intermittent stream that has no flowing water in past year.

Mr. PERCIASEPE. I do not know the answer——

Senator INHOFE. All right. And a farm pond, unconnected, as I mentioned before, to any other body of water.

Mr. PERCIASEPE. A farm pond? Is this a farm pond that was made by the farmer or was this——

Senator INHOFE. Yes. We do this in Oklahoma. You build a little dam and you build a farm pond, and that is where the cows go to keep cool.

Mr. PERCIASEPE. I am going to probably, for all of these, just to give you a heads up, I'm probably going to say I do not know because, you know——

Senator INHOFE. That is fine. I do not know will suffice.

Water that collects in a ditch?

Mr. PERCIASEPE. I do not know.

Senator INHOFE. A wetland that is not connected to a stream or river?

Mr. PERCIASEPE. Well, wetlands are connected hydrologic, by the full hydrologic cycle. But again, it takes a scientific discussion and knowledge of this particular water body to be able to answer that. But I am going to say that I do not know again.

Senator INHOFE. A prairie pothole? And I do not know, is that OK? And a body of water that migratory birds happen to land upon?

Mr. PERCIASEPE. A migratory bird now?

[Laughter.]

Senator INHOFE. There is a court decision on that, you might know.

Mr. PERCIASEPE. I think the Supreme Court mentioned something about migratory birds and using them exclusively for, this I do know, and obviously there would have to be other factors involved.

Senator INHOFE. Well, OK, I did not mean to take that much time.

Mr. PERCIASEPE. Well, I am not saying—

Senator INHOFE. I just really want to be able to say, to my people in Oklahoma, how far this thing really could go. You have been helpful. And you have been very honest in your response.

This issue that you are aware of on the startup and shut down, a maintenance issue. As you know, since 1994, the EPA has given plants and refineries and manufacturers exemptions on their strict emissions standards on startup and shut down. The concern I have here is that, if these are discontinued, you would have a situation where people would either not even start up again, or, you know, well, is your feeling that there should be some exemptions on startup and shut down?

Mr. PERCIASEPE. Well, startup and shut down of major facilities of any kind clearly are a moment in time where conditions are different than ongoing operations. I have to tell you that I am familiar with this concept, but I am not familiar with the current states of affairs with whatever rulemaking EPA is looking at.

I can say that there are conditions at that particular moment that are unique, but I do not know the state of play of the regulation. I would be happy to look into that and get back to you.

Senator INHOFE. That is fine. Do I have time to go ahead?

Senator BOXER. You can do whatever you want.

Senator INHOFE. Well, that is—

[Laughter.]

Senator BOXER. Within reason.

Senator INHOFE. I noticed that you are on the One Thousand Friends of Maryland Board having to do with smart growth. This is an issue that, way back, many years ago, about the time that Schaefer was mayor and I was mayor of Tulsa, we dealt with a lot of the insiders coming in and trying to tell us how to handle our property rights in the city of Tulsa and these things, where we could grow and these things.

Because of your previous association, just as a general question, do think that sometimes, sometimes, not always, but sometimes,

that Washington knows more about, and should be involved in, land use in a Tulsa, Oklahoma, than people who live in Tulsa?

Mr. PERCIASEPE. Well, the one thing I can say is, if the Department of Transportation funds a highway project in Tulsa, Oklahoma, they are going to be involved with land use, one way or the other because it is going to stimulate growth, or it is going to direct growth to a certain area. And I think there is a need for collaboration on these kinds of matters when Federal funds are used.

Senator INHOFE. Absolutely. I understand that. In my experience, do you remember the name of Dr. Robert Froehlich out in San Diego? He was the one who was making the circuit at that one time talking about zoning. This had nothing to do with the highways and with Federal funding. I agree with you there, that is not a problem. But just on land use, and it gets a bit down to property rights, where he had used the circles around a city and said that certainly zoning could take place in some places and could not in other places.

Is your feeling that even outside of the area where there are Federal funds that we should take a more aggressive stand in Washington in terms of zoning and land use throughout the country?

Mr. PERCIASEPE. I really think that zoning, and specific kinds of land use decisions that you are talking about, are the purview of States and local government. It is the partnership between the Federal Government and the investments that we make, good or bad, that can disrupt those. So, we need to work on this together. The Federal Government has a role, to cooperate.

Senator INHOFE. One last question to Mr. Hooks.

Senator BOXER. Yes.

Senator INHOFE. Mr. Hooks, you are probably aware, in fact I know that you are, that I have a kind of long standing interest in maintaining the integrity of the grant system at the Environmental Protection Agency. We have set up some restrictions, some guidelines. I think we are making great headway. It was not too long ago, though, that they moved the attorneys that were supposed to be making some of the interpretations to another building. This concerned me.

I would like to know what your feelings are in terms of my past efforts and concerns about grants management and the kind of reforms, whether you agree to some of the reforms or not that I was trying to do and could continue with those reforms. I am very, very, I have always been very concerned about the way that grants are handled.

Mr. HOOKS. I am actually very pleased with some of the reforms that have taken place over the last few years. For a grants program, it is very important to further the agency's mission. I think one of the key factors in terms of some of the results that we have achieved over the last few years is that we have really advanced the ball in terms of achieving environmental results.

However, it is going to be important for us to ensure that we monitor our policies and procedures, to offer improvements when necessary, and also maintain a high quality grants management work force to keep them in place.

One of the things that I really want to focus on is leveraging technology to ensure that we can use that for decisionmaking and also increase transparency.

In terms of the attorneys that were co-located in the same office, I believe those were attorneys that were associated with the contracts office and that is another issue that I actually want to look at.

Senator INHOFE. Well, let me look into that because that may be true. That was not my understanding but you are probably right in this case. So we will look at that.

But I am concerned, and pleased that you are concerned, with the integrity of the grants system and the improvements that we have made.

Thank you very much.

Senator BOXER. Thank you, Senator Inhofe.

To both our nominees, we have a question that we have to ask all nominees, so I will just ask you to answer yes or no.

Do you agree, if confirmed by the Senate, to appear before this committee or designated members of this committee and other appropriate committees of the Congress, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities at the Environmental Protection Agency?

Mr. Perciasepe, please, you go first. Answer yes or no.

Mr. PERCIASEPE. Yes, I will.

Mr. HOOKS. Yes.

Senator BOXER. And do you agree, we will do the same order, to ensure that testimony, briefings, documents, electronic and other forms of communication are provided to this committee and its staff, and other appropriate committees, in a timely fashion?

Mr. PERCIASEPE. Yes, I do.

Mr. HOOKS. Yes. I do as well.

Senator BOXER. And the last question of this. Do you know of any matters which you may or may not have disclosed that might place you in any conflict of interest if you are confirmed?

Mr. PERCIASEPE. None other than I may have already disclosed in the information packet that I have given to the committee.

Senator BOXER. All right.

Mr. HOOKS. No, I do not.

Senator BOXER. All right.

I just want to give, of course, a little bit of a different view on the clean water issues. I have no intention of putting a pothole under the Federal Government's jurisdiction. And I also agree with my colleague, coming from local government, I was a county supervisor, and I agree with you, Robert, that zoning and land use are a matter of the locals. But when we do inject Federal funds in there, there needs to be a partnership discussion and we need to respect each other and make that work. So, thank you for that answer.

I would say, coming from a State that has lost 95 percent of its wetlands, that I do believe whether a wetland drains into a stream or a river, that is a different issue for me. Because I have seen areas that flooded over because everyone thought that the wetland was a swamp, everyone thought the wetlands were a ditch. And all

through my early years in government, I took a great interest in restoring wetlands.

I just want to make the point that wetlands, if they truly are wetlands, and that is why I think your answer is right, Robert, I mean it is so site specific. One person looks at something and says, that is a ditch. It is not worth anything, fill it up. Another person, perhaps a scientist, might say well wait a minute, do you know this is part of the ecological chain and the food chain and what is going on in here, do you know it is cleaning the air, and do you know it is providing the areas with flood control? All you have to do is look at New Orleans to see how desperate both our colleagues are to restore wetlands.

So, I just want to make the point that we are, Senator Inhofe and I do have a disagreement over this, but we do also have some agreements on zoning and respecting the power of local government.

I guess I would like to ask you both this question. Do you not view it this way, whether it is this contentious issue after Rapanos that we are trying to resolve which our colleagues on the other side feel that we overstepped, and I completely respect that, but we passed this out. I am not asking your opinion. But is it not true that, whatever the law is, it is your job, whether you agree with it or not, to implement it. Is that right? If it is the law? Go, go.

Mr. PERCIASEPE. The Congress has had—

Senator BOXER. And the President.

Mr. PERCIASEPE. The executive branch obviously has the role of implementing those laws.

Senator BOXER. Well, the President has to sign it for it to become a law or we have to override a veto. So, I think putting you on the spot, either of you, and we did not really see that happening to you, Mr. Hooks, I am sure you are grateful, is just not fair. Because it is up to us to write the laws. You know, if you are sitting up here and I am sitting there, then I have to say, well, regardless of my opinion, you write the laws. But you gave a truthful answer on what you think, and you have done that and I just appreciate it.

There are contentious issues here. I think you are right on the point about certainty.

I want to talk about the stimulus bill, otherwise known as the Economic Recovery Act, Mr. Hooks. You said that 62 percent of the awards have been made. Out of that, how many have really started the groundbreaking? Do you know?

Mr. HOOKS. Well, you can look at it in two different ways. You can look at it in terms of obligation rate, and I think we are doing a pretty terrific job in terms of getting the money out of the door. The majority of our money goes in the form of clean water and drinking water SRF loans.

Senator BOXER. Right.

Mr. HOOKS. In terms of the outlays, it is actually fairly small. We are only about \$22 million. I think, at this point in time, the States have had those contracts out for bid. Right now, all that is starting to come to fruition. At this point in time, I expect that the outlays should start to jump up.

Senator BOXER. Good. I mean I have a serious concern out this, across the board. I think you are doing great getting 62 percent. When do you think you will have 90 percent?

Mr. HOOKS. I suspect within the next 100 days, I would put us at 90 percent of the funds being obligated.

Senator BOXER. OK. Well, I want to urge you, I do not want you to make mistakes on this. God knows, we do not want that. But I would urge you to do your best with your staff, because this recession is very prolonged, it started in 2007, it still is very tough out there, and we need to make sure that these grants are not only awarded, but the moneys are obligated. Do you stay in touch to make sure these are obligated? Is there a certain rule that they are going to lose the funds if they do not spend it by x time?

Mr. HOOKS. In the context of clean water and drinking water, yes, there is.

Senator BOXER. Good.

Mr. HOOKS. There is a 1-year, actually, timeframe to have all drinking water and clean water SRF loans made within 1 year from enactment. So, by February 2010, all those contracts have to be under contract or construction.

Senator BOXER. Well, I would urge the Administration to do whatever they can to stay on top of it and let people now they are under contract to get this done within a year because we need the jobs and we need the work done. And the SRF is a great program.

As a matter of fact, if Senator Inhofe were here, he and I would be singing out of the same book. We very strongly support that fund and also, by the way, making sure that the formulas are fair. We are working hard on that. If we get that done, it will be the first time in 22 years that the SRF for clean water would be done and the other one was how many years? Thirteen years for the drinking water. So, we are really working hard.

So, I guess I have a couple of other questions. Can you take a couple of more questions?

Mr. HOOKS. Absolutely.

Mr. PERCIASEPE. We are here at your pleasure.

Senator BOXER. Good. Oh, and I am having such a good time.

Let me see. Mr. Perciasepe, earlier this year, Administrator Jackson ended EPA's voluntary performance track program, which was criticized for giving companies good PR despite poor environmental performance. The Administrator has asked an EPA Federal Advisory Committee to review the agency's voluntary program, and to recommend potential changes.

If confirmed, do you commit to work to ensure that EPA's voluntary programs reward the best companies, those leaders who go beyond what is required and demonstrate what is possible?

Mr. PERCIASEPE. Of course. I think voluntary programs have a role in the overall scheme, and we need to make sure that they accomplish some goals of improving compliance and getting people ahead of the curve, providing those proper incentives. So, yes, absolutely and I am looking forward to seeing that.

Senator BOXER. The private sector can do so much and we ought to just save the rewards for those that really take that extra step.

Also for you, the 2007 energy bill required EPA, in consultation with the Secretary of Education and Health, to develop voluntary

school siting guidelines by June 30, 2009. I understand the Administration is working to catch up on this issue which, in my view, was not given enough attention in the past.

If confirmed, do you agree to provide my staff with a status update and time line for EPA's issuance of these guidelines?

Mr. PERCIASEPE. Yes, yes I will. I do not know the particulars right now, but I will look into it and get back to you.

Senator BOXER. Yes, please do. If you could get us an answer in writing ASAP on that one. Just get back to us.

And Mr. Hooks, EPA unions have called for the agency to do a workload and work force analysis which enables EPA to identify the skills needed to accomplish the agency goals and to address any gaps or surpluses in skills.

If confirmed, do you commit to consider working with EPA's unions to determine the need to conduct such an analysis and complete it if such analysis is needed, in your opinion?

Mr. HOOKS. Yes, I will.

Senator BOXER. Mr. Hooks, in January 2009, EPA's inspector general found that the agency could more quickly make unexpended funds available for use in other programs and activities in a process called de-obligating funds. The report made recommendations to help ensure that money was more quickly used where it was needed.

If you are confirmed, would you please provide my staff with an update on the status of EPA's implementation of that report's recommendations?

Mr. HOOKS. Yes, I will.

Senator BOXER. Good, because we, at this point when we have such a need for these funds to be used, we do not want them just wasting away or sitting there because somebody did not get their act together.

Mr. Hooks, an April 2009 inspector general report found that the agency had not fully documented their implementation of five prior recommendations concerning grant disbursements. And I think that is a little bit to what my colleague is talking about.

If confirmed, do you commit to report back to my staff on the status of EPA's implementations of these recommendations?

Mr. HOOKS. Yes, I will.

Senator BOXER. Well, thank you very much, both of you. I am very grateful to you for undertaking these new responsibilities. I think it is an exciting time. It is a time of change. We have a big job to do. These are also very tough times. You are in a position, by doing your work well, by really focusing, to make things happen on the ground.

A lot of people are hurting out there. It does not do us any good if stimulus funds are sitting somewhere, right, on the shelf. It does not do us any good if there are programs that have unobligated moneys, and we all think that it was a great grant and then it does not happen and it does not do us any good.

And it does not do us any good when EPA does not conduct itself in accordance with science and the law, and I am very convinced that that will happen.

So, congratulations to both of you. To your families, we really thank you. There will be long nights and hard work, but you will

be part of this process of change by virtue of your standing behind your loved one. So thank you.

We stand adjourned.

[Whereupon, at 3:30 p.m., the committee was adjourned.]

