

NOMINATIONS OF WILLIAM C. OSTENDORFF, RICHARD C. HOWORTH AND LIEUTENANT GENERAL THOMAS P. BOSTICK

HEARING

BEFORE THE

**COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE**

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

ON

THE NOMINATIONS OF **WILLIAM C. OSTENDORFF** TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION;
RICHARD C. HOWORTH TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY; AND
LIEUTENANT GENERAL THOMAS P. BOSTICK TO BE CHIEF OF ENGINEERS/COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS

MAY 25, 2011

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ONE HUNDRED TWELFTH CONGRESS
FIRST SESSION

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GENERAL THOMAS P. BOSTICK TO BE CHIEF OF
ENGINEERS/COMMANDING GENERAL OF THE U.S.
ARMY CORPS OF ENGINEERS**

WEDNESDAY, MAY 25, 2011

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

The full committee met, pursuant to notice, at 10 a.m. in room 406, Dirksen Senate Office Building, Hon. Barbara Boxer (chairman of the full committee) presiding.

Present: Senators Boxer, Inhofe, Cardin, Lautenberg, Carper, Alexander, Vitter, Barrasso, Boozman, Sessions.

Also present: Senators Webb, Cochran, Wicker.

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

Senator BOXER. Good morning, everybody. The Committee will come to order.

I just want to say before anything else that our hearts go out to all the people across this country that are dealing with the most extraordinary weather events. I know that Senator Inhofe in particular was just, I was just riveted to see what was going on in Oklahoma. I heard the Governor speak, and I just, my heart is with everybody there in Missouri and Texas, it is just happening all over. So I wanted to make sure that was on the record.

Senator INHOFE. Let me respond to that, please.

Senator BOXER. Yes, please.

Senator INHOFE. It has been a real tragedy. Those of us from Oklahoma and Kansas and Northern Texas, they call that Tornado Alley, and a lot of the people, I have been in aviation for many years, and a lot of people, actually won't even fly through that area. We have really been through it. Three weeks ago, we had another community go through it, just like El Reno in Oklahoma,

Piedmont last night. My wife was down in the basement with a lot of our staff who didn't have basements.

So I appreciate your sympathy for our plight, not just us but also Texas, Kansas and Missouri, who are having the same kinds of problems.

Senator BOXER. Thank you for your remarks.

Well, today, we are here to consider nominations for three important positions within the NRC, the Nuclear Regulatory Commission; also the Tennessee Valley Authority and the U.S. Army Corps of Engineers. We have three esteemed colleagues with us who I will call on after I make a comment. We will try to hold comments, if we can, until after our colleagues speak.

So I will just do a quick opening, Senator Inhofe will do a quick opening. After our three colleagues, we will turn to the rest of our colleagues.

Is that all right with everybody? Good.

So first, I would like to say, Mr. Ostendorff, if you could raise your hand high, we welcome you. Current commissioner on the Nuclear Regulatory Commission, he has been renominated for a 5-year term. We know the NRC is an independent agency created by Congress to regulate nuclear powerplants and use of nuclear materials through licensing, inspection and enforcement. By statute, they are charged with protecting the health and the safety of the American people and minimizing the danger to life or property.

We certainly know, after what happened in Japan, that the NRC is taking steps to do just that. We know that their resident inspectors have inspected and issued reports on the 104 operating nuclear reactors and their ability to address power losses or damage during extreme events and following extreme events. The NRC is conducting a 90-day review of its processes in light of what happened in Japan. I think it is a good first step. But I expect the NRC to take a hard look at current practices and making more improvements to current safeguards.

I want to quickly say, NRC inspectors have already identified deficiencies at the two nuclear powerplants in California. I want to make sure those plants undergo thorough reviews and implement the changes necessary, because we have millions of people who live within 50 miles of those.

This committee will hold an NRC oversight hearing next month, and we will learn more then. So I do look forward to Commissioner Ostendorff's testimony and response to questions.

I would also like to welcome Richard Howorth. Would you raise your hand? Hello. Mr. Howorth is nominated to be a member of the Tennessee Valley Authority. Congress created TVA in 1933 as part of President Roosevelt's New Deal. It was an ambitious and unprecedented government effort to help a deeply impoverished area. TVA's mandate is to be a national leader in technological innovation, low-cost power, environmental stewardship. We know the great opportunities for jobs that lie within that mandate.

We understand TVA may expand its reliance on nuclear power. However, earlier this month, one of TVA's three nuclear plants received a red finding, the most serious, from the NRC, for a faulty valve that could have impaired emergency cooling and could have

risked core damage. So in light of what is happening, TVA needs to make sure its nuclear powerplants are safe and secure.

So I do look forward to Mr. Howorth's testimony.

Finally, I would like to welcome Lieutenant General Thomas Bostick, hello, sir, nominated to be Chief of Engineers, Commanding General of the U.S. Army Corps. General Bostick, while your nomination is not in our committee's jurisdiction, I appreciate your agreeing to appear today, given our oversight responsibility for the Corps' civil works. The Army Corps is so critical to the people. We know the historic floods on the Mississippi River clearly demonstrate the importance of flood control infrastructure. We know General Walsh is working 24-7 on that to spare lives and property.

In my State, we rely on levees. In partnership with the Corps, Sacramento has invested significant funding to initiate design and construction of levees. We have extraordinarily large populations in that flood plain. So there is a lot at risk there. The Corps maintains harbors, such as in Oakland and Long Beach, which facilitate the flow of much of our Nation's commerce. Many of the Nation's most ambitious efforts to restore degraded ecosystems, such as the Everglades and the Coast of Louisiana, are led by the Corps.

So I do expect the Corps to play an important role as efforts continue in all these projects, and in California's Bay Delta. Strong leadership is needed. I also look forward to working with everybody on both sides of the aisle, for sure, on a WRDA bill. We have to get through this matter of figuring out how you write a bill without naming a project, when that is what the WRDA bill is. So I don't know another way to do it. I almost call him my co-chairman, on issues such as this, we really need to figure it out. We are working to do that.

So that is where we are. It is now my privilege to call upon my Ranking Member, my friend, Senator Inhofe.

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

Senator INHOFE. Thank you, Chairman Boxer. First of all, the nomination of William Ostendorff to serve the Nuclear Regulatory Commission, he has served with such dignity in the past, I don't think anyone can find anyone who knows more about this issue and this subject than Commissioner Ostendorff. In his 26-year career in the U.S. Navy, he was elevated to the rank of Captain, commanded a squadron of attack submarines and served as the director of the math and science division at the U.S. Naval Academy.

He also served as counsel for the staff director for the House Armed Services Committee, which I knew him at that time, and on Strategic Forces and a principal deputy administrator. In his current role as commissioner, he contributes knowledge to the reactor operations and nuclear security issues that is unmatched by his colleagues. His perspective is essential to the commission's work as it unravels lessons learned from the Fukushima accident and concludes its review of the first new nuclear plant licenses in over 30 years.

It is very significant, I think that I could really cut it short. I notice that Senator Webb is going to be here to make an introduc-

tion. I also saw this morning, Madam Chairman, an article that quoted U.S. Senator Patty Murray, that supports Ostendorff's nomination, given the full slate of issues pending before the Nuclear Regulatory Commission. I believe it is imperative that we have a full set of commissioners. So he enjoys the endorsement of Democrats and Republicans alike.

Today we also will be honored to consider the nomination of Richard Howorth to serve on the board of the Tennessee Valley Authority. He was a fellow mayor. I often say to my colleagues here, you don't know what a hard job is until you have been a mayor. There is no hiding place. So I know what you have been through.

Today we will also hear from General Bostick. While the Chairman is correct in that technically, it doesn't have to go through this committee, it will be going through the Armed Service Committee, of which I am the second-ranking member. We will look forward to treating that nomination.

It is very important, in a challenging time that we have significant water resources needs across the country, and the Corps is currently engaged in an historic flood fight along the Mississippi River. I commend the Corps for their work.

Additionally, in my State of Oklahoma, where many important water projects, such as the dredging of the McClellan-Kerr Waterway, a lot of people don't realize that my State of Oklahoma is actually the home of the most inland port in America. So we have that dog in the fight too. So we will look forward to working with you, General, in that new capacity.

Last, the Chairman talked about the WRDA bill and how important that is, and what our role is going to be at that time. I would like to finally, I have talked to Senator Boxer about this, I understand that the staff has talked about trying to move today's nominees through the committee in the week of June 4. That is when we come back, next week. I would ask, is that the intention of the Chair?

Senator BOXER. It is.

Senator INHOFE. Good. I look forward to that, and we need to keep moving with that.

I only have two other things I want to mention. There was an article this morning in *Politico* that talks about the fact that I have been wanting to have, there is lots of legislation on some of this regulation, I am talking about the Boiler MACT regulation, Utility MACT, the cap and trade, the ozone and all these things, about the cumulative effect it has on business and industry. It is very significant.

So I have been wanting to, the article this morning, Madam Chairman, in *Politico*, said I was going to suggest shadow hearings. I don't think that will be necessary, because I think you are looking forward to having those anyway.

Senator BOXER. We are, yes.

Senator INHOFE. All right.

Senator BOXER. Come out of the shadows.

Senator INHOFE. Last, I don't think we are going to be talking about it today, but we are joining together and trying to do something with a transportation reauthorization bill. We have been trying now for a long period of time. The opposition is not really par-

tisan, it is just opposition. We are going to try to overcome it with an announcement we are making today.

I might add that I have several people from my State of Oklahoma who are here and interested in the transportation bill.

Senator BOXER. Good.

Senator INHOFE. I told them how closely we work together. Thank you.

[The prepared statement of Senator Inhofe follows:]

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

Thank you, Chairman Boxer, for holding this hearing. One of the Senate's more important responsibilities is to offer advice and provide consent to the President's nominations.

The nomination of William Ostendorff to serve on the Nuclear Regulatory Commission (NRC) is crucial, especially as the Commission continues to make important decisions regarding nuclear safety. Only last year, he was confirmed in the Senate by unanimous consent to serve the remainder of a term, and President Obama has renominated him to serve another full, 5-year term. Commissioner Ostendorff's qualifications are stellar: In his 26-year career in the U.S. Navy, he was elevated to the rank of Captain, commanded a squadron of attack submarines, and served as the Director of the Math and Sciences Division of the U.S. Naval Academy. He also served as Counsel and Staff Director for the House Armed Services Subcommittee on Strategic Forces and as Principal Deputy Administrator for the National Nuclear Security Administration.

In his current role as Commissioner, Ostendorff contributes knowledge of reactor operations and nuclear security issues that is unmatched among his colleagues. His perspective is essential as the Commission works to unravel lessons learned from the Fukushima accident and concludes its review of the first new nuclear plant licenses in over 30 years. The public would be ill-served if politics impedes the confirmation of one of the Commission's most distinguished members—and the only one with significant reactor operations and nuclear security experience.

We are also considering the nomination of Richard Howorth to serve on the board of the Tennessee Valley Authority. Mr. Howorth was Mayor of Oxford, MS from 2001–2009. In this capacity, he served as chairman of the Oxford Electric Department, a municipal customer of TVA. He also served 8 years as a director and officer of the North Mississippi Industrial Development Association, an economic development consortium made up of power association directors and mayors of cities in 29 Mississippi counties in the Tennessee Valley Authority service area.

Today, we will hear from Lieutenant General Thomas P. Bostick who is nominated to be the Chief of Engineers/Commanding General for the U.S. Army Corps of Engineers. General Bostick has had a distinguished military career and is currently serving as Deputy Chief of Staff for the U.S. Army. Although nominations for this post are officially in the jurisdiction of the Armed Services Committee, I think it's important that we hear from him given the importance of water resources issues to this Committee.

General Bostick's nomination comes at a very challenging time—we have significant water resources needs across the country and the Corps is currently engaged in a historic flood fight along the Mississippi River. I commend the Corps for their work and I hope that the committee will have an opportunity to learn more about the Corps' efforts in the near future.

Additionally, in my home State of Oklahoma, there are many important water resources projects—from dredging the McClellan-Kerr Arkansas River System to 12 feet to the Arkansas River Corridor Master Plan—that should be priorities.

In previous fiscal years, the Arkansas Senators and I have requested funding to deepen the McClellan-Kerr Arkansas River Navigation System to a depth of 12 feet in Oklahoma consistent with the vast majority of the 445-mile-long System. Currently the portion of the System in Oklahoma only provides a 9-foot depth. This funding would deepen the navigation channel to a depth of 12 feet consistent throughout the System as authorized by the fiscal year Energy and Water Development Appropriations Act which also provided \$7 million of operations and maintenance funds to begin work for the 12-foot channel. One billion dollars of trade transportation already reaches ports in Oklahoma through the McClellan-Kerr System. Barge traffic delivers \$1.3 million per day in commerce to Oklahoma. Deepening

this channel to 12 foot is not only consistent with the remainder of the System but will significantly enhance economic development and job creation in Oklahoma.

The Water Resources Development Act of 2007 authorized the Secretary of the Army to participate in the construction of features identified in the Arkansas River Corridor Master Plan for flood risk management, ecosystem restoration, and recreation. Based on two independent economic analyses, local officials estimate that implementation of the Arkansas River Corridor Master Plan would initially create several hundred jobs. Those estimates grow to creating nearly 10,000 new jobs after full construction under the Plan. Implementation of this plan is one of my major priorities.

Improving and investing in the Nation's water resources infrastructure fosters economic growth, creates jobs, and ensures Americans' quality of life. Earlier this year, Chairman Boxer and I signaled our intent to draft and move a Water Resources Development Act (WRDA). We understand the need for the Administration's involvement in this process. General Bostick, I hope you will give us your commitment to work closely with the Committee on this critical piece of legislation.

Commissioner Ostendorff, Mr. Howorth, and General Bostick, I look forward to hearing from you.

Senator BOXER. We do. Yes, we do have some great news on that. We have an agreement on a skeletal bill, which I believe is going to be very, I think very well received by both sides. I wanted to say thank you to Senators Baucus and Vitter for joining with the two of us in a statement. So it is a good day for this committee, a very good day for this committee.

It is always a good day when we have our colleagues here. Senator Webb, I understand that you have a pressing issue. Is it OK, Senator Cochran, if he goes prior? OK, go ahead.

**STATEMENT OF HON. JIM WEBB, U.S. SENATOR FROM THE
COMMONWEALTH OF VIRGINIA**

Senator WEBB. Thank you very much, Madam Chair, Senator Inhofe, other members of the committee.

I would like to begin by joining you in the condolences that you expressed. Our fellow Americans who have undergone all this tragedy with the tornadoes that have ripped through what Senator Inhofe called Tornado Alley, heavily in Missouri, where I happen to have been born. All of us share in our willingness to try to do something to help those communities.

I would also like to thank you, Madam Chair, for your leadership in agreeing to hold this important hearing in a very timely manner, just after the President renominated Commissioner Ostendorff to serve a full 5-year term as Commissioner of the Nuclear Regulatory Commission, and to congratulate the other two nominees who are before you today. General Bostick has done a wonderful job in the Department of the Army, as manpower chief. I am the personnel committee chair that oversees that, and I wish him the best in his new assignments.

I recently traveled to Japan, and during discussions on a wide variety of issues was allowed, actually brought by the Japanese self-defense forces up to the Sendai area, and was able to take a visual reconnaissance of that area of Japan that was so tragically devastated by the earthquake and tsunami and the aftermath of that. I would agree with the points that you made, Madam Chairman, that the incident in Japan will require the incorporation of a large number of lessons learned that may impact the management of our nuclear sector here. That review, and a host of other issues, will require credible and capable leaders.

I don't believe we could find a more credible or more capable leader with the type of background and skill sets that Commissioner Ostendorff has brought to the NRC. Senator Inhofe mentioned a number of these credentials, but let me go over them quickly. He is a graduate of the Naval Academy and Georgetown Law Center. He has followed a strong career path, not only with hands-on experience in the Navy, but also in the Congress as someone overseeing policy at the Department of Energy, the National Academies, and at the NRC.

While on active duty in the Navy, Mr. Ostendorff served on six submarines, including as commander of the USS Norfolk attack submarine. He also commanded 1,200 men and women of submarine squadron six, based in Norfolk, VA. After retiring, he joined the Strategic Forces Subcommittee of the House Armed Services Committee, as Senator Inhofe pointed out, serving as counsel and staff director, with oversight responsibilities of the Department of Energy's atomic energy defense activities.

In 2007, he was confirmed by the Senate to become principal deputy administrator of the National Nuclear Security Agency. In 2009, he joined the National Academies as director of the Committee of Science, Engineering and Public Policy. During the 14 months that Mr. Ostendorff has served as an NRC commissioner, he has carried his integrity, professionalism and good government approach to execute the NRC's principle of good regulation. Mr. Ostendorff and his wife, Chris, are residents of Oakton, VA. They have three children. Their daughter, Becky is an attorney in New York City. Their son, Chuck just left the Army last week as an Army captain after two combat tours in Iraq. Another son, Jeff is a backpacking guide with the Boy Scouts in New Mexico.

So I again would like to express my gratitude for your moving forward with this nomination on a very timely basis. I believe that what Mr. Ostendorff brings to the NRC is going to be extremely valuable as we evaluate our nuclear programs in the future.

Thank you, Madam Chair.

Senator BOXER. Thank you so much, Senator. We know you need to rush off, so please do that.

We are very honored to have Senator Cochran here.

**STATEMENT OF HON. THAD COCHRAN, U.S. SENATOR FROM
THE STATE OF MISSISSIPPI**

Senator COCHRAN. Madam Chairman, thank you very much. I am very pleased to be here to introduce and recommend Richard Howorth from Oxford, MS for confirmation on the Tennessee Valley Authority board.

Mayor Howorth has served as mayor of Oxford, MS, so he is familiar with the challenges of public service. But he acquitted himself very well. He and his entire family are some of the finest citizens we have in our State. So I am sure he is going to reflect credit on all of us through his service on the TVA board. I am pleased to be here today with my colleague to recommend his confirmation.

He and his fine family are active in a wide range of civic and educational interests, the schools, the chamber of commerce, the development authority in the region. It is so important to our continued growth and prosperity. So it is without any qualms whatso-

ever, but with a great deal of pleasure and appreciation that I recommend Richard Howorth for confirmation in this important position.

Senator BOXER. Thank you so much for taking the time out of your hectic day to come here for Mr. Howorth. I think you are doubly honored, because you have Senator Wicker here.

**STATEMENT OF HON. ROGER WICKER, U.S. SENATOR FROM
THE STATE OF MISSISSIPPI**

Senator WICKER. Thank you, Madam Chair, and let me say that Senator Cochran knows the importance of brevity. I will try to follow suit. I know there are demands on your time today.

I have a prepared statement, which I ask you to include in the record at this time.

Senator BOXER. Without objection, so ordered.

Senator WICKER. Let me simply echo what Senator Cochran has said. We are both very supportive of this nomination. TVA is very important to the economy, not just the power generating part of it, but the job creating part, very important to the economy of our State. As a matter of fact, my home town of Tupelo is known as the first TVA city. Some 329,000 households in Mississippi in 36 counties are served by TVA.

So I want to commend the Administration for nominating a Mississippian and a fine Mississippian for the TVA board. Richard Howorth is himself a small business person, as Senator Cochran said. He was mayor of Oxford for 8 years, and he did such a fine job as mayor of Oxford, Madam Chair, that Senator Cochran, my colleague, was persuaded to move to Oxford during the administration of Richard Howorth.

[Laughter.]

Senator WICKER. Richard understands the importance of working together at the municipal level with TVA. He is smart, he is cooperative. He had a wonderful run as mayor, and you will like him and you will enjoy working with him as a board member of TVA.

Thank you very much.

[The prepared statement of Senator Wicker follows:]

STATEMENT OF HON. ROGER WICKER, U.S. SENATOR FROM THE STATE OF MISSISSIPPI

Thank you, Madame Chairman and distinguished members of the Committee on Environment and Public Works. I appreciate the opportunity to be here today to offer my support for fellow Mississippian, Richard Howorth, to serve on the board of directors of the Tennessee Valley Authority.

TVA is important to all of us because it is the Nation's largest public utility, but it is especially important to Mississippi. In fact, my hometown of Tupelo is proud to be known as America's first TVA city. TVA utilities are located in 36 counties and serve more than 329,000 households in Mississippi. Their service area covers 15,551 square miles, about one-third of the entire State of Mississippi and about 18 percent of TVA's territory.

TVA also has made significant contributions in the area of economic development in Mississippi. In fiscal year 2010, 7,300 jobs were created or retained in Mississippi, and \$534 million was invested our State by TVA. TVA's effective partnerships with its customers and communities in Mississippi have helped to produce quality jobs and resulted in significant investments in new and existing companies in Mississippi. TVA has announced plans for 33 expansion project locations in Mississippi.

TVA's innovative programs and financial assistance combine to create powerful tools for sustainable economic development that we hope will continue for years and years to come.

Given these facts, Mississippi deserves representation on the TVA Board of Directors. I was pleased to see President Obama nominate Richard Howorth, who possesses a wealth of public and private sector experience that will serve him well on the Board of Directors for TVA. As Mayor of Oxford, 1 of 14 municipally run electric departments in TVA's 36-county Mississippi service area, Richard Howorth became intimately familiar with the ins and outs of TVA. Earlier, Mr. Howorth served 8 years as director and officer of the North Mississippi Industrial Development Association, an economic development consortium related to TVA.

It is also important to note that Mayor Howorth is both a household and business consumer of TVA power. For 32 years, he and his wife, Lisa, have owned Square Books—a wonderful independent book store—on the historic square of Oxford, MS. I believe his unique combination of private and public experience will provide TVA with an invaluable perspective.

I congratulate Mayor Howorth on his nomination and I look forward to working with him in this new endeavor.

Senator BOXER. Thank you both so very much. We appreciate it. Mr. Mayor, you should be greatly honored.

Now we are going to turn to our colleagues in the order of their arrival. While you leave, we will start their statements, and then we will call up our first nominee. Let's start with Senator Cardin. On our side it is Cardin, Lautenberg, Carper. On the Republican side, it is Alexander and Vitter.

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

Senator CARDIN. First, Madam Chair, let me thank our colleagues for their introduction. It certainly helps us when the colleagues from the State in which the nominees are nominated from are here to share their personal knowledge of their qualifications.

I want to thank all three of our nominees for their willingness to serve in the public. It is not an easy time, on any of the three positions that are the subject of today's hearing to serve. So we thank each of you and we thank your families for your continued sacrifice.

To Mr. Ostendorff, as far as the Nuclear Regulatory Commission is concerned, extremely important position. In Maryland, of course, we have the Calvert Cliffs nuclear facility, which is extremely important to our economy in Maryland. As we look forward to a nuclear power policy in this country, the Nuclear Regulatory Commission will play a critical role. You come to this hearing with incredible credentials and experience. We look forward to your testimony and we look forward to your continued service.

In regard to Mayor Howorth, again, thank you for your service. The Tennessee Valley Authority is not only important for energy, it is important for land management and flood control. It is a very important agency. You bring to this position the type of experience that I think is very valuable for the Tennessee Valley Authority. We thank you very much.

To Lieutenant General Bostick, you are assuming a position of incredible importance to our Nation. In the State of Maryland, we depend upon the Army Corps for many water projects to keep our economy flowing, not the least of which is the Port of Baltimore, which is critically important to our economy. I think it is \$2 billion of the Maryland economy. Critically important.

We need to get to have the Army Corps focus on the present challenges. At the present time, Poplar Island, which is a model project for environmental restoration and a site for dredged mate-

rial, has been a very important project that is serving now, I think, as a model for other places in the country. I mention that, because there are still funding needs to complete Poplar Island, and the Army Corps has done an incredible job. But Mid-Bay is the next site, and Mid-Bay has already passed the Chief's report and has been approved to move forward.

The challenge, and I talked to the Chairman about this, the challenge is that this project needs to be authorized through Congress, through our Water Resources legislation. The challenge is how the Administration is going to help us make sure that we move forward with these types of important projects. So during your confirmation process, I want to make sure that we have you focusing on how we can move these types of projects forward, which are critically important to our economy and jobs, not just in Maryland, but around the Nation.

We also want to make sure that the work that you do continues the tradition of the Army Corps to be sensitive to our environment, and we will be asking for your comments in that regard.

So Madam Chair, I am going to put my entire statement into the record. I will look forward to the witnesses' testimony.

[The prepared statement of Senator Cardin follows:]

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

Madame Chairman:

Thank you for holding this hearing today.

I look forward to hearing from the nominees, each of whom is being considered for a role that is critically important to the protection of our environment, with implications for human health and safety, economic growth, and countless other issues of vital importance to our Nation.

The Nuclear Regulatory Commission provides the regulation and safeguards that are so crucial to the operation of our Nation's nuclear system. My home State of Maryland is home to one operating nuclear plant, Calvert Cliffs in Calvert County, and its safe and reliable operation is of paramount importance to my constituents.

In addition to providing electricity to millions of people throughout the southeast, the Tennessee Valley Authority provides critical flood control, land management, and economic development services for the Tennessee River system. Because of its wide reach, the TVA's policy decisions—including with respect to such issues as coal ash, coal-fired plants, and mountaintop removal mining—have significant impacts on environmental quality in the region.

I am especially interested to learn more from Lt. Gen. Bostick, who is nominated to lead the U.S. Army Corps of Engineers. I represent a State that is home to a number of critical Army Corps civil works programs.

The Chesapeake Bay is the largest estuary in the Nation: home to an invaluable diversity of animal and plant life and a major economic driver for the entire mid-Atlantic region. The Corps' oyster and habitat restoration, shoreline protection, and sediment management programs are critical to the health of the Bay.

The Port of Baltimore, one of the largest ports on the east coast and worth about \$2 billion per year to Maryland's economy, is in the midst of a major expansion that will make it even more central to the global shipping economy. The navigation channels serving the Port of Baltimore are therefore critical to Maryland's economic future and that of the Nation. Beyond the Port of Baltimore, Maryland also has more than 70 smaller Corps of Engineers navigation projects around the Chesapeake Bay and Atlantic Ocean. In Western Maryland, the Corps provides essential flood protection and water supply services in Western Maryland.

As you can see, the Corps of Engineers is deeply involved in the safety, economic well-being, and environmental health of the State of Maryland. I therefore anticipate working especially closely with Lt. Gen. Bostick going forward.

I want to thank each of the nominees for their time; I look forward to their testimony.

Senator BOXER. Thank you so much, Senator.

Senator Alexander.

**STATEMENT OF HON. LAMAR ALEXANDER, U.S. SENATOR
FROM THE STATE OF TENNESSEE**

Senator ALEXANDER. Thanks, Madam Chair. I want to congratulate the President for three excellent nominations. First, for the Tennessee Valley Authority, while most of TVA serves Tennessee, it serves other States in important ways, and it strengthens the Tennessee Valley Authority to have strong nominees from other States.

I will be looking forward to talking with Mr. Howorth about what his thought is about the mission of TVA today, and especially in light of the \$4 gasoline prices, what we can do to encourage the use of electric cars and trucks. TVA is a Federal utility, it ought to be a model for the rest of the country. It is astonishing to me that we sit here worrying about \$4 gasoline when we have enough fuel sitting on the sidelines in terms of unused electricity at night, which could power 40 percent of our cars and trucks at a lower cost without using oil. A big utility like TVA ought to be able to do something about that.

As far as the Nuclear Regulatory Commission, Mr. Ostendorff has been twice in the last year to the only nuclear reactor in America currently under construction. That is in the TVA system, at Watts Bar. I will be interested in talking with him about his sense of the progress there, and the interaction of that with the TVA decisions. For example, TVA has just decided to close some coal plants and put pollution control equipment on others. But if it does that, where will it get its energy? It will have to come from nuclear power.

So TVA is at the same time a leader in the country on nuclear power, a leader in the country on energy efficiency, a leader in the country on clean air, because of the number of pollution control devices it will be placing on its coal plants between now and 2020. It is important that the Nuclear Regulatory Commission have strong leadership, people who are not afraid of nuclear power, but are not afraid also to ask tough questions about it and make sure that our plants are operated safely, as they have been.

I think it is always important, particularly in light of the tragedy in Japan, that we remember that the nuclear reactors that Mr. Ostendorff worked on when he was in the Navy, there are 104 of them today, there has never been a fatality since the 1950s. There has never been a fatality in any of the civilian reactors. We have 104 of those. We want to keep it that way. So that is why I am glad Mr. Ostendorff is here.

I want to also welcome Mr. Howorth's family, whom I had a chance to meet earlier.

General Bostick, I thank you for your willingness to take on this responsibility. I want to congratulate the Corps of Engineers for what in my judgment is an excellent job of management of the Mississippi River during the last several weeks. It hasn't been easy for a lot of families who have been hurt by the flooding. But that wasn't the Corps' fault, the Corps managed things well and the levees seemed to work at Memphis and apparently in New Orleans and other places. Colonel Reichling and others have done a good

job. I want to thank you for that, because I know the Corps gets lots of advice and comments.

One thing I want to be asking you about, and I hope you will be thinking about it, is the Inland Waterway Trust Fund. The Chickamauga Lock is an example. We all ask about the locks and the harbors that matter to us. Chickamauga matters to Tennesseans. It is crumbling, it will have to close in a few years if it is not fixed. Nothing is happening there.

My question is, why is it not on the priority list, No. 1, and No. 2, why did the Corps walk away from a proposal from industry to raise fees on itself to put another money in the Inland Waterway Trust Fund to be able to move ahead with very-needed projects like the Chickamauga Lock? If the Corps is going to walk away from a proposal by industry to basically tax itself, then what is the Corps' proposal for dealing with these urgent projects?

I want to ask about that when the time comes. But I thank you, Madam Chair. I think these are three excellent nominees. I look forward to supporting them and to having a chance to ask questions of the three of them.

Senator BOXER. Very good.

Senator Lautenberg.

**STATEMENT OF HON. FRANK LAUTENBERG, U.S. SENATOR
FROM THE STATE OF NEW JERSEY**

Senator LAUTENBERG. Thank you, Madam Chair.

I want to begin by thanking today's nominees for agreeing to serve our country. I too want to commend the Chairman for mentioning the difficulties in Missouri and along the Mississippi River. We send our condolences, and I hope that we will stand up and send our services there as requested, when we face that, when we have a chance to do it.

If confirmed, William Ostendorff, Lieutenant General Thomas Bostick and Richard Howorth will play a significant role in protecting our country's environmental and economic well-being. William Ostendorff is nominated, as you know, to be a member of the NRC, which is critical to keeping America's nuclear facilities and materials safe and secure. There was a time not too long ago when one couldn't mention nuclear in full voice, because we didn't know what the reaction was going to be in the public. The reaction now says it is a vital part of our power production, and we have to figure out the safest ways to do it.

This mission is always important, but it has taken on an added urgency in the aftermath of the disaster in Japan, where the world's worst nuclear emergency since Chernobyl is still unfolding. Fortunately, there have been few nuclear accidents and few injuries here in the United States. But we can't afford to take our success for granted. Today's *New York Times* has an article, and the headline there says, "Risk from spent nuclear fuel is greater in the United States than in Japan," so says the study. We will have a chance to talk about that.

This means revisiting the laws intended to keep nuclear plants safe by strengthening the NRC's regulation and ensuring plants are all in compliance at all times. It also means doing a better job

making sure that Americans know what to do in the case of a nuclear emergency.

In March, I was troubled to learn that when American citizens in Japan were told to stay at least 50 miles away from the site of the meltdown, in our country the NRC's emergency guideline required only plans to evacuate people to an area 10 miles from a plant. We shouldn't be sending mixed signals to the public. The stakes are too high. This is one reason why it is so important to ensure that all the seats on the NRC are filled. These five commissioners are among our country's most important guardians, and we need leaders to fill these seats and to help our country make sure nuclear facilities are protected and the public is prepared if a crisis arises.

Safeguarding the public is also the critical mission of the Army Corps of Engineers, which builds the infrastructure that keeps our economy moving and protects our communities. This includes the dams, levees and beaches that shield homes and businesses during major storms. We are learning these lessons only too quickly and too sharply. The engineering and expertise that the Corps provides saves lives. That is why I am pleased to be working closely with the Corps on several important projects in my home State. I look forward to discussing the Corps' work with Lieutenant General Thomas Bostick, who is nominated to be the Chief of Engineers and Commanding General there.

Finally, Richard Howorth, nominated to the board of directors of the Tennessee Valley Authority, which provides electricity for 9 million customers in seven States. What an asset the TVA is. The Government owns the Authority, ensuring its goal remains public service and not private sector profit. So we have to make the Authority a model for environmentally sound energy practices, using it as a foundation to build a cleaner energy future for the United States.

Madam Chairman, I look forward to hearing from all of today's nominees. We have an excellent group of people that are going to appear. I look forward to hearing their testimony. Thank you very much.

Senator BOXER. Thank you, Senator Lautenberg.

Now Senator Vitter has asked that he retain his extra 5 minutes, so he will have 10 minutes in the question period. Is there any objection to that? If not, it is fine with us.

So we will call on Senator Barrasso at this time.

**STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM
THE STATE OF WYOMING**

Senator BARRASSO. Thank you very much, Madam Chairman.

I would like to first thank and welcome the nominees who are here with us today, and want to congratulate each and every one of you and also want to thank your family members and congratulate you as well.

I had a chance to visit with Mr. Ostendorff. You have exemplary credentials and experience in the field, currently serving on the Nuclear Regulatory Commission. I believe it is important, as stated by the NRC chairman and by others that the Commission needs to operate at full strength. I believe it is important that that be done

quickly and the American people do not want their elected representatives playing politics with nuclear safety. The nuclear incident in Japan is a stark reminder of that.

So as the Ranking Member of the Clean Air and Nuclear Safety Subcommittee, I believe it is vital to have the full complement of commissioners available to address the safety reviews of our domestic nuclear powerplants and urge swift confirmation of Mr. Ostendorff.

One of the key qualities for any nominee before us today is that they make decisions in a transparent way. I believe that major decisions that have real policy implications on the ground need to be transparent. Decisions that impact farmers, ranchers, small business owners, local communities, all need to be conducted through the appropriate administrative procedures required by the law.

When an agency seeks to change or implement rules that will have consequences on the public, it must adhere to the rulemaking procedures of the Administrative Procedures Act. For example, the Supreme Court says there was a limit to the Clean Air water jurisdiction. Congress also said that there was a limit to the Clean Water Act's jurisdiction when it said waters needed to be navigable.

Well, the EPA and the Army Corps of Engineers now have issued what they call guidance that doesn't strike any meaningful limit on Clean Water Act permitting authority over wet areas of the 50 States. The agencies have stated that they intend to finalize this guidance and then potentially do a rulemaking in the future.

Now, I disagree with this approach and I believe that it violates the requirements of the law. If the agencies want to eliminate the limits on their jurisdiction, then they should be asking Congress for that authority. However, I doubt that Congress would grant that request. When changing a regulation, the Agency should follow the Administrative Procedures Act.

Unfortunately, this Administration is instead making major decisions through guidance. The proposed guidance is intended to and will have a material impact on Clean Water Act permitting and enforcement nationwide, and multiple industries and stakeholders will be subject to the new criteria set forth by the agencies.

The response from the Administration to these concerns is that this is "simple guidance," it does not have the force of law, and that at some point, there may be a rulemaking. Well, this is a 40-page document. This is the guidance document. To say it has no real impact on the ground for folks, I am just not buying it. I think it does have an impact.

The president of the American Farm Bureau stated on April 18, and I have a poster, he said "The proper procedure for putting Federal policy in place is either by proposing formal rules after taking public comments into consideration or proposing legislation for Congress to consider. This current regulatory guidance effort for the Clean Water Act circumvents that process, implements controversial new policy and expands the Federal Government's regulatory reach without public input or Congress' authorization."

I agree with that statement by the president of the American Farm Bureau. This is not how major decisions that affect the lives of people all across this country should be made.

I would hope that General Bostick, who is the Administration's nominee to head up the U.S. Army Corps of Engineers, would agree that "guidance" is not how we should be making major policy decisions. I would hope as the nominee moves through the confirmation process that we get more concrete assurances from this Administration as to exactly when a rulemaking on this issue will commence.

I want to thank the Chair and look forward to the testimony. Thank you, Madam Chairman.

Senator BOXER. Thank you very much.

So we will next go to Senator Carper.

**STATEMENT OF HON. THOMAS CARPER, U.S. SENATOR FROM
THE STATE OF DELAWARE**

Senator CARPER. Thanks very much. Our witnesses, our nominees, Commissioner Ostendorff, Mr. Howorth, General Bostick, it is very nice to see you, General. Always glad when you can come to Delaware, thanks for doing that. We look forward to hearing your testimony and your response to our questions.

Madam Chair and colleagues, I am impressed by the technical breadth and depth of each of these three nominees and the set of skills that they bring to the positions for which they have been nominated or renominated. As chairman of the Senate Subcommittee on Clean Air and Nuclear Safety, which oversees both the Tennessee Valley Authority and the Nuclear Regulatory Commission, I am especially happy to see us moving forward with Commissioner Ostendorff's and Mr. Howorth's nomination today.

Over the years, along with other members of this committee, I have worked with the Nuclear Regulatory Commission to ensure that we establish a culture of safety in our U.S. nuclear energy industry. In no small part because of the hard work by the NRC commissioners and the NRC staff, we have not seen any direct, as Senator Alexander mentioned earlier, direct deaths from nuclear powerplant radiation exposure in this country in gosh, 50 years.

However, the events that struck Japan, Alabama and recently Joplin, MO, are reminders that we are all vulnerable to unexpected disasters, whether they are an act of nature or a terrorist attack. While we cannot predict when or where the next major disaster will occur, we know that adequate preparation and response planning are vital if we are to minimize injury and death when it does happen. It is especially true for nuclear powerplants.

While I am a proponent of clean energy, my top priority for nuclear power remains public safety. Under this committee's encouragement, the NRC is currently reviewing our domestic nuclear fleet to make sure that every precaution is being taken to safeguard the American people from a similar nuclear incident and we anxiously await their results.

I expect and the public expects that the NRC must be a strong, independent and effective regulator, a regulator that acts firmly and decisively, a regulator that acts openly and transparently, a regulator that produces results and is worthy of the public's confidence. In sum, when it comes to domestic nuclear power, the NRC must ensure the Nation's health, safety and security and the protection of the environment as it pertains to nuclear power.

Although Commissioner Ostendorff and I don't agree on every single issue, I might add I don't agree on every issue with my wife, but he has shown a commitment to safety and to make the NRC a very strong and impartial regulator. For that, we thank him. At a time when we have so many challenges in the nuclear industry, I hope we can quickly move forward on the nomination process for Commissioner Ostendorff and make sure that we have a fully complemented NRC.

In the past few years, the TVA has also seen its fair share of challenges, as we know. Being a Federal corporation means higher responsibilities. A few years ago, TVA was not meeting them. Two years ago, I called on TVA's board of directors to change its culture: clean energy, conservation and transparency that are needed to be a priority, not an afterthought. I felt that TVA needed to be on the forefront of new, clean energy, and not a laggard.

So far, I believe that TVA has stepped up to the plate and met that challenge. I look forward to at today's hearing to hearing how Mr. Howorth will help TVA continue on this path. We welcome you today.

I believe all three of these nominees, Madam Chair, fill critical leadership vacancies that help provide a vital balance and strengthen the Nuclear Regulatory Commission, the Tennessee Valley Authority and the Army Corps of Engineers. I want to thank each of you for being here today and for your willingness to serve our country in these important roles.

Thank you.

Senator BOXER. Thank you, Senator.

Senator Boozman.

**STATEMENT OF HON. JOHN BOOZMAN, U.S. SENATOR FROM
THE STATE OF ARKANSAS**

Senator BOOZMAN. Thank you, Madam Chair and Ranking Member Inhofe, for having the hearing today.

I want to thank the nominees for their history of service and their continued willingness to serve our country. You all have impressive backgrounds and credentials. Mr. Howorth, I have not had a chance to visit with you, but I appreciate your willingness to serve at TVA and look forward to reviewing your testimony.

General Bostick, congratulations on your nomination. I appreciate your appearing before the committee. The Civil Works program of the Corps is so important to the Nation. If confirmed, your responsibilities in this new role will be great. The Corps has been asked to do more with less. I want to help the Corps become more efficient and effective. I will support providing the tools and resources the Corps needs to accomplish each mission. I look forward to reviewing your testimony.

Commissioner Ostendorff, thank you for decades of service to the country. I am glad that President Obama has renominated you to continue your service on the Nuclear Regulatory Commission. I know that you have been confirmed by the Senate twice before to important positions, including to serve as Principal Deputy Administrator at the National Nuclear Security Administration. You served our country in uniform for 26 years. All the current Commissioners have strengths, but you are the only current Commis-

sioner with real-world hands-on experience dealing with nuclear reactors. Your service on the six nuclear-powered submarines and as the commanding officer of a nuclear attack submarine squadron with eight nuclear attack submarine provides you with a unique background.

The Nuclear Regulatory Commission needs to operate at full strength with five members. This is especially true as the Commission conducts the review of safety at existing U.S. nuclear powerplants that has been ordered by President Obama. Based on your experience, background and record of service, I hope the Senate will move quickly on your nomination so that you can continue your important work.

With that, I yield back.

Senator BOXER. Thank you so much, Senator.

So at this time, we will ask our honored nominees to take their seats together at the podium. We will start with Hon. William Ostendorff.

Mr. Ostendorff, do you have any members of your family or friends you would like to ask to stand?

Mr. OSTENDORFF. Madam Chair, unfortunately, none could be here today. My wife is administering special education standards of learning in the State of Virginia, so she could not attend. But I appreciate the invitation, thank you.

Senator BOXER. Well, good for her. Go right ahead, sir.

**STATEMENT OF WILLIAM C. OSTENDORFF, NOMINATED BY
PRESIDENT OBAMA TO BE COMMISSIONER, NUCLEAR REGULATORY COMMISSION**

Mr. OSTENDORFF. Thank you, Madam Chair, Senator Inhofe and members of the committee. I appreciate the kind introduction earlier by Senator Webb. I am certainly grateful to President Obama for nominating me to a 5-year term on the Commission. If confirmed, I look forward to continuing my work with this committee and with the NRC.

This is my third appearance before this committee. I am grateful for your leadership and oversight commitment to the NRC's mission.

When I last appeared here in May 2010, I had been in office just over 1 month. Now I have 14 months under my belt, and an even greater appreciation for the mission of the NRC. It has been a true privilege to serve our country as a commissioner, and I hope to continue to have that opportunity after June 30.

In the last 14 months, I have worked and closely with all my colleagues, Chairman Jaczko, Commissioners Svinicki, Apostolakis, and Magwood, to tackle the work we have before the Commission. My colleagues on the Commission bring a diverse set of experiences and knowledge to the table. I value and respect their insights.

The Commission has been involved in a number of important issues related to nuclear safety and security over the last year. Together, we have accomplished a great deal. I have cast votes in well over 200 matters in the last 14 months as a commissioner.

Throughout my tenure, I have done my best to adhere to the NRC's principles of good regulation: independence, openness, efficiency, clarity and reliability. I have also strived to get out fre-

quently to visit our regulated facilities. Pursuant to my open door policy, I have met with people of all backgrounds and opinions, both those in favor of and those opposed to nuclear power. I have found that doing that enriches my perspective as a regulator.

As this committee well knows, the events at Fukushima are tragic and significant. I am fully supportive of the NRC's task force the Commission approved on March 23 of this year. I am fully committed to systematic and methodical review of the lessons learned from Fukushima and how they may be applied to improve our nuclear safety regulation. I know that if we need to make changes to our regulatory framework as a result of this accident, we will.

Madam Chair, Senator Inhofe, members of the committee, I appreciate the opportunity to be here today and I look forward to your questions. Thank you.

[The prepared statement of Mr. Ostendorff follows:]

**WRITTEN TESTIMONY
OF WILLIAM C. OSTENDORFF, COMMISSIONER
UNITED STATES NUCLEAR REGULATORY COMMISSION
TO THE
SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**

MAY 25, 2011

Thank you Madam Chairman, Senator Inhofe, and members of the Committee. I appreciate the kind introduction by Senator Webb. I am grateful to President Obama for nominating me to a five year term on the Commission. If confirmed, I look forward to continuing my work on the Commission.

This is my third appearance before this Committee. I am grateful for your commitment to engaged oversight of the NRC. When I last appeared in May of 2010, I had been in office just over a month. Now, I have 14 months under my belt and an even greater appreciation for the mission of the NRC. It has been a true privilege to serve our country as an NRC Commissioner and I am hopeful to continue to have that opportunity after June 30.

In the last 14 months, I have been able to work well with my colleagues – Chairman Jaczko, Commissioner Svinicki, Commissioner Apostolakis, and Commissioner Magwood – to tackle the work before the Commission. My colleagues on the Commission bring a diverse set of experiences and knowledge to the table, and I value and respect their insights.

The Commission has been involved in a number of important issues related to nuclear safety and security over the past year. Together, we have accomplished a great deal. I have cast votes on well over 200 matters as a Commissioner. Throughout my tenure, I have done my very best to adhere to the NRC's Principles of Good Regulation – Independence, Openness, Efficiency, Clarity and Reliability. I have strived to get out frequently to visit facilities subject to NRC regulation, and pursuant to my open door policy, I have met with people of all backgrounds and opinion, both those in favor of and those opposed to nuclear power. I have found that doing so enriches my perspective as a regulator.

As this Committee well knows, the events of Fukushima are both tragic and significant. I am fully supportive of the Task Force the Commission approved on March 23. I am committed to its systematic and methodical review of the lessons learned from Fukushima and how they might be applied to our regulatory framework for nuclear safety. I know that if we need to make changes to our regulatory framework as a result of this accident, we will.

Madam Chairman, Senator Inhofe, and members of the Committee, I appreciate the opportunity to appear today and look forward to the Committee's questions.

**Environment and Public Works Committee Hearing
May 25, 2011
Follow-Up Questions for Written Submission**

Questions for Commissioner Ostendorff

Questions from:

Senator Barbara Boxer

1. The NRC recently directed its resident inspectors to inspect every plant's ability to respond to an event similar to what occurred in Japan. The NRC summary of the inspections stated that, "While individually none of these observations posed a significant safety issue, they indicate a potential industry trend of failure to maintain equipment and strategies required to mitigate some design basis and beyond design basis events." What does the NRC plan to do with the information discovered during these inspections? Should we expect improvements?

Answer

The results of the inspections are being assessed in greater detail through the NRC's Reactor Oversight Process and also will be examined by the NRC's task force examining the agency's regulatory requirements, programs, and processes, and their implementation. The NRC staff will assess the findings using the Significance Determination Process and will make the results publicly available in NRC inspection reports for the associated facilities. Several of these sites have already resolved their issues and the remaining sites are actively working to resolve theirs with NRC oversight.

While the results of these NRC inspections reaffirmed every plant's capability to provide core and spent fuel pool cooling following large fires or explosions, it is likely that the task force review ultimately will recommend actions to enhance safety and preparedness at US operating reactors.

The NRC also issued Bulletin 2011-01 on May 11, 2011, to nuclear power reactor licensees requesting comprehensive information on how the plants are complying with requirements to deal with the potential loss of large areas of the plant after extreme events. The NRC will review the responses to determine if any additional regulatory actions need to be taken.

2. Inspections of California's two nuclear power plants turned up numerous problems that need to be corrected. Examples of issues identified at Diablo Canyon Power Plant include:
 - a. Vehicles parked in areas that could block access to emergency equipment;

- b. Reliance on state highways and access roads that may be inaccessible after an earthquake for an alternative seawater source for cooling and diesel fuel;
- c. Portable long-term cooling pump would not function when tested;
- d. The licensee was unable to get hoses from the water reservoir to the plant because a fence, which had been added for additional security, was in the way; and
- e. Operators had not participated in an exercise or tabletop drill with offsite fire responder and onsite fire brigade.

Examples of issues identified at San Onofre Nuclear Generating Station include:

- a. Deficiencies in training, qualifications and a lack of continuing training for operators and support staff in dealing with severe accidents;
- b. A lack of a written agreement for fuel oil supply to support emergency diesel generators for more than 7 days; and
- c. Identification of storage locations for some firefighting equipment could be impacted by a seismic event.

Are you surprised by the number of safety issues that have been identified at nuclear power plants around the country? In your opinion, what should the NRC do in order to ensure these problems are resolved? How can we prevent similar safety issues from occurring in the future?

Answer

During the recent temporary inspections following the Fukushima event, our inspectors found that 12 of the 65 sites inspected had issues with one or more of the relevant requirements. Three of the 12 sites have already resolved their issues. While none of these findings posed an immediate safety issue, they collectively indicate a potential industry trend of failure to maintain equipment and strategies required to mitigate some design and beyond-design-basis events. On one hand, I am not surprised at the number of findings given the depth of our review. On the other hand, I believe that these issues warrant further evaluation. The NRC's task force will evaluate whether changes should be made to our regulatory framework, including the scope and frequency of our inspection activities in light of the lessons learned from the Fukushima event.

In the meantime, I remain confident that the NRC's oversight programs in conjunction with licensee corrective action programs will continue to identify and resolve problems. In addition, NRC licensees are required to ensure that they prevent the recurrence of significant safety problems. If problems continue, the NRC's oversight process calls for increasing regulatory engagement as performance declines.

3. On April 11th PG&E asked the Nuclear Regulatory Commission to delay final processing of the Diablo Canyon license renewal application until after PG&E has completed the 3-D seismic studies and submitted a report to the NRC addressing the results. Do you believe the NRC should ensure that all stakeholders, including local citizens, are able to comment on the relevance of this information as part of the normal NRC relicensing process?

Answer

As a general matter, I believe that the NRC should ensure that all stakeholders, including local citizens, are able to comment on the relevance of any information as part of the normal NRC relicensing process. The NRC's existing process for license renewal provides opportunities for the public to participate in the NRC's decision making process. This is accomplished by way of public participation in NRC meetings on license renewal, review and comment on rules and regulatory guidance documents related to license renewal, and hearings associated with specific applications.

Regarding the Diablo Canyon license renewal, stakeholders, including local citizens, will be able to comment on the relevance of the 3-D seismic studies in at least one of two ways. Stakeholders will be able to comment on the environmental impact statement (EIS) regarding the Diablo Canyon license renewal application when it is published. After the EIS is published, members of the public will have the opportunity to comment on the EIS, in person at an NRC-sponsored public meeting to be held near the plant or in writing through www.regulations.gov. Stakeholders may also petition the NRC for an action at any time.

4. The NRC license renewal process does not require a review of emergency planning, security, current safety performance or seismic issues because, according to the NRC, these items are dealt with on an ongoing basis. In light of what happened in Japan, do you believe the NRC should reevaluate what is reviewed during the license renewal process? Does it make sense to consider changes in population and emergency preparedness during license renewal? Are there other issues that could be appropriately addressed within the license renewal process?

Answer

The Commission, in 1991, determined that, with the exception of age-related degradation of certain passive, long-lived systems, structures, and components (SSCs), the NRC's existing regulatory process is adequate to ensure that the licensing bases of all currently operating plants provide and maintain an acceptable level of safety for operation. The Commission considered whether or not to include emergency planning, security, and other topics, but reasoned that the existing regulatory process was sufficient to address those issues. The Commission maintained that the focus of license renewal applications

should be limited to the management of age-related degradation for SSCs that are included in the scope of license renewal. At this time, I continue to support the focus of the NRC's license renewal process.

The NRC considers new information that we learn from our oversight and licensing programs on a continuous basis. When safety issues are identified, the NRC will address them and consider whether changes are needed to our regulatory framework. For example, in 2005, the NRC began a reexamination of new earthquake hazard information under our Generic Issues Program. Under this program, the NRC staff identified an issue referred to as GI-199 that is aimed at investigating the safety and risk implications of updated earthquake-related data and models. In addition, the NRC put in place a number of regulatory requirements following the terrorist attacks of September 11, 2001 in order to strengthen the security at NRC-licensed facilities. In a similar approach, the NRC's task force for the events in Japan is evaluating whether changes are needed to our regulatory framework. The task force will issue a report with recommendations to the Commission in July 2011, which is likely to recommend safety enhancements. The task force's recommendations could take on a number of different forms, including changes to existing requirements and/or new requirements. The Commission will vote on any recommendations that require a Commission policy decision. I believe this to be an appropriate course of action.

I should note that the Commission has before it a comprehensive revision to the NRC's emergency preparedness regulations. If approved, the new requirements will enhance licensee emergency preparedness. These new requirements include, among others, provisions to address hostile action based preparedness and evacuation time estimate updating. I have carefully studied the revised regulations and have filed my vote on this matter.

5. In light of the challenges posed by power disruptions in Japan, do you believe the NRC should revisit the requirements for backup power and redundant power sources at nuclear power plants?

Answer

This is indeed a very important issue for the Commission and the Commission held a public meeting on April 28, 2011, to discuss the NRC's regulatory framework in this area. The requirements for backup and redundant power sources are being reviewed by the NRC task force studying the events at Fukushima and assessing their impacts on U.S. plants. The task force will issue a report with recommendations to the Commission in July 2011, which is likely to recommend safety enhancements. The task force's recommendations could take on a number of different forms, including changes to existing requirements and/or new requirements. The Commission will vote on any recommendations that require a Commission policy decision.

Senator Frank R. Lautenberg

1. Today's New York Times reports that spent nuclear fuel stored in pools in the United States presents a greater risk than spent fuel in Japan. To address this risk, the Institute for Policy Studies recommends that the U.S. move away from storing spent fuel in pools and toward dry cask storage. Do you agree with this recommendation?

Answer

The NRC has conducted several studies to evaluate the safety of spent fuel pools (SFP) and dry cask storage. These studies conclude that both spent fuel pools and dry cask storage are safe. For example, following the terrorist attacks of September 11, 2001, the NRC undertook an extensive reexamination of spent fuel pool safety and security. As a result of this reexamination, the Commission directed licensees to implement strategies to maintain cooling of spent fuel stored in pools. These strategies included implementation of passive improvements for cooling (e.g., fuel configuration in the pool) and ensuring the availability of equipment, procedures, and trained staff to employ a water spray system with a pump that does not require alternating current electric power.

Based on existing studies, the NRC continues to believe that both spent fuel pools and dry casks represent storage methods that provide appropriate protection of public health and safety. Though I support this NRC position, I believe that the NRC will continue to learn more from its ongoing research activities in this area that will help inform our decision-making going forward.

The NRC has ongoing research on enhanced modeling of the effect of loss of coolant for spent fuel pools. The agency is sponsoring spent fuel zirconium fire tests at Sandia National Laboratories to validate severe accident codes to support future nuclear regulatory activities. Zirconium fire experiments will be useful for modeling accident scenarios such as late core melt progression, complete loss of water during refueling, and dry cask storage. As a result of the recent events in Japan, the NRC is conducting an updated SFP safety study to estimate the relative consequences of dry storage versus spent fuel pool storage.

Additionally, in response to the recent events in Japan, the Commission directed the NRC staff to establish a senior level task force to conduct a methodical and systematic review of our processes and regulations to determine whether the agency should make additional enhancements to our regulatory system. This activity will have both near-term and longer-term components and will include an examination of spent fuel storage practices in light of recent events to determine whether changes to our regulations are necessary and appropriate to ensure continuing protection of public health and safety.

Senator Tom Udall

1. Thank you for your service during your career with the Navy, the NNSA, and now the NRC. Historically uranium mining and milling has led to much more disease, and loss of life in the U.S. than any power plants accidents. Congress created the Radiation Exposure Compensation Act in response.

Many abandoned mines in New Mexico are only now being cleaned up. At the same time, there is a push to re-start and expand uranium mining. Earlier this month, the NRC reportedly suspended review of a controversial uranium solution mine in South Dakota due to groundwater concerns. This is of interest in New Mexico where there are controversial pending proposals to conduct similar projects.

Could you describe your perspective on the Commission's uranium mining permitting process in particular as it regards in-situ solution mining?

Does the NRC permitting work involve EPA when mining involves underground injection near groundwater resources?

Do you believe that the NRC permitting process can assure that mining sites will be restored to their pre-mining environmental state?

Will you urge your fellow Commissioners and the NRC staff to become informed about the legacy of uranium mining in the American West in order to ensure that we do not repeat the mistakes of the past when it comes to uranium mining?

Answer

I believe that the NRC has a robust licensing process for in situ recovery (ISR) facilities to ensure the protection of public safety and the environment. Due to the extraction process occurring in the groundwater, groundwater monitoring and restoration are a focus of the staff during licensing reviews. Current regulations for remediation of such facilities reference EPA regulations and require that facilities remediate to one of the following standards: 1) pre-mining conditions, 2) maximum concentration limits established in the regulations, or 3) proposed alternate concentration levels which the licensee must demonstrate to be as low as reasonably achievable without posing a substantial hazard to human health or the environment. The NRC staff coordinates extensively with the EPA on groundwater issues, since the EPA or authorized State is responsible for issuing a Class III Underground Injection Control Permit under the Safe Drinking Water Act at an ISR site. Based on meetings I have had with the NRC staff and several potential applicants, I am confident that the staff's reviews in this area have been thorough.

The area of uranium milling is of Commission interest and the Commission held meetings in 2008 and 2010 to solicit input from various stakeholders with diverse views on uranium milling. Concerns regarding legacy issues at previous uranium recovery sites were discussed at these meetings. I have also met with several potential applicants and with individuals who have concerns about the environmental impacts of NRC's licensing actions. These interactions have emphasized the need for consideration of stakeholder concerns with the environmental impact of licensed facilities.

In addition, agency management has been actively involved in the multi-agency effort to address the legacy issues associated with uranium contamination on Navajo lands. If reconfirmed, I will continue to keep informed of the staff's efforts to apply lessons learned from previous mining activities to future licensing actions.

2. There are 22 Native American tribes in New Mexico and many live near or on lands historically mined for uranium and proposed for future uranium development. The Grants Uranium Belt underlies parts of the Acoma and Laguna Pueblos, as well as a portion of the Navajo Nation. At the heart of the belt is Mount Taylor, a location of sacred significance for many tribes in the Southwest. For these and other tribes in the southwest, cold war era uranium development has left a difficult legacy. This legacy has led some tribes, including the Navajo Nation to ban any further uranium mining on tribal lands.

In your work at the NRC, how do you view the responsibility of the Federal Government to conduct government-to-government relations with Native American Tribes played out during the recent increase in interest in uranium development?

What outreach has the NRC conducted with tribes, to ensure that tribes are able to participate in government to government consultation relating to mineral development on and near tribal lands?

Answer

I believe it is critically important for the agency to ensure open and transparent interactions with stakeholders, including the tribes, during our regulatory activities. The regulations require Federal agencies to consult with any tribe that may attach religious and cultural significance to resources affected by an NRC action. The NRC staff is currently interacting with more than 25 tribes on six ongoing projects located in Nebraska, South Dakota, and Wyoming. I believe that such face-to-face interactions have significant value and are consistent with the agency's principle of openness.

Recognizing the importance of tribal interactions during the uranium recovery licensing process, the staff recently developed a strategy for outreach and communication with Indian tribes potentially affected by uranium recovery sites. The strategy can be viewed at: <http://www.nrc.gov/materials/uranium-recovery/public-meetings/ind-tribe-strat.pdf>.

The NRC also made a concerted effort to proactively meet face-to-face with tribes in New Mexico, including the Navajo, and participated in site visits with tribal representatives. Additionally, the NRC staff participated in a Tribal Leaders Summit in March 2011 with more than 20 tribal leaders and participated in a site visit with three tribes in May 2011 to the proposed Nichols Ranch ISR facility located in Wyoming. Lastly, the staff plans to conduct a meeting and site visits associated with two on-going ISR projects located in South Dakota and Nebraska with more than 10 tribes in early June as part of the process requiring interaction with the tribes during licensing.

3. It is my understanding that you have visited the URENCO uranium enrichment facility near Hobbs, NM. I would like to thank you and the NRC for their hard work to ensure that this facility opened successfully, and I trust that NRC oversight will ensure that it continues to operate both safely and efficiently.

It is my further understanding that the NRC is considering a rule change for a low level waste reclassification of depleted uranium hexafluoride that would impose a new performance standard on uranium tails disposal which is significantly higher than standards for other waste materials.

Please explain your position and perspective on this proposed waste re-classification, including how this would impact the operations of the New Mexico facility and worker and community safety.

Answer

I understand that, recognizing that some wastes such as depleted uranium have unique technical characteristics, the NRC is currently undertaking a limited rulemaking to require site-specific analyses for the disposal of all low-level radioactive waste streams, including depleted uranium (DU). The site specific analysis will ensure that waste is disposed of in a manner commensurate with its risk. This rulemaking is intended to enhance confidence in the safe disposition of all waste streams disposed of at a commercially licensed low-level waste facility. While the Commission's decision predated my appointment, I support the continued development of a proposed rule for Commission review.

My understanding through visiting the LES facility and discussing this issue with NRC and licensee staff is that the rulemaking is not expected to impact operations at the LES site. The facility currently has adequate storage capability for the DU until it is converted and disposed at one of the available commercial disposal facilities.

Senator BOXER. Thank you very much.
Mayor Howorth.

STATEMENT OF RICHARD HOWORTH, NOMINATED BY PRESIDENT OBAMA TO BE A MEMBER OF THE TENNESSEE VALLEY AUTHORITY BOARD OF DIRECTORS

Mr. HOWORTH. Good morning, Chairman Boxer and Ranking Member Inhofe and distinguished members of the committee. I am honored to have been nominated by President Obama to serve on the board of directors of the Tennessee Valley Authority. I am also very grateful to Senators Cochran and Wicker for coming here this morning and expressing support. I appear humbly before you today.

I also want to thank you for all of your welcoming comments and the graciousness you have extended to my family.

Senator BOXER. Would you like to introduce them? Why don't you stand up.

Mr. HOWORTH. My wife, Lisa, and Claire, my oldest child.

Senator BOXER. That is very nice.

Mr. HOWORTH. She came down on the train from New York.

Senator CARPER. Which is which? I am sorry.

[Laughter.]

Mr. HOWORTH. As one who has had a lifelong interest and stake in the progress of the region where I am from, Mississippi in particular, I must say that the TVA has been and remains a vitally important entity. It has a great track record of providing low-cost, efficient and reliable power to the many municipal and co-op power associations that serve as its distributors and has brought great benefits to ratepayers and economic development in our area.

A recent example of that is the Blue Springs auto manufacturing site, which is 40 miles away from Oxford, where I live. Toyota is reportedly on track to begin producing its fuel-efficient Corolla model this fall, creating 2,000 new jobs in Mississippi. A key attraction to that site was the presence of TVA.

As mayor of Oxford, the Oxford Electric Department is a municipal enterprise. I served as chairman of the authority that oversaw the department. Thus I am familiar with TVA as a municipal customer. As a member of the board of directors of the North Mississippi Industrial Development Association, I also had contact with TVA's economic development initiatives and their staff, whom I have found to be quite effective.

I believe both my for-profit and public service experiences can contribute to the TVA board's strength. I started my own business 32 years ago, with \$10,000 that Lisa and I had saved, combined with a \$10,000 loan that I secured after three attempts to persuade the banker that I had a solid proposal. The business grew well over time, eventually reaching a point where I could delegate its management in order for me to have the time to lead a national trade association, and then later serve as mayor of Oxford, a full-time position.

The experience of wearing three different leadership hats has taught me the necessity of healthy communication with customers or stakeholders or constituents, the proper distance a board member takes to a chief executive and staff of an organization, the im-

portance of trust and respect among fellow board members, and indeed, within an entire organization, and the tremendous responsibilities and obligations a Government authority has to the general public.

I am a big believer in planning, a key component of my mayoral administration and my trade association experience as well. Leadership in the trade association involved undergoing major industry and legal transitions, which would have proved disastrous without extensive strategic planning, an initiative that I chaired. With the city of Oxford, we created the city's first major comprehensive plan in 30 years, which paved the way for a robust annexation, historic preservation, major infrastructure expansion, the city's first sustainability committee, and its first public transit system.

Oxford Electric Department also required attention, enhancing technical staff and bringing in a new superintendent who made both the field and the clerical sides of the department operate more efficiently. Those who know me at home I hope would tell you that I have a strong work ethic.

If confirmed as a board member of the TVA I will be engaged in and committed to its ambition to be an industry leader for safety, technological innovation, low-cost reliable energy and environmental stewardship. As we face rising demand for energy against the backdrop of increasingly extreme challenges that exist in generating power, I am particularly eager in working to make the TVA, being the unique public entity that it is, a national leader in conservation.

Thank you for your time. I look forward to your questions.
[The prepared statement of Mr. Howorth follows:]

Statement of Richard Howorth
Nominee to the Tennessee Valley Authority Board of Directors
U.S. Senate Committee on Environment & Public Works
May 25, 2011

Good afternoon, Chairman Boxer, Ranking Member Inhofe, and distinguished members of the Committee. I am honored to have been nominated by President Obama to serve on the board of directors of the Tennessee Valley Authority. I am also very grateful to Senator Cochran and Senator Wicker for their support, and appear before you humbly today.

As one who has had a lifelong interest, and stake, in the progress of the region where I am from -- Mississippi in particular -- I must say that the TVA, as you know, has been and remains a vitally important entity. It has a great track record of providing low-cost, efficient, and reliable power to the many municipal and co-op power associations that serve as its distributors, and it has brought great benefits to rate payers and economic development in our area. A recent example is the Blue Springs auto manufacturing site, 40 miles from my home in Oxford, where Toyota is reportedly on track to begin producing its fuel-efficient Corolla model this fall, creating 2,000 new jobs in Mississippi. A key attraction to the site was the presence of the TVA.

As mayor of Oxford, whose Oxford Electric Department is a municipal enterprise, I served as chairman of the authority that oversaw the Department, and thus am familiar with the TVA as a municipal customer. As a member of the board of directors of the North Mississippi Industrial Development Association, I also had some contact with the TVA's economic development initiatives and staff, whom I found to be highly effective.

I believe that both my for-profit and public service experiences can contribute to the board's strength. I started my own business thirty-two years ago with \$10,000 that my wife and I had saved, combined with a \$10,000 loan which I secured only after three attempts to persuade the banker that my proposal was solid. The business grew well over time, eventually reaching a point where I could delegate management in order for me to have the time to lead a national trade association and later serve as mayor of Oxford, a full-time position.

The experience of wearing three different leadership hats has taught me, for instance, the necessity of strong communication with customers, stakeholders, or constituents; the proper distance a board member takes to a chief executive and staff; the importance of trust and respect among fellow board members and, indeed, within an entire organization; and the tremendous responsibilities and obligations a governmental authority has to the general public.

I am a big believer in planning, a key component of my mayoral administration and my trade association experience, as well. Leadership in the trade association involved

undergoing major industry and legal transitions which would have proved disastrous without extensive strategic planning, an initiative that I chaired. With the City of Oxford, we created the city's first major comprehensive plan in 30 years, which paved the way for robust annexation, historic preservation, major infrastructure expansion, public transit, and the city's first sustainability committee. Oxford Electric Department also required attention, enhancing technical staff and bringing in a new superintendent who made both the field and the clerical sides of the Department operate more efficiently.

Those who know me at home I hope would tell you that I have a strong work ethic. If confirmed as a board director of the TVA, I will be engaged in and committed to its ambition to be a leader in industry—for safety, technological innovation, low-cost, reliable energy, and environmental stewardship. As we face rising demand for energy against the backdrop of increasingly extreme challenges that exist in generating power, I am particularly eager in working to make the TVA, being the unique public entity that it is, a national leader in conservation.

Thank you for your time, and I look forward to your questions.

**Environment and Public Works Committee Hearing
May 25, 2011
Follow-Up Questions for Written Submission**

Questions for Howorth

Questions from:

Senator Barbara Boxer

1. This month, one of TVA's three nuclear plants was cited with one of the most serious violations from the Nuclear Regulatory Commission for failure of a valve critical to its cooling system.

If you are confirmed, will you commit to working with the NRC to ensure that TVA immediately implements all recommended safety improvements, going beyond the bare minimum, and that TVA provides a timeline for doing so?

If confirmed, I look forward to learning more about TVA's nuclear operations. Nuclear safety should be a primary concern and objective at all times, and I understand that the TVA Board recently has established a Nuclear Oversight Committee. If confirmed, I will learn more about the role of this Committee, where it stands with regard to working with the Nuclear Regulatory Commission and TVA's timeline for improvements, and will also visit TVA's plants to gain first-hand knowledge of their operations.

2. In the 1970s and '80s, TVA's nuclear program ran into overruns that cost billions of dollars.

Now TVA is proposing to vastly expand its reliance on nuclear power, including by finishing construction on one reactor and restarting work on another reactor where construction first began 37 years ago.

Will you commit to ensure that TVA conducts a thorough analysis of whether this expansion is safe and economically sound for people in the valley?

If confirmed, I plan to visit the Bellefonte plant as soon as possible, understand the current board's thinking with regard to nuclear expansion, and give serious consideration to the safety of people in the region as well as TVA's financial capacity for such expansion.

3. Many energy experts say efficiency is the best way to maintain power supply and protect consumers. For example, since the 1970s, California's per capita energy use has stayed level while its economy has grown.

Several industry experts have indicated that the South has the greatest potential for energy efficiency savings of any region in the country because utilities in the Southeast, including TVA, have lagged behind other regions in the country in investment in energy efficiency programs.

Yet TVA's recent energy plans under its Integrated Resource Plan seek only modest efficiency goals. TVA acknowledged this when the chief financial officer, explaining to Congress about the board's vision, recently said it aims to lead the nation in increasing nuclear production, but to only lead the Southeast in increasing efficiency.

If you are confirmed, would you commit to working to make TVA a national leader in energy efficiency?

If confirmed, I will work to understand more deeply TVA's present efficiency projects and initiatives as well as its performance relative to similar organizations in the energy or power industries. I share with many others the ambition that TVA be a national leader in energy efficiency. I have much to learn with regard to TVA's present standing and the challenges it faces in attaining greater levels of efficiency, and, should I be confirmed, look forward to working with TVA to advance its efforts.

4. In 1997, TVA promised to cut its \$23 billion debt in half. It failed to meet its goal. Now it projects \$26.7 billion in debt for 2012, and management is hoping that Congress will raise its \$30 billion debt ceiling. The Government Accountability Office in 1995 said "TVA's troubled financial condition has been largely caused by construction delays, cost overruns, and operational shutdowns in its nuclear program."

Energy efficiency is proven to be cost-effective, and power purchasing agreements provide flexibility in meeting energy demands. Given TVA's past history of cost overruns at its nuclear facilities, as well as billions of dollars in overruns evidenced at other utilities' nuclear construction projects, please explain your position on possible new nuclear plant construction, in particular in the context of TVA's debt ceiling?

Do you agree that TVA should more aggressively pursue debt retirement before it seeks a green light to go deeper into debt?

As a nominee, I have reviewed TVA's last annual SEC filing, but have only a general familiarity with the TVA's finances. I understand that TVA continues to pay down its debt, and that the current \$30 billion debt ceiling has been in place over thirty years. If confirmed, I look forward to understanding TVA's fiscal responsibilities, particularly with regard to the debt ceiling, to ensure that TVA remains a viable and effective organization.

5. There is spare generating capacity in the Southeast region and if TVA were to facilitate greater interconnection with the region, it could potentially buy power from existing sources rather than building additional capacity of its own. In addition, TVA's power rates are on the low end by national standards, and raising rates would allow a more rapid retirement of debt.

Do you agree that TVA should consider all possible routes to debt reduction, such as purchasing power to serve as an alternative to building new generating facilities, such as nuclear or natural gas power plants? What is your position on raising rates to pay for past investments before undertaking large capital investments?

TVA has a great track record of providing low-cost, efficient, and reliable power to the region, an achievement that has brought benefits to ratepayers and economic development in our area. I agree that TVA should continue its efforts toward reducing its debt – while recognizing the necessity for capital construction. If confirmed, I want to have a complete picture of TVA's financial status, capital requirements, and rate revenue scenarios before weighing in on how TVA should reduce its debt.

6. In 2008, a disaster at TVA's Kingston Fossil Plant spilled 1.1 billion gallons of coal ash. TVA's inspector general found that TVA's culture contributed to the mistakes, including failure to follow best practices and poor communication. The IG recommended the creation of a "change management" task force to increase accountability.

If confirmed, would you commit to ensuring a TVA culture that will factor health and the environment into management's decision-making?

I know the Kingston plant ash spill was a traumatic event for the surrounding community, as well as the TVA. If confirmed, I plan to visit the site and learn first-hand about what happened, the clean-up effort, and, most importantly, the organization's current safety goals and strategies. If I am confirmed, I will be engaged and committed to TVA's ambition to be an industry leader -- for safety, technological innovation, low-cost and reliable energy, and environmental stewardship. TVA has a terrific responsibility to protect the environment, ensure that its plants are run safely and securely, provide affordable power, and operate efficiently, both in terms of its production and its customers' use of power.

Senator James M. Inhofe

1. As mayor you served as chairman of the authority that oversaw the municipal electrical department, which was a municipal customer of TVA. Could you please tell the Committee how this and your business experience makes you qualified to serve on the Board of Directors of the Tennessee Valley Authority?

I have owned and operated a growing retail business successfully for thirty two years, and have learned much about managing financial and human resources in the process. I also was president and chairman of the board of a major trade association, serving on its board for eleven years, and learned how a non-profit organization, one whose mission and budget were quite different from that of my own business, successfully relates to its executive, its constituents, and the general public. For eight years I was mayor of my city, and learned the different methods by which a governmental authority must operate in order for it to be successful. In these three leadership capacities there were many differences, but, in all, some things were very similar -- the importance of financial and personnel management, the necessity of healthy communication with customers or constituents, and the importance of trust and respect at the board level and within the entire organization. I hope and believe that what I have learned from these different experiences will be helpful to the TVA board.

Additionally in my experience with the City of Oxford, I was chairman of the board that was the municipal authority of the Oxford Electric Department, a municipal enterprise that purchased power from TVA, so I am familiar with TVA as an organization and how it relates to its power distributors. I also served as a board director and officer of the North Mississippi Industrial Development Association, whose members were the municipal electric utilities and rural power company executives in Mississippi's TVA territory. This organization was fully engaged with TVA's economic development initiatives, giving me additional exposure to one of TVA's primary missions.

2. TVA's coal fleet accounts for over half of its generation. TVA has begun to replace its coal power plants with renewable energy. What do you think is the appropriate balance TVA should aim for in phasing out cost-effective coal power plants for more expensive "green" power in terms of maintaining low rates for TVA consumers in the future?

TVA's recently completed Integrated Resource Plan is well considered and seems to be a good road map for the future. This plan includes the retirement of a number of aging coal plants, and the loss of the power they generate is scheduled to be replaced by nuclear power, which appears to be the most cost-effective method to compensate for loss of coal plants. If confirmed, I am very interested in exploring additional possibilities for solar generation—a new technology that is reportedly lowering its cost. TVA, whose rate payers share a special sense of ownership and cooperation with the organization, has a tremendous opportunity to engage a high level of participation among its members in such an initiative. I believe such opportunities should be explored in order to maintain TVA's tradition of providing low-cost, efficient, and reliable power to the region.

Senator BOXER. Thank you so very much.
Now, Lieutenant General Thomas P. Bostick. General, if you want to introduce anyone, feel free to do so.

**STATEMENT OF LIEUTENANT GENERAL THOMAS P. BOSTICK,
NOMINATED BY PRESIDENT OBAMA TO BE CHIEF OF ENGI-
NEERS/COMMANDING GENERAL, U.S. ARMY CORPS OF ENGI-
NEERS**

General BOSTICK. Thank you, Madam Chairman, Ranking Member Inhofe and members of the committee. I am honored to appear before you today as the nominee to be Chief of Engineers and Commanding General of the U.S. Army Corps of Engineers.

I want to thank the President, the Secretary of Defense and our Army leadership for this opportunity to continue serving this great Nation. I also join in the condolences for those affected by the tornadoes and the flooding throughout the country.

It has been my privilege to serve the country in uniform for the past 33 years. The Bosticks are a typical Army family, engaged in military and community service. My wife, Renee, who could not be here today, is an elementary school principal in Arlington, and my son, Joshua is an undergraduate student in California.

My father was an Army Master Sergeant and my father-in-law a Marine Corps Sergeant Major. So it has been an honor for all of us to serve the Nation.

For the past 18 months, I have served as the Army's Deputy Chief of Staff for Personnel, responsible for 1.1 million soldiers and over 300,000 civilians. I had the opportunity to lead the Army's recruiting command for nearly 4 years, where our soldiers were the face of the U.S. Army all across America. I deployed with the First Cavalry Division and served with the Corps of Engineers in Iraq.

I had several opportunities as a young officer to learn at the strategic level here in Washington, as executive officer to the Chief of Engineers during the 1993 floods that devastated much of the Midwest, as special assistant to the Secretary of Veterans Affairs, and as executive officer to the Chief of Staff of the U.S. Army. These diverse experiences have prepared me to lead one of our Nation's most vital organizations.

If confirmed, I look forward to working with the Congress, the Administration, the Department of Defense, as well as State and local leaders, to continue executing the important civil works and military missions of the Corps of Engineers. The recent flooding throughout the Midwest, the tornadoes, all remind us of the vital need for the Corps of Engineers. The Corps must be ready to provide assistance to State and local governments in developing integrated water management strategies and reliable inland navigation systems. Our Nation's continued economic prosperity depends on these vital infrastructure investments.

The Corps continually balances competing needs throughout the Nation. It has an excellent record of compliance with the National Environmental Policy Act, and other environmental laws. The Corps' overseas construction missions remain vital to our success in operational engagements across the world.

I appreciate the opportunity to appear before you today and I look forward to answering your questions.

[The prepared statement of General Bostick follows:]

Statement By
Lieutenant General Thomas P. Bostick

Madam Chairman and Members of the Committee, I am honored to appear before you today as the nominee to be Chief of Engineers and Commanding General, U.S. Army Corps of Engineers. I want to thank the President, the Secretary of Defense, and our Army leadership for this opportunity to continue serving the men and women of this great Nation.

It is a privilege to serve our Country as I've done for the past 33 years. The Bosticks are a typical Army family, engaged in military and community service. My wife, Renee, is unable to be here today since she is an elementary school Principal in Arlington. Our son, Joshua, is an undergraduate at Stanford University. My father retired from the Army as a Master Sergeant, my father-in-law is a retired Marine Corps Sergeant Major, one of my brothers is an Army Colonel, and I just returned from his son's graduation from my alma mater at West Point, this past Saturday.

I currently serve as the Army's Deputy Chief of Staff for Personnel, a position I have held for the past year and a half. My previous assignments have included three and a half years as the Commanding General of Army Recruiting Command, Assistant Division Commander for the 1st Cavalry Division in Kuwait supporting Operation Iraqi Freedom, and troop command at every level from platoon through brigade. Additionally, I have served in the Corps of Engineers as the Director of Military Programs with duty as the Commander of the Gulf Region Division, also in support of Operation Iraqi Freedom. I was serving as the Deputy Director of Operations in the National Military Command Center in the Pentagon during the events of 9/11/01. Earlier in my career, I served as the Executive Officer to the Chief of the Corps of Engineers and taught Mechanical Engineering at the US Military Academy. These diverse experiences have prepared me to lead one of our Nation's most vital organizations.

If confirmed, I look forward to working with the Congress to continue executing the Corps of Engineers' mission of providing vital engineering services in peace and war to strengthen our Nation's security, energize our economy, and reduce the risks from disasters. The recent flooding throughout the Midwest reminds us all of the vital need for the Corps of Engineers and how its actions can affect Americans across the United States. I acknowledge the important role of the Corps of Engineers and the need for the Corps to reach maximum efficiency and effectiveness within constrained resources.

If confirmed, I will provide strong and decisive leadership for the Corps in its important civil works and military missions. To fully understand the breadth of these needs, I will meet with Members of Congress and state and local leaders, in addition to leadership within the Administration and the Department of Defense to seek their input in developing a plan to meet the requirements of today and the future. Finally, it will be important for me to visit the locations facing the greatest challenges because I believe the best assessments are made through a hands on, comprehensive review.

I am honored to be a part of the United States Army Corps of Engineers with its long and proud tradition of performing diverse missions for our Nation. The Corps' military mission includes providing needed infrastructure for our forces on Army and Air Force Installations, as well as providing support for our operations in Operation New Dawn, Operation Enduring Freedom, and elsewhere. The Corps is a critical part of the Army, joint, and interagency team deploying frequently as the lead Army component. Its civil works mission includes developing, preserving and protecting critical water resources and related environmental resources. The Corps is proud that the Nation looks to it to meet these needs today while maintaining the capability to respond to the challenges of tomorrow.

International trade is growing more important each year. Tonnage that moves on our inland navigation system continues to grow and the demand on the capacity of our ports and harbors increases correspondingly. The continued growth of international commerce requires that our ports and harbors continue to be modernized to

accommodate projected demands. Our Nation's continued economic prosperity depends on these vital infrastructure investments.

The Corps must be ready to provide side by side assistance to state and local governments in developing integrated water management strategies. It must develop innovative measures to help protect our people from the threat from floods and storms in order to do our part to keep America strong.

The Corps continually balances competing needs throughout the Nation. The Corps has an excellent record of compliance with the National Environmental Policy Act and other environmental laws and must continue to conduct all its activities in an environmentally responsible manner, while contributing to the economic vitality of the Nation.

The continued integrity and professionalism of the Corps are essential for us to retain the confidence of the American people and meet assigned missions. If confirmed as the Chief of Engineers, I will responsibly manage Corps projects to ensure we are faithful stewards of our environment and our taxpayers' resources. I will work closely with the Administration and Congress as I discharge my leadership responsibilities. I look forward to working closely with this and other Congressional Committees in addressing the missions and challenges ahead.

Again, I appreciate the opportunity to appear before you today, and would be pleased to answer any questions you may have.

Environment and Public Works Committee Hearing
May 25, 2011
Follow-Up Questions for Written Submission

Questions for Lt. Gen. Bostick

Questions from:

Senator Barbara Boxer

1. This year we have seen record-breaking floods on the Mississippi River. This historic flooding has tested the flood control system as never before.
 - a. In your view, has the Mississippi River flood control system worked as it was designed to operate?

Answer: Yes, in my opinion the system has operated as designed. The Mississippi River and Tributaries system was under heavy sustained pressure, but appears to have performed as authorized and designed by passing historic river flows and unprecedented river stages. All three system floodways--Birds Point/New Madrid, Morganza, and Bonnet Carré--were operated together for the first time ever. The levees, floodwalls, floodways, reservoirs, relief wells, berms, and channel improvement infrastructure all worked in unison as a system and performed as designed in this epic flood. Equally important, Corps employees who manage these flood control systems worked tirelessly with national, state, and local leaders to ensure success and constant communications.

- b. What lessons can we learn from this flood about the management of the nation's flood control infrastructure?

Answer: This historic flood serves as a vivid reminder of how vital flood control infrastructure is to our economy and quality of life. According to the Corps, the project protected over 4 million people, kept 10 million acres dry, protected over \$200 billion of the Nation's assets and to date has prevented over \$60 billion in damages. The flood control infrastructure saved lives, homes, communities, protected critical highway/rail infrastructure, oil/gas infrastructure and critical manufacturing infrastructure. This experience also reinforced the importance of the talented people in the Corps and the importance of teamwork and communication at all levels.

- c. Do you expect we will need changes or new authorizations for improvement to the system?

Answer: It is my understanding that the system will need to be repaired to its pre-flood condition. While it performed as designed, one can only assume that the flood of 2011 likely weakened the overall system which will require

investment to restore the full integrity of all system components (levees, floodwalls, floodways, reservoirs, navigation and channel improvement infrastructure) in order to provide safety and security to citizens who live and work in the Mississippi Valley.

2. Sen. Inhofe and I have requested that Members of the Senate provide the EPW Committee their water resources priorities for the next Water Resources Development Act (WRDA). The Committee has also received multiple completed Chief of Engineers reports recommending new projects for Congressional authorization, and we are aware of additional issues that require legislative action.

- a. Do you believe it is important for Congress to continue a regular cycle of passing WRDA bills so that new projects can move forward and authorities can be updated?

Answer: I believe that it is important for the Nation to continually be in a position to address ever-evolving water resources needs. As part of that process, the Water Resources Development Act appears to be the appropriate vehicle for Congress to provide necessary authorization for these activities, such as projects with completed reports of the Chief of Engineers. If confirmed, I will work within the Administration to support this process.

3. In February, I wrote to General Van Antwerp and Secretary Darcy about my concerns with the Corps' proposed revision to its levee vegetation policy. The California Department of Water Resources, which is the California state agency with responsibility for flood control, opposes the proposed changes. Their research suggests vegetation is not a primary risk factor for California levees. Secretary Darcy has indicated a revised policy will be put out again for public comment.

- a. As the Corps proceeds with this proposal, will you commit to work with the California Department of Water Resources and other interests in my state to address the concerns that have been raised?

Answer: Yes. I recognize the unique and complex issues in the State of California related to levee systems and other water resources challenges. I will continue to support the multiagency partnership that has been developed between the Corps, the California Department of Water Resources, and other agencies within the State of California.

4. As you are probably aware, the city of Sacramento, California has some of the highest flood risk of any community in the country. You might also know that the mountains throughout the West have a record breaking snowpack this year and as that melts it will increase the risk of downstream flooding in Sacramento and other California communities.

a. If confirmed, will you agree to visit California and work with the State of California and local governments to address both this year's elevated flood risk as well as the long-term flood protection issues we are facing?

Answer: Yes. If confirmed I look forward to visiting California and to meeting with local government officials in the State to develop solutions to the many complex water resources problems.

b. Do you agree that it is important to continue to invest in the nation's flood control infrastructure and move forward with important flood control projects, such as the Natomas levee project in the Sacramento area, which has been recommended by the Chief of Engineers?

Answer: Yes. The Nation faces many complex water resources and infrastructure challenges and it is imperative that we work together to develop solutions. From what I understand, the proposed Natomas project will reduce flood risk to over 80,000 people in the Sacramento area and is an excellent example of how the Federal Government, State Government and local sponsors can work together to focus on priorities and maximize limited resources.

Senator Max Baucus

MONTANA FLOODING QUESTION:

1. Do you need additional resources to address the loss of property given the damage caused by the ongoing floods in Montana?

Answer: I understand that the Corps is currently monitoring the flood risks for critical public infrastructure for the State of Montana and mitigating those risks as necessary. I am familiar in general with the requirements and resources available, and according to the Corps, they have the necessary resources to assist the State during this record flood season.

2. What steps have you taken to keep Montanans and elected officials abreast of the Corps' management of the Missouri watershed during these floods?

Answer: It is my understanding that the Corps initiated coordination meetings with officials from the State of Montana to discuss its authorities and the States' potential flood risks in early February. Since the meeting, the Corps has provided technical assistance to numerous communities within the State to evaluate the overall flood threat. Additionally, it is my understanding that the Corps conducts a basin-wide phone call each day to provide updated information. The Corps is committed to providing the best technical advice and response and to transparently communicate to all who are affected by these floods.

LEVEE ACCREDITATION QUESTIONS:

3. How does the Corps' new comprehensive levee safety initiative apply to small cash-strapped communities who find themselves in a floodplain for the first time and can't afford levee accreditation?

Answer: If a community's levee is within the Corps Levee Safety Program, the Corps will provide available levee information collected through program activities and will work with communities to identify next steps focused on improving public safety and reducing flood risks.

4. What steps do you plan to implement to ease the financial burden that FEMA's map modernization places on these communities?

Answer: Because the National Flood Insurance Program (NFIP) is administered by FEMA and is a voluntary program, the Corps is not implementing a plan directly related to community participation in this program. However, the Corps continues to work closely with FEMA to ensure the best available information is provided to communities so informed decisions can be made to improve public safety and reduce flood risk.

5. Is the Corps' application of the new policy not to conduct levee accreditation for federally-constructed, non-federally operated levees being applied uniformly?

Answer: Yes, it is my understanding that the Corps is uniformly applying its current policy related to evaluation of levees for the purpose of FEMA's NFIP. Both the Corps and FEMA agree the local community is responsible for providing the documentation to demonstrate a levee meets NFIP criteria.

However, at the request of the local entity, there are three cases in which the Corps may perform a NFIP levee system evaluation for the local entity if funding is available:

1. if the levee is operated and maintained by the Corps;
2. if it is part of an ongoing Corps project; or,
3. if funding was provided by another federal agency or by a local sponsor and it has been demonstrated that the Corps is uniquely equipped.

INTAKE DIVERSION DAM QUESTIONS:

6. The Corps put Phase 2 of the Intake Diversion Dam on hold when the project's cost increased because it was determined that different, more expensive granite was needed for the riverbed ramp. Was it foreseeable that a more expensive material would ultimately be needed?

Answer: I am generally aware of this project and the increase in costs. According to the Corps, the initial cost estimate did not adequately address cost risks associated with the preliminary nature of the design, which was based on assumptions prior to modeling. It is my understanding that the modeling indicated a need for flatter side slopes than the preliminary design and resulted in a significant increase in the quantity and quality of rock necessary.

7. How does the Corps plan to prevent future cost overruns?

Answer: I understand that the further design on this project is following a Value Engineering Approach. It is imperative that the Corps provide the best technical analysis and, if confirmed, I will look into the specific details of this project to ensure that the Corps is progressing in the soundest manner possible.

8. If the Corps is considering alternative plans to the riverbed ramp, such as constructing a bypass channel, how would these alternatives support the recovery and protection of pallid sturgeon?

Answer: I am generally aware of this project, and if confirmed, will look into the specific details in order to ensure that the plan being developed will meet its intended goals. From what I understand, the bypass channel would improve the upstream and downstream fish passage for adult pallid sturgeons.

ST. MARY DIVERSION AND CONVEYANCE WORKS QUESTIONS

9. Can you tell me what is being done to move the cooperative work forward of the Corps and the Bureau of Reclamation on the St. Mary Diversion works?

Answer: It is my understanding that the St. Mary Project would be a new major rehabilitation project and funds have not yet been appropriated to the Corps of Engineers for the project. I am aware that some coordination has been initiated with the Bureau of Reclamation. If confirmed, I am committed to learning the specific details of this project and exploring ways in which it could move forward.

Senator James M. Inhofe

1. The water resources infrastructure needs and the benefits to the nation from addressing them are well-documented. The historic flood fighting that is underway on the Mississippi River further demonstrates why we must make investing in this infrastructure a national priority. This will require leadership and a firm commitment at all levels of government.

- a. As the Chief of Engineers, how will you specifically work with the committee on a Water Resources Development Act?

Answer: If confirmed, I am committed to working with this Committee by providing technical advice on the many water resources challenges in the Nation. I will ensure that the Corps of Engineers uses the best science and technology, including rigorous review (both internal and external) in order to provide you with the best recommendations to address these challenges.

- b. Will the Administration submit a WRDA proposal for this Committee's consideration? If so, when can we expect it?

Answer: I do not know the Administration's plan for submittal of a WRDA proposal, but if confirmed, I am committed to working within the Administration and with this Committee on the many infrastructure challenges throughout the Country.

- c. The President's FY 2012 budget request signaled that the Administration would develop a Harbor Maintenance Trust Fund proposal and would work with stakeholders to revise the laws that govern the Inland Waterway Trust Fund. Can you please give us an update on the progress of these two items?

Answer: I understand the Administration is developing proposals to increase revenues for the Inland Waterways Trust Fund and to determine what type of Federal expenditures for coastal channels and harbors would be eligible for reimbursement from the Harbor Maintenance Trust Fund.

2. There are many important water resources projects in my home state of Oklahoma. I'd like to highlight a couple of these projects.
3. The Administration has called for a doubling of U.S. exports by 2015. We have a very successful port that lies at the head of navigation for the McClellan-Kerr Arkansas River Navigation System (MKARNS), the Port of Catoosa. The MKARNS is authorized to be dredged from 9 feet to 12 feet. By doing so, the towing industry estimates that we could increase barge capacity by 43 percent. We need to optimize the capacity and ensure the

reliability of the entire marine transportation system – including the MKARNS. How do you specifically plan to work with this Committee on improving and increasing investment in our nation’s navigation infrastructure?

Answer: I understand the Nation’s aging infrastructure requires increased attention and resources to keep it safe and extend its useful life. One area in particular is the depleted balance in the Inland Waterways Trust Fund (IWTF), which funds 50 percent of capital improvements on the 27 fuel-taxed inland and intracoastal waterways. If confirmed, I will work with the Administration, Congress and stakeholders to develop ways to increase revenues in the IWTF and support recapitalization of its inland and intracoastal waterways infrastructure, modification of its operations, or deauthorization, consistent with modern day water resources principles and priorities. I expect the Corps will continue to review and recommend studies for funding, authorization, and construction to improve our coastal channels and harbors. Constrained Operation and Maintenance funding has and will be focused on high priority inland and coastal projects. I also understand that the Administration will work with the Congress in developing its proposal to expand uses of the Harbor Maintenance Trust Fund to reimburse additional Federal expenditures to improve coastal harbors and channels.

4. Another substantial priority for me is the Arkansas River Corridor Master Plan. WRDA 2007 authorized \$50 million to carry out ecosystem restoration, flood damage reduction, and recreation components of the Plan. The Corps has executed a feasibility cost share agreement for the project. However, work on this project has essentially stopped due to a lack of federal funding. Representatives of Tulsa County and Indian Nations Council of Governments (INCOG) are considering a substantial endeavor to raise local public and private funds for Arkansas River improvements. How can authorized Corps projects, like this one, proceed with funds initially provided by the local sponsor?

Answer: From what I understand, since Federal funds have been provided for the feasibility study, the non-Federal interests may provide funds up to the required non-Federal cash contribution to accelerate the study. The Corps is currently reviewing, and if confirmed, I am committed to review, its authorities and policies to determine if there is flexibility to accept additional non-Federal funding based on the fact this is an authorized project.

5. How will the Corps ensure that these local sponsors receive credit or reimbursement for this?

Answer: It is my understanding that credit for studies such as the one you describe can be applied only if additional Federal funds are provided in the future. Any repayment of funds provided by a non-Federal sponsor requires that Congress appropriate the funds for that purpose.

SENATOR CARPER [presiding]. General Bostick, thank you for your testimony, Mr. Howorth and Captain Ostendorff. Our Chair has had to leave the room to take a phone call from our Majority Leader. She will be back shortly, she has asked me to proceed. I will ask a few questions and then yield to Senator Inhofe.

Mr. Ostendorff, you served a lot of years in the Navy. You are familiar with the idea of a shakedown cruise, on a new submarine or whatever, just going out there and taking it out for a spin, maybe for months. You have had a shakedown cruise with the Commission here. Let me just ask, first, how is it going?

General BOSTICK. Senator, thank you for the question. I think things are going well. An independent regulatory commission that brings together five people with diverse backgrounds is a very different situation than one would have when I was captain of a nuclear-powered submarine or principal deputy at the NSA in a single leadership, single administrator role. An independent regulatory commission, by its very nature, I think has a more complex decision structure. I would say that my experience so far has been, I learn from my colleagues, I think I am a better commissioner for having talked to my fellow commissioners. Though we don't always agree on matters of policy or rulemaking or adjudications, I think we go into those decision steps better informed and better equipped by virtue of our dialogs. We meet every week, at least once a week, to talk to our colleagues on their viewpoints and matters.

I would say that in spite of controversies that have been in the news with respect to high-level waste proceedings in Yucca Mountain, that we are getting a tremendous amount of work done in a very collegial manner.

Senator CARPER. Thanks. Madam Chair, would you like for me to yield back to you at this time?

Senator BOXER [presiding]. No, no, you continue, and then we will go to Senator Inhofe, and then I will go after him.

Senator CARPER. All right, thanks so much.

Speaking of Fukushima, Mr. Ostendorff, in your testimony you mentioned the NRC task force that was commissioned with reviewing our domestic nuclear fleet in light of the crisis of Japan. Do you have any insights into how that investigation is going that you might share with us? What do you think will be some of the main lessons we learn from Fukushima? Or do you think our domestic nuclear fleet might be vulnerable?

Mr. OSTENDORFF. Yes, sir. The task force was commissioned on March 23, and that task force was to divide this effort into two pieces: one, a near-term, 90-day effort. We should receive the draft report of that 90-day effort in the middle of the month of July. Then a longer term 6-month effort to follow that 90-day effort. We have had three commission public meetings on this topic since March 21.

Some areas that that task force is looking at include the resilience of U.S. nuclear powerplants to disasters, whether it be an earthquake, a tsunami, hurricane, tornado, flooding. What happens at a nuclear powerplant when there is what is called a station blackout, which is the loss of all AC power, and what are the roles of emergency diesel generators that are backup power supplies, as

well as direct current batteries. What are methods to reduce the buildup of any pressure in the containment.

At Fukushima, there were significant hydrogen explosions in the containment buildings as a result of overheating of the fuel elements that caused hydrogen gas to buildup. So the task force is looking at what are the methods we have in this country to deal with that. I will note that in 1989 the Commission promulgated requirements to have hardened vents installed at our boiling water reactors to preclude a buildup of hydrogen gas that cannot be vented. That is just one example.

I can't say at this point in time where this task force will head. We had a report just on May 12, an initial 30-day report, that there was nothing to suggest that currently we believe there are safety concerns at our existing facilities. But we fully well know that there will be a more in-depth look taken across those areas, as I just mentioned. We will take actions to enhance regulations, if appropriate.

Senator CARPER. Thank you. Mr. Howorth, could you critique Mr. Ostendorff's statement?

Mr. HOWORTH. I agree with it.

Senator CARPER. All right, thanks very much. I thought you might.

Mr. Howorth, as you and I discussed earlier this week, I think you know I am very interested in clean air, I think we all are. I would like to say that the cleanest, cheapest form of energy is the energy we never use. I was happy to see that you would like TVA to be a national leader in conservation. I applaud that. I just want to know if we have your assurance that if confirmed as a board member, you will push the TVA to become a leader in conservation, especially in the area of energy efficiency.

Mr. HOWORTH. I think so, Senator. I don't want to describe myself as pushing anything when I am neither confirmed nor on the board yet. But yes, you know that is where certainly my interest and ambitions lie. I think that there is a lot we can do. TVA has a tremendous opportunity due to its model, with its customers, with its ratepayers, who own the place. There is a cooperative relationship that I believe, and an engaged relationship, that I believe can lead us to a lot of initiatives that aren't so easily accomplished elsewhere.

Senator CARPER. All right. Thanks so much. Madam Chair, thanks for allowing me to ask those questions. I will yield back to you and Senator Inhofe.

Senator BOXER. Yes, Senator Inhofe.

Senator INHOFE. Thank you, Madam Chairman.

Let me just really quickly, Commissioner Ostendorff, there have been some things in the publications about some discord among the members and so forth. Do you want to make any comment about that in terms of the congeniality of what is happening in the NRC?

Mr. OSTENDORFF. Senator Inhofe, I would be very pleased to comment on that. I tried to address some of that in my response to Senator Carper's question as to how things are going. But let me delve a little bit deeper into that.

I have publicly disagreed with some of my commissioners on certain topics at different times in an attempt to be very transparent

as to what my views are. I have responsibilities to the Congress, the American taxpayers to communicate with them, where is Ostendorff on this issue. I tried to do that in a professional, collegial manner that has clearly stated my position, at the same time being respectful that others on the Commission have disagreed with me.

Senator INHOFE. Yes, and that is really enough said on that. I just want to make sure, because it is my impression, I know where you stand on issues, I know where most of the rest of them do. That is what these commissions are all about, each one to get out there, if you all were rubber stamps, we might as well not have a commission.

Mr. OSTENDORFF. Exactly.

Senator INHOFE. So I appreciate that.

Let me mention to you, General Bostick, we have a concern right now for a WRDA bill. We are concerned about that. The Chairman has talked about that, I have talked about that. We are concerned on that. There is one area there that I would like to, General Bostick, address. I see that my colleague John Boozman has had to leave, but he was here a short time ago.

We have been concerned, I think it was back in 2005 that we actually did the 12-foot channel for the Kerr-McClellan Waterway. It is about 90 percent 12-foot, but it is 10 percent 9-foot. Now, we know what kind of result that is, and that is that it cuts back about 40 percent of the capacity that we can have. I would like to personally invite you to come out and see this and to understand the problem that we have, talk to some of our importers and exporters as to what it means to them.

Do you have any comment to make about that? Where would that be on your priority list to try to complete that as it was originally intended and was authorized just a few years ago to be a 12-foot channel?

General BOSTICK. Senator, thank you. First I will say that it is an honor for me to be nominated for this position, and I look forward to visiting many locations. It would be a priority for me to visit, to make an assessment and then with the help of the Corps, the Administration and the Congress, decide what the right priorities ought to be. I think all of these navigation and port issues that have funding issues are something that we as a Nation need to look at. The infrastructure has been allowed not to be maintained at the level for which it was designed, and much of that is understood by where we are with funding.

Senator INHOFE. Yes, that is happening, that is also happening to the locks and dams. We know the problems that exist out there. I am sure Senator Boozman and I would both like to have you look at this in terms of priorities.

There is one other thing that is of a local nature. Our Arkansas River Corridor master plan, while the WRDA bill 2007 had \$50 million, authorized \$50 million to carry out an ecosystem restoration, flood damage and a few other things, nothing has happened on that. There are a lot of people in my area, in the Tulsa area, that are willing to come out there and front this thing and start funding, putting some of the funding in. The question they always

ask me, if this happens, can the Corps assure us that local sponsors will get some kind of a credit.

Have you thought very much about that approach to getting some of these things done that are currently just hanging out there?

General BOSTICK. Senator, I have not looked at the details of that. But I have thought about my approach in entering the Corps. If confirmed, one of the first things I would do is go out, visit and make assessments of these critical projects, talk to the local government entities.

Senator INHOFE. Yes, I can set that up, too. So we will do that maybe in one trip handle the Arkansas end of it and then handle the Oklahoma end.

General BOSTICK. I would be delighted to visit.

Senator INHOFE. Good. We look forward to that.

Thank you, Madam Chairman.

Senator BOXER. Surely. Gentlemen, before I ask you your questions, I have to ask you just the boilerplate questions we have to do, so we make sure that you can move forward. I am going to go down the line and ask you three questions.

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?

Mr. OSTENDORFF. I do.

Mr. HOWORTH. I do.

General BOSTICK. I do.

Senator BOXER. OK. No. 2, do you agree to ensure that testimony, briefings, documents and electronic and other forms of communication are provided to this committee and its staff and other appropriate committees in a timely manner?

Mr. OSTENDORFF. I do.

Mr. HOWORTH. Yes.

General BOSTICK. Yes.

Senator BOXER. All right. Finally, do you know of any matters which you may or may or have disclosed that might place you in any conflict of interest if you are confirmed?

Mr. OSTENDORFF. No.

Mr. HOWORTH. No.

General BOSTICK. No.

Senator BOXER. All right. You each get an A plus on these. Very good.

So I will start my time now. Mr. Ostendorff, I understand that you disagreed with Chairman Jaczko on his decision to use high-level waste disposal funds for an orderly closure of the Yucca Mountain license review under the short-term continuing resolution of 2011. Do you still disagree with the Chairman's interpretation of NRC's high-level waste budget, now that we have a final continuing resolution that is consistent with the President's fiscal year 2011 funding request for Yucca Mountain?

Mr. OSTENDORFF. Madam Chair, that circumstance, if I can just expand upon this a bit.

Senator BOXER. Go ahead, yes, of course.

Mr. OSTENDORFF. Certainly back in the first of October 2010, when the continuing resolution for Fiscal Year 2011 came out, there was no explicit direction from Congress on what to do with the high-level waste activities. At that point in time, I did disagree with Chairman Jaczko. We had a very collegial discussion, quite frankly, twice on that first day of October to discuss my disagreement, which led me to initiate what is called a commission memorandum, in accordance with our internal commission procedures.

I issued that to suggest this is a policy matter for my fellow commissioners. I did not receive majority support. I respected that my position did not prevail.

As we have gone down this path, for many months, until last month, we had the uncertainty of the CR. Based on the CR that we received in the month of April, I understand that is Congress' intent and I do not have any objection to the direction the program has taken.

Senator BOXER. That is a good answer for me. Thank you.

Mr. Ostendorff, the current situation in Japan has indicated that damage to the reactors at Fukushima is worst than first thought. It appears that fuel rods in units 1, 2 and 3 all suffered partial meltdowns in the early days of the disaster. What is your latest understanding of the situation there? Do you believe the Japanese will be able to meet their goal of reaching cold shutdown of all reactors at the Fukushima-Daiichi nuclear plant within 6 to 9 months?

This is just asking your opinion, sort of friend to friend.

Mr. OSTENDORFF. Sure.

Senator BOXER. Because I don't know when I listen how accurate they are being, or if they are being too optimistic.

Mr. OSTENDORFF. Yes, ma'am. The information flow has certainly changed over X number of weeks since March 11. My understanding, the best information we have today is that unit 1 has about 55 percent fuel damage, core melt. Unit 2, about 30 percent, unit 3, about 35 percent. Those percentages may change during the final lessons learned and the data analysis.

Currently, there is water being provided to keep the fuel rods in the three reactor units, 1, 2 and 3, covered. The temperature is stable. There are concerns and challenges ahead with respect to where the water that is being used to provide that cooling, where does that water go.

Because of the problem with respect to discharging that water into a tank, these tanks are full. There are private sector efforts underway and being planned right now to provide filtering and a contamination cleanup capability that is not currently in place. That will be critical to ensuring the long-term stable cooling of the facility while protecting the environment.

There have been leaks of radioactive contaminated water into the Pacific Ocean. That is of concern.

Senator BOXER. Just because my time is running out, do you think they will be able to achieve this cold shutdown in 6 to 9 months? What is your opinion? On a scale of 1 to 10, 10 being for sure they can do it, what is your sense of it? I won't hold you to anything.

Mr. OSTENDORFF. Sure, I understand. I am between a six and a seven.

Senator BOXER. OK, thank you, that is fair.

There has been a series of articles in the *New York Times* about the NRC. One of them basically poses the question, is the NRC too close to industry? It pointed to a tendency of plant licensees to defer maintenance until serious safety problems develop, and the NRC's reluctance to establish new requirements on licenses.

Do you think this is a fair criticism? Are there things the NRC could do better to give us more confidence? I just speak for myself, other people may not share this, but I do have some of these annoying questions. I wondered how you felt about it.

Mr. OSTENDORFF. Madam Chair, I would answer as follows. I hear that criticism frequently. I personally have an open door policy, if anybody from industry wants to meet with me, I meet with them. If a group from GreenPeace, Union for Concerned Scientists or an anti-nuclear group wants to meet with me, I meet with them. I think it is important as a regulator to have all the different perspectives that are out there. I do my very best to receive those.

With respect to, are we too close to industry, I personally don't think we are. I am very confident in the safety and security regulations that we have. I am very confident that we are very open with the American public as to how we regulate. At times, I think we could improve our communications ability with the American public. That is an area I am committed to working on.

Senator BOXER. Good. Excellent. Thank you very much.

So now I will turn it over to Senator Vitter for 10 minutes.

Senator VITTER. Thanks, Madam Chair, and thanks to all of our nominees for all of your service.

Because of the Corps of Engineers' significance to the country and Louisiana, General, I am going to focus on the Corps. We will see how time goes. But I certainly don't want to minimize the extreme importance of the other two roles as well.

General, this is a statement, then I will get on to questions. I have one general concern about your background, which is, simply, while you are clearly a very smart, very well-qualified engineer, you don't have direct civil work experience. Is that correct, or am I missing something?

General BOSTICK. Sir, I have not worked directly on Civil Works projects.

Senator VITTER. OK. That shouldn't disqualify you, but I will note, since 1900, of the 34 distinguished folks in this position, only one other did not have that direct civil work experience. I think impartial observers would not rate that particular leader high in the Corps' history. So I just make that note and urge you, if you are confirmed, to fill that void with sort of intense education.

A lot of what I am concerned about again comes out of our Louisiana experience. In particular, Hurricane Katrina, which is one of the two biggest events in the Corps' history, bar none. The other one being the great flood of 1927. Have you had an opportunity to visit the greater New Orleans area to understand what happened during Hurricane Katrina and to see first-hand the enormously important work that has been done since then?

General BOSTICK. Senator, I would first like to followup on the earlier question about experience in civil works. Even though I have not directly worked on Civil Works projects, I served as the Executive Officer to the Chief of Engineers during the 1993 floods. General Art Williams was the Chief, and I helped him as we moved around the country during the Midwest floods, which were very damaging, and we lost 47 lives across the country and a lot of money in damages.

So I have that experience, and I have worked at high levels; I understand Congress and I understand the local population.

As to your question about visiting New Orleans, I have been down there. As I mentioned, I was the head of Recruiting Command between 2005 and 2009. I came out of Iraq and one of my first visits after becoming the head of recruiting was to visit our recruiters down in the post-Katrina area. I saw the initial aftermath of the damage there, and saw the great work of the Corps and the local community and the country coming together to try to help the people in the local area.

I have not visited since to see the great progress that they have made.

Senator VITTER. Great. A big source of the flooding of the city were three what we call outfall canals that go into the heart of the city. Are you familiar with the dynamics of what caused those breaches?

General BOSTICK. I am not familiar with the specifics of that. I have read up on it and I know that there were some concerns on design, there were some concerns on weather patterns, there were some concerns on the magnitude of the storm that hit during that time.

Senator VITTER. Well, I guess I am particularly focused on the fact it has been concluded that the fundamental cause of those breaches were design flaws, not a storm that was greater than what it was designed for, but design flaws under Corps projects. Are you familiar with that?

General BOSTICK. I am familiar with the concern that it was a design flaw. I have not reviewed the details of the after-action review of that project to see how much of it was design and how much of it was a combination of other factors. But if confirmed, I think one of the great strengths of our military is that we take a look at ourselves, and we are very critical about where we made mistakes and what we are going to do to try to fix it in the future.

Senator VITTER. Great.

I would certainly encourage you to do that before and after confirmation. Again, I just want to emphasize, this is not a concern that it was a design flaw, this is a conclusion that I think is universally shared, that it was a design flaw.

With that sort of history in mind, do you have an opinion about the most important two or three lessons the Corps has or should take away from the whole Katrina experience?

General BOSTICK. As I look at it from an outside perspective, first, I think the country responded, after some initial setbacks, very well in terms of the Congress providing the authority and the appropriations for the State and the Government and the Corps of

Engineers to react very quickly. Although I haven't visited that location, I know that a great amount of work has occurred.

So this country can do anything, and I think the Corps and the local community can come together and do anything. The key is to have a strong communications plan, a strong plan in how you react to disasters. I think looking forward to the future, one of the key takeaways for me is our response: how do we respond, both with FEMA, with the Corps and as a country to disasters. So that is one.

The second is that I think that our infrastructure across the country, we need to look at how we prepare that infrastructure for the long haul. Funding has been a challenge, not only in the country but specifically, I think, in the Corps and some of the inland waterways that we are responsible to protect. So I think in balancing priorities, as we look at a disaster like Katrina, we as a Nation have to decide where the infrastructure development and maintenance for the future will take the country. Most of the money in the Corp, currently, as I understand it, is dedicated toward operation and maintenance. There are very few new projects, although some are needed, there are very few that can be paid for given the current funding constraints.

Senator VITTER. Let me encourage you to think about lessons that we need to learn, including within the structure and bureaucracy of the Corps, because I think there are many lessons we still need to learn and incorporate.

Let me also note a military lesson from history, which is, you always need to prepare for the next war, not the last war. I am concerned that we are responding very well after the fact to Katrina. But my concern is, Katrina was the last war, the last hurricane. Almost by definition, it is not going to be the next one. I think we need to look more fully at other scenarios and what the next one could be. Because there are plenty of similar vulnerabilities out there that were laid bare by Katrina.

Certainly in this process, before, and if you are confirmed, after confirmation, I would really urge you to visit the area and look directly at both what happened in the past and the ongoing work there. Thank you very much.

General BOSTICK. Thank you, sir.

Senator BOXER. Thank you, Senator.

I apologize, Senator Alexander, according to arrival, you were supposed to get that opportunity. Gracious Senator Cardin said, please, go right ahead.

Senator ALEXANDER. Well, I don't want to hold up Senator Cardin.

Senator BOXER. No, he said to go on.

Senator ALEXANDER. Are you sure? All right. Thank you for your courtesy.

Mr. Howorth, do you agree with the decision TVA recently made to close some coal plants and put pollution control equipment on all the remaining coal plants by 2020?

Mr. HOWORTH. Essentially, yes. As I understand it, that was part of the EPA settlement. So obviously, it seemed like the right decision there. Also from what I understand, those plants are aging. Yes.

Senator ALEXANDER. Do you agree with TVA's stated goal to lead the country in nuclear power?

Mr. HOWORTH. I know that that is a big part of the integrated resource plan, which to me appears to be an extremely well-considered plan. With the closing of the coal plants, there is going to have to be energy generated elsewhere. It seems that nuclear is where that should be.

Senator ALEXANDER. One of the things that astonishes me is that we are worried about \$4 gasoline, but we have a resource sitting over here that is not oil that would power 40 percent of our cars and trucks, namely, all the electricity we have at night. With your background in local power and now about to be on the board, can you think of ways to create a better environment for electric cars and trucks in the TVA region?

Mr. HOWORTH. I think that what you have described is one of many projects that could be done. If we perhaps, I don't know, because I haven't really gotten into this and discussed it with the existing board, but I hope that we are taking every measure toward conservation and efficiency before generating, trying to generate more, just more power and using off-peak capacity, do the sorts of things with electric cars, like you mentioned.

Senator ALEXANDER. Thank you.

Mr. Ostendorff, you have gone twice in the last year to the only reactor being built in the United States today at Watts Bar. I was there when you were there a month or so ago. One reactor was operating; another one was being built. Based on what you have seen in those two visits, is the reactor being operated in a safe manner, and is the new reactor being built on time and on schedule?

Mr. OSTENDORFF. Senator, I would say yes to both questions. I think the Watts Bar Unit 1 operation is being done safely and properly. That is the assessment of our NRC resident inspectors and our oversight team.

With respect to the construction of Unit 2, I think that is proceeding in a professional manner. I am not aware of there being any concerns from our staff as to the proper quality assurance or soundness of the construction currently underway.

Senator ALEXANDER. Thank you.

Madam Chair, I notice you are planning a nuclear oversight hearing next month. Senator Carper had a good hearing some time ago with his subcommittee. I would like to suggest we have more hearings on oversight of nuclear power. We have two main objectives here. One is to begin to build nuclear powerplants. Because at least half the ones we have are going to wear out before very long. We need new ones for that purpose, and to expand.

Second is to make sure they are operated safely. I think the more people understand and hear about nuclear power, the more confidence they have in them or the more likely we are to correct mistakes that are being made.

So I think hauling the Nuclear Regulatory Commission up here once a quarter before at least a subcommittee might be a useful way to move us toward a nuclear plant construction program and to convince Americans and ensure ourselves that they are being operated safely.

One last question, General Bostick, and I will make a statement rather than a question. I noticed committee members are arranging your travel schedule. I will be glad to get in line for that, because I would like for you to come to Chattanooga and see the Chickamauga Lock, which if it closes, as it will do if it is not replaced, will put 100,000 trucks on I-75, and will seriously interfere with cargo shipments to not only TVA and Oakridge, but to the nuclear weapons compound at Y12.

So what I would ask you to do is, one, consider visiting Chickamauga Lock; two, consider whether it is a new start or not. We think it is not a new start, since a coffin dam is already built. Three, consider the security impacts of the traffic that is moving up the Tennessee River to Oakridge National Laboratory and the Y12 nuclear compound.

Then finally, I hope you and your associates will look at the decision last year by the court, it turned down a plan from the industry to tax themselves to put money in the Inland Water Trust Fund to build projects like nuclear, like Chickamauga Lock, why you turned that down, and if you turned it down, what your substitute is. Right now, all the money is being spent on a lock in Kentucky on which we have already spent \$1.6 billion, they say we are going to spend \$3 billion, there is no money for anything else.

So the industry is willing to tax itself to provide money for Chickamauga and other places. What is your plan?

Thank you, Madam Chairman, for your courtesy. Thank you, Senator Cardin, for yours.

Senator BOXER. Absolutely, thank you very much.

Senator Cardin.

Senator CARDIN. Once again, let me thank all three of our nominees for their willingness to continue in public service.

To General Bostick, I want to concentrate a little bit. Not only do I want to get on your travel schedule, I want to get on your travel schedule early.

[Laughter.]

Senator CARDIN. I have the honor of representing Maryland. That means I am close by. It is very easy to get to where I want you to get to.

So I won't take any excuses.

General BOSTICK. I look forward to joining you, Senator.

Senator CARDIN. Thank you. I'll take that as a commitment.

General, I want to talk about the Chesapeake Bay, I want to talk about Poplar Island, which we are very proud of. The Federal Government has made an investment in Poplar Island which is the site of a lot of dredged material, but also an environmental restoration site. Poplar Island used to be an inhabited island. It is disappearing within the Chesapeake Bay, and with it a lot of its environmental issues of protection and diversity, et cetera. The restoration project has returned Poplar Island to a major asset for the Chesapeake Bay and our environment, and also for our economy, because it is a site where we have placed a lot of dredged material.

The next one onsite will be Mid Bay. Mid Bay, very similar to Poplar Island, is a series of islands that are disappearing as a result of several reasons. There is the water elevation as well as the currents, et cetera.

Now, the good news for us in regard to Mid Bay is that the 2009 Chief's report was favorable. The 2009 Chief's report indicated that there is substantial environmental benefits and recommend the project go forward. So we have crossed that hurdle.

My question to you will be, how do we get the funding for this project? Will the Administration be recommending funding to move forward with Mid Bay and supporting efforts in Congress to authorize it in the next water legislation? If you are prepared to answer that, I would welcome that. If you need to get back to me, I will accept that. But I need to know your position as to moving forward with Mid Bay.

General BOSTICK. Senator, I would be happy to get back with you on the specifics of Mid Bay. In general, I would say that because of the difficulty with funding across the Nation, one of the principal duties I will have upon taking the Chief of Engineer position, if confirmed, is to look at the priorities and to review the funding situation on all of these projects, and then to work with the Administration, to work with Congress and work with the States to make sure we are making the right decisions, the best decisions for all parties involved. I am committed to looking at Mid Bay specifically, and then to come back to you with an answer.

Senator CARDIN. I thank you for that.

Let me just underscore this. Keeping our channels properly dredged is absolutely vital to our economy, as a Nation. Many jobs depend upon our ports being open. Baltimore is one of the largest ports on the east coast of the United States. We have many other projects that are involved along Maryland channels. It is vital.

If we don't plan ahead and have sites for dredged materials that are economically viable, it will jeopardize the economy of our region and our Nation. So my only point for emphasizing this, it has gone through the process. It has gotten a favorable report. We are ready to move forward. I understand funding is tight.

There have been some funds already made available for Mid Bay. The Administration has made some funds available. We are going to be looking to you to set the priorities, we understand that. But I just urge you to understand how critically important this project is to our entire region.

General BOSTICK. Sir, absolutely, you have my commitment. I understand the importance and I will look at the priorities and see the funding and come back to you with an assessment.

Senator CARDIN. I look forward to visiting with you to show you first-hand the success of Poplar Island and the future site at Mid Bay.

I want to just ask one more question of you, and that is, in 2007, Congress established the National Water Resources Planning Policy to ensure our Nation's water resources projects both are economic, to encourage both economic Development and protect our environment. As you know, the Council for Environmental Quality is in the process of modernizing the economic environmental principles and guidelines, the P&Gs.

We are going to seek your input as to how you are working with this process to make sure that we do protect our Nation's waters. A lot of our concern is just economic, but also the environmental risks involved. I don't have time, because of the limited amount of

time we have today, but I would like your input as to how you intend to operate to make sure that we protect our environment as well, moving forward with the critically important projects.

General BOSTICK. Sir, I think it is very important. As I said in my opening comments, I think the Corps has been a good environmental steward while balancing the importance of the inland navigation and the ports. I will continue to reinforce that, if confirmed.

Senator CARDIN. Thank you.

Senator BOXER. Thank you.

Senator SESSIONS.

Senator SESSIONS. Thank you, Madam Chairman.

I thank all of you, congratulations on being nominated. I am sure each of you will be able to move forward, hopefully with not too much delay.

General Bostick, in your response to your questions and after our conversation with you, I am a little uneasy, in that you have not been connected to the Corps and its work for some time. Your responses are, I am not familiar with that particular contract or background to this matter. These are matter, another question, I would inquire about and consider prior to making any decisions. Another answer, I understand the Corps must operate on all of its projects in a manner that fulfills their authorized purposes. I am not familiar with the shoreline management plan for Lake Eufala.

Well, I understand that, and I understand that you can be a fine leader of the Corps. But as you can tell from the questions, Senator Vitter and Senator Cardin and others, these matters are often very tough decisions that require your attention and ultimately will fall in your lap to make those decisions. They have a lot of history behind them and with regard particularly, as you and I discussed, and I won't go into it today, what has come to be known as the water wars between Alabama, Georgia and Florida, over the flow of rivers that come into Alabama, the headwaters of which are in Georgia.

I guess I will just ask you, are you committed to following the law? Will you persist with rewriting the manuals for the Corps, if that is not consistent with court decisions and law and contracts that the Corps has?

General BOSTICK. Sir, first let me say that I regret that I could not answer your questions more specifically, especially since we had a chance to chat in your office. But given that I am the G1 of the Army, it was difficult for me, not being confirmed, to work on the specifics of those questions with the Corps. I assure you that if confirmed, one of my first priorities will be to look into the details, and then come back and talk to you.

Senator SESSIONS. Well, what I would like is a commitment, if you would, that you will comply with the law, existing binding contracts of the Corps and the court decisions relevant to the situation.

General BOSTICK. Sir, absolutely, you have my commitment that we will comply with the law.

Senator SESSIONS. Well, the Corps has been saying they are, but they I think eventually had to be reversed by the court of appeals court. I thank you for that, and I think that is probably all I can ask you at this time and insist on. But it is real important. Our

Governor and the Governors of Georgia and Florida have not been able to reach an agreement. You and I agree the best thing would be an agreement reached by those Governors.

But it is an important issue and they have not been able to. They just have not. I hope that they can. That would really be a helpful thing.

Mr. Ostendorff, thank you for your leadership on the panel. I do believe nuclear energy has a real part to play in clean energy for the future, clean and economical. It is all-American. It keeps the costs at a reasonable level. That helps economic growth. It is all-American, basically, creates jobs in America. It is not imported energy. It also emits no pollutants into the atmosphere.

So your position is important. We understand safety is first. But if the NRC, through inaction or not paying sufficient attention to these questions, delays legitimate progress for plants, it can drive up costs significantly and take a program, a nuclear power project and make it from viable to not viable. Would you agree with that?

Mr. OSTENDORFF. We have an obligation to professionally and in a disciplined manner move through our license applications. I think we are doing that now. I agree that we cannot afford to not pay close attention to how our process is working.

Senator SESSIONS. I hope that you will have an opportunity to visit the Bellefonte Plant in North Alabama. One of the reactors was 60 percent completed; the other 80 percent completed 30 years ago. It was the most modern plant in the country at the time. TVA, after they finished their Watts Bar Plant in Tennessee, I think will be looking forward to going forward there with that. It has been on the drawing board for some time.

So to the extent to which the Nuclear Regulatory Commission can do its evaluation and be prepared and move promptly on that, I think it would help us economically in the region and environmentally.

Mr. Howorth, one of the projects, one of the plans for reducing coal-fired plants—is my time up?

Senator BOXER. It is.

Senator SESSIONS. OK, thank you.

Senator BOXER. If you want to stay for a second round, I am going to do one.

Senator SESSIONS. I understand that, fine. Thank you. I enjoyed the opportunity to talk with you yesterday.

Senator BOXER. Thank you very much, Senator.

Senator Lautenberg.

Senator LAUTENBERG. Madam Chairman, we have to be careful with our friend from Alabama, Senator Sessions, inviting him to a second round. It could be something of significance.

[Laughter.]

Senator SESSIONS. Thank you, no. This day I have to go, Senator Lautenberg. So I appreciate the courtesy.

Senator LAUTENBERG. Thanks very much.

Madam Chairman, we have these outstanding candidates here and each one's contribution is going to be so meaningful in our country. General, you in particular, you are very popular here today. We have all invited you over and to come in early and stay long. But come and see us as quickly as you can. The popularity

is serious, because the Corps is such an important element in our society.

But Madam Chairman, there is something I don't understand. Two and two doesn't make four. This is about the only place, and that is, we get requests from everybody here, and we are delighted to have General Bostick here. But when it comes to the budget, I don't know that we get the same requests for funding when we are preparing budgets as we do when the budgets are in place, and when we look at a \$270 million cut in the Corps funding, and everybody again, General Bostick, would love to see you in our States. I am one of those as well.

But it is just kind of an anomaly here that we can't do the arithmetic at the same time we are doing the requests.

Mr. Ostendorff, I have enjoyed our conversations. There are many nuclear plants in the United States that use the same Mark I design as the one in Japan, including two reactors in New Jersey. Now, as Chairman Jaczko has said, modifications to the design in the United States would improve the safety of U.S. reactors.

But now it appears that the Japanese plant had made modifications like the ones made at plants in the United States. If those modifications could not prevent the Japanese accident, how do we know our plants are not similarly vulnerable?

Mr. OSTENDORFF. Senator Lautenberg, I appreciate the question. I would offer that your specific question is one that our ongoing Fukushima task force is looking at right now. We had, as Chairman Jaczko has told this committee, we had the hardened vent modifications installed in the late 1980's, in the United States, for these BWR Mark I reactors. We are trying to learn more about the modes of failure at Fukushima as to exactly what happened and why could they not operate these vents. I don't have an answer for that today, but I assure you, that is a key part of the task force.

Senator LAUTENBERG. Thank you. The NRC requires evacuation plans only for areas within 10 miles of a plant. But the U.S. Government warned Americans in Japan to stay at least 50 miles away from the damaged reactors there. Would it make sense to require evacuation plans to address the same distance around U.S. facilities as was recommended in Japan?

Mr. OSTENDORFF. Similar to the event question, this emergency planning, emergency preparedness issue you are raising, Senator Lautenberg, is also being looked at by the task force. I will tell you that although I was not part of the direct decisionmaking on that recommendation for Fukushima, I can tell you it is my understanding that there were perhaps four factors that led to the 50-mile recommendation in Japan. No. 1 was lack of information, No. 2 was concerns on the accuracy of information that was provided, No. 3 was the fact there were three reactors that had issues at multiple reactor sites, as opposed to single reactor units that our 10-mile policy is based on. No. 4 was tragically the tsunami that killed 25,000 people had also caused significant disruption to communications infrastructure that lessened our confidence in the ability of the Japanese to deal with certain aspects because of the damage.

I know that our task force is looking at this. We have had a commission meeting on this topic recently. I think we will look forward

to getting back to this committee on where our recommendations are.

Senator LAUTENBERG. We are anxious to hear from you as soon as that can be done.

General Bostick, the Passaic Snake River Basin in New Jersey frequently floods and has received five Federal disaster declarations since 1990. The State, local governments and the courts have set the framework for a long-term solution which would cost the Corps approximately \$7.5 million to complete the reevaluation study.

Now, I would like to know if this confirmation goes as we expect that you will commit to work with me and our State to find a solution to the flooding problems in the Snake River Basin.

General BOSTICK. Senator, thank you. You do have my commitment that I will visit your great State, along with the others. I spend most of my life in the Pentagon, so it looks like if confirmed, I will do a lot of traveling. I will visit you and I will look at this specific project. I don't have the details of it now, but rest assured I will look at it.

Senator LAUTENBERG. Mr. Howorth, TVA has a Federal mandate to provide low-cost, reliable electricity. What role should TVA play in protecting the environment and public health from powerplant emissions?

Mr. HOWORTH. As a public entity, I think it has a very great responsibility to play that role in terms of ensuring that we are not polluting, we are not sending pollution contaminants into the atmosphere or that our nuclear plants are safe and secure. If it must be affordable, then we have to be efficient in production and use.

I think it is a role that TVA generally has satisfied over the years and I believe will continue to.

Senator LAUTENBERG. Madam Chairman, since we have been here quite a while, I would like to ask one more question. That is, what is the composition of the generating components of the TVA? Where does the energy come from?

Mr. HOWORTH. I believe it is about 50 percent coal, 40 percent nuclear, 8 percent—

Senator LAUTENBERG. Fifty percent coal?

Mr. HOWORTH. Right.

Senator LAUTENBERG. Forty percent?

Mr. HOWORTH. Nuclear. Eight percent hydro, 2 percent other.

Senator LAUTENBERG. That is close enough. Madam Chairman, one of the problems that we worked so hard here, and that you are so leaderly in, and that is the question of the environment, how do we protect our families from pollution in the air? I would like to submit a question now for review by Mr. Howorth after confirmation as to what we do to minimize the pollution that comes from 50 percent of the coal plants that produce that power.

Senator BOXER. We have a situation where Senator Paul is going to object to any committees meeting beyond noon. That is why I am trying to wrap this up.

I want to say, just piggy-backing on Senator Lautenberg's question to you, Mr. Howorth, I want you to know that in the original Act, which I suggest you look at, because it is interesting, the original Act that was written setting up the TVA, it says, "shall affirm

support for the objectives and missions of the corporation, including being a national leader in technological innovation, low-cost power and environmental stewardship.” It doesn’t say one or the other.

So I think the answer is if you don’t do environmental stewardship, then you are breaking the law, not you, the TVA. So let’s be clear: we have to do that, you have to do that, you and your fellow board members, commissioners.

I would say this. EPA, and you alluded to this, just settled with TVA. They said that their settlement in terms of North Carolina air pollution from coal-fired powerplants, that that settlement will prevent 3,000 deaths, 21,000 cases of asthma, \$27 billion in health care costs each year, and it includes \$315 million in clean energy projects. I laud that settlement.

But I just ask you rhetorically, you don’t have to respond, you are just headed over there, it shouldn’t have taken a lawsuit. What is going on with TVA? You should be a leader. I just worry about it, because I don’t see it happening. I take a little responsibility. I wish I had, frankly, when I took the gave originally, made it a priority to talk to TVA more. But let’s just say I am talking to you, and I will talk to the others.

You should be a leader in solar and wind. What percentage of power do you think ought to come from solar and wind and geothermal?

Mr. HOWORTH. As much as possible. Especially solar. I think wind is much more challenging.

Senator BOXER. But what percentage? Because my State has 30 percent. It depends, I mean, my State has a heck of a lot of sun and a heck of a lot of wind, and a lot of geothermal. We talk here about a 25 percent mandate, a 20, a 15. Without pinning you down, where do you see, between what and what do you think the TVA ought to do?

Mr. HOWORTH. Ideally, I would like to see every house in the Tennessee Valley with a solar panel on its roof generating power back to TVA, paying the way for the consumers. I would like to see perhaps a universal building code, adopt some green elements so that houses, that is where we lose most of our money now, poorly built houses.

Senator BOXER. True.

Mr. HOWORTH. So I think these things are achievable.

Senator BOXER. I am glad.

Mr. HOWORTH. You are right, I think it is our business to go about doing it.

Senator BOXER. I think this infusion of new energy into TVA is a moment, you could do this. I mean, I am saying to you, and you can express my views to your board of directors there, that coming from the State I come from and seeing what we have been able to do, it is just extraordinary. There is a new announcement of a big solar project that is going to power 460,000 homes in the Mojave Desert. Now, this is saying no to imported oil, saying no to the folks that we don’t want to keep giving our money to. More than half of our trade deficit goes to importing oil.

So you are in a position to do something really good over there. I hope that you will question the old ways of doing things. Because it is not right for these times. I think in the amazing clarity of the

Members of Congress those many years ago, saying environmental stewardship, it is pretty important, it works.

The other thing I would say, on the nuclear front, and we do have gradations of differences, there is a lot of talk about, let's move forward very strong nuclear, as if nothing ever happened in Japan. There is talk about how, don't slow it down, because it will cost business money. How much is it costing the business that is dealing with the disaster in Japan? We don't even know how many billions.

So we can't cut any corners, and I know, Mr. Ostendorff, you would never do that. But I do want to point out, it is really an important issue. As I said, I have more than half a million people living within 50 miles of one of my nuclear powerplants, no, let me say, a half a million in one and 7 million, 7 million living within 50 miles of the other. Candidly, when I took someone aside, and I said, what is the evacuation plan, the woman looked at me and whispered in my ear, just look at the freeway at 5 o'clock at night. That is our evacuation plan.

So whether it is looking at dry casks, which is very, very key, and I am going to send you, if you don't mind, all of you, some followup questions, because in about 2 minutes, you will be happy to know, I won't be able to talk any more. They are going to pull the proverbial plug on me.

I just want us to move forward in a way that doesn't ever expose our people to what the people of Japan have gone through. It is the worst economic hit, it is a horrific loss of people, families, people never get over this, what happened over there. So it is something I would say, Godspeed to all of you. You have a moment. Look, we all are here for a very short period of time, to be philosophical about it. Either we are going to just get along and go along, or we are going to bring something to the job that really makes an impact. People might never even know that you did it. It might be one conversation you have with a fellow commissioner, it might be one moment in time that you didn't meet with someone who showed you a new way.

I deal with this in my work. How can I make sure that I am here and am making a good difference for the people, a good, solid difference. I don't always do it, there are days I waste, there are days I make mistakes. But there are some things I do right. I am just hopeful in all of you, you will realize this moment you have, this short moment. It could be 20 years, it could be 10 years, it could be 5 years or a year. It is important, what you are doing, each of you, is so important. You have the lives of people in your hands, you really do. You have the very lives of people in your hands, and you have the ability to make their lives better and bring about economic growth and all those good things, and avert disaster. It is all in your hands.

That is why I am so proud that you stepped up to the plate. These are not just unimportant nominations. That is why so many of us stayed so long.

But I will not let the General go by without saying, after you leave Oklahoma, you just head west. A little birdie told me that you have a son in California. So we promise you your evening will be free. We will work you hard in the day.

I hope that all of you think about what we have all said and understand the great respect we have for each of you and the hopes that we have for each of you. We hope that these nominations go smoothly.

With that, we stand adjourned.

[Whereupon, at 12 p.m., the committee was adjourned.]

