

TESTIMONY



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by
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Committee on Governmental Affairs
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Mr. Chairman, Mr. Thompson, Members of the Committee, I greatly appreciate the opportunity to appear before you today on behalf of Senate Bill 159, which seeks to elevate the U.S. Environmental Protection Agency to cabinet status.

For the record, I am William K. Reilly and I had the privilege of serving as EPA Administrator for the first President George Bush – Bush 41, as a number of people are starting to refer to his Administration – from February 1989 until January 1993.

And for the record, too, I am a strong proponent of elevation.

Let me thank you, Mr. Chairman, for convening this hearing to consider Senator Boxer's bill, S. 159. And let me

also salute Senator Boxer for putting this legislation forward. I am particularly pleased, now that I live in California, that it is my Senator who has taken the initiative. I understand my friend Congressman Boehlert, in that other body across the Capitol, has introduced comparable legislation. I hope we will see these endeavors succeed this time around.

Many members in the Senate and the House in both parties have been supporters of cabinet elevation for EPA. We have tried before, at least three times I can recall, and each time we have fallen short. The first President Bush and President Clinton both supported elevation. But those efforts fell victim to the competing agendas of the different interests in our society that follow environmental policy and the work of EPA in particular. Some harbored anxieties about what EPA might or might not do. Others feared they could not trust OMB, or that the White House or Congress might meddle too much politically, or, I suppose, not enough. Too much was asked of the prior legislation and no consensus was forthcoming. In 1991, a whole series of amendments were offered – for example, limiting the number of political appointees; applying standards of the Resource Conservation and Recovery Act to federal agencies; adding property rights protection; and more. Whatever the merits of the individual amendments, it was clear in the debate that not everyone thought them good and useful steps in elevating EPA. The result was that no legislation

passed the Congress.

In 1993, the attempt to impose cost-benefit analysis on the agency across the board doomed the cabinet bill. I believe in such analyses, done properly, done rigorously, and as long as the EPA chief retains authority to render his or her best judgment on the merits of the rule, including the economic analysis. But such a broad-ranging requirement, cutting across major statutes and affecting the criteria for environmental decision-making, proved a poison pill. It did not belong in cabinet legislation, and the result, here, too, was that no legislation emerged from Congress.

So I am reminded and underscore for you that the best chance to achieve the goal of creating a Department of the Environment is to keep the elevation simple. Keep it clean. And this is precisely what Senator Boxer has proposed. So I am pleased to endorse S. 159.

What adds a new impetus and a new possibility to this proposal is the recent expression of support by President George W. Bush. I applaud his leadership in publicly embracing the elevation of EPA to cabinet status. It is not something, after all, that his political allies and supporters have made a priority. The President's support represents a welcome appreciation that cabinet status for EPA is good policy, good symbolism, and good politics.

One may reasonably ask, why elevate EPA? Will it make a tangible difference? Both Presidents Bush and President Clinton have treated their EPA Administrators as members of the Cabinet. So some might argue that elevation is more symbolic than anything else. The symbolic value of elevation has value, for communicating priority to environmental issues. Nothing now ensures that a future President will confer de facto cabinet stature upon the EPA Administrator. Moreover, we are one of the very few major nations that do not formally include its environmental agency in the cabinet. The irony, of course, is that for much of the past 30 years, the United States has set the pace worldwide in environmental policy innovation and in actual achievements in environmental protection and restoration.

Beyond the symbolic value, however, I believe there are three important reasons for making EPA a cabinet agency.

First, unless you follow environmental issues closely, most Americans probably don't appreciate that EPA has no basic enabling legislation or authority. The agency was cobbled together by President Nixon, in 1970, through an executive order that brought together four principal agencies, each with its own statutory responsibility and its own oversight committee of the Congress. We have seen landmark environmental legislation pass, to clean the air and water,

preserve critical habitat and scenic wonders, to cut toxic waste, and more. But no statute has given EPA basic operating authority. It is way past due. The consequences of distinct agencies and diverse statutes being brought into one organization is an incongruous mix of basic assumptions involving statutory history, characterization of risk, exposure assumptions, and cleanup standards. Legislating an organic statutory order elevating EPA will not correct this problem but it is a step that will likely begin a process of rationalizing statutory and regulatory inconsistencies.

It is especially important that EPA have authority in the international arena, and I am pleased to see that Senator Boxer's bill has explicit recognition of the role that the Secretary would play, and the agency more broadly, in international environmental affairs. It is proposed to be done, rightfully, by means of assisting the President and the Secretary of State in carrying out their responsibilities to conduct U.S. foreign policy.

This authority could not come at a more important juncture. Now it is true EPA has been active internationally. But often the funding is doled out through U.S. AID or the State Department. Or the authority comes in legislation that addresses a particular issue government-wide, such as climate change research. The fact is that increasingly EPA will need to turn its attention to matters outside our borders if we are to

maintain the significant momentum at home behind efforts to clean our air and our waters. I understand, for instance, that EPA's air office has estimated that as much as 30 percent of the mercury loadings in this country derive from sources outside the country, brought here by long-range air transport. That is true as well for DDT in the Great Lakes. Pollutants cross the U.S.-Mexico border. And so on. In devising strategies to address environmental problems here in the United States, EPA will be called on more and more, and clearly in consultation with the State Department, the National Security Council, and others, to develop strategies that seek to address sources of the problem outside our borders. The agency needs to be able to discuss these matters forthrightly and to seek appropriations as part of agency budgets if that's what's required. We no longer can afford to treat international activities at EPA as something that best belongs under the radar screen, as extracurricular work funded by stealth through the water or air programs.

The second reason is one of parity with other Cabinet agencies that have important and wide-ranging influence on domestic policy and our economy. Indeed, EPA often finds itself dealing with the actions of other federal agencies as it reviews environmental impact statements for federally sponsored projects, as it seeks to foster cleanup of old sites where nuclear and other wastes have been deposited, as the agency pursues clean air and water goals, or pesticide

regulation, or wetlands protection. Now it falls to the President to make clear that he supports his EPA Administrator in these interagency battles, or the EPA Administrator cannot do the job effectively. By providing parity, cabinet elevation changes the equation and makes clear the environment is not to be subsumed under other national interests but must be accommodated and integrated as federal agencies carry out their own responsibilities.

Third, and perhaps most importantly, elevation has the real potential to change the way the agency's 18,000 or so employees think of themselves and their mission. I have found the agency's staff to be as dedicated and talented a group of public servants as I have seen anywhere and I was proud to lead them during a very productive time. But I also came to realize that our environmental agency must be more than a regulatory and enforcement arm of the federal government, as important as these functions have been in achieving the substantial progress our country has made on the environment. There must be equal attention to education and information that can inform citizens. There must be monitoring and reporting to chart our progress. There must be solid, rigorous scientific research to get at unanswered questions and needs. There must be commercial deployment of technological innovations that can benefit the environment. These are all pillars of a sound national environmental policy, along with the partnerships EPA

has formed with the states and communities, with businesses and nonprofit groups, across the country. Yet the agency is widely perceived, and I think this holds within as well, as principally a regulator and an enforcer. A more contemporary understanding that EPA is uniquely the environmental overseer, watchdog, and point of reference regarding the status, needs and problems of ecology and environmental health in America, compels a broad view of the agency's role. Administering EPA is a distinctly integrative job, and it requires putting many interests together. Its turf is universal. We must broaden EPA's concept of its mission.

There is a moment early in the life of every new EPA Administrator when he or she enters the Cabinet Room to encounter a congenial group of department heads and begins to make the rounds and shake the hands before the arrival of the President. It occurs to the Administrator that there's a dispute with Agriculture about chemicals, with HUD about housing sited in wetlands, with Interior about water contracts and projects, with Defense about base cleanup, with Transportation about auto pollution standards and maybe fuel efficiency, with Energy about hazardous or nuclear waste. The other department heads, too, are aware of the disputes, joke about them, sometimes with an edge of annoyance or resentment. The undercurrent sometimes seems to be, "Who is this guy, the only one here who's at war with everybody." For that is the

nature of environmental protection. The Energy Secretary under President Bush 41, my good and admired friend Jim Watkins, once gave an exasperated speech to his colleagues complaining about my advocacy of an ambitious new Clean Air Act. "He's in my knickers," he said, pointing to me, "and he's in yours," he added, pointing to the Transportation Secretary. And I was. It was my job. President Bush backed me. A statutory status of equality with those whose environmental activities I was charged with helping police, would have simplified my task. It would have communicated that I had parity, that my concerns mattered as much as anyone else's in the Cabinet Room. And although I never had the problem of getting my phone calls returned, thanks to President Bush's strong personal support, my predecessor Lee Thomas once informed me that he had had such a problem, and believed strongly that Cabinet rank would have helped correct it.

EPA's \$7 billion budget is a bit like the proverbial tail wagging the dog. It triggers much greater expenditures by other levels of government, by the private sector, by consumers generally. The agency thus deploys enormous power and influence over the economy. Without the direct involvement of other agencies and non-governmental institutions in solving environmental problems, EPA doesn't have a chance to achieve the ambitious goals of our nation's laws on air, water, waste,

and the like. Thus EPA must see its role and its choices in a broader context. Cabinet elevation will help achieve this.

At some later point it may make sense for the new Department in consultation with the Congress to consider its organization and structure, whether the functions are grouped in the most sensible or effective fashion, and whether a single scientific template should be used to characterize threats and goals. But I would leave that until later. We needn't encumber this legislation with proposals that are sure to unleash protracted debate and maybe draw fire from friend and foe alike.

Senator Boxer's bill has it exactly right. President Bush has it exactly right in supporting EPA elevation. Now is the time to make it happen.

I make but one request: please do look at the acronym that would result from whatever you name the new Department, and make sure it's a good one.

Thank you.

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