

THE HIDDEN COST OF GOVERNMENT REGULATIONS

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,
NATURAL RESOURCES, AND REGULATORY AFFAIRS
OF THE

COMMITTEE ON GOVERNMENT
REFORM AND OVERSIGHT
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

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THE HIDDEN COST OF GOVERNMENT REGULATIONS

MONDAY, MAY 20, 1996

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,
NATURAL RESOURCES, AND REGULATORY AFFAIRS,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Claremore, OK.

The subcommittee met, pursuant to notice, at 4 p.m., in Post Hall, Rogers State College, Will Rogers Boulevard, Claremore, OK, Hon. David McIntosh (chairman of the subcommittee) presiding.

Present: Representative McIntosh.

Also present: Representative Coburn.

Staff present: Karen Barnes, press secretary; David White, clerk; and Liza Mientus, minority professional staff member.

Mr. MCINTOSH. The Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs will come to order. I am Congressman David McIntosh, from Indiana, chairman of the subcommittee.

Thank you for coming today to help us discuss what is an extraordinarily important issue and one, quite frankly, that a lot of folks in Washington just don't seem to get, and that is the tangled web of redtape that our regulatory process weaves that often costs us jobs, increases prices, and, quite frequently, we are discovering, harms the environment and hurts our citizens in that way.

I want to say thank you to my colleague, Tom Coburn, for inviting the subcommittee to his district for this field hearing. It has been a real pleasure working with Tom, one of the real leaders in our freshman class, to help ease the burdens of unnecessary regulations.

I wanted to also mention another colleague of ours, Gary Condit, who is the minority representative for this field hearing. Unfortunately, Gary got trapped in Denver when his flight got canceled, so we are going to have to catch up with him a little bit later and share with him the testimony that we receive today.

You know, this Congress has started to make a difference on the number of regulations we have; last year, there were 10 percent fewer regulations than the year before. But it is a huge job and one that is not easy to change the way that Washington does business.

I am convinced more and more that the American taxpayers want us to bring real regulatory relief and restore common sense to our Government. Frankly, it is time that we get Government off of their backs and back on their sides in these regulatory programs.

Now, to do this, we need to hear from you, the citizens in this country. For too long, Washington has insulated itself from real Americans, and so this subcommittee has taken its program out to the countryside to hear from real people about the consequences of our regulatory programs. We have held 18 subcommittee hearings from Washington State to Washington, DC, from Maine to California, from my home State of Indiana here to Oklahoma.

Earlier this morning, we were in Norman, where Congressman J.C. Watts set up a field hearing for us to hear about the costs of regulations in the energy industry. And it helped explain why we are all paying higher gas prices today at the pump.

One of the things that I think we have to do, is talk about the need for regulatory reform and how oftentimes regulations give us conflicting signals about what to do. I will share with you one example of that. There was a farmer from my district named Kay Whitehead who came and testified that in our State, the local environmental department, the IDEM, specifies to them how they can handle the disposal of the manure on her pig farm.

Now, Kay distributes that manure by spreading it out on her fields, but the IDEM told her that she has to plow it into the fields to make sure that it doesn't run off into the streams. Well, along came the Soil and Conservation Service, which told her it is OK to spread the manure on the fields, but she didn't dare plow it in because of the fear of disturbing the soil and causing additional runoff into the streams.

Now, Kay said she didn't care which regulation she followed; she knew that whatever she did, she would be breaking one rule or the other. But she did confide in us that her neighbors had a strong preference that she plow the manure into the fields so they didn't have to live with it.

But those are the types of regulations we hear about and the problems that they cause for people in their everyday lives. I look forward to our hearing today so that we can go back to Oklahoma—to Washington, DC, and take the message from folks in Oklahoma about how we can restore common sense to our regulatory system.

Let me turn now to Tom to ask you if you have any opening statements. And then we will proceed to our first panel.

Mr. COBURN. Well, David, I do. First of all, you had a little bit of a word slip there about coming back to Oklahoma. We would like to move Washington to Oklahoma; we think we can put a lot of common sense into how it operates.

First of all, I want to thank you and your committee for coming here. I am very sorry Representative Condit is not here; this is a bipartisan committee, and it is not meant to be anything other than that.

I am struck by the fact that the Federal Government, in 1995, issued 65,000 pages of regulations for us to follow. Nobody knows what those regulations are. There is nobody in any area that understands all the regulations for any area. And, the fact is, that we have a bureaucracy that is out of control. And today, I know we are going to hear many comments from many different people on how the uncontrolled nature of that is impacting our ability to be free, No. 1; No. 2, our ability to raise our economic standard, create

jobs and create opportunities and, most of all, assure the fact that our children are going to have the opportunities that we have had.

And so, first of all, I am very thankful that you are here. I don't want to spend a lot of time talking; what I want to do is spend a lot of time listening. And I would hope that we will swear in the first panel of witnesses.

Mr. MCINTOSH. Thank you, very much, Dr. Coburn.

Let me, before we proceed with the witnesses, introduce a couple of the people here who have helped make this hearing possible. One is Karen Barnes, with the subcommittee. Karen sets up all of our field hearings.

And the other is Liza Mientus, who is with the Democratic staff; she helps make sure that we do well and has been kind enough to join us on a lot of these field hearings to make sure that it is truly a bipartisan effort for us as we go outside of Washington. The third person is David White. David is the timekeeper here.

We have asked each of the witnesses to try to keep your statements to 5 minutes so that we can have time for questions and answers and then, also, a time that, I think, is very important, called an open microphone session; after we have heard from the panels, where anybody in the audience can come and share your experiences with regulations and your suggestions for how we should change things in Washington.

All of the proceedings of this subcommittee will become part of the official record of our committee; we use it to help shape legislation to change some of the regulatory problems. And so I will be swearing in each of the panels of witnesses, as we are required to do, to make that part of the official transcript.

Let's call forward our first panel: Mr. Wayne Francis, who is the mayor of Henryetta; Sam Wade, the deputy CEO of the National Rural Water Association; and Gene Whatley, the executive director of the Oklahoma Rural Water Association; and Ron Meadows, superintendent of Prue.

Is it Prue?

Mr. MEADOWS. Yes.

Mr. COBURN. Prue.

Mr. MCINTOSH. OK. Prue. I thought perhaps it was Purdue with a few letters left out.

Mr. MEADOWS. No; but we do have a good basketball team at Prue. [Laughter.]

Mr. MCINTOSH. Thank you, gentlemen, for coming. Please repeat after me and raise your right hands.

[Witnesses sworn.]

Mr. MCINTOSH. Thank you.

Let the record show that each of the witnesses answered in the affirmative.

Our first witness today is Mayor Francis.

Mayor, I appreciate you coming. And I want to say it is very important that we hear testimony from our local government officials. We, in this new Congress, have tried to ease the unfunded mandates that come out of Washington, although I know there is still a long way to go. And so I appreciate your testimony and your joining us today.

STATEMENTS OF WAYNE FRANCIS, MAYOR OF HENRYETTA, OK; SAM WADE, DEPUTY CEO, NATIONAL RURAL WATER ASSOCIATION; JAMES GAMBLE, OKLAHOMA RURAL WATER ASSOCIATION; AND RON MEADOWS, PRUE PUBLIC SCHOOLS

Mr. FRANCIS. Mr. Chairman and members of the committee, my name is Wayne Francis, and I am the mayor of Henryetta, OK. The city of Henryetta began around the turn of the century as an important center of Oklahoma's early coal mining industry. Shortly after the mines opened, we also became the home of the State's early lead and zinc smelters. In 1928, our first glass plant opened, providing the foundation for today's largest employer, Anchor Glass.

In addition to Anchor, we are also proud to be the home of G&H Decoy, an internationally known manufacturer of decoys and other hunting paraphernalia, and Banner Engineering, a manufacturer of aircraft fuel filters. I am pleased to report that these, as well as others, are enjoying robust business growth.

In 1995, our population was estimated to be 6,250. The quality of life in Henryetta is directly dependent on our wonderful natural resources. Unfortunately, our early mining and smelting activities left ghosts of the past which we are still trying to correct. These problems were neither intentional nor were they created by their ancestors with any type of mean spirit; they simply reflect the fact that we the people have learned so much about our environment's impact on our own health, and about better ways of doing things.

I have 10 beautiful grandchildren who are the center of my world; I am especially proud of my city's accomplishments, which will make this a better place for them to live. For example, thanks to our friends at EPA and the Oklahoma Department of Environmental Quality, we are developing a cooperative project to clean up the pollution from the old smelter. This project promises to turn an eyesore and health hazard into a new real estate resource for our community.

I am also proud of the new, state-of-the-art sewage treatment plant which we have recently completed. I am extremely distressed, however, over some of the events that have occurred in the process that led to our construction of the plant. Our commitment to improve wastewater treatment began in the early 1970's.

In 1974, we completed a major renovation of our sewage treatment plant. We then undertook a series of actions designed to correct problems with infiltration and inflow. From 1976 to 1987, Henryetta struggled to eliminate these problems. Our struggles were magnified by the fact that due to the nature of our problems, we were prohibited from accessing Federal funding for water pollution control; we therefore funded all of these sewer-collection improvements ourselves.

Like many communities, our infiltration and inflow problems caused us to bypass raw sewage during rainstorms. We worked with EPA and DEQ to develop a strategy for eliminating this problem, along with a rational schedule of accomplishing the work.

This arrangement was progressing well until EPA selected new personnel to work on our case; without knowledge of, or deference to, either our past accomplishments or our future schedule, they caused EPA to levy a \$125,000 fine against the city. After a great

deal of time, trouble, and expense, we convinced EPA to reduce our fine to \$27,000 as long as we progressed with our needed improvements.

We not only paid our EPA fine, but we also invested \$4.9 million of our own money in our recently completed sewage treatment plant. This investment caused our sewer rates to soar from the previous \$4.50 per month to \$22 per month. I can tell you, based on the abundant and very direct input from my constituents, the citizens of Henryetta will not support increased investment in the sewer system.

In spite of this, I am learning that our past endeavors may not have been sufficient. At the same time we have been struggling to make our improvements, a number of State and local agencies have been conducting a water quality planning process. The outcome of that process is that despite the new, state-of-the-art technology, we cannot make our wastewater sufficiently clean. Because of this, some people are now advocating that we invest an additional \$2 million in wastewater technology; even so, there is no expert who can assure us that this will bring us into total compliance.

It causes me great frustration to admit to you that Henryetta has become a case study in poor intergovernment communication and questionable public policy. Since 1974, we have set national policy that did not allow regional officials to recognize our local accomplishments and desires. More importantly, we have pursued objectives defined by science, divorced from any consideration of local and national financial capabilities.

As much as I wanted you to understand these problems and my frustrations over them, I am really more anxious to tell you about our role in developing a possible solution. For the past 6 months, we have been involved in a new project where our regulators have actually become our helpers.

EPA and DEQ are now helping us and are working with us to find solutions in our wastewater, our water, and our garbage collections. We were the first experiment in the new way of doing business, and it has been so successful that officials from other communities are now asking me how they can get such help for their cities.

The concept of unfunded mandates is not the problem; it is only a symptom. I want clean water for my grandchildren, and there is no disagreement about it. We have gone astray by creating national standards that do not acknowledge local details; the Federal Government should continue to define national objectives.

The States should be charged with developing strategies appropriate to their areas to achieve the national objectives. I am pleased to report that in Oklahoma, this State process will ensure local governments have a seat at the table where such public policy is formulated.

Thank you for the opportunity.

[The prepared statement of Mr. Francis follows:]

My name is Wayne Francis, and I am the Mayor of Henryetta, Oklahoma. The City of Henryetta began around the turn of the century, as an important center of Oklahoma's early coal mining industry. Shortly after the mines opened, we also became the home of one of the State's early lead and zinc smelters. In 1928, our first glass plant opened, providing the foundation for today's largest employer in the City, Anchor's Glass Container Manufacturing Plant.

In addition to the Anchor-Hocking Glass Manufacturing Plant, we are also proud to be the home of G & H DeCoy, an internationally known manufacturer of decoys and other hunting paraphernalia. Banner Engineering, a manufacturer of aircraft fuel filters is also an integral part of our economic base. I am pleased to report that these, as well as other Henryetta Manufacturers are enjoying robust business growth.

In 1995, our population was estimated to be 6,250. Throughout most of our community's history, our population has been at that level or slightly higher. Those who study future possibilities for communities like ours do not predict significant population growth.

The quality of life in Henryetta is directly dependent on our wonderful natural resources. Unfortunately our early mining and smelting activities left ghosts of the past which we are still trying to correct. These problems were neither intentional nor were they created by our ancestors with any type of mean spirit. They simply reflect the fact that we as people have learned so much since then about our environment's impact on our own health, and about better ways of doing things.

I have ten beautiful grandchildren, who are the center of my world. I am especially proud of my city's accomplishments which will make this a better place for them to live.

For example, thanks to our friends at EPA and the Oklahoma Department of Environmental Quality, we are developing a cooperative project to clean up the pollution from the old smelter. This project promises to turn an eyesore and health hazard into a new real estate resource for our community.

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Like many other communities, our infiltration and inflow problems caused us to bypass raw sewage during rainstorms. We worked with EPA and DEQ, to develop a strategy for eliminating this problem, along with a rational schedule for accomplishing the work. This arrangement was progressing well until EPA selected new Personnel to work on our case. Without knowledge of or deference to either our past accomplishments or our future schedule, they caused EPA to levy a \$125,000 fine against the City. After a great deal of time, trouble and expense, we finally convinced EPA to reduce our fine to \$27,000, as long as we continued to progress with needed improvements.

We not only paid our EPA fine, but we also invested \$4.9 million of our own money in our recently completed sewage treatment plant. This investment caused our sewage rates to soar from the previous \$4.50 per month to \$22.00 per month.

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In spite of this, I am now learning that our past endeavors may not have been sufficient. At the same time we have been struggling to make our improvements, a number of state and federal agencies have been conducting a water quality planning process. The outcome of that process is that, despite our state-of-the-art technology, we cannot make our wastewater sufficiently clean. Because of this, some people are now advocating that we invest an additional \$2 million in wastewater technology. Even if we do, there is no expert who can assure us that this will bring us into total compliance.

It causes me great frustration to admit to you that Henryetta has become a case study in poor inter-government communication and questionable public policy. Since 1974, we have set national policy that did not allow regional officials to recognize our local accomplishments and desires. More importantly, we have pursued objectives defined by science, divorced from any consideration of local and national financial capabilities.

As much as I wanted you to understand about these problems, and my frustrations over them, I was really much more anxious to tell you about our role in developing a possible solution. For the past six months, we have been involved in a new project where our regulators have actually become our helpers. EPA and DEQ, have joined forces to create a new way of doing business. Rather than simply telling us what to do, our regulators have rolled up their sleeves and actually joined with us to become part of

the solution. They are helping us analyze all of our environmental infrastructure to develop an achievable plan for continuing improvement. Experts from EPA and DEQ are helping us improve everything from our drinking water to our garbage collection.

We were the first experiment in this new way of doing business. It has been so successful that officials from other communities are now asking me how they can get such help for their cities. The concept of unfunded mandates is not the problem. It is only a symptom. I want clean water for my grandchildren. There is no disagreement about that. We have gone astray by creating national standards that do not acknowledge local details. The federal government should continue to define national objectives. The states should be charged with developing strategies appropriate to their areas to achieve the national objectives. I am pleased to report that, in Oklahoma, this state process will ensure that local governments have a seat at the table where such public policy is formulated.

My most important message to you, however, is about the regulatory process. Let us all learn from the Henryetta experiment. Federal, state and local government cooperation is far superior to one way dictation. I would love to tell you more about this and I would be happy to answer your questions.

Mr. MCINTOSH. Thank you very much, mayor. I appreciate your testimony, and I appreciate your insights on some of the solutions for how we can work better with the local government.

Our next witness in this panel is Sam Wade, who is the deputy CEO of the National Rural Water Association.

Mr. Wade, I appreciate you coming.

Mr. WADE. Thank you, sir. And thank you for the opportunity to provide testimony before your panel. And let me also take the opportunity to welcome you to the great State of Oklahoma. And, certainly, it is appropriate that it is in Claremore, the home of Will Rogers, who, I am sure, would be delighted to give his commentary on the subject. [Laughter.]

The National Rural Water Association, through its member State affiliates such as Oklahoma Rural Water, represents in excess of 16,000 public utilities across the country. We train over 40,000 water people a year and provide over 60,000 types of onsite technical assistance to local governments in operation, maintenance, management, and finance of their water utilities.

Since the reauthorization of the Safe Drinking Water Act will come before the House probably in the next week, we hope, my remarks will focus on the hidden cost of the current law and the need for House passage of H.R. 3038, a companion bill to S. 1316 which passed the Senate 99 to nothing.

Mr. Chairman, the majority of water systems in this Nation serve less than 3,300 people and are governed by local elected officials such as the mayor that you just heard from. They are also operated by certified water operators who are dedicated to insuring public health protection with the high quality of safe drinking water.

The current law, while well-intended, often hinders that public protection by diverting limited resources away from true immediate public health issues. It should be clear that the local officials and the thousands of certified operators that run those systems are 100 percent in support of regulations that provide protection and public health; no one is more concerned about that than the people in this industry.

Our concern is the cost that consumers have to pay through higher water rates to regulate, test, and monitor for contaminants not even found in public water supply systems; that runs to about \$1 billion every monitoring cycle. That billion dollars spent in the last monitoring cycle could pretty much have eliminated the cryptosporidium problem. That billion dollars that was—cost in the last monitoring cycle is more than the amount of money available for water systems to borrow and expand their treatment, improve their treatment, and provide water to individuals whose only recourse is drinking contaminated water from individual well sites.

The current Safe Drinking Water Act has placed handcuffs on local officials, forcing them to make bad decisions on spending priorities. The hidden cost of the current law is what communities sacrifice in order to comply with regulations that just do not fit on a local level. One must ask where the dollars are coming from to comply with the one-glove-fits-all regulations.

NRWA conducted a report that I would like to submit for the record, if I may. It shows that those dollars are coming from capital

expenditure funds, they are coming from salary and training accounts, and they are coming from operations and maintenance accounts. That leads to a deteriorating infrastructure over a period of time.

For example, in Ariton, AL, which was one system, about 400 connections were closed down at will. It will also stop its progress in providing water to some people that are drinking individual contaminated wellwater.

With the current consideration of the Safe Drinking Water Act, we strongly oppose any increased EPA authority in State operator certification programs and State capacity development programs. Neither the Senate bill nor the current law includes these new authorities. H.R. 3038 increases public health protection by providing flexibility to the local level and to State regulatory agencies.

Mr. Chairman, H.R. 3038 provides a cost-benefit analysis procedures and a commonsense, scientific approach to regulations and standard-setting, rather than the current emotional political agenda. Contrary to extremist environmental claims, H.R. 3038 does not weaken public health standards; those standards continue to be set at ultra-safe levels. That level is based on drinking two liters of contaminated water every day for 70 years; and then the chance of health impact is one in a million.

Mr. Chairman, that is the equivalent to smoking two cigarettes in a lifetime.

And, Dr. Coburn, if I may make one statement? I recently listened to a press conference you had in reference to an environmental report by the Environmental Working Group. And you stated you had every confidence in the public officials who govern, manage, and operate rural and small municipal water systems. And I want to publicly thank you for that confidence; I believe, by far, the vast majority of people in this country have that confidence in their local officials.

It is a confidence that local officials and, especially, water officials take very, very seriously. They drink the water they produce; their children do, their families do, and their neighbors do. And I appreciate the opportunity to provide our statement, and we will be glad to answer any questions you may have.

[The prepared statement of Mr. Wade follows.]

Written Testimony
of
Sam Wade, Deputy CEO
National Rural Water Association
Regulatory Hearing
May 20, 1996
Claremore, Oklahoma

Thank you, Mr. Chairman, for the opportunity to provide testimony before this panel. The National Rural Water Association through its member state affiliates, like Oklahoma Rural Water, is the nation's largest water utility membership organization representing over 16,000 public water utilities governed by local elected officials. Since the reauthorization of the Safe Drinking Water Act is currently being addressed in the House my remarks will focus on the hidden cost of the current law and the need for House passage of H.R. 3038 a companion bill to S. 1316 that passed the Senate 99-0.

Mr. Chairman, the majority of water systems in the nation serve less than 3,300 population and are governed by local elected officials and operated by certified water professionals dedicated to protecting public health with high quality drinking water supplies.

The current law, while well intended, is often hindering public health protection by diverting limited resources away from true immediate public health issues. Let me make it clear that local officials and the thousands of certified water operators in the nation are 100% in support of regulations that insure the safety of the water supply. No one is more concerned about the safety of our drinking water than we are. Their concern is the cost consumers have to pay through increased water rates for the testing and monitoring of contaminants that are not in the water. The more than one billion dollars spent in the last monitoring cycle for these types of contaminants could have solved the cryptosporidium problem, the one billion dollars spent on monitoring for these types of contaminants is more than was available to upgrade, build and expand treatment to provide a safer product and provide water to people whose only recourse is contaminated individual wells. Simply stated, Mr. Chairman, the Safe Drinking Water Act has placed handcuffs on local officials forcing them to make bad decisions on spending priorities.

The hidden costs of the current law is what communities sacrifice in order to comply with regulations that don't fit. One must ask where the dollars are coming from to pay for these one-glove-fits-all regulations. A report conducted by NRWA, which I would like to submit for the record, shows that those dollars are being taken from limited maintenance funds, capital expenditure accounts, training and salary accounts. The communities' priorities are delayed or canceled in order to pay for EPA priorities. Our report details specific regulations and specific communities. For example, in Ariton, Alabama compliance monitoring for phase II and V contaminants will cost a total of \$22,320.00. To pay for monitoring, Ariton may have to shut down at least one of their three wells. Also, the town will be unable to install a line under nearby railroad tracks to hookup more families not currently on the public water supply system. With regard to

current House consideration of the Safe Drinking Water Act, we strongly oppose any increased EPA authority in state operator certification programs and state capacity development programs. Neither the Senate bill nor the current law include these new authorities. H.R. 3038 increases public health protection by providing flexibility to direct limited resources to the most pressing public health contaminants. It provides state regulatory officials flexibility rather than a one-glove-fits-all approach. Mr. Chairman, H.R. 3038 provides a cost benefit analysis procedure and a common sense scientific approach to regulations and standard setting rather than the current emotional political agenda. Mr. Chairman, contrary to some extremist environmental claims H.R. 3038 does not weaken public health standards. Those standards continue to be set at an ultra safe level. Mr. Chairman, that level is based on drinking two liters of the contaminated water every day for seventy years and is equivalent to a one in a million chance of a health impact. Mr. Chairman, that is equivalent to smoking two cigarettes in a lifetime. Those ultra safe standards remain in H.R. 3038. And if I may make one statement to Mr. Coburn. I recently listened to a press conference you held in reference to a report released by the Environmental Working Group. You stated that you had every confidence in the people who govern, manage and operate rural and municipal drinking water systems. I believe the majority of people in this country have that same confidence. It is a confidence local officials take very, very seriously. After all they drink the water they produce as does their children, their friends, and neighbors.

We appreciate the opportunity to provide this statement and encourage this panel to continue to focus on bringing common sense and sound science into the regulatory process.

Mr. MCINTOSH. Thank you very much. I also particularly appreciate you putting into context the risk levels that we are dealing with. I think people would be shocked if they realized that the claim that we were rolling back environmental protection meant that we are taking it to a standard where you smoked two cigarettes in a lifetime, the level of risk.

Our next witness on this panel is Mr. Gene Whatley, who is the executive director of the Oklahoma Rural Water Association.

Mr. Whatley, thank you for joining us.

Mr. GAMBLE. Mr. Chairman, members of the committee, my name is James Gamble; I am a representative of the Oklahoma Rural Water Association. I am here in place of Gene Whatley today, who is unable to attend.

Our association represents 420 rural and small community water and wastewater systems that serve over 600,000 people in rural Oklahoma. We appreciate the opportunity to present our concerns about unfunded Federal mandates and the inequities of current Safe Drinking Water Act requirements.

To begin, I would like to acknowledge and express our appreciation to Congressman Tom Coburn for his efforts to eliminate unnecessarily and overly burdensome Safe Drinking Water Act mandates. Congressman Coburn is right on target in working for practical, reasonable and cost-effective regulations that are based on sound sciences.

Oklahoma is a rural State, as 95 percent of our 1,211 community water supply systems serve populations of under 10,000; 85 percent of these systems serve less than 3,300. These systems are managed and operated by conscientious directors and employees that are committed to providing clean, safe water for their neighbors, families, and communities. According to the Public Drinking Water Report that was published by the Oklahoma Department of Environmental Quality in April of this year, less than 1 percent of the systems in Oklahoma were out of compliance with bacteriological and chemical standards in 1995.

Mr. Chairman, the Safe Drinking Water Act amendments of 1986 were based on technical feasibility and affordability for the Nation's largest water systems; the act arbitrarily established requirements for monitoring of 25 new contaminants every 3 years without regard for cost or real health benefits achieved.

Our systems are doing a good job of complying with requirements of the act, but the price is high; systems are wasting limited financial resources testing for contaminants that are not present in their water supplies. Moneys needed for systems operations and improvements are being diverted to monitoring for contaminants that do not pose a significant risk to public health. As more and more regulations are implemented by the EPA, it is becoming increasingly difficult for small systems to comply.

The average expenditure for drinking water was \$352 per household in 1991. The water rates of rural water systems are typically 50 to 100 percent higher than rates in urban areas. As costs associated with the Safe Drinking Water Act compliance increase, we take the risk that consumers will return to unsafe and unreliable individual water supplies, rather than pay the increasing rates for public water.

Three rules currently proposed by the EPA would increase the annual cost per household for the average rural water system in Oklahoma to \$458 per household, the biggest one of these rules being the disinfection by-product rule. This would increase the cost almost \$200 a year. The small systems in Oklahoma support regulations necessary for protecting public health, but we oppose the current system of regulation just for the sake of regulation.

Mr. Chairman, we need Safe Drinking Water Act reforms that bring common sense to the regulatory process. We need regulations based on sound science. The benefits of regulation should justify the cost. State and local entities need more flexibility in establishing monitoring programs that meet local situations; we need to be able to utilize limited financial resources where they will provide the greatest benefit in protecting public health.

In closing, Mr. Chairman, onsite technical assistance programs administered by the National Rural Water Association through its State affiliates is the backbone of small system compliance. Technical assistance has proven to be more effective and less costly in solving compliance problems than bureaucratic enforcement policies; this program also promotes grassroots support for the Safe Drinking Water Act requirements and promotes local initiative in finding solutions for problems.

We urge Congress to continue funding for these important programs. Thank you, again, for the opportunity to present our concerns to this committee.

[The prepared statement of Mr. Whatley follows:]

CONGRESSIONAL REGULATORY HEARING
MAY 20, 1996
CLAREMORE, OKLAHOMA

Testimony of : Gene Whatley, Executive Director
Oklahoma Rural Water Association
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Mr. Chairman, members of the committee, I am Gene Whatley, Executive Director of the Oklahoma Rural Water Association. Our Association represents 420 rural and small community water and wastewater systems that serve over 600,000 people in rural Oklahoma. We appreciate the opportunity to present our concerns about unfunded federal mandates and the inequities of current Safe Drinking Water Act requirements.

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Mr. Chairman, we need Safe Drinking Water Act reforms that bring common sense to the regulatory process. We need regulations based on sound science. The benefits of regulations should justify the cost. States and local entities need more flexibility in monitoring programs that meet local situations. We need to be able to utilize limited financial resources where they will provide the greatest benefit in protecting public health.

We support S1316 and HR3038. These bills do not include every reform that we think is needed, but they are a great improvement over current law. We need these bills passed now to provide urgently needed regulatory relief.

In closing, Mr. Chairman, on-site technical assistance programs administered by the National Rural Water Association, through its state affiliates, is the backbone of small system compliance. Technical assistance has proven to be more effective and less costly in solving compliance problems than bureaucratic enforcement policies. This program also promotes grassroots support for SDWA requirements and promotes local initiative in finding solutions for problems. We urge Congress to continue funding for these important programs.

Thank you again for the opportunity to present our concerns to the Committee.

Mr. MCINTOSH. Thank you. I appreciate it. Let me make sure I have your name right. It is James Gamble?

Mr. GAMBLE. Yes.

Mr. MCINTOSH. Thank you for joining us, Mr. Gamble.

Our fourth witness on this panel is Mr. Ron Meadows, who is the superintendent of Prue Public Schools.

Thank you, Mr. Meadows. I appreciate you joining us.

Mr. MEADOWS. Thank you, Mr. Chairman.

Thank you, Congressman Coburn.

I have been involved in public education for 26 years. I have served as a classroom teacher for 11 years, as a teaching principal for 5 years and as superintendent of schools for the last 10 years; the last 6 years have been in my present position.

I am dedicated to public education, and I am concerned that the public seems to have a low opinion of public schools. Comparisons are often made between public and private education; these comparisons are grossly unfair because of the laws and regulations imposed on public schools with which private schools are not required to comply.

"He is a jack of all trades and a master of none" is an old description often applied to a person who has some knowledge in many areas and not much knowledge about anything in particular. It is my opinion that State and Federal regulations are placing public schools in a similar condition; the public schools can no longer concentrate on giving their students the strong basic education which is needed, because too many regulations have to be met. We have equipment which could be better used if there were fewer regulations.

I would like to digress just a little bit from my prepared statement and say that, along the lines of the previous witnesses, we at Prue schools have had to contend with regulations from DEQ. And the Water Resources is one that—one thing that seems very foolish to me is testing for silver when there has never been any silver anywhere in the area—and asbestos and so many other things that we have to contend with.

But now, I would like to comment specifically about special education. I know of no educator who does not have a desire to provide the best education possible to his or her students. However, the Federal Government cannot solve everyone's problem. The taxpayers of this country cannot pay the bill to solve all problems.

When I came to my present position, our school was in one of the districts which had voluntarily agreed to serve students who were residents of the Hissom Center. We tried very hard to provide appropriate opportunities for these special students. In return for our efforts, we were a party to a lawsuit which cost our district thousands of dollars; these dollars could have been used to educate students.

Later, a student with special handicaps moved into our district. My heart goes out to the student and to the student's family. The student, however, had a severe impact on an already poor district. The district had to modify a bus with a wheelchair lift; as a result of the modifications, there were no longer enough seats on the bus to seat the other students. We found it necessary to add another bus route.

These changes meant more fuel for buses and an extra bus driver's salary. An extra transportation expense resulted because the student required constant attention; an adult had to be paid to ride the bus to take care of the student's needs. Other expenses resulted because a full-time paraprofessional had to be employed to care for the special student's needs during the school day.

We were required to provide physical therapy and occupational therapy for this student. Special equipment had to be purchased. Many other expenses were incurred making modifications to the school facilities. During the 2½ years we have served this student, our district has expended tens of thousands of dollars which could have been used much more productively.

I am talking about a student with no potential of making a contribution to society. It is my opinion that we must realize that we cannot finance a solution to every problem.

I do commend the Congress for the progress which you have recently made in removing restrictions. I realize that some requirements have been imposed by the courts. We must, however, be more reasonable; we must provide for those students who can be productive. Please let us teach by removing these constricting regulations.

Thank you for this opportunity.

[The prepared statement of Mr. Meadows follows:]

RON MEADOWS
PRUE PUBLIC SCHOOLS

Thank you for giving me this opportunity to express concerns which I have about the many laws and regulations with which we in public education must contend.

I have been involved in public education for twenty six years. I served as a classroom teacher for eleven years. For five years I worked as a teaching high school principal. I have served as superintendent of school for the last ten years. The last six have been in my present position. I am very dedicated to public education and it concerns me very much that public education seems to be suffering from low public opinion. Comparisons are often made of public education to private education. These comparisons are grossly unfair because of laws and regulation imposed on public schools with which private schools do not have to deal.

"He's a jack of all trades and a master of none" is an old description often applied to a person. It is my opinion that federal requirements have served to place public schools in this condition. The public school can no longer concentrate on giving our students the strong basic education which is needed because too many regulations have to be met. We have equipment which must be used in restricted ways and not to the betterment of all students.

Now, I would like to comment specifically about special education. I know of no educator who does not have a desire to provide the best education possible to students. However, the federal government can not solve everyone's problems. The taxpayers of this country can not pay the bill to solve all problems. When I came to my present position, our school was one of the districts which had voluntarily agreed to serve students which were residents of the Hisson Center. We tried very hard to provide appropriate opportunities to these special students. In return for our efforts, we were a party to a lawsuit which cost our district thousands of dollars which could have been used to educate students.

Later, a student moved into our district with many handicaps. My heart goes out to this student and this student's family. However, this student had a severe impact on an already poor district. The district had to modify a bus with a wheelchair lift. As a result of the modification there was no longer enough seats on the bus to seat the other students. We found it necessary to add another bus route. These changes meant more fuel for buses and an extra bus driver's salary. Another transportation expense resulted because this student required constant attention. An adult had to be paid to ride the bus to take care of this student's needs.

Other expenses resulted because a full-time paraprofessional had to be employed to care for this special student's needs during the school day.

We were required to provide physical therapy and occupational therapy for this student. Special equipment had to be purchased. Many other expenses were incurred making modifications to the school facilities. During the two and one half years we have served this student, our district has expended in excess of \$100,000 which could have been used much more productively. I am talking about a student who not only has never said a word but this student has no understanding of a word. I am talking about a student with no potential of making a contribution to society.

It is my opinion that we must realize that we can not finance a solution to every problem. We must be more reasonable. We must provide for those who can be productive. Please let us teach. Remove foolish regulations.

Thank you for this opportunity.

Mr. MCINTOSH. Thank you very much. I appreciate that. I hear a lot about that in one of my other committee assignments on—in the Opportunities Committee, about the IDEA legislation and the costs that it imposes.

Well, thank you all for coming. I wanted to explore some of the things that you mentioned in your testimony. One of them was really a question for those of you who dealt with the water situation: Were there any statistics showing that there was an increase in health hazards in the communities that you serve or indication that there were severe problems that prompted the increase in the expenditures that are being mandated for the water treatment facilities?

And mayor, I might start with you. If there was—Did you feel that the additional requirements on your system were mandated out of an urgent need for protecting the public?

Mr. FRANCIS. No, sir. We have been out of compliance a couple of times on lead, but the biggest part of that is due to the homes themselves, and not on the city lines. So it is kind of hard to go and tell somebody, "You have got to replace all your water lines," when—you can't really force them to unless you just pull their meter.

Mr. MCINTOSH. Yes. Would there have been other priorities that you would have had for your city to try to help improve living conditions if you could have decided to use the money in a different way?

Mr. FRANCIS. I think Henryetta has a lot of problems that need to be addressed. We still have water and sewer problems that will take several millions of dollars to overcome. But when you are sitting here and you are paying money out with no guarantees from engineers or the Department of Environmental Quality or EPA to tell you that, yes, we are going to guarantee that this is going to work, and you are going to spend \$2 million more with no guarantee, I don't think we ought to be forced into doing it.

Mr. COBURN. Let me ask a quick followup question to that, if I may, David.

Mr. MCINTOSH. Yes, Dr. Coburn.

Mr. COBURN. They changed personnel, you get a fine because they didn't like the progress of what you are doing, you negotiate that down to \$27,000. How much did you spend on attorneys?

Mr. FRANCIS. On what?

Mr. COBURN. On attorneys, lawyers.

Mr. FRANCIS. Several thousand dollars.

Mr. COBURN. All right. So there are a lot of hidden costs besides the direct costs there?

Mr. FRANCIS. Right.

Mr. COBURN. How about the time of the people that worked for Henryetta that could have been doing something else that the citizens of Henryetta wanted them doing?

Mr. FRANCIS. We probably spent a total of 20 days just in different ones' time trying to work this out with different officials.

Mr. COBURN. All right. One other question I have for you, mayor, is: When you ask, "Who is going to tell us how we are going to solve this problem?" and they tell you what you have to do and

they say they can't guarantee you, when you ask, "Who can guarantee?", what do they say? What is the answer?

Mr. FRANCIS. They don't have any guarantees. They don't have any answers.

Mr. COBURN. So, in other words, spend \$2 million, and you may spend \$2 million more, and you may spend \$2 million more?

Mr. FRANCIS. Right. There is no guarantee that we can meet the quality that they want from our state-of-the-art wastewater treatment plant.

Mr. COBURN. The plant now; yes.

Mr. FRANCIS. We have a sewer treatment plant that is equal to Tallequah, OK right now. And Ardmore, OK, is having the same problems we are, and they are faced with the same problem as we are. I talked to their officials 2 weeks ago.

Mr. COBURN. OK.

Mr. MCINTOSH. We appreciate that. We hear about that from cities all across the country.

How about you, Mr. Wade, or you, Mr. Gamble? Any incidences that you know of such as the one Mr. Meadows mentioned, where they had to test for silver even though there is none anywhere near to be found? Is that a common problem with the regulations?

Mr. WADE. I believe it is, sir. The thing that water systems are concerned about—certainly, we need to test and to check to see if things are in our water. But if it is not there, then we shouldn't have to continually test for something that isn't there. And in the current regulation, that is about \$10,000 per source.

For a small community—you were talking about hidden costs—most State regulations require a small community to have backup water sources. So you are not talking about one test for one well; you are talking about multiple costs and then continuous costs, when it is not even found there. And that is the biggest problem that systems, I think, have found with the current monitoring regulations.

Mr. COBURN. Can you give us the data? That—you mentioned \$1 billion in monitoring costs?

Mr. WADE. Yes.

Mr. COBURN. Can you submit that to this committee so we can have them?

Mr. WADE. Yes; I certainly can.

Mr. COBURN. OK. Thank you.

Mr. MCINTOSH. That would be very helpful. Thank you.

Mr. Gamble, anything that you are familiar with?

Mr. GAMBLE. Yes. I would like to add that there is a new rule coming out; they are calling it the Synthetic Organics, which is more or less things that are man made. And in some areas, these are not—currently, some of these are not used in certain areas, and they have to test for them.

And the way the test procedure goes, to—my understanding is there are five different tests that can possibly be run, and the cost for each test is \$500. So you are talking a possibility of \$2,500 per source. For example, if someone had multiple wells, you are talking several thousand dollars being invested. And, as a matter of fact, we talked to the city of Tonkawa, who did spend \$2,500 testing for SOC's on a certain well they had.

Mr. MCINTOSH. And there was no indication that they had any exposure or any source of that anywhere in the water?

Mr. GAMBLE. No. They replied that there was none that they knew of.

Mr. MCINTOSH. Now, once they do one test, do they have to continue that the next year and the next year and the next year?

Mr. FRANCIS. Sometimes.

Mr. GAMBLE. It depends on the variety of the test. The SOC's are—usually, that is an upfront monitoring. And then it is waived over a certain period of time, and then you have to come back and retest for it.

Mr. MCINTOSH. Let me ask you a question, Mr. Wade. You mentioned cryptosporidium, that the billions of dollars that were spent in this type of testing around the country could have effectively solved any risk that we have of exposure to that.

And this was something that came up very early on in this subcommittee when we were looking at legislation to put a moratorium on new regulations. There was a scare that, Oh, my goodness; you are going to expose everyone to cryptosporidium, when, in fact, we have said anything that impedes safety, of course, or promotes safety, would not be affected.

But let me ask you: How would you have recommended they go about doing that? What change that—instead of the monitoring, you would have had them invest into what sort of thing to actually address that problem?

Mr. WADE. As Dr. Coburn knows, cryptosporidium is primarily with surface water supplies. The majority of the large utilities in this country have no filtration. And currently, to my knowledge, filtration—in optimum processes—filtration processes is the only known treatment for cryptosporidium. So the money really should go to build water systems, to build treatment processes in surface water supplies.

Mr. MCINTOSH. That would have been able to provide that filtration?

Mr. WADE. Sure.

Mr. MCINTOSH. Well, why do you think the agencies choose to monitor, rather than to actually spend the money to solve the problem?

Mr. WADE. I think it is the bureaucracy. Certainly, I know a lot of people in EPA in the water division and groundwater division whose heart is in the right place, but they don't know how it impacts on small water utilities. Until recently, in the past 5 years, they had no knowledge that the majority of—or, at least, didn't accept the knowledge that the majority of water systems in this Nation serve less than 3,300 people while the 1986 amendments are based on what is affordable for 100,000 and more. So I don't think any of that is intentional; I think it is the bureaucracy.

And, also, if I may, in violations—you know, in any manufacturing process when you have quality control and you start to test and you can see if something is going a little bit out of standard procedures, then you have time to correct it. In our water treatment, there is no leeway; you are either in or you are out. And so violations shouldn't be looked at as being strictly negative; it means that the system is working. It means that water systems are doing

what they should be doing: They are testing, and when something is out, then they take steps to correct it.

Mr. MCINTOSH. I appreciate that. One of the things you will be pleased to know is we actually passed, and the President signed into law, an enforcement mechanism to force the agencies to take into consideration the effects on small businesses and small communities explicitly when they write these regulations, or else they will be subject to a lawsuit.

Now, none of us likes to see additional lawsuits; but I have noticed that if you use that pressure of the legal system on the agencies, they sit up and take notice. And so that, hopefully, will help them do a better job at the beginning in the drafting of those regulations. Thank you.

Dr. Coburn, do you have any further questions?

Mr. COBURN. Yes; just a couple.

Mr. MCINTOSH. OK.

Mr. COBURN. Mr. Gamble, you alluded to the fact that the post-chlorination byproduct that is proposed presently of—if we follow the level I and the level II on the rulemaking that was proposed by EPA, it is going to cost the average consumer of water in Oklahoma \$200 per household per year? Did I understand that correctly?

Mr. GAMBLE. Yes. Those—the figure of up to \$200 per household increase is what it would cost.

Mr. COBURN. All right.

Mr. GAMBLE. And those figures actually came from—

Mr. COBURN. All right.

I want everybody here to know what that rule is. That is a rule that the EPA has put out, an agreed-to rulemaking, that is based on the fact that something might be a potential carcinogen; in other words, it might potentially cause cancer.

The levels at which those are controlled now, they are talking about reducing that by greater than 50 percent, to 40 parts per billion. There is no science—zero science—that would support doing that and would avert any cancers.

So the reason that that is interesting is: If we can't change that, which I am working very hard to try to change now, what we are really doing is talking about really raising everybody's water bill \$200 a year in this country. And it is not based on science; it is based on emotion. And that is part of the problem with the things that we have seen. I want to also ask, if I can, the mayor.

Why was it that you were not able to access some of the grant funds? What were the peculiar requirements for Henryetta that made you be handicapped in terms of competing with other cities in Oklahoma?

Mr. FRANCIS. At that time, there was—money and grants were not available if you had infiltration and inflow problems. So Henryetta was not allowed to ask for grants to get that done, so they have done it through bond issues and sales tax increases.

Mr. COBURN. OK. So I understand this correctly: If a city or a community has water problems based on inflow, we are not going to let them have any of the Federal money to help solve the problem, because they already have the problem?

Mr. FRANCIS. Right.

Mr. COBURN. Am I understanding that correctly? In other words, because you have an inflow and an infiltration problem with your water, that eliminates you from being eligible for Federal grants to help you solve the problem?

Mr. FRANCIS. Correct. That is the way I understand it—

Mr. COBURN. OK. I thought—

Mr. FRANCIS [continuing]. If I understood your question right.

Mr. COBURN. I thought that was what you said. And I—to me, it fits all too often with what I find in Washington.

I don't have any other questions.

Mr. FRANCIS. Mr. Chairman.

Mr. MCINTOSH. Yes; Mr. Mayor?

Mr. FRANCIS. Could I say one other thing in behalf of EPA and DEQ? In the past 6 months, we have had several meetings in Henryetta, OK, where they have brought in experts on water and sewage treatment and garbage. And they have sat at the table with us, trying to work out problems. And this is the first time in history that the State, Federal, and city governments have ever sat down together to try to solve somebody's problems.

People all over the State of Oklahoma in municipalities are asking me, How did you get this help? And we stumbled onto it.

Mr. COBURN. Why do you think it happened, Mr. Francis?

Mr. FRANCIS. Why do I think it happened?

Mr. COBURN. Yes.

Mr. FRANCIS. I think there is a lot of heat on the EPA and DEQ, plus the fact that the man that is the head of the Department of Environmental Quality knows that we cannot continue to go like we are now. We cannot fund and ask our citizens to pay high water and sewer bills any longer.

Mr. MCINTOSH. So you think there was a change of attitude?

Mr. FRANCIS. Right.

Mr. MCINTOSH. Good. Thank you.

One last question for Mr. Meadows on the IDEA legislation. One of the issues that we didn't address in Congress but I wanted to get your input on whether it is something we should try to take up next year: It appeared to me that one of the big concerns that I heard about was from the teachers, that they were concerned that they might be subject to unnecessary lawsuits, either if they disciplined problem children in the classroom or if they hugged somebody on the playground.

And I was wondering whether you thought it would be a good idea for us to look at a bill that said essentially unless there was potential harm involved, we will not be bringing in teachers into the courtroom to second-guess how they teach our students.

Mr. MEADOWS. I think that would be wise. As far as the hugging of students, I think that is a good thing; but I think, also, that it is something that people have to be extremely careful about.

But the discipline is a major concern. And we have had situations, not necessarily in our school, but in other schools that I am familiar with, that students who had an IEP—discipline and control is a major problem because if you find it necessary to suspend one from school then you have to provide the services at the home. And that gets to be terribly expensive, also. So there is just not

very much of a way to deal with it, really, under the existing legislation.

Mr. MCINTOSH. Well, thank you.

Mr. MEADOWS. Thank you.

Mr. MCINTOSH. Thank you, all, for coming today. I appreciate your testimony very much.

If the following witnesses would go ahead and please come forward: Sue Ann Clayton, Joe Cox, and Ted McGuire.

I also want you all to make note we are running 5 minutes ahead of schedule. OK? We do know how to do things on time.

Thank you. If you all would, please rise and raise your right hands.

[Witnesses sworn.]

Mr. MCINTOSH. Thank you.

Let the record show each of the witnesses answered in the affirmative.

Our first witness today is Sue Ann Clayton. And Sue Ann is a patient with cystic fibrosis and is here to talk with us about her experiences fighting that disease.

Thank you for joining us.

STATEMENTS OF SUE ANN CLAYTON, CYSTIC FIBROSIS PATIENT; JOE COX, PRESIDENT, HYDROHOIST INTERNATIONAL, INC.; AND TED MCGUIRE, PRESIDENT AND CEO, RCB BANK

Ms. CLAYTON. Thank you for having me. My name is Sue Ann Clayton, and I have cystic fibrosis, which is a fatal genetic disease. My lungs fill up with sticky mucus. And you will have to excuse me; I haven't been feeling well in the last couple of weeks.

I was first diagnosed with cystic fibrosis when I was 18 months old by an Egyptian pediatrician in Libya. And at that time, the doctors told my parents that I wouldn't live to be a teenager. And next month, I will be 20. I am living on my own, doing fairly well. But it took lots of time, love, and money, and it still does.

My everyday routine: I have three breathing treatments that I do. And after each one, I have chest percussion that I do. When I was younger, I would have to lay on the floor, and my grandma would have to do my percussion for me. When I have to be hospitalized, I do no less than 3 weeks of I.V. treatments, and sometimes more.

I was 3 years old the first time I had to be hospitalized. And ever since then, I would go about once a year. Three years ago, I started going twice a year. And in the last 13 months, I have been sick three times. And I am fixing to go back to the hospital; maybe tomorrow, he said.

So now, I feel that I am at the point that none of the medicines I am taking are working. And we have tried basically everything. And I am here because I would like the FDA to—the drugs that are approved in other countries, maybe approve those so that I could have the opportunity to use them for my cystic fibrosis.

Three years ago, the FDA approved the new drug pulmozyme that I have used in my breathing machine. And it has worked great for me; it liquifies the mucus in my lungs, and I use it once a day in my breathing treatment. And I was told that pulmozyme was

the first new drug approved in 25 years for CF patients, and I wish it had been available sooner.

With all the medicines I take, I have to be tested a lot for different things—for hearing and diabetes a lot. And I know that most of the medicines I take have side-effects, and that is just one of the chances that I take. And I think that if the FDA could approve a medicine faster—I know that it may not be safe, they always say if they try to approve it faster, but I think that we should be given a choice, the patients ourselves, because for some of us, that may be our last choice. And that is why I am here talking about this.

Last week, they found that I have a fungus in my lungs. So now, I am on two different medications. One is a steroid that I take two of twice a day. And right now, it is not working that well, so he took me off of it. So now, I either have a choice of taking this medicine that is making me sick or having this fungus. And so I am going to take the medicine and see what it does.

My eating habits: Instead of eating three meals a day, I have to eat a lot of little meals or else I get weak and nauseated. And most CF patients have a hard time keeping weight on. And when people find out that I have cystic fibrosis, they always look at me and say, "Wow! You know, you look healthy." And I always take that as a compliment, because when I get sick, we can drop the weight real fast without even trying.

Right now, my total lung capacity is 52 percent, which means I have lost 48 percent of my lungs. And I really don't know much about the FDA approval process, but I do know that I would like the FDA to consider changing the process on how long it takes to approve a drug.

And thank you. That is all I have.

[The prepared statement of Ms. Clayton follows:]

Sue Ann Clayton (FDA)

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my name is Sue Ann Clayton. I have Cystic Fibrosis, which is a fatal genetic disease. It can affect either the lungs or the pancreas or both and I have it in both. My lungs fill with sticky mucus which blocks the air ducts.

CF, which is short for Cystic Fibrosis is the #1 genetic killer of children and young adults in this country. I was diagnosed with CF when I was 18 months old by an Egyptian Pediatrician in Libya. At that time the doctors told my parents that I wouldn't live to be a teenager. Next month I will be 20 yrs. old and doing fairly well. But it took lots of time, love, & money. And still does. My everyday routine since I was diagnosed is I do an ~~exercise~~ aerosol breathing machine 3 times a day and after that I do chest percussion. When I was

younger I would have to lay in the floor and have my Grandma do my percussion. But now I live on my own and I have machine called "The Vest" that I put on just like a vest, it inflates and gets my lungs all over at one time. I take on the average about 30 pills a day, and do 5 different inhalers. When I get sick and have to be hospitalized I always do no less then 3 weeks of IV treatments and I increase my medication and do breathing aerosol and chest percussion every 4 hours. I was 3 years old the first time I had to be hospitalized to do IV treatments. Ever since then I have had to go about once a year. Three years ago I started going twice a year, and just in the last 13 months I was

sick 3 times. So now I feel I am at the point when every time I get sick my body does not respond as well to the treatments. I am here because I would like to see the FDA approve drugs that are used in other countries that I could have the opportunity to try for my Cystic Fibrosis. About 3 years ago the FDA approved the new drug for CF patients called "Pulmozyme", which is used in my breathing machines it liquefies the mucus in my lungs and I do it once a day. I have been told the Pulmozyme was the first ~~new~~ new drug approved in 25 years for CF patients. I really feel that it has helped me, I only wish it would have been available sooner. With all the medicines I take I have to be tested for Diabetes and

every time I do IV treatments
 I always have to get my
 hearing tested, because of
 the high dosage of medication.
 When I was real young and
 the doctor gave me a different
 drug that I had never used
 he said that the drug was
 good, but I could lose my
 eye sight. It may have not
 been the medicine, but I do
 wear glasses and contacts and
 have since I was 11 yrs old.
 Every year since then it has to
 be changed a little bit. Most of
 my medicines I use has side
 effects, but I realize that's one
 of the chances I have to take.
 I think that if it comes down
 to it about the FDA can approve
 a drug faster, but it may not
 be safe, that the patient should
 be given the choice. Because
 just like with everyone what
 ... work on one person may not

work as well on another. And for some that may be their last choice. About 4 yrs. ago one of my sputum test came back that I had Pseudomonis and it is now something that I have all the time. Which is one reason why I get hospitalized more often. My total lung Capacity now is 52%, which means I have 52% of my lungs left. The toughest time of my life was probably when I started high school. Because I always had limitations. When I was a child it ~~didn't~~ didn't bother me because I didn't realize what was going on. But in high school I had to go straight home after school to do my treatments. Then I had to be home early to do them again. I played Basketball for awhile and really enjoyed it. But I just couldn't keep up with every else. I get tired and

breathless when I start any kind of physical activity. But all my friends understood. My eating habits are really different because instead of eating 3 meals I have to eat a lot of little snacks and meals all through out the day - or else I get weak and nauseated.

Most CF patients have a hard time keeping weight on. When people are told I have Cystic Fibrosis they are surprised because they say "I look healthy" and I always take it as a compliment.

Because when I get sick I can drop the weight very quickly without even trying.

For example the most I have weighed was 134 pounds and I thought I was too big, but now I know that I felt a lot better when I have the weight on.

Last week I got the test result

back that showed I have a fungus in my lungs. So now I have 2 different medicines I take. One is a steroid that I take 2 pill twice a day and the treatment will be for a year. At that time the doctor told me what the fungus was and the side effects of the medicine. I realize all medication has side effects and the fungus is something I do not want to live with, so I am taking that chance I really don't know much about the FDA approval process, but I would like for the FDA to consider changing the process on how long it takes to approve a drug. Thank you for taking time to hear my story and having me hear.

Mr. MCINTOSH. Thank you, Ms. Clayton.

Ms. CLAYTON. Thank you.

Mr. MCINTOSH. I appreciate you coming forward today and sharing with us about your struggles. And you do look very healthy. So—

Ms. CLAYTON. Thank you.

Mr. MCINTOSH [continuing]. I appreciate hearing about that.

Ms. CLAYTON. Thank you.

Mr. MCINTOSH. When I worked with Vice President Quayle at the Competitiveness Council, we heard from some members of the Cystic Fibrosis Foundation. And this was before pulmozyme was released, and they came in and they told the Vice President and the members of the Cabinet in a meeting that they had in their power to approve this new drug that would give people a chance to live longer in this country, but the FDA was slowing it up.

And you could have heard a pin drop in this room when this young lady who herself was a cystic fibrosis patient came forward and told us that story. And I had a feeling that had something to do with FDA moving quickly on that drug. We need to make sure we do the best possible effort we can for other new drugs to help people who are in need of that. I know Dr. Coburn has had a lot of experience with that in his career in trying to help treat patients.

So thank you.

Ms. CLAYTON. Thank you.

Mr. MCINTOSH. I have got some questions for you later, when we get to the questioning period.

Ms. CLAYTON. OK.

Mr. MCINTOSH. Our next witness in this panel is Mr. Joe Cox, who is president of the Hydrohoist International.

Mr. Cox, thank you for coming.

Mr. COX. Thank you, Mr. Chairman. If I may, please, I would like to submit some items to the committee.

Mr. MCINTOSH. Thank you.

Mr. COX. Mr. Chairman, I would like to begin with a little humor. These two cartoons would be absolutely hilarious if the situation they referred to weren't so pitifully true.

There are two things worthy of your attention. First, the two cartoons point out the ridiculous extremes the citizens of the country, especially small businesses, are subjected to, the enormous army of regulators unleashed upon us and the nit-picking extremes to which this army goes. Second, since one cartoon is from the Amarillo Globe News and the other from the Chicago Tribune, it illustrates that it is not a small segment of the country that is exposed to this harassment.

Representative J.D. Hayworth, from Arizona, asserts that the Congress has delegated its lawmaking responsibilities to faceless agencies and in doing so has conferred upon them the ability to write rules with the weight of law, without debate or controls, and Federal police powers, without any benefit of due process of law. He has introduced H.R. 2727 to correct that. I don't know the current status of that bill, but I whole-heartedly support what he is trying to do.

In view of the limited time, I will let my written testimony give you the pertinent details of my more recent experience with this regulatory juggernaut. But I want to highlight some points.

Several months ago, an inspector from the CPSC, the Consumer Products Safety Commission, came to our business and hand-wrote on a form subpoena lists of documents and information that is considered so proprietary in the competitive business world that it is not released by a privately owned company to anyone. It was demanded that I produce this on the spot.

When I asked why, I was answered with a question, Do you use Ground Fault Circuit Interrupter devices on your lifts? I explained that we did not, for two reasons: Where our lifts are installed, the GFCI devices would be redundant; but most importantly was the fact that in 30 years of business, we have never had a single complaint of electrical shock from anyone.

I was able to obtain an extension to produce the documents required. And when we submitted them, we provided an argument supported by others in our industry of no injuries from electrical shock, from reports of consulting electrical engineers and other documentations. All of this was rejected right out of hand. And the list of demands was given us that if complied with would bankrupt every company making boat lifts, since we are all small businesses.

The CPSC did admit in their response that they are not aware of any incidents, injuries or deaths, associated with our hoists, but they say they are aware of 11 electrocution deaths from boat hoists. We have asked 3 times for the details of these 11 incidents, once in a formal application through the Freedom of Information Act, and we have been refused each time.

I am dismayed at many things in reference to regulatory agencies, but cite two things: If in 30 years, neither we nor they are aware of a single incident with our hoist, how can the CPSC determine that we have a substantial product hazard? If they have knowledge of 11 deaths from boat lifts, why are we not permitted to know who, what, when and where?

The sad truth is that a boatowner in this country today is more likely to be shot by someone on the street than he is to be electrocuted by a boat hoist. And when he is shot, the shooter will have far more rights to due process of law than the poor manufacturer does when the regulators come charging in. The shooter will, in all likelihood, also have the legal fees of numerous lawyers representing him paid for by the taxpayer while the poor, small businessman goes bankrupt paying to fight the unlimited resources of the Federal Government; even if he wins, he loses.

I have come to doubt that there have been any electrocutions attributable to boat lifts; I feel that it is just another witch hunt by an agency to justify their existence. If the Congress feels these agencies must exist, then why don't they come as helpers, and not hinderers? Why don't they come with ideas and justifiable technological reasoning?

No. They come as policemen. They don't attempt to help or promote safety; they bully and punish. This creates a great expense for all areas of business, but is particularly onerous for the segment that has created the most new jobs for the past number of years: small businesses, who can afford these methods the least.

I don't object so much to the addition of GFCIs to our lifts—although it will add \$40 or \$50 to the retail price of each lift Hydrohoist produces, which will be passed on to the consumer—as I do to the process and methods used by the CPSC. And the same applies to other regulatory bodies.

Why can't they come to provide ideas and genuine help, rather than as punishers and bully boys? In effect, they would be a partner to the people whose taxes fund their existence, instead of an adversary. The public would have the greatest benefit.

To summarize, it appears that the Congress over the past has created a monster which is now out of control and is consuming the creators of the most new jobs in this country: small businesses. We have an adversarial relationship between business and Government in this country that is costing great sums of money; this is wasted money that could have been applied to new jobs and a more competitive position in our worldwide economy.

This is a very strange relationship. As former Senator Paul Tsongas put it, "Government in the United States loves jobs but hates employers." How devastatingly true.

I thank you for your attention. And I implore you to start to change this situation. Thank you.

[The prepared statement of Mr. Cox follows:]



HydroHoist® International, Inc.

P.O. Box 1286 Claremore, OK 74018 (918) 341-6811 FAX: (918) 341-1178

May 20, 1996

The Honorable David McIntosh
 Chairman
 Sub-Committee on Regulatory Affairs
 United States House of Representative

Mr. Chairman, Members of the Committee,

My name is Joseph L. Cox. I am the owner/President of HydroHoist International, Inc. in Claremore, Oklahoma.

HydroHoist is (by definition and in truth), a small manufacturing company, producing boat lifts for the purpose of storing pleasure boats while not in use. This is a simple hydro-pneumatic equipment line, working much the same way as ballast in a submarine, exchanging air for water to lift and water for air to submerge, and allow the boater to use his boat. The devices are simple to use, and protect boats from rough water and other conditions that may arise in a marine environment.

I appreciate Dr. Coburn's invitation to testify before the committee, regarding the effects of regulatory agencies on small business. It would be impossible for me to speak as a representative of all business, small or large, and I confine my remarks to the facts as they have happened to HydroHoist International. I can discern what is written in newspapers, trade magazines and throughout other types of media that I am not alone in this quagmire.

I am in full agreement with Representative J.D. Hayworth's assertion that the Congress has delegated its lawmaking responsibilities to faceless agencies, and in doing so have conferred upon them, the ability to write rules with the weight of law, without debate, or controls, and what I feel are federal police powers, without any benefit of due process, and support HR 2727 which he has introduced.

Having been in the manufacturing and business community for thirty-seven years, I have had more than one contact with regulatory agencies, such as the E.P.A., OSHA, the Corps of Engineers, etc... and have found without exception, that these contacts can and have proven costly, even if no citation or other penalty was assessed. Currently, our company has been and continues to be involved with, the Consumer Products Safety Commission.



I would not find it conscionable to build, manufacture or distribute a product that would be either unsafe or likely to harm anyone. We are, in fact, always cognizant of consumer needs and safety when designing, building, or installing our products.

Some background facts:

1. Several months ago, we received a visit from an investigator of the CPSC.
2. The investigator was identified with only a business card.
3. The investigator produced a hand-written administrative subpoena.
4. The investigator demanded compliance in providing detailed information, including:
 - a. Records on the number of hoists produced,
 - b. Number distributed,
 - c. Dates of distribution,
 - d. Customer lists,
 - e. Injury and complaint data,
 - f. Diagrams and drawings,
 - g. Labeling specifications,
 - h. Schematics,
 - i. Photographs,
 - j. Corporate status and structure.

Most of this data is considered highly confidential, proprietary in its nature with regard to a competitive marketplace, and being a privately held company, this information is not released to anyone. The subpoena demanded that I was to provide copies of all of these materials and turn it over to the investigator immediately. I protested that this would take days possibly weeks to assemble. I asked perfunctorily why the CPSC needed this information.

The response was posed as a question. "Do you use Ground Fault Circuit Interrupters (GFCI) on your lifts electrical system? I replied that we did not, because almost without exception, our lifts are installed on dock and marina sites that are equipped with GFCI's in the power distribution circuit, as required by the National Fire Protection Association (NFPA). GFCI's are further required as specified by other Governmental Agencies such as the Corps of Engineers and the U.S. Coast Guard.

We have been told by electrical contractors, dock manufacturers and other knowledgeable electrical experts, that using another GFCI in the circuit (in series) could cause power cutoff problems. In addition, and by far the most creditable, was that in our thirty years of business, we had never had a single instance of so much as an electrical shock.

The investigator told me that the commission had some complaints and evidence of electrocution by boat lifts. We asked for this information under the Freedom of Information Act, by certified letter to the CPSC, and that information was refused.

If I were suspected of being a drug dealer, and a search of my business or home was to be made, the police or policing agency, would first have to convince a judge of the need, probable cause, and evidence to obtain a search warrant. If that same agency wanted records or other detailed information, that would require a subpoena from a court. The police could not simply present a business card, fill out a form and demand information. I am also under the impression that I would be entitled to know who my accusers were, what evidence was attributed, and why. These basic rights do not exist with regulatory agencies. In essence, experience shows that a boat owner is more likely to be shot on the street than electrocuted or shocked by a boat hoist, but a shooter would no doubt have more right to due process than I, as a manufacturer, have.

I obtained an extension of time to compile the data and submitted it to the CPSC. In the submission, we pointed out that we had contacted our major competitors and found that they too had been visited in like manner by the CPSC. We asked everyone of them if they had ever had a single notice of an electrocution with one of their hoists. The answer was negative.

This means that in thirty years, not a single manufacturer in the business has ever had a single complaint of electrical shock using hydro-pneumatic boat lifts.

In our submission, we also pointed out to the commission, that there are numerous types of boat lifts. There are mechanical, electrical, overhead, slings, davits, etc.. The Hydro-pneumatic style of lift is connected to the a blower only by an air hose. The blower is housed within a bolt-down manifold and is attached to the dock and in turn is plugged into a dock electric power point. At no time is the hoist itself, or any of its moving parts in contact with any electrical power supply. Unlike some other styles of boat lifts, the HydroHoist (or hydro-pneumatic) boat lift, does not require an electrical motor mounted directly to water-contact metals.

All of our arguments, evidence, letters of confirmation by other manufacturers, consulting engineers reports, etc... and other defense documentation was rejected out of hand by the CPSC and a response was sent to us stating that our lift presents a substantial product hazard as defined by section 15 of the Act.

The CPSC admits in their response that they are not aware of any incidents, injuries or deaths associated with our hoists, and say they are aware of at least eleven (11) electrocution deaths from boat hoists. If this is true, then why will they not provide us with documentation of these events. I am dismayed at many things in reference

to regulatory agencies, but cite two things: If in thirty (30) years neither we, nor they, are aware of a single incident with our hoist, how can the CPSC determine that we have a substantial product hazard? If they have knowledge of eleven deaths from boat lifts, why are we not permitted to know who, what, when, where, etc...? Laws such as Freedom of Information Act are passed by the Congress and the regulators use their non-elected powers to ignore the laws, and rely solely on their own interpretation of the law, in the rules they have written themselves.

Recently the Congress passed a law requiring that it apply to itself, the same laws business is governed under. A very worthwhile endeavor to see the effect of your labors on others. I applaud you for that. However, I discovered that the Oklahoma Congressional Delegation has exempted in excess of sixty (.60) percent of their staff from the wage and hour law. Quite frankly, I agree with the concept, but where and how do I get to exempt my business from these same laws? These situations are ripe for rhetoric, and were it not for the negative financial, time, reputation, and market impacts, then rhetoric would have some value. However, very real people, supporting real families and holding real jobs are and will be adversely affected by these actions.

Today, many months after the initial CPSC visit, and after the submission of requested materials, we are still bogged down in the time consuming necessity of defending ourselves against the blindly swung sword of the CPSC. Currently the CPSC has demanded, by way of their response, the following be done, and I feel compelled to point out the impact of those demands:

1. We were given ten days in which to prepare a plan of action for recall
2. We were told that we needed to "join" a recall program of our boatlifts for modification to GPCI's
3. We were told to comply by advertising in the media the potential hazards (as determined by the CPSC)
4. We have been asked for a customer list so that the CPSC may monitor and follow the action plan
5. We have to document the action plan results on a monthly update basis for the CPSC.

Number 1. is impossible. I would have to hire additional staff to prepare this type of document, as well as seek out a consulting firm to help us in its preparation.

Number 2. A recall program would be beyond devastating. The costs of a recall, depending on the number of years needing to be recalled, could easily escalate into the hundreds of thousands of dollars, for an un-proven or so-called safety hazard. This would include the postage, purchase of parts, dealer/factory labor, etc....

Number 3. Advertising in the media places HydroHoist in a situation of sullied reputation when it is not earned.

will incite customers to make demands that are neither necessary or fair, and will damage the public perception of HydroHoist and the proven quality our brand name purveys. In today's litigious society this lays HydroHoist on a platter for the opportunity of lawsuits.

Number 4. The customer list demand is very difficult and costly. We provide most of our lifts to dealers, who in turn sell to individual boat owners. Unless a warranty card is returned, we have no way of knowing who actually has a lift. Lifts are often re-sold, repeatedly, and this only adds to the difficulty.

Number 5. Again, staff requirements in a small business do not permit the luxury of regulatory liaisons or dedicated regulation staff. The additional costs of overhead, benefits and other expenses are exorbitant and damaging.

All of this is without noting the dollars spent on attorneys, time spent away from the product and its marketing, and the general disruption these things cause.

The impact to HydroHoist? It could be enough to close the doors, to the lay-off of forty-five living, breathing, human beings, and damage the lives and life-styles of their families. The impact could easily run seven to eight figures, and in doing so, literally put us out of business. Yet this regulatory body, again not much different than others, can control these things as almost a whim, with no real investigation, no real evidence, and no irrefutable proof of a substantial hazard.

It is imperative that the impact of non-elected regulatory agencies be reduced, that consideration to the investigated companies be made, and that the Congress be well aware that their own constituents, those who elected them, are being crushed by un-supervised rules that are self administered interpretations of the law.

Just this past week I again requested from the CPSC, information on the eleven (alleged) electrocutions, and was refused. I have come to doubt that there have ever been any electrocutions attributable to boat lifts. I believe this industry either came up at random or someone at the CPSC decided that boat hoists should have GFCI devices, whether needed or not. Having decided that, our industry is hounded into providing the GFCI devices, and the CPSC can then report to Congress that they have prevented many deaths from electrocution, and can justify their existence, as well as garner more of the tax-payers funds.

If the commission feels strongly that boat lifts should be equipped with GFCI devices, why don't they come to the industry with their ideas and justifiable technological reasoning? No, instead, they come to us as most all regulators do; as policemen. They do not attempt to help or promote safety and safety issues, they bully and punish. This creates a great expense in all areas of business, but it is particularly onerous for the segment that has created the most new jobs over the past number of years; small businesses, who can afford these methods the least.

I do not object so much to the addition of GFCT's to our lifts (although it will add forty to fifty dollars to the retail price of each lift HydroHoist produces), as I do to the process and methods used by the CPSC. The same applies to other regulatory bodies. If they must exist, it would be much better and less costly if they became helpers instead of hinderers. If they come to provide ideas and genuine help, rather than as policemen or punishers, we would all be better able to provide the consuming public with value. In effect, if they would be a partner to the people, whose taxes fund their existence, instead of an adversary, the public would have the greatest benefit.

To summarize; It appears that the Congress over the past has created a monster which is now out of control and is consuming the creators of most new jobs in this country; small businesses. We have an adversarial relationship between business and government in this country and that is costing great sums of money. This is wasted money that could have been applied to new jobs and a more competitive position in our world wide economy. This is a very strange relationship. As former Senator Paul Tsongas put it, "Government in the U.S. loves jobs, but hates employers." How devastatingly true.

Thank you for your attention. I implore you to start to change this situation.

HydroHoist International Inc.



Joseph L. Cox
President

Cox



D-SPLIGHT February 8, 1990

One Member Looks To Reclaim Power

IN THE FIRST SENTENCE OF Article I of the U.S. Constitution, it is stated that "all legislative powers . . . shall be vested in the Congress of the United States."

The framers of our Constitution clearly intended lawmaking to be a tedious process in which both houses of Congress deliberate and reach a consensus, then executive approval.

However, the reality is most of the laws today are written by unelected officials who are not accountable to the public. Congress has "delegated," or shifted its lawmaking responsibility to executive agencies and judicial appointees who are empowered with the ability to make regulations.

SYSTEM CORRUPTED

Instead of "We the people" (i.e. our elected representatives) telling our government bureaucrats what their limits are, judges and bureaucrats are telling them — and us.

The Executive Branch was established to enforce the laws of Congress. However, over the last several decades, feeless bureaucrats in the

Executive Branch have done more legislating than our elected officials — and without any congressional or presidential approval.

Congress was basically the sole legislator for over a century after the Constitution was ratified. During the 20th century — particularly during the FDR administration — power was shifted from Congress to executive agencies.

America's liberal social engineers felt technical experts in executive agencies, who were insulated from politics, would make better decisions than lawmakers.

But most informed citizens know that today's agencies are not run by experts, rather, lawyers and bureaucrats who are as political as any congressman head departments.

NW DEAL WRONGS

In the January 22 edition of the *New Republic*, Andrew Kull, a professor of law at Emory University, addresses the loss of a constitutional government saying that "under the New Deal, the United States made a fundamental change in its system of government without formally amending the Constitution.

"The people of the United States who once debated and ratified the Constitution are now content to have it construed for them, and the Constitution is no longer, in consequence, an instrument by which the people bind their legislatures, their judges and themselves."

While the delegation of power to the executive branch has not been challenged by the Supreme Court, its constitutionality has been called into question on several occasions.

Several judicial coalitions over the years have struck down executive agency regulations based on delegation grounds, but none have attempted to change the unconstitutional process of delegation.

Recently, Rep. J.D. Hayworth (R-Ariz.) created legislation that would restore Congress' legislative power — just as the Founding Fathers intended.



The "Congressional Responsibility Act of 1995," H.R. 2727, would require "Congress and the President to fulfill their Constitutional duty to take personal responsibility for federal laws."

Hayworth knows this delegation of responsibility to executive agencies violates the Constitution, which specifies that laws must have approval by majorities in both houses of Congress and the president.

If enacted, H.R. 2727 would render any regulation by an executive agency impotent — at least until Congress approves it.

For example, if the Environmental Protection Agency wanted to impose new wetlands regulations on a landowner, it would first have to send the regulations to both houses of Congress for approval.

The delegation of power also enables congressmen to delegate blame. When a constituent complains to a congressperson about some bureaucratic regulation that is infringing his freedom, a congressperson would no longer be able to point the finger at some bureaucratic agency.

In Hayworth's own words the bill would, "provide Congress and the president an opportunity to affirm that voters have a constitutional right to hold us responsible for the laws that the federal government imposes."

"By delegating their legislative power to agencies, the representatives shift their responsibility for the laws to unelected, unaccountable officials," he added.

It is clear that government regulations have gotten out of hand. Accord-

ing to the National Center for Public Policy Research (NCPPR), last year federal regulations totaled 64.9 pages, with 130,000 federal bureaucrats employed to enforce them.

In an interview with the *American Republic*, David Ridenour, vice president of the NCPPR praised Hayworth's legislation, calling it a "excellent idea."

"What's happened over the years is that Congress has been negligent in giving over its authority to regulate the agencies," Ridenour said. "If we keep handing over regulatory authority to unelected people, it won't be long before you have no liberties at all."

The bill has also received support from the House Constitutional Caucus, the American Civil Liberties Union and former Judge Robert Bork. Hayworth said he is confident H.R. 2727 will also receive bipartisan support. Responding to critics the claim this legislation would clog Congress with trivial changes in regulations, Hayworth said Congress should never be "too busy to follow its United States Constitution."

Strict constitutionalists would argue that Hayworth's bill would result in more work for congressional staffers now eligible for overtime pay. Congress should instead outsource regulatory activity by the executive branch.

Whether or not the Hayworth bill succeeds, the way is clear for Congress to take back its lawmaking responsibility. Let your representatives know your opinion about lawmaking done by unelected officials.



J.D. HAYWORTH
Wants power back.

CALL AND/OR WRITE CONGRESS

Your influence counts. Use it. Write and/or call your representative in the House and both of your senators when important legislation comes before Congress.

Write your representative in care of the House of Representatives, Washington, D.C. 20515. Write both of your senators in care of the U.S. Senate, Washington, D.C. 20510.

You can call all of your federal lawmakers by telephoning the U.S. Capitol switchboard at (202) 224-3121 and asking to be connected to their offices. (If you do not know the name of your representative or your senators the Capitol switchboard will be able to provide those names for you.)

Liberty Lobby's *U.S. Congress Handbook* is now available from Liberty Library, 300 Independence Ave., S.E., Washington, D.C. 20003 for \$9.95.



Members of the Civilian Conservation Corps were for photographing.

Mr. MCINTOSH. Thank you very much, Mr. Cox. I want to explore with you some more of that. I don't know if you passed around to everybody here the cartoons—

Mr. COX. Yes.

Mr. MCINTOSH. But they were particularly appropriate, I thought, given some of the things we have seen.

Our final witness on this panel is Mr. Ted McGuire, who is president and CEO of RCB Bank.

Thank you for coming, Mr. McGuire, and we look forward to hearing your testimony.

Mr. MCGUIRE. Thank you, Mr. McIntosh and Dr. Coburn.

What I would like to talk about today is some of the regulations that are affecting the banks but are also affecting the cost to the customer, and that is who I am really deeply concerned about. And I would like to go through some of these regulations from the standpoint of this and show you not all parts of these regulations are bad. But I am going to point out the little sections of these regulations that are really creating a problem, not only for the bank, but for the customer.

And the first one I would like to discuss with you is the Bank Secrecy Act. There are parts of this act that are very good. But the part that I am going to point out to you and that I have talked about here is the part where a customer comes in and makes either—a cash deposit of \$3,000 to \$10,000.

If a customer comes in, or a noncustomer, and makes a transaction with cash, we must fill out this currency transaction report and file it with the IRS. The problem with this report is—and the customer doesn't understand, and I do not blame them for not understanding—you have to—and I will give this to you when I am finished—you fill out their occupation, their serial number, where they work, where they got the money, and what they are going to do with their money if they are taking it out of the bank. And you file this with the IRS.

But listen to the penalties if we do not file it correctly. The penalties involved in this—if you miss one line of this, the penalty can be \$500 per violation, or it can be \$100,000, or it can be the amount of the transaction. I have got those penalties in there for you.

But the ludicrous part of this is the part where the noncustomer comes in, because this law was set up to catch someone that was running drug money. But they have made us the policemen of it, meaning this: If a drug person does come in, you are not allowed to say—you are not allowed—you, the teller, to say, We must fill out a currency transaction report on you, because that is called leading the individual.

What you do is you hand them the "Facts You Should Know." And I will give this to you, also, and—the "Facts You Should Know." And you hand that to them, and they read it. And what do they do? They pick up their money and they go out the door. And at that point you file a transaction that says you are suspicious of what they have done—OK—you file this. [Laughter.]

Mr. MCINTOSH. And this is without receiving any deposit?

Mr. MCGUIRE. Yes, because they are suspicious because he took his money and left. Now, when you file this to the IRS, do you

think he is going to stick around and give you his Social Security number and his driver's license and what he was going to do with the money? No. But the IRS comes back and says to the bank, We are going to fine you \$500 for each one of these items that you don't get correct.

And we get these back and get them back, and they are getting stouter and stouter about us not filling them out correctly. And then, when the examiners came in and examined us the last time, they really put us over the coals.

So the problem we have got is the good customer, also, that comes in. And you start saying, Well, what are you going to do with that \$9,000? And they—you know, it embarrasses them. And you can't say, I am going to submit this report; you are not allowed to. You hand them this. And that is ludicrous.

I am going to—I only have 2 minutes left, so I would like to skip the electric funds regulation and move very quickly to reg E, which is called Truth in Lending. And I am going to show you where the customer is really affected, because not all of reg E is bad. But I am going to show you the part that is bad.

I have been in this 31 years. And what happens on reg E—and I will explain that—

Mr. MCINTOSH. Reg E, or reg Z?

Mr. MCGUIRE. Excuse me. Reg Z. I apologize.

The problem with that is you come in—Dr. Coburn, you come in, and you want to borrow money, a second mortgage on your home.

Mr. COBURN. I will be there next week.

Mr. MCGUIRE. Good. But here is what happens. You come in to borrow the money, and you sit down in front of us, and it is a second mortgage. We draw up all the papers, get ready to—and we advance you the funds. And it is on a Friday.

And you would think that those funds would be yours. But we say, No, Dr. Coburn; We can't give you those funds for 3 working days because we were going to give you the chance to change your mind. So that is Friday, Monday, Tuesday, and we give you your funds on Wednesday.

And who are you upset at? You are upset at us because you think we are trying to hold those funds. The real problem in this case is you can go out and buy a new home, a first mortgage, and we advance the funds the day the loan is closed.

This part of the regulation was set up to protect people from the standpoint of an aluminum siding salesman, we will say, so they can change their mind.

But when you walk into a bank, you have made up your mind on what you are going to do. That would be buying paper; I am all for that, giving the person the opportunity. But when you come into a bank, you should be able—when you close that loan, you should be able to take the advancement of that.

And that regulation has been on the books over 18 years. And all we do is alienate the customer.

I am only down to 1 minute. So I will say that on the Community Reinvestment Act, we have hired another full-time person, and the stack of regulations are that high that goes with that. And we pride ourselves on what we do in the community and how we take care of people.

But these are just a few of the regulations. I have left you with all of the penalties that go with that. Also, I have them over in the back for anyone that would like to pick those up.

And this concerns me because of what is happening to the customer—not just to the bank, but to the customer, and because they are upset with the bank, thinking we are the ones that are wanting to withhold their money or we are the ones that are wanting to turn this into the IRS. And it is not us at all; it is the regulation. The penalties behind this are severe if we do not do it.

Thank you very much.

[The prepared statement of Mr. McGuire follows:]

Subject: Regulations

Bank Secrecy Act (BSA)

The regulations also require financial institutions to maintain a record of their sales of certain negotiable instruments which involve cash in the range of \$3,000 to \$10,000 inclusive. To comply with the regulations, our financial institution must record certain details for each of these types of transactions, as well as obtain and record certain information about the individuals who conduct the transactions, and the persons or entities on whose behalf the transactions are conducted.

They are reducing the amount of filings of CTR's required of the banks, presumably by 1/3; however, the responsibility for reporting suspicious activity (i. e. structuring) is still with the bank. We understand we cannot tell our customer, when they ask, how much they can deposit or withdraw in cash without reporting it to the IRS; but the customer cannot understand that. However, we can hand them a brochure telling them or actually give them a CTR which adds to our customers frustration and leaves us with the possibility of filing a Suspicious Activity Report.

Requirement for recordkeeping is 5 years; and on a suspicious activity report we do not send the worksheets; but retain in our files for 5 years.

Electronic Funds Act (REG E)

This regulation places the burden of proof on the bank instead of the consumer. It has been said this the most consumer orientated regulation there is.

i e. see Reg E Official Staff Commentary Q6-6.5 as an example:
Q6-6.5 Consumer Negligence. A consumer writes the PIN on the ATM card or on a piece of paper kept with the card--actions that may constitute negligence under state law. Do such actions affect the liability for unauthorized transfers that may be imposed on the consumer?

Answer: No. The extent of the consumer's liability is determined by the promptness in reporting loss or theft of an access device or unauthorized transfers appearing on a periodic statement. Negligence on the consumer's part cannot be taken into account to impose greater liability than is permissible under the act and Reg E. (205.6(b))

Reg E embodies numerous requirements, from mandated disclosures, and limitations on liability for unauthorized transfers to periodic statement requirements and restrictions on issuance of access devices. None is more important as the procedure for resolution of what Reg E terms as an 'error'.

Subject: Regulations
Page 2.

Regulation Z - Truth in Lending

One of the major problems with this Regulation is that if you wanted a second mortgage on your home, the bank is required to hold these funds for three working days to give the consumer the opportunity to decline the loan. One of the major problems with this is, in the twenty years this law has been in effect, the customer is always angry at the bank for holding the funds.

When a consumer calls to find out about a rate on a car loan or a home loan, they want the interest rate, yet the law requires we give the APR (annual percentage rate). We can give the interest rate, but only in addition to the APR. This is confusing for customers - not enlightening.

Community Reinvestment Act (CRA)

Credit Unions do not have to deal with this regulation and the enormous amount of paperwork that goes with this Regulation.

Form **4789**

(Rev. October 1995)
Department of the Treasury
Internal Revenue Service

Currency Transaction Report

► Use this 1995 revision effective October 1, 1995.
► For Paperwork Reduction Act Notice, see page 3. ► Please type or print.
(Complete all parts that apply—See instructions)

OMB No. 1545-0183

- 1 Check all box(es) that apply:
 a Amends prior report b Multiple persons c Multiple transactions

Part I Person(s) Involved in Transaction(s)

Section A—Person(s) on Whose Behalf Transaction(s) Is Conducted

2 Individual's last name or Organization's name		3 First name		4 M.I.	
5 Doing business as (DBA)				6 SSN or EIN	
7 Address (number, street, and apt. or suite no.)				8 Date of birth M M D D Y Y	
9 City		10 State	11 ZIP code	12 Country (if not U.S.)	
14 If an individual, describe method used to verify identity: <input type="checkbox"/> a Driver's license/State I.D. <input type="checkbox"/> b Passport <input type="checkbox"/> c Alien registration <input type="checkbox"/> d Other <input type="checkbox"/> e Issued by: f Number:					

Section B—Individual(s) Conducting Transaction(s) (if other than above).

If Section B is left blank or incomplete, check the box(es) below to indicate the reason(s):

<input type="checkbox"/> a Armored Car Service <input type="checkbox"/> d Multiple Transactions		<input type="checkbox"/> b Mail Deposit or Shipment <input type="checkbox"/> e Conducted On Own Behalf		<input type="checkbox"/> c Night Deposit or Automated Teller Machine (ATM)	
15 Individual's last name		16 First name		17 M.I.	
18 Address (number, street, and apt. or suite no.)				19 SSN	
20 City		21 State	22 ZIP code	23 Country (if not U.S.)	
24 Date of birth M M D D Y Y					
25 If an individual, describe method used to verify identity: <input type="checkbox"/> a Driver's license/State I.D. <input type="checkbox"/> b Passport <input type="checkbox"/> c Alien registration <input type="checkbox"/> d Other <input type="checkbox"/> e Issued by: f Number:					

Part II Amount and Type of Transaction(s). Check all boxes that apply.

26 Cash In \$ _____ 00		27 Cash Out \$ _____ 00		28 Date of Transaction M M D D Y Y	
29 <input type="checkbox"/> Foreign Currency _____ (Country)		30 <input type="checkbox"/> Wire Transfer(s)		31 <input type="checkbox"/> Negotiable Instrument(s) Purchased	
32 <input type="checkbox"/> Negotiable Instrument(s) Cashed		33 <input type="checkbox"/> Currency Exchange(s)		34 <input type="checkbox"/> Deposit(s)/Withdrawal(s)	
35 <input type="checkbox"/> Account Number(s) Affected (if any): _____		36 <input type="checkbox"/> Other (specify) _____			

Part III Financial Institution Where Transaction(s) Takes Place

37 Name of financial institution			Enter Federal Regulator or BSA Examiner code number from the instructions here: []		
38 Address (number, street, and apt. or suite no.)				39 SSN or EIN	
40 City		41 State	42 ZIP code	43 MICR No.	
Sign Here ►	44 Title of approving official		45 Signature of approving official		46 Date of signature M M D D Y Y
	47 Type or print preparer's name		48 Type or print name of person to contact		49 Telephone number ()

Multiple Persons

(Complete applicable parts below if box 1b on page 1 is checked.)

Part I Person(s) Involved in Transaction(s)

Section A—Person(s) on Whose Behalf Transaction(s) Is Conducted

2 Individual's last name or Organization's name			3 First name			4 M.I.		
5 Doing business as (DBA)						6 SSN or EIN		
7 Address (number, street, and apt. or suite no.)						8 Date of birth		
9 City		10 State	11 ZIP code	12 Country (if not U.S.)		13 Occupation, profession, or business		
14 If an individual, describe method used to verify identity:								
<input type="checkbox"/> Driver's license/State I.D. <input type="checkbox"/> Passport <input type="checkbox"/> Alien registration <input type="checkbox"/> Other								
<input type="checkbox"/> Issued by: _____ f Number: _____								

Section B—Individual(s) Conducting Transaction(s) (if other than above).

15 Individual's last name			16 First name			17 M.I.		
18 Address (number, street, and apt. or suite no.)						19 SSN		
20 City		21 State	22 ZIP code	23 Country (if not U.S.)		24 Date of birth		
25 If an individual, describe method used to verify identity:								
<input type="checkbox"/> Driver's license/State I.D. <input type="checkbox"/> Passport <input type="checkbox"/> Alien registration <input type="checkbox"/> Other								
<input type="checkbox"/> Issued by: _____ f Number: _____								

Part I Person(s) Involved in Transaction(s)

Section A—Person(s) on Whose Behalf Transaction(s) Is Conducted

2 Individual's last name or Organization's name			3 First name			4 M.I.		
5 Doing business as (DBA)						6 SSN or EIN		
7 Address (number, street, and apt. or suite no.)						8 Date of birth		
9 City		10 State	11 ZIP code	12 Country (if not U.S.)		13 Occupation, profession, or business		
14 If an individual, describe method used to verify identity:								
<input type="checkbox"/> Driver's license/State I.D. <input type="checkbox"/> Passport <input type="checkbox"/> Alien registration <input type="checkbox"/> Other								
<input type="checkbox"/> Issued by: _____ f Number: _____								

Section B—Individual(s) Conducting Transaction(s) (if other than above).

15 Individual's last name			16 First name			17 M.I.		
18 Address (number, street, and apt. or suite no.)						19 SSN		
20 City		21 State	22 ZIP code	23 Country (if not U.S.)		24 Date of birth		
25 If an individual, describe method used to verify identity:								
<input type="checkbox"/> Driver's license/State I.D. <input type="checkbox"/> Passport <input type="checkbox"/> Alien registration <input type="checkbox"/> Other								
<input type="checkbox"/> Issued by: _____ f Number: _____								

Paperwork Reduction Act Notice.—The requested information has been determined to be useful in criminal, tax, and regulatory investigations and proceedings. Financial institutions are required to provide the information under 31 U.S.C. 5313 and 31 CFR Part 103. These provisions are commonly referred to as the Bank Secrecy Act (BSA) which is administered by the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN).

The time needed to complete this form will vary depending on individual circumstances. The estimated average time is 19 minutes. If you have comments concerning the accuracy of this time estimate or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Attention: Tax Forms Committee, PC:FF, Washington, DC 20224. DO NOT send this form to this office. Instead, see **When and Where To File** below.

Suspicious Transactions

This Currency Transaction Report (CTR) should NOT be filed for suspicious transactions involving \$10,000 or less in currency OR to note that a transaction of more than \$10,000 is suspicious. Any suspicious or unusual activity should be reported by a financial institution in the manner prescribed by its appropriate federal regulator or BSA examiner. (See item 37.) If a transaction is suspicious and in excess of \$10,000 in currency, then both a CTR and the appropriate referral form must be filed.

Should the suspicious activity require immediate attention, financial institutions should telephone 1-800-800-CTRS. An Internal Revenue Service (IRS) employee will direct the call to the local office of the IRS Criminal Investigation Division (CID). This toll-free number is operational Monday through Friday, from approximately 9:00 am to 5:00 pm Eastern Standard Time. If an emergency, consult directory assistance for the local IRS CID Office.

General Instructions

Who Must File.—Each financial institution (other than a casino, which instead must file Form 8362 and the U.S. Postal Service for which there are separate rules), must file Form 4789 (CTR) for each deposit, withdrawal, exchange of currency, or other payment or transfer, by, through, or to the financial institution which involves a transaction in currency of more than \$10,000. Multiple transactions must be treated as a single transaction if the financial institution has knowledge that (1) they are by or on behalf of the same person, and (2) they result in either currency received (Cash In) or currency disbursed (Cash Out) by the financial institution totaling more than \$10,000 during any one business day. For a bank, a business day is the day on which transactions are routinely posted to customers' accounts, as normally communicated to depository customers. For all other financial institutions, a business day is a calendar day.

Generally, financial institutions are defined as banks, other types of depository institutions, brokers or dealers in securities, money transmitters, currency exchangers, check cashers, issuers and sellers of money orders and traveler's checks. Should you have questions, see the definitions in 31 CFR Part 103.

When and Where To File.—File the CTR by the 15th calendar day after the day of the transaction with the IRS Detroit Computing Center. ATTN: CTR, P.O. Box 33604, Detroit, MI 48232-5604 or with your local IRS office. Keep a

copy of each CTR for five years from the date filed.

A financial institution may apply to file the CTRs magnetically. To obtain an application to file magnetically, write to the IRS Detroit Computing Center, ATTN: CTR Magnetic Media Coordinator, at the address listed above.

Identification Requirements.—All individuals (except employees of armored car services) conducting a reportable transaction(s) for themselves or for another person must be identified by means of an official document(s).

Acceptable forms of identification include a driver's license, military, and military/dependent identification cards, passport, state issued identification card, federal card (foreign), non-resident alien identification cards, or any other identification document or documents, which contain name and preferably address and a photograph and are normally acceptable by financial institutions as a means of identification when cashing checks for persons other than established customers.

Acceptable identification information obtained previously and maintained in the financial institution's records may be used. For example, if documents verifying an individual's identity were examined and recorded on a signature card when an account was opened, the financial institution may rely on that information. In completing the CTR, the financial institution must indicate on the form the method, type, and number of the identification. Statements such as "known customer" or "signature card on file" are not sufficient for form completion.

Penalties.—Civil and criminal penalties are provided for failure to file a CTR or to supply information or for filing a false or fraudulent CTR. See 31 U.S.C. 5321, 5322 and 5324.

For purposes of this CTR, the terms below have the following meanings:

Currency.—The coin and paper money of the United States or any other country, which is circulated and customarily used and accepted as money.

Person.—An individual, corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture or other unincorporated organization or group.

Organization.—Person other than an individual.

Transaction In Currency.—The physical transfer of currency from one person to another. This does not include a transfer of funds by means of bank check, bank draft, wire transfer or other written order that does not involve the physical transfer of currency.

Negotiable Instruments.—All checks and drafts (including business, personal, bank, cashier's and third-party), money orders, and promissory notes. For purposes of this CTR, all traveler's checks shall also be considered negotiable instruments. All such instruments shall be considered negotiable instruments whether or not they are in bearer form.

Specific Instructions

Because of the limited space on the front and back of the CTR, it may be necessary to submit additional information on attached sheets. Submit this additional information on plain paper attached to the CTR. Be sure to put the individual's or organization's name and identifying number (items 2, 3, 4, and 6 of the CTR) on any additional sheets so that if it becomes separated, it may be associated with the CTR.

Item 1a. Amends Prior Report.—If this CTR is being filed because it amends a report filed

previously, check Item 1a. Staple a copy of the original CTR to the amended one, complete Part III fully and only those other entries which are being amended.

Item 1b. Multiple Persons.—If this transaction is being conducted by more than one person or on behalf of more than one person, check Item 1b. Enter information in Part I for one of the persons and provide information on any other persons on the back of the CTR.

Item 1c. Multiple Transactions.—If the financial institution has knowledge that there are multiple transactions, check Item 1c.

PART I - Person(s) Involved In Transaction(s)

Section A must be completed. If an individual conducts a transaction on his own behalf, complete Section A; leave Section B BLANK. If an individual conducts a transaction on his own behalf and on behalf of another person(s), complete Section A for each person, leave Section B BLANK. If an individual conducts a transaction on behalf of another person(s), complete Section B for the individual conducting the transaction, and complete Section A for each person on whose behalf the transaction is conducted of whom the financial institution has knowledge.

Section A. Person(s) on Whose Behalf Transaction(s) is Conducted.—See instructions above.

Items 2, 3, and 4. Individual/Organization Name.—If the person on whose behalf the transaction(s) is conducted is an individual, put his/her last name in item 2, first name in item 3 and middle initial in item 4. If there is no middle initial, leave item 4 BLANK. If the transaction is conducted on behalf of an organization, put its name in item 2 and leave items 3 and 4 BLANK.

Item 5. Doing Business As (DBA).—If the financial institution has knowledge of a separate "doing business as" name, enter it in item 5. For example, Johnson Enterprises DBA P.J.'s Pizzeria.

Item 6. Social Security Number (SSN) or Employer Identification Number (EIN).—Enter the SSN or EIN of the person identified in item 2. If none, write NONE.

Items 7, 8, 10, 11 and 12. Address.—Enter the permanent street address including zip code of the person identified in item 2. Use the Post Office's two letter state abbreviation code. A P.O. Box should not be used by itself and may only be used if there is no street address. If a P.O. Box is used, the name of the apartment or suite number, road or route number where the person resides must also be provided. If the address is outside the U.S., provide the street address, city, province, or state, postal code (if known), and the name of the country.

Item 6. Date of Birth.—Enter the date of birth. Six numerals must be inserted for each date. The first two will reflect the month of birth, the second two the calendar day of birth, and the last two numerals the year of birth. Zero (0) should precede any single digit number. For example, if an individual's birth date is April 3, 1948, item 8 should read 04 03 48.

Item 13. Occupation, Profession, or Business.—Identify fully the occupation, profession or business of the person on whose behalf the transaction(s) was conducted. For example, secretary, shoe salesman, carpenter, attorney, housewife, restaurant, liquor store, etc. Do not use non-specific terms such as merchant, self-employed, businessman, etc.

Item 14. If an Individual, Describe Method Used To Verify.—If an individual conducts the transaction(s) on his/her own behalf, his/her identity must be verified by examination of an acceptable document (see **General Instructions**). For example, check box **a** if a driver's license is used to verify an individual's identity, and enter the state that issued the license and the number in items **e** and **f**. If the transaction is conducted by an individual on behalf of another individual not present or an organization, enter **N/A** in item 14.

Section B. Individual(s) Conducting Transaction(s) (if other than above).—Financial institutions should enter as much information as is available. However, there may be instances in which items 15-25 may be left **BLANK** or incomplete.

If items 15-25 are left **BLANK** or incomplete, check one or more of the boxes provided to indicate the reason(s).

Example: If there are multiple transactions that, if only when aggregated, the financial institution has knowledge the transactions exceed the reporting threshold, and therefore, did not identify the transaction(s), check box **d** for **Multiple Transactions**.

Items 15, 16, and 17. Individual(s) Name.—Complete these items if an individual conducts a transaction(s) on behalf of another person. For example, if John Doe, an employee of XYZ Grocery Store makes a deposit to the store's account, XYZ Grocery Store should be identified in Section A, and John Doe should be identified in Section B.

Items 18, 20, 21, 22, and 23. Address.—Enter the permanent street address including zip code of the individual. (See items 7, 9, 10, 11, and 12.)

Item 19. SSN.—If the individual has an SSN, enter it in item 19. If the individual does not have an SSN, enter **NONE**.

Item 24. Date of Birth.—Enter the individual's date of birth. See the instructions for item 8.

Item 25. If an Individual, Describe Method Used To Verify.—Enter the method by which the individual's identity is verified (see **General Instructions** and item 14).

PART II - Amount and Type of Transaction(s)

Complete Part II to identify the type of transaction(s) reported and the amount(s) involved.

Items 26 and 27. Cash In/Cash Out.—In the spaces provided, enter the amount of currency received (Cash In) or disbursed (Cash Out) by the financial institution. If foreign currency is exchanged, use the U.S. dollar equivalent on the day of the transaction.

If less than a full dollar amount is involved, increase that figure to the next highest dollar. For example, if the currency totals \$20,000.05, show the total as \$20,001.00.

Item 28. Date of Transaction.—Six numerals must be inserted for each date. (See Item 8.)

Determining Whether Transactions Meet the Reporting Threshold

Only cash transactions that, if alone or when aggregated, exceed \$10,000 should be reported on the CTR. Transactions shall not be offset against one another.

If there are both Cash In and Cash Out transactions that are reportable, the amounts should be considered separately and not aggregated. However, they may be reported on a single CTR.

If there is a currency exchange, it should be aggregated separately with each of the Cash In and Cash Out totals.

Example 1: A person deposits \$11,000 in currency to his savings account and withdraws \$3,000 in currency from his checking account.

The CTR should be completed as follows: Cash In \$11,000 and no entry for Cash Out. This is because the \$3,000 transaction does not meet the reporting threshold.

Example 2: A person deposits \$11,000 in currency to his savings account and withdraws \$12,000 in currency from his checking account.

The CTR should be completed as follows: Cash In \$11,000, Cash Out \$12,000. This is because there are two reportable transactions. However, one CTR may be filed to reflect both.

Example 3: A person deposits \$6,000 in currency to his savings account and withdraws \$4,000 in currency from his checking account. Further, he presents \$5,000 in currency to be exchanged for the equivalent in French francs.

The CTR should be completed as follows: Cash In \$11,000 and no entry for Cash Out. This is because in determining whether the transactions are reportable, the currency exchange is aggregated with each of the Cash In and the Cash Out amounts. The result is a reportable \$11,000 Cash In transaction. The total Cash Out amount is \$9,000 which does not meet the reporting threshold; therefore, it is not entered on the CTR.

Example 4: A person deposits \$6,000 in currency to his savings account and withdraws \$7,000 in currency from his checking account. Further, he presents \$5,000 in currency to be exchanged for the equivalent in French francs.

The CTR should be completed as follows: Cash In \$11,000, Cash Out \$12,000. This is because in determining whether the transactions are reportable, the currency exchange is aggregated with each of the Cash In and Cash Out amounts. In this example, each of the Cash In and Cash Out totals exceed \$10,000 and must be reflected on the CTR.

Item 29. Foreign Currency.—If foreign currency is involved, check item 29 and identify the country. If multiple foreign currencies are involved, identify the country for which the largest amount is exchanged.

Items 30-33.—Check the appropriate item(s) to identify the following type of transaction(s):

- 30. Wire Transfer(s)
- 31. Negotiable Instrument(s) Purchased
- 32. Negotiable Instrument(s) Cashed
- 33. Currency Exchange(s)

Item 34. Deposits/Withdrawals.—Check this item to identify deposits to or withdrawals from accounts, e.g., demand deposit accounts, savings accounts, time deposits, mutual fund accounts or any other account held at the financial institution. Enter the account number(s) in item 35.

Item 35. Account Numbers Affected (if any).—Enter the account numbers of any accounts affected by the transaction(s) that are maintained

at the financial institution conducting the transaction(s). If necessary, use additional sheets of paper to indicate all of the affected accounts.

Example 1: If a person cashes a check drawn on an account held at the financial institution, the CTR should be completed as follows: Indicate **Negotiable Instrument(s) Cashed** and provide the account number of the check.

If the transaction does not affect an account, make no entry.

Example 2: A person cashes a check drawn on another financial institution. In this instance, **Negotiable Instrument(s) Cashed** would be indicated, but no account at the financial institution has been affected. Therefore, item 35 should be left **BLANK**.

Item 36. Other (specify).—If a transaction is not identified in items 30-34, check item 36 and provide an additional description. For example, a person presents a check to purchase "foreign currency".

Part III - Financial Institution Where Transaction(s) Takes Place

Item 37. Name of Financial Institution and Identity of Federal Regulator or BSA Examiner.—Enter the financial institution's full legal name and identify the federal regulator or BSA examiner, using the following codes.

FEDERAL REGULATOR OR BSA EXAMINER	CODE
Comptroller of the Currency (OCC)	1
Federal Deposit Insurance Corporation (FDIC)	2
Federal Reserve System (FRS)	3
Office of Thrift Supervision (OTS)	4
National Credit Union Administration (NCUA)	5
Securities and Exchange Commission (SEC)	6
Internal Revenue Service (IRS)	7
U.S. Postal Service (USPS)	8

Items 38, 40, 41, and 42. Address.—Enter the street address, city, state, and ZIP code of the financial institution where the transaction occurred. If there are multiple transactions, provide information on the office or branch where any one of the transactions has occurred.

Item 39. EIN or SSN.—Enter the financial institution's EIN. If the financial institution does not have an EIN, enter the SSN of the financial institution's principal owner.

Item 43. MICR Number.—If a depository institution, enter the Magnetic Ink Character Recognition (MICR) number.

Signature

Items 44 and 45. Title and Signature of Approving Official.—The official who reviews and approves the CTR must indicate his/her title and sign the CTR.

Item 46. Date the Form Was Signed.—The approving official must enter the date the CTR is signed. (See Item 8.)

Item 47. Preparer's Name.—Type or print the full name of the individual preparing the CTR. The preparer and the approving official may not necessarily be the same individual.

Items 48 and 49. Contact Person/Telephone Number.—Type or print the name and telephone number of an individual to contact concerning questions about the CTR.

Various Regulations Information:

- ADA - Americans Disability Act
Covers guidelines for making facilities accessible for Americans with disabilities and sets guidelines for employment.
- BSA - Bank Secrecy Act
Covers Currency Transaction reporting and require the maintenance of appropriate types of records and the making of appropriate reports by such businesses in the U.S. where such records or reports have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.
- FDICIA - Federal Deposit Insurance Corporation Improvement Act of 1991
An Act to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes.
- RESPA - Real Estate Settlement Procedures Act (December 22, 1974) Congress created to insure that consumers throughout the Nation are provided with greater and more timely information on the nature & costs of the settlement process and are protected from unnecessarily high settlement charges caused by certain abusive practices that have developed in some areas of the country.
- FRB's Reg A - Extensions of Credit by Fed Res Banks; 12 CFR 201
Establishes rules under which Federal Reserve Banks may extend credit to depository institutions and others. Extending credit to depository institutions to accommodate commerce, industry, and agriculture is a principal function of Federal Reserve Banks.
- FRB's Reg AA - Unfair or Deceptive Acts or Practices; 12 CFR 227
Handling of Consumer Complaints.
The purpose of this act is to define unfair or deceptive acts or practices of banks in connection with extensions of credit to consumers.
- FRB's Reg B & Equal Credit Opportunity Act; 12 CFR 202
The purpose of this regulation is to promote the availability of credit to all credit worthy applicants without regard to race, color, religion, national origin, sex, marital status, or age (provided the applicant has the capacity to contract); to the fact that all or part of the applicant's income derives from a public assistance program; or to the fact that the

applicant has in good faith exercised any right under the Consumer Credit Protection Act.

- FRB's Reg BB - (CRA) Community Reinvestment; 12 CFR 228
 The purposes of this regulation are to encourage state member banks to help meet the credit needs of their local community or communities; to provide guidance to state member banks as to how the Board will assess the records of state member banks in satisfying their continuing and affirmative obligations to help meet the credit needs of their local communities, including low-and moderate-income neighborhoods, consistent with the safe and sound operation of those banks; and to provide for taking into account those records in connection with certain applications.
- FRB's Reg C - Home Mortgage Disclosure Act (HMDA); 12 CFR 203
 This regulation implements the Home Mortgage Disclosure Act, which is intended to provide the public with loan data that can be used (1) to help determine whether financial institutions are serving the housing needs of their communities; (2) to assist public officials in distributing public-sector investments so as to attract private investment to areas where it is needed; and (3) to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.
- FRB's Reg CC - Availability of Funds and Collection of Checks
 12 CFR 229
 The purpose of this regulation is to implement the Expedited Funds Availability Act. It contains the rules regarding the duty of banks to make funds deposited into accounts available for withdrawal, rules regarding exceptions to the schedules, disclosure of funds-availability policies, payment of interest, liability of banks for failure to comply, and rules to expedite the collection and return of checks by banks.
- FRB's Reg D - Reserve Requirements of Depository Institutions
 12 CFR 204
 This part relates to reserves that depository institutions are required to maintain for the purpose of facilitating the implementation of monetary policy by the Federal Reserve System.
- FRB's Reg DD - Truth in Savings; 12 CFR 230
 (June 21, 1993) The purpose of this regulation is to enable consumers to make informed decisions about accounts at depository institutions. The regulation requires depository institutions to provide disclosures so that consumers can make meaningful comparisons among depository institutions.

- FRB's Reg E - Electronic Fund Transfers; 12 CFR 205
 In Nov. 1978, Congress enacted the Electronic Fund Transfer Act. It found that the use of electronic systems to transfer funds provides the potential for substantial benefits to consumers, but that the unique characteristics of these systems make the application of existing consumer protection laws unclear, leaving the rights and liabilities of users of electronic fund transfer systems undefined. This regulation is intended to carry out the purposes of the act, including, primarily, the protection of individual consumers engaging in electronic transfers. (This is the most consumer orientated regulation.)
- FRB's Reg EE - Netting Eligibility for Financial Institutions
 12 CFR 231
 Regulation EE was adopted to expand the definition of "financial institution" for purposes of sections 401 through 407 of the FIDICIA of 1991.
- FRB's Reg F - Limitations on Interbank Liabilities; 12 CFR 206
 The purpose of the regulation is to limit the risks that the failure of a depository institution would pose to insured depository institutions.
- FRB's Reg G - Securities Credit by Persons Other Than Banks, Brokers, or Dealers; 12 CFR 207
 Applies to persons other than banks, brokers or dealers, who extend or maintain credit secured directly or indirectly by margin stock and who are required to register with the Board under section 207.3(a) of this part. Credit extended by such persons is regulated by limiting the loan value of the collateral securing the credit, if the purpose of the credit is to buy or carry margin stock, etc.
- FRB's Reg H - Membership of State Banking Institutions in the Federal Reserve System; 12 CFR 208
 The Board of Governors of the Federal Reserve System has delegated authority to exercise certain functions regarding to becoming a member of the Federal Reserve System.
- FRB's Reg I - Issue and Cancellation of Capital Stock of Federal Reserve Banks; 12 CFR 209
 Guidelines for becoming a member of the Federal Reserve Bank.
- FRB's Reg J - Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers Through Fedwire; 12 CFR 210
 This governs the collection of checks and other cash and noncash items and the handling of returned checks by Federal Reserve Banks. Its purpose is to provide rules for collecting and returning items and settling balances.

- FRB's Reg K - International Banking Operations; 12 CFR 211
It sets our rules governing the international and foreign activities of U. S. banking organizations, including procedures for establishing foreign branches and Edge corporations to engage in international banking and for investments in foreign organizations.
- FRB's Reg L - Management Official Interlocks; 12 CFR 212
The general purpose of the Interlocks Act is to foster competition by generally prohibiting a management official of a depository institution or depository holding company from also serving as management official of another depository institution or depository holding company if the two organizations (1) are not affiliated and (2) are very large or are located in the same local area. This part applies to management officials of state member banks, bank holding companies, and their affiliates.
- FRB's Reg M - Consumer Leasing; 12 CFR 213
The purpose of this regulation is to assure that lessees of personal property are given meaningful disclosures of lease terms, to delimit the ultimate liability of lessees in leasing personal property and to require meaningful and accurate disclosures of lease terms in advertising.
- FRB's Reg N - Relations with Foreign Banks & Bankers; 12 CFR 214
Covers the regulations governing relationships and transactions between Federal Reserve Banks and foreign banks or bankers or groups of foreign banks or bankers or a foreign state.
- FRB's Reg O - Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks (Insiders Act); 12 CFR 215
Governs any extension of credit by to an executive officer, director, or principal shareholder of (1) the member bank, (2) a bank holding company of which the member bank is a subsidiary, and (3) any other subsidiary of that bank holding company. It also implements the reporting requirements concerning the extensions of credit by a member bank to its executive officers and or principal shareholders, or the related interests of such persons.
- FRB's Reg P - Minimum Security Devices and Procedures for Federal Reserve Banks and State Member Banks; 12 CFR 216
This regulation requires each bank to adopt appropriate security procedures to discourage robberies, burglaries, and larcenies, and to assist in the identification and prosecution of persons who commit such acts.

- FRB's Reg Q - Prohibition Against Payment of Interest on Demand Deposits; 12 CFR 217
Prohibits the payment of interest on demand deposits by member banks and other depository institutions within the scope of this regulation.
- FRB's Reg R - Relationships with Dealers in Securities Under Section 32 of the Banking Act of 1933; 12 CFR 218
Limitations on who can legally serve as an officer, director, or employee of any member bank of the Federal Reserve System.
- FRB's Reg S - Reimbursement of Financial Institutions for Assembling or Providing Financial Records; 12 CFR 219
Establishes the rates and conditions for reimbursement of reasonably necessary costs directly incurred by financial institutions in assembling or providing customer financial records to a government authority.
- FRB's Reg T - Credit by Brokers and Dealers; 12 CFR 220
Its principal purpose is to regulate extensions of credit by and to brokers and dealers; it also covers regulated transactions within the Board's authority under the act.
- FRB's Reg U - Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks; 12 CFR 221
Imposes credit restrictions upon 'banks' that extend credit for the purpose of buying or carrying margin stock if the credit is secured directly or indirectly by margin stock.
- FRB's Reg V - Loan Guarantees for Defense Production; 12 CFR 245
The purpose of the act, the order and this part is to facilitate the financing of contracts or other operations deemed necessary to national defense production.
- FRB's Reg X - Borrowers of Securities Credit (HUD's Reg X); 12 CFR 224
The purpose is to require that credit obtained within or outside the United States complies with the limitations of the Board's Margin Regulations G, T, and U.
- FRB's Reg Y - Bank Holding Companies and Change in Bank Control 12 CFR 225
The principal purposes of this part are to regulate the acquisition of control of banks by companies and individuals, to define and regulate the nonbanking activities in which bank holding companies and foreign banking organizations with United States operations may engage, and to set forth the procedures for securing approval for such transactions and activities.

FRB's Reg Z - Truth in Lending; 12 CFR 226
The purpose of this regulation is to promote the informed use of consumer credit by requiring disclosures about its terms and cost. It also gives the consumers the right to cancel certain credit transactions that involve a lien on a consumer's principal dwelling, regulates certain credit card practices, and provides a means for fair and timely resolution of credit billing disputes.

Acronyms:

OCC - Office of the Comptroller of Currency

FEMA _ Federal Emergency Management Administration

FFIEC _ Federal Financial Institution Examination Council

FIRA - Financial Institutions Regulatory and Interest Rate Control Act of 1978 (also known as FIRIRCA)

FIRREA - Financial Institutions Reform, Recovery, and Enforcement Act of 1989

09-27-94

PENALTY CHECKLIST BY REGULATION

TRUTH-IN-LENDING ACT (REGULATION Z)

Civil Liability

- *Actual damages
- *Class action: Up to \$500,000 or 1 percent of net worth
- *Individual action: Twice the finance charge, \$100 to \$1,000
- *Court costs and attorneys' fees

Criminal liability: Fine up to \$5,000 and/or one year in jail
 Regulatory penalties, including orders to reimburse customers for understated disclosures
 Rescission penalties, civil liability listed above, plus extension of the right to cancel for up to three years

EQUAL CREDIT OPPORTUNITY ACT (REGULATION B)

Civil Liability

- *Actual damages
 - *Class action: Up to \$500,000 or 1 percent of net worth
 - *Individual action: Up to \$10,000
 - *Court costs and attorneys' fees
- Regulatory penalties with agency-mandated corrective actions

FAIR HOUSING ACT

Civil liability

- *Actual damages
- *Punitive damages up to \$1,000
- *Court costs and attorneys' fees

FAIR CREDIT REPORTING ACT

Civil liability

- *Actual damages
 - *Punitive damages(no maximum)
 - *Court costs and attorneys' fees
- Criminal liability: Fine up to \$5,000 and/or one year in jail

REAL ESTATE SETTLEMENT PROCEDURES ACT (RESPA)

Civil liability (mortgage loan servicing and escrow administration)

- *Actual damages
- *Class action: Up to \$500,000 or 1 percent of net worth
- *Individual action: Up to \$1,000
- *Court costs and attorneys' fees

Civil liability (kickbacks and unearned fees)

- *Three times the amount of the prohibited fee
- *Court costs and attorneys' fees

Civil money penalties (failure to send escrow statements)

- *Unintentional: \$50 per failure, up to \$100,000 in a 12-month period
- *Intentional: \$100 per failure, no maximum

Criminal liability: Fine up to \$10,000 and/or one year in jail

CREDIT PRACTICES RULE

Cosigner provisions: Forfeit right to collect from cosigner
Prohibited contract provisions are enforceable

HOME MORTGAGE DISCLOSURE ACT (HMDA)

Image problems and potential discrimination litigation and/or agency action problems due to public reports(also, recent trend of FIRREA penalties for inaccuracies; see FIRREA below)

COMMUNITY REINVESTMENT ACT (CRA)

Denial, delay, or conditioning of applications for expansion or merger

Image problems due to public reports and protests

CONSUMER LEASING ACT (REGULATION M)

Civil liability

- *Actual damages
- *Class action: Up to \$500,000 or 1 percent of net worth
- *Individual action \$100 to \$1,000
- Court costs and attorneys' fees

Criminal liability, with fine up to \$5,000 and/or one year in jail

EXPEDITED FUNDS AVAILABILITY ACT (REGULATION CC)

Civil liability

- *Actual damages
- *Class action: Up to \$500,000 or 1 percent of net worth
- *Individual action: \$100 to \$1,000

ELECTRONIC FUND TRANSFER ACT (REGULATION E)

Civil liability

- *Actual damages
- *Class action: Up to \$500,000 or 1 percent of net worth
- *Individual action: \$100, to \$1,000
- *Court costs and attorneys' fees

Criminal liability: Fine up to \$5,000 and/or one year in jail

Liability for unauthorized withdrawals -- all but \$50 or \$500, depending on the timing of the customer's notification

BANK SECRECY ACT (BSA)

Civil liability

- *Fine up to \$100,000
- *Violation of Currency or Monetary Instrument Report (CMIR), form 4790: Fine up to the amount of the instrument
- *Violation of antistructuring prohibition: Fine up to the amount involved
- *Violation involving foreign agency transaction: Fine up to \$100,000
- *Negligent violation of any provision of BSA: Up to \$500 per violation

Criminal penalty

- *Fine up to \$250,000 and/or five years in prison
- *Fine up to \$500,000 and/or 10 years in prison for pattern of illegal activity

RESERVE REQUIREMENTS (REGULATION D)

Civil money penalties up to \$1,000 per day
Retroactive adjustment of reserve balances and call reports

INSIDER CREDIT (REGULATION O)

Civil money penalties up to ~~\$~~5,000 per day

FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT (FIRREA)

Increased civil money penalties and expanded grounds for imposing them:

- *Tier 1: Up to \$5,000 per day
- *Tier 2: Up to \$25,000 per day
- *Tier 3: Up to the lesser of \$1 million or 1 percent of assets

Mr. MCINTOSH. I appreciate that. I—never having had that much money at one time, I have not encountered that regulation. But I can imagine how it would be viewed as harassment by people who are engaging in innocent transactions. Have you—let me ask you this, Mr. McGuire: On the reg Z with the home loan, where you have to hold it up, that presumably is to give people time to decide whether they really don't want to take out the loan. Have you had anybody change their mind during that 3-day period?

Mr. MCGUIRE. Not in 31 years. Of course this law only came in effect 18 years ago, but you can't get it off the books. And what it does, it alienates you. Mr. McIntosh, it would alienate you if you came in, because you have already—you did it overnight on your first mortgage when you got your money. Here, you are wanting to buy a new car or send your child to school. And there we are, and it appears—it has every appearance that we are wanting to hold your money back. And that is really, really a bad law that has been set up.

Mr. MCINTOSH. The other thing I was going to ask you: Would you be able to put together the current paperwork that someone needs to do to get a home loan? And if you happen to have one from, say, maybe 20 years ago or any records like that that could be blacked out for privacy?

Mr. MCGUIRE. I think that I could possibly. I know I just signed a mortgage on my own house not too long ago. And I signed it—it shocked me—32 times. Where—you know, you sign where you signed that you know you signed.

Mr. MCINTOSH. Yes.

Mr. MCGUIRE. That is getting ludicrous. I would like to give you these two forms.

Mr. MCINTOSH. That would be great. We will put those in as part of the record in this.

Mr. MCGUIRE. OK.

Mr. MCINTOSH. Thank you.

Ms. Clayton, I wanted to check with you. It is my understanding that if you hear about a drug that is available in another country that might help you with your lungs and the cystic fibrosis, you would not be able to have access to that here until the FDA had given its approval. Is that right?

Ms. CLAYTON. Yes.

Mr. MCINTOSH. Now, does that give you a choice basically of traveling to that other country or else not having the benefit of that drug?

Ms. CLAYTON. I have thought many times about it. We used to joke about, you know, well, let's fly over there. But—you know. I have even asked the doctor, and he said, well, maybe the drugs over there wouldn't work for me.

Mr. MCINTOSH. Yes.

Ms. CLAYTON. So I have inquired about it.

Mr. MCINTOSH. About that?

Ms. CLAYTON. Yes.

Mr. MCINTOSH. And even if your doctor wanted to try out the new therapy, he or she would not be able to do it, even if they thought it might work for you?

Ms. CLAYTON. No.

Mr. MCINTOSH. And you feel if you knew the risks of—say it was more risky than some of the drugs you are taking now—that you would be able to make that decision for yourself?

Ms. CLAYTON. Yes. Just like the fungus I have now in my lungs. The steroid I was telling you that I was taking, the last 2 weeks I have been on it, it has just had a bunch of side-effects. So that is why he cut me back on it. And so he is going to try another treatment for the fungus now because the side effects were much more—they were hurting me more than the fungus was.

Mr. MCINTOSH. But you were willing to try it to see if you could get rid of the fungus?

Ms. CLAYTON. Yes. Yes, I did.

Mr. MCINTOSH. All right. Well, again, I appreciate you coming today.

Ms. CLAYTON. Thank you for having me.

Mr. MCINTOSH. Dr. Coburn, do you have any questions?

Mr. COBURN. Well, I just want to cover a couple of points. No. 1, I want to go back to Mr. McGuire for just a minute.

You mean if somebody in this crowd came in with \$3,001, that they had worked over the summer mowing grass, and deposited that as a new customer in your bank, you would, No. 1, fill out a form to the IRS saying that they did it. But No. 2 is: They would never know you did that?

Mr. MCGUIRE. No, sir. We would fill out the form. But we would tell them it the way it would be after the fact, after they had already deposited the money. And—

Mr. COBURN. Yes. In other words, once they have done it—

Mr. MCGUIRE. Right.

Mr. COBURN [continuing]. Then you would tell them.

Mr. MCGUIRE. Yes.

Mr. COBURN. Understanding what the reason is for that law, does that give you any sense of violation of our freedom at all in this country? Does—is there anything inherently that just kind of gets you in your craw about that?

Mr. MCGUIRE. It really does because—let me tell you. The person that is someone that is trying to deal in drugs, No. 1, they are smart enough to know that we fill out these forms, you know. And the other side of it is: To me, that banking—the secrecy act itself isn't all bad, because there are other parts of it, parts that we do not disclose any of your business to anybody.

But yet, we have to sit there and take from you—I like that—because it really is an infringement on your rights when we sit there and ask all these questions.

Mr. COBURN. Well, what if the drug dealer came in with \$2,999 10 times in the next 2 months? Would you have to report that?

Mr. MCGUIRE. Yes, sir, if it was suspicious. And if we thought it was suspicious, we would report it.

Mr. COBURN. Who determines what suspicious is?

Mr. MCGUIRE. Well, that is a real fine line.

Mr. COBURN. In other words, you all are liable, though—

Mr. MCGUIRE. Yes.

Mr. COBURN [continuing]. In terms of the IRS and the bank examiners if, in fact, they may think you should have thought it was suspicious but you didn't?

Mr. MCGUIRE. That is correct. The irony of it all is that when you fill this out on the good people—you know, you would like to be able to say, Dr. Coburn, draw this out in three \$2,500 groups. But that is called leading, even if it is someone that you know is honest and upright. That is called leading, and that is where these fines come in on us.

Now, what I can do is hand you this and say, read this. I am not allowed to discuss this other whatsoever with you until we start filling it all out.

Mr. COBURN. Yes.

Mr. MCGUIRE. And it just asks everything in the world on it.

Mr. COBURN. Sue Ann, I—we have visited before; you have been in my office in Washington.

Ms. CLAYTON. Yes.

Mr. COBURN. And it is good to see you again. I want to ask you a question. As a citizen of this country, should you—if you have a terminal illness, should you have the right to take any medicine you want?

Ms. CLAYTON. To a point, I think. If nothing else was working for you and that was your choice, I do. I think it is your choice.

Mr. COBURN. And so it would be your testimony that, given the fact that you have cystic fibrosis and someone may have something that can help you, whether it is approved here or not, should you have the basic freedom to say, I know that there are risks; It may not help; But I am in a corner; Why should I not be allowed to have the opportunity to try new things? Why should society not learn on me?

Ms. CLAYTON. Yes.

Mr. COBURN. Do you feel that way?

Ms. CLAYTON. Yes.

Mr. COBURN. OK. All right.

And Mr. Cox, I will tell you: I read your testimony last night, and I got mad. I have had similar experiences when I was in business.

But do you have options so that you can find the information out about the people—the, “Ten supposed incidences over the last 30 years of electrocution associated with boat lifts”?

Mr. COX. We don't know any way other than for the CPSC to tell us who these people are.

Mr. COBURN. And are they not susceptible to the Freedom of Information Act?

Mr. COX. Well, they are apparently not, because they told us they were so busy that they just didn't have time to get it for us. Now, they demand from us on the spot, but they tell us—and that was months ago that we asked for this.

Mr. COBURN. Did they tell you that in written form?

Mr. COX. Yes, sir.

Mr. COBURN. Could I be sure and have a copy of how busy they were that they couldn't comply with the Federal laws on the Freedom of Information Act?

Mr. COX. Yes, sir. I have a copy of their letter, as well as a copy of the letter that we wrote. And I—then I have asked them twice verbally, once just a week ago last Friday. And I was told they

couldn't release that because it was information that they were forbidden by law to release.

But, you know, if I am accused of a crime, I think I am entitled to know who my accusers are and what the crime was and some of the details about it. But a businessman doesn't have that right, apparently not.

Mr. COBURN. Well, it is my hope that the committee will followup on this particular issue for you with the Consumer Product Safety Commission in terms of its oversight function. And—

Mr. COX. And Senator Nichols' staff has asked for the same thing.

Mr. COBURN. Yes.

Mr. COX. So maybe somebody can get some information from them, but we can't.

Mr. MCINTOSH. We will definitely pursue this in oversight. And they are one of the most intransigent agencies we deal with, but we will submit that. If we could have a copy of that letter and their response, that would be helpful to us.

Mr. COX. Yes.

Mr. COBURN. And I also wanted you to know that I am an original cosponsor with Mr. Hayworth on his bill.

Mr. COX. Thank you very much.

Mr. MCINTOSH. As am I. Excellent. Mr. Cox, I have a couple of other questions for you. Describe to me a little bit what—how your product is used as a boat hoist.

Mr. COX. Mr. McIntosh, it is a hydropneumatic device that uses fiberglass tubes with a steel frame on it that, in order to lift a boat, we exchange air for water and lower the lift. You put your boat on it, and we exchange the water for air to provide buoyancy. So the only way our lift is connected to a dock is through an air hose; there is no electrical circuitry whatsoever to the water.

Almost without exception, all of our lifts will go onto docks that are built under some regulatory authority's permit process. And all of them require electrical standards to the National Fire Protection Association Code, all of which stipulates that these electrical circuits have ground fault circuit interrupters in them.

Our lift has a control box where the motor is completely encased inside a fiberglass housing. And there is a power point that comes and plugs into a grounded power point, but the cord is not long enough to reach the water in any case. It is—if they want us to add this extra protection, you know, it is going to cost the consumer more money. It costs us a great deal of money just to process and fool with all of these things, but this will add to the cost of the lift, which will be passed on to the consumer.

But I don't object so much to doing that. But why can't they come and say, We think that you are making this, and it could be better if you put this on there? With some rationale and reasoning, I don't have a problem with it. But no. They come charging in and say, You will recall every lift that you have ever made. In over 30 years, we don't even know how many that is, quite frankly, because our records burned about 15 or 18 years ago.

We also ship these in quantity to dealers; the dealer then sells them to the boat owner. And we don't—unless a warranty card comes back, we don't have any way of knowing where these are.

Then when they are sold and resold two or three times, it gets even worse.

To do what they are talking about would cost us more money than the company is worth. To—the next thing they want us to do is run ads in the newspapers saying that we have built a substantially hazardous product over 30 years, although we had never had a complaint on it. Now, can you imagine what all of the under-employed lawyers in the country would do with that? [Laughter.]

Mr. COX. You know, the lawsuits alone would kill you. They want us to take out and do a press release that says, Hey, we have been building this bad product. Well, what it does is sullies a reputation, and that is not warranted; we have never had that problem.

Mr. MCINTOSH. Let me ask you this. You mentioned that one of the reasons you don't put that in there is the possibility of power loss?

Mr. COX. There is a possibility—and this is under dispute at this point in time—that if you put a redundant ground fault circuit interrupter in a circuit, you can trip one of the two. We are doing some experiments on that. We have had consulting engineers look at the situation, and there is a disagreement among them. The contractors who wire the docks say, Don't put it on your lifts, because it would cause a problem. At this point in time, it is undetermined as to that.

Mr. MCINTOSH. What happens if you have a power failure?

Mr. COX. Well, you—because of the ground fault circuit interrupter? It—

Mr. MCINTOSH. Or any power interruption.

Mr. COX. Oh, any power failure? Well, the boat lift won't work. So, you know, if it were something that says that we are—

Mr. MCINTOSH. Does it lower the boat back into the water, or does it stay where it is?

Mr. COX. It—you could. If the boat is lifted, you could open a valve and lower the boat into the water. The blower is only necessary when you go to exchange air for the water, and that is to lift the boat.

Mr. MCINTOSH. OK. Well, I appreciate you bringing this forward. And we will certainly look into that.

Did you have any further questions?

Mr. COBURN. No. I am fine.

Mr. MCINTOSH. OK.

Thank you all very much. I appreciate your testimony today.

Mr. COX. Thank you.

Mr. MCINTOSH. Karen is suggesting—and I think it is a good idea—why don't we take a 5-minute recess?

Mr. COBURN. OK.

Mr. MCINTOSH. And then we will proceed with the next panel. [Recess.]

Mr. MCINTOSH. The committee will come back into session.

And we will go ahead and get started with our third panel. If I could call forward the following witnesses: Ruby Henderson, Robert Ross, Charles Sloan, Larry McFerron, Don Turner, and James Zangger.

Great. I appreciate you all coming. If you would remain standing. And, if you would, raise your right hands.

[Witnesses sworn.]

Mr. MCINTOSH. Thank you very much.

Let the record show that each of the witnesses answered in the affirmative.

Go ahead and have a seat. And we will begin with Ruby Henderson.

Ruby, I appreciate your coming. And, as you can tell, we have farmers in Indiana who work hard, and I am very proud of them. And they fight—they go against the stereotype. Kay Whitehead is one of the most dynamic people in our community. She came back to Washington, and nobody would believe she was actually a farmer. But she does a tremendous job with her hog farm.

And so I appreciate all of you taking time out; I know spring time is a particularly busy time for you. And I appreciate you coming and sharing your testimony.

Ms. HENDERSON. Thank you.

Mr. MCINTOSH. Thank you, Ruby. Go ahead, and you may proceed.

STATEMENTS OF RUBY HENDERSON, FARMER, BIXBY, OK; ROBERT ROSS, FARMER, WEBBERS FALLS, OK; CHARLES SLOAN, SEQUOYAH COUNTY FARM BUREAU; LARRY McFERRON, McFERRON'S QUALITY MEATS, NOWATA, OK; DON TURNER, TURNER BROTHERS MEATS, NOWATA, OK; AND JAMES ZANGGER, PRESIDENT, GREENLEAF NURSERY, CHEROKEE COUNTY, OK

Ms. HENDERSON. Honorable members of the committee, I am Ruby Henderson, of south Tulsa County. I would like to initially thank you for the opportunity to voice my concern and displeasure for the current wetland regulatory infringement on property owners. My farm—

Go ahead with the rest of it now?

Mr. MCINTOSH. Yes. That would be great.

Ms. HENDERSON. My farm south of Bixby has been my home for nearly 60 years. Until the wetlands rulings, I felt I was sole custodian of my property. Now I find that Federal agencies are authorized to control the land I pay taxes on, work to own, and wish to heir to my children.

The entire issue stems from a two-part dilemma. First, the 6 acres classified are part of a pasture that is adjacent to a pecan orchard and a drainage canal that my husband voluntarily built during the forties to help the city of Bixby drain an unused reservoir.

This situation is compounded by the beaver population damming up the ditch, causing the flooding that presents the appearance of a classic wetland. This only occurs during the wet season; and during the summer, it isn't wetlands. Yet I am under constant classification.

This is a basic intrusion into my rights to own property, and is just one example of the overzealous actions of multiple agencies vying to enforce the wetlands regulations. My dilemma is not isolated and should serve as an example of Government's need to review and rescind these intrusive regulations that threaten our very

freedom and constitutional guarantees of right to ownership. I therefore urge the passage of measures to reform the Wetlands Act. And these are for you. And I believe that is it.
[The prepared statement of Ms. Henderson follows:]

HONORABLE MEMBERS OF THIS COMMITTEE, I'M RUBY HENDERSON OF SOUTH TULSA COUNTY. I WOULD LIKE TO INITIALLY THANK YOU FOR THE OPPORTUNITY TO VOICE MY DISPLEASURE AND CONCERN FOR THE CURRENT WETLAND REGULATORY INFRINGEMENT ON PROPERTY OWNERS.

MY FARM SOUTH OF BIXBY HAS BEEN MY HOME FOR NEARLY SIXTY YEARS. UNTIL THE WETLANDS RULINGS I FELT I WAS SOLE CUSTODIAN OF MY PROPERTY. NOW I FIND THAT FEDERAL AGENCIES ARE AUTHORIZED TO CONTROL THE LAND I PAY TAXES ON, WORKED TO OWN AND WISH TO HEIR TO MY DEPENDANTS.

THE ENTIRE ISSUE STEMS FROM A TWO PART DILEMMA. FIRST ,THE SIX ACRES CLASSIFIED ARE PART OF A PASTURE THAT IS ADJACENT TO A PECAN ORCHARD AND A DRAINAGE

CANAL MY HUSBAND VOLUNTARILY BUILT DURING THE FORTIES TO HELP THE CITY OF BIXBY DRAIN AN UNUSED RESERVOIR. THIS SITUATION IS COMPOUNDED BY THE BEAVER POPULATION DAMMING UP THE DITCH CAUSING THE FLOODING THAT PRESENTS THE APPEARANCE OF A CLASSIC WETLAND. THIS ONLY OCCURS DURING THE RAINY SEASON AND IS DRY DURING THE SUMMER, YET I'M UNDER CONSTANT CLASSIFICATION. THIS IS A BASIC INTRUSION INTO MY RIGHT TO OWN PROPERTY AND IS JUST ONE EXAMPLE OF THE OVERZEALOUS ACTIONS OF MULTIPLE AGENCIES VYING TO ENFORCE THE WETLANDS REGULATIONS. MY DILEMMA IS NOT ISOLATED AND SHOULD SERVE AS AN EXAMPLE OF GOVERNMENT'S NEED TO REVIEW AND RESCIND THESE INTRUSIVE REGULATIONS THAT THREATEN OUR VERY FREEDOMS AND CONSTITUTIONAL GUARANTEES OF RIGHT TO OWNERSHIP.

I THEREFORE RESPECTFULLY REQUEST PASSAGE OF
MEASURES TO REFORM THE WETLANDS ACT.

[SEE ATTACHED DOCUMENTS]

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WETLANDS REFORM LEGISLATION

Background:

The pending reauthorization of the Clean Water Act provides the long sought opportunity to enact meaningful wetlands reform for farmers and ranchers. Section 404 of the Clean Water Act requires anyone who is conducting a dredging or filling activity in the "waters of the United States" and adjacent wetlands to obtain a permit from the Corps of Engineers. In fact, however, the regulatory reach goes well beyond the literal interpretation of "navigable waters" or "waters of the United States." It has become a pervasive and restrictive land-use policy affecting primarily private landowners 75 percent of all wetlands are privately owned. Wetlands policy has grown by default rather than design, largely constructed by the courts and the regulatory agencies, not by elected representatives. While Section 404 provides for an exemption from individual permit requirements for normal farming, silviculture and ranching activities, in reality this exemption has been plagued by inconsistent and varying interpretations at the local level. It needs to be strengthened and reaffirmed. Farm Bureau is seeking a comprehensive, common-sense reform of federal wetlands policy by Congress to address this and many other key issues discussed below.

Status:

The House of Representatives passed H.R. 961 on May 16, by a vote of 240-185. H.R. 961 is a bill to reauthorize the Clean Water Act, including the Sec. 404 wetland program. H.R.961 incorporates the reform provisions of H.R. 1330 sponsored by Rep. Jimmy Hayes. Farm Bureau strongly supported both bills.

Senator Lauch Faircloth (R-NC) and Senator J. Bennett Johnston (D-LA) have introduced a wetland reform bill in the Senate, S. 851 which is similar to the provisions of H.R. 961. Farm Bureau strongly supports this bill. Full Committee Chairman John Chafee, R-RI, favors a much narrower approach to revising the Sec. 404 wetland program. Discussions between Chafee, Faircloth and other interested Senators are on-going in advance of an expected mark-up in January.

Farm Bureau Policy:

AFBF policy on wetlands is extensive and fully supportive of efforts to conserve true wetlands such as marshes, bogs and swamps. Congress should establish a comprehensive policy that balances the protection of wetlands with protection of private property rights.

Farm Bureau is seeking the following changes in Section 404 of the Clean Water Act:

- * **Realistic Wetlands Definitions:** The current criteria used to define wetlands is too broad and results in large amounts of land regulated that, from a practical standpoint, do not have any wetlands values or functions. Legislation should define wetlands in a manner that protects true wetlands.
- * **Exclude Prior Converted Cropland:** All prior converted agricultural land would be excluded from regulation under the Clean Water Act's 404 program. These lands no longer exhibit any wetlands characteristics and should not be regulated as such. Recent regulatory action by the Corps has affirmed this policy approach.
- * **Clarify Normal Farming Practices:** Current law provides an exemption from individual permit requirements for normal farming and ranching activities on farmed wetlands. Legislation should clarify and reinforce this important exemption.
- * **Wetlands Classification:** Wetlands legislation should recognize that all wetlands do not share the same values and functions. Legislation should result in the classification of wetlands by value and function.
- * **Compensation:** The regulation of wetlands has emerged as a federal land use policy that limits, restricts or prohibits economic activity on much privately owned land. The legislation should require compensation be provided to landowners for the loss of economic use of private lands.
- * **Exclude Man-Made Wetlands:** Man-made or artificial wetlands such as farm ponds, irrigation ditches and wetlands created by poorly designed public works projects should not be subject to regulation. They are not naturally occurring waters of the United States.

- * **Swampbuster Conformity:** The recently passed changes to Swampbuster further highlight the longstanding inconsistency between Swampbuster and the Clean Water Act's 404 program. Activities authorized under the 1996 Farm Bill associated with prior converted cropland, minimal effects and mitigation could be considered violations under Sec.404 subjecting farmers to criminal prosecution, fines and/or jail.
- * **Compatible Wetlands Crops:** Some agricultural commodities, such as cranberries, are entirely compatible with wetlands conservation. Production of these crops should be encouraged and regulatory barriers should be removed.
- * **Appeals Process:** Landowners need a means to appeal wetlands delineations and permit denials that is timely and inexpensive. The appeals process should also allow for judicial review. Currently, no such provision exists in Section 404.
- * **Single Agency Authority:** The 1996 Farm Bill gave the Natural Resources Conservation Service sole responsibility for delineating wetlands on all agricultural land. They currently perform this function in the administration of Swampbuster. Revisions to the Clean Water Act should similarly consolidate responsibility for administering the 404 program with one federal agency and remove the Sec. 404(c) veto authority of EPA .
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Sunday
February 9, 1992

Henderson



World Staff Photo by Steven Crane

Ruby Henderson has some unwelcome "wetlands" thanks to beavers and government red tape.

From Prime Land to 'Wetlands' Beavers, Government Bottle Up Property

By David Averil
Editorial Writer

Bury beavers and an equally persistent federal government created a "wetland" on Ruby Henderson's farm south of Kirby. She didn't invite it, and she would like to return the six-acre plot to pasture, which she says it was up until five years ago when the beavers and then the feds arrived on the scene. But federal law and regulations, enforced in this case by the U.S. Soil Conservation Service, make that difficult if not impossible.

Mrs. Henderson's plight illustrates a problem farmers nationwide have with a federal government they say is too zealous in its efforts to preserve the nation's wetlands, homes and breeding grounds to waterfowl and other fauna and flora. And she has a valid complaint: "The government has control of my land, except I own it and I pay taxes on it."



David Averil

Mrs. Henderson and her late husband acquired the farm — 690 acres of good Arkansas River bottomland — in 1938. They cleared much of the land of trees and brush for cattle pasture and to grow wheat, soybeans, vegetables and pecans.

For nearly 40 years the six acres in question were "beautiful bermuda and fescue pasture," that drained and dried after each rainfall, Mrs. Henderson says. Then about five years ago beavers began damming a drainage ditch that cuts across her land from the west. Water began backing up behind the beaver dams and standing in the lower parts of the pasture. Woods and brush began to replace pasture grass on the flooded acreage.

About three years ago conservation agents came to her farm, took soil samples and designated the six-acre tract and a single acre adjacent to her house as federally protected wetlands. (Among other things, land may qualify as a wetland if water stands on it more than seven days a year.) She protested the designation and it was lifted from the single-acre tract, but not from the six acres of former pasture.

"They came out each time right after a big rainfall when water was backed up behind the beaver dams," she says. The conservation service's position, Mrs. Henderson says, is that the acreage is a wetland regardless of whether beavers are damming the ditch and backing up water. She points out

that the pasture did not become a seasonal marsh (it still dries up during hot weather) until the beavers became active.

"I know better (than the conservation agents) because I've lived here since 1928," she says.

She has had beavers removed — a trapper caught 15 large ones in a single day last year — but they return. Two or three times a year she has a tractor flatten the stick-and-mud dams, but each time the beavers build them back in a matter of hours.

Mrs. Henderson has appealed the wetlands designation at the local, district, state and national levels of the conservation service, so far to no avail. She has corresponded with Sen. David Boren and Don Nickles, and says she is pleased with their efforts, along with other farm state congressmen, to relax the overly strict wetlands regulations. Those efforts have not yet borne fruit.

In a recent letter to Mrs. Henderson the district conservationist in Tulsa said that the conservation service began making wetlands determinations as a result of the Food Security Act of 1985.

"Passage of this act by Congress required farmers to maintain wetlands in order to receive U.S. Department of Agriculture program benefits such as crop subsidies, pecan disaster payments, etc.

"However, if a farmer or rancher does not want to participate in USDA farm programs, which is totally voluntary, it is their business what they do with wetlands."

In other words, as far as the conservation service is concerned, farmers may do what they wish with designated wetlands, as long as they give up any federal farm aid.

"However, you should contact the Corps of Engineers, Environmental Protection Agency and the U.S. Fish and Wildlife Service before draining wetlands."

The letter doesn't mention it, but these agencies also are empowered to deny or prevent the draining of designated wetlands. That was amply demonstrated during the debate over construction of the Creek Expressway in Tulsa.

So Mrs. Henderson may restore her former pasture, provided she is willing to give up any federal farm aid and go to battle with three vast and powerful federal agencies. Some deal.

What the government has done here is tell Mrs. Henderson she can't use six acres of her land as she wishes. It is effort to force that six acres without due process of law. If the federal government wants to erect a wildlife refuge on her property it should offer to buy it, or, failing that, condemn it and pay her fair value.

Preservation of significant wetlands is important. But there must be some balance across elements of fairness. Mrs. Henderson has every right to be unhappy with the current system.

Mr. MCINTOSH. OK. Thank you. I believe you have provided an additional statement for us about that act which we will put into the record.

Ms. HENDERSON. Yes, sir.

Mr. MCINTOSH. And we can put that in. Thank you.

Ms. HENDERSON. Do you want a copy of it?

Mr. MCINTOSH. Yes. That will be great if you can. David will get that from you. And you are absolutely right: This is a question of our basic freedom in this country.

Our next witness is Mr. Robert Ross, who is also a farmer.

Mr. Ross, thank you for joining us. Go ahead and proceed with your testimony.

Mr. ROSS. Thank you, Mr. McIntosh and Dr. Coburn.

I am Robert Ross of Webbers Falls, OK. My son and I are farmers. I also own and operate a farm and building supply and service business in Webbers Falls. We are a small community. So in order to make a business survive, we must be diversified, causing us to have to handle a lot of different materials and services.

In order to make a point, I must give you a little of my background. I graduated from Oklahoma A&M in 1950, with a degree in agriculture education. I taught agriculture and farming for 11 years. And in 1961, I bought into this farming and building supply business and have been working as a farmer and as a farm and building supply operator. For 46 working years—I have had 46 years of experience.

And I have attended many, many informational farm meetings to try to keep up with new developments in agriculture, laws, rules, and regulations. I hold several meetings each year for my customer farmers with chemical company representatives to try to keep them current and informed. In every spare moment, I read agricultural articles trying to keep myself informed.

I hold a commercial chemical applicator's license and keep it current by attending the information meetings required. I am a certified crop consultant, passing both the national and State exams.

I can tell, with all this experience, knowledge, and effort I expend, I absolutely cannot keep up with all the laws, rules, and regulations that are put upon us by regulatory agencies that affect us. So what do we do? We follow them as best we know how, using our best judgment, realizing that very likely, there is a regulatory agency that can shut us down if an inspector makes up his mind to do so. We are doing nothing to harm the health of our help or the environment that we can detect, but there is always that cloud hanging over us that won't allow us to enjoy the work and services that we perform.

Now, this is not right and shouldn't be a part of a free system. In fact, in 1994, it was estimated that regulatory agencies cost farmers \$21 billion. That is more than the cost of any one item that we use in farming, whether it be fertilizer, a chemical, or whatever. Now, if we could spend just a small part of that on education, we could probably eliminate the necessity of all of these regulatory agencies. And we could still produce the most abundant, dependable, and most nutritious and safe food the world has ever known.

I can remember that, as a boy, I lived on—living in the area of the Arkansas River, every spring, we would expect several people

to die as a result of malaria because of the mosquitos. And then here came DDT; we thought it was the salvation of the world, no more funerals. And then, all at once, it became an enemy to the people. And, of course, as a result of this book, "Silent Spring," it has been downhill ever since. Realizing that there was some damage done by chemicals, still the advantage and the benefit far outweighed it.

Now, we realize that there must be changes and that some products must go, but others must replace them or see this abundant supply of food and fiber disappear. Well, we are doing a lot about it; we have reduced the amount of chemicals that we use per acre tremendously over the past few years, not necessarily because of regulation, but because of better science.

And a lot of these new chemicals, of course, we know have a shorter lifespan and are therefore much safer for the environment. We do these things because they are right, not because they are legislated, but because we know that it is the thing to do.

Well, on our farm, in the 46 years, we have never had one—not 1 hour of downtime because of an accident. In the business, we have one in 36 years. A pretty good record, not because of regulation, but because we use good judgment. Good judgment ought to be enough, but here, we have all of these regulatory agencies that we have to comply with. And, quite honestly, we know that we can't comply with all of them because we can't know what all of them are. So therefore we do our best; it seems that our best judgment should suffice.

We even have incidents, as have been reported earlier, where if you—especially with the Department of Transportation, we have regulations that say that you must sell certain chemicals within a certain container. And yet, when you have got two 2½-gallon containers in the same container, somewhere along the line, you are going to break the law. And, also, you have certain chemicals that all at once have become dangerous even though for 35 years they have been safe.

And these things have to be changed. It seems—it is really upsetting, the problem. And, worst of all, we feel that we are breaking the law and are not even knowing it, and realize that we are under a regulation that we can't live under to the letter of the law. Thank you.

[The prepared statement of Mr. Ross follows:]

I am Robert Ross of Webbers Falls, Oklahoma. My son and I are farmers. I also own and operate a farm and building supply and service business in Webbers Falls. We are a small community, so in order to make a business survive we must be diversified, causing us to have to handle a lot of different materials and services.

I must give my background in order to make a point. I graduated from Oklahoma A & M College in 1950 with a degree in Agriculture Education. I started the Vocational Agriculture Department and taught until 1961 when I bought into this farm and building supply business. I have 46 working years in farming and farm supply business. I have attended many, many informational farm meetings to try to keep up with new developments in agriculture, laws, rules, and regulations. I hold several chemical meetings each year for my customer farmers with chemical company representatives to try to keep them current and informed. In every spare moment I read agricultural articles trying to keep informed. I hold a "Commercial Chemical Applicators" license and keep it current by attending the informational meetings required. I am a "Certified Crop Consultant," passing both the national and state exam on the first try.

I can tell you, with all the experience, knowledge and effort I expend, I absolutely cannot keep up with all the laws, rules and regulations put on us by regulatory agencies that affect us. So what do we do? We follow them as best we know how, using our best judgment, realizing that very likely there is a regulatory agency that can shut us down if some inspector made up his mind to do so. We are doing nothing to harm the health of our help or the environment that we can detect, but there is always that cloud hanging over us that won't allow us to enjoy the work and services that we perform.

This is not right and should not be a part of a free system. If we used one-third of the \$21,000,000,000 that these rules and regulations cost farmers each year on education, all these agencies could disappear and we could again feel free to service our customers and produce the most abundant, dependable, most nutritious and safest food the world has ever known.

I can remember as a boy living in this area of Oklahoma, in the bottom lands, along the rivers and streams that each spring and summer we expected an outbreak of malaria. People would die as a result of the disease spread by mosquitos. Then came DDT which saved many lives and was appreciated by all because it made life much healthier and happier. There is no joy in funerals. Then came more chemicals that eliminated worms, disease and fungus from our food and fiber, making life better and food healthier. Then came the book *The Silent Spring*. DDT became the enemy instead of a friend. Granted there was some damage to some animals, but very minor. Since that time it has been down hill. What was considered to be good suddenly became evil in the minds of many who have enjoyed all this abundance at a cost that very few appreciate or even acknowledge.

Science and scientists who developed the products have been pushed aside as the people of knowledge and replaced by the liberal "expert" media, who sometime know they are using bad information (Ex. the apple alar scare), by authors of books, movie actors and activists who have been paid to pass on misinformation and ideas promulgated by self-proclaimed experts on the environment. Those who have been practicing conservationist for years no longer are relevant.

We realize that there will always be a need to change. Some products must go, but others must replace them or see our safe, abundant supply of food and fiber disappear.

In this area in the 1970's we used approximately 120 pounds of chemical dust per acre or 3 1/2 to 4 gallons of liquid pesticide per acre. That has been reduced to sometimes less than 4 ounces up to 3 pints liquid pesticide or up to 2 1/2 pounds granular. This was not mandated, but came about because of superior science and education. Furthermore they all have a short lifespan, therefore much safer to the environment. Where we formerly used nearly every plowable acre we now use only 80% of the plowable acres, leaving the balance for wildlife and continual ground cover, reducing soil erosion from approximately 20 tons per acre to less 5 tons per acre - and nobody notices. We are doing a great job and very few give credit where credit is due.

A very wise old fellow once said that farmers in the U. S. would never be appreciated until people went to the grocery store and the shelves were empty. It's sad to be so negative, but his statement seems to be true.

Here are just a few of the unfunded mandates which we must tolerate:

- 1) WPS (Workers Protection Standards) with their many rules and minute regulations. Even though in over 46 years experience we have never had an hour lost time problem. We have always had trained and certified workers, supplied personal protection equipment, kept in contact by radio, and we keep workers out of restricted fields, etc.
- 2) EPA (Environmental Protection Agency) - We store chemicals in containment system, have regular inspections, inform fire department of chemicals, mix all chemicals in field away from wells, etc., read labels and try to avoid mistakes and of course keep sprayed field records. We also try to keep up with changes and added requirements.
- 3) OSHA (Occupational Safety and Hazard Administration) - We do all the things that we can to prevent accidents. We have had only one "lost day" accident in the supply business in 35 years of operation. None on the farm.
- 4) MSDS (Material Safety Data Sheets) - You can't imagine the items we sell which require that we furnish MSDS, even sawdust! A customer will very seldom take one, and when they do, they seldom read them. They think it's a joke that we are required to provide them. This requirement costs all of us in time and resources, almost always unnecessarily.
- 5) DOT (Department of Transportation) - (we observe to the best of our knowledge). Chemicals we have carried from supplier to fields for many years, without accident or incident, all at once are dangerous and are being given a new rating for safety. All this requires special invoicing with all of the very correct notations, with fines imposed if even a word is misspelled or punctuation is in error. Is there no end?
- 6) Delaney Clause - requires zero tolerance to certain pesticides when even the wind can carry enough to detect with modern equipment. This must be changed.

7) U. S. Department of Wildlife - with all their restrictions. In 1994, I personally lost over \$15,000 in purple hull peas which were destroyed by deer. This caused us to stop a crop rotation in certain areas because of the deer population. We received no relief from the U. S. Wildlife Service, even though local wildlife personnel, who were aware of the deer problem, tried to help, but to no avail. Beavers are a constant problem causing flooding in drainage areas. Huge flocks of geese destroy or damage wheat in our area most years. We cannot shoot them and they cannot be controlled.

8) Clean Air Act

Freon - You can't imagine how much it costs farmers each year since someone decided it should be removed from the market. Ozone damage is still controversial, but never-the-less, it is costing farmers billions and more to come. The increased cost also goes to the other 98% of the population. This freon change will cost our farm in excess of \$30,000 over the next 10 years. This increase is caused by requirements for repair and change over of equipment, plus an 800% increase in the cost of freon.

There are many, many more unfunded mandates placed on farm and farm supply dealers not mentioned here or known by this operator.

Many of the rules and regulations in these regulatory agencies are absolutely necessary, most of which were already being practiced because they were correct and necessary.

I doubt seriously that if farmers were 98% of the population instead of 2% of the population that this situation would have come to be. Because we are a minority, our power is small. It is easy to discriminate against a few.

Fortunately in the state of Oklahoma we have a Department of Agriculture run by people who have had experience and use good judgment in their oversight of agriculture. The department seeks to advise and help prevent problems without an attitude of punishment for minute errors. To educate their constituents is very important to them and to my knowledge it is working. In the state of Oklahoma there is less erosion, our streams are clearer, and according to the Water Resources Board, our underground water is of better quality now than in the 80's. Surely there is lots of proof that we are doing thing right.

We in agriculture are one of the great successes in the U. S. and the world, but we need some relief. We need a break from the threat we work under. Certain perceived errors carry mandated monetary penalties of \$1,000, \$5,000, \$10,000 and even more. These penalties are a threat to people who do their best to do things right and still survive in a competitive situation.

I have never read or heard of a people who have done so much for so many and live under these threats. Why can we not be treated like other citizens, and if the courts declare that we have done harm to others, decide our penalty. In your job or position, how would you like to work under a rule that says if you don't dot every "I" or cross every "T" in a manner that someone else prescribes, you would be penalized \$1,000, \$5,000, \$10,000, or more, knowing that you had done your best? Now teach me something better and watch me respond.

Our country needs to get back to educating and stop legislating. We respond to what we know to be good and true.

The average U. S. citizen spends only 10.5% of his income on food for the family and over 50% of that is eaten in restaurants. What more can you ask of the producers in this country?

Robert C. Ross
Rt. 1, Box 175
Webbers Falls, OK 74470

Mr. MCINTOSH. Thank you very much, Mr. Ross. You have a list of several of the different regulations; I look forward to talking with you about some of those problems in the question-and-answer period.

Our next witness on this panel is Mr. Charles Sloan, who is also a farmer and is also representing the Farm Bureau.

Mr. Sloan, thank you.

Mr. SLOAN. Thank you very much. And thank you for this opportunity.

To start this out with, we need to change the name of this chemical thing to PEM, production enhancement materials. You know, it sounds just a little bit better. If you will notice, a lot of chemical companies have taken "chemical" out of their name and more. So that is just a suggestion. [Laughter.]

Mr. SLOAN. I have got—mine is a little bit about chemicals, too: The Department of the Interior, the U.S. Fish and Wildlife Service. Their chemical policy, I believe, is to phaseout all chemical use. And, in turn, this will phaseout the farmers and ranchers on their land; I am talking about lease lands.

I live on the Arkansas River in eastern Oklahoma, was born there and have been farming most of my life, as my father and grandfather before me. Then the U.S. Corps of Engineers decided they wanted our land; there were voluntary and forced sales. They built their dam, raised the water level, covered about half of the farm land, then leased the remaining land back to us. They said that there would be hardly any changes.

Then the corps gave the lands to the U.S. Fish and Wildlife Service for a migratory bird refuge. This was happening in quite a few places across Oklahoma and the United States. The Federal Government owns a large percent of the United States and wants more.

The Oklahoma Wildlife Service has bought more acres of land since 1986 than they owned since statehood until 1986. People, on average we are losing a million acres of farmland every year. Think about it.

But back to the chemical policy. First, we were told we were going to be limited to what and how much we could use. Then, after awhile, we were told to cut that in half with a goal of no use.

Folks, I contend that the process the manufacturers of chemicals go through to get a product approved by the EPA for use should be sufficient. It takes approximately 10 years and millions of dollars to get a product approved by the EPA. Once a label is put on a product for where, how, rate, precautions, et cetera, then the Department of the Interior, U.S. Fish and Wildlife Service, or any other entity should not put further restrictions on these products.

Our refuge is approximately 4,000 acres. Do the wildlife—ducks, geese, deer, and so forth—stay on the refuge? No. The refuges are surrounded by private farming lands. The wildlife feed off of the refuges as much as they feed on them. And on some of these private lands, we are growing people foods. Does that mean they are more concerned with wildlife than people? And I say these products are safe for both. What makes them the authority on the environment? That is what the EPA is for.

Something else to consider: Texas A&M and Purdue University did studies on no chemical use. What would happen? Within 2 years, production would be cut in half on most products and would continue to decline. We would have to plant twice as many acres to keep production up to the present levels. The extra land would come from reserves, wetlands, refuges, et cetera. Food cost would at least double and be less appealing. There would be less land for wildlife.

So I ask you gentlemen for your help. If they can get the chemicals off of the refuges, won't they try to get it off the other farms, as well? And with a President like Al Gore or Ted Kennedy, that could happen.

People, we are blessed in America; we have the safest, most abundant food supply ever known to man. Sincerely, Charles Sloan.

And I have another subject I want to discuss; this one really makes me hot, literally. And that is the freon fiasco, a large problem for a small percentage of the people.

R-12 equals freon equals hole in the ozone? Who knows? The scientists disagree. There is very little scientific evidence that proves the product damages the ozone—mostly emotions.

I think I heard you use that term a while ago, Dr. Coburn.

Also, there are agencies, both inside and outside the Government, that apply for and get Federal money, grants, budgets, et cetera, to study the ozone. If these agencies find no problem, they get no more money.

Now my problem. I am a small percentage of 2 percent of the population. Who cares?

Who cares if, on a hot, dusty day in June, combining wheat, my air-conditioner quits cooling? A quick inspection reveals that I am low on refrigerant, freon, R-12, in my system. The system holds 4 pounds; I am probably less than 1 pound low, but it stops me. It stops me from cutting wheat, stops my trucks, stops my sprayer and, most importantly, stops my planter. And at that time of year, gentlemen, it is very critical—time is very critical.

Before regulations, I kept freon on hand that I paid 98 cents a pound for. I kept a set of gauges in my truck to safely install freon in my equipment. If the job was bigger than I or my son could handle, there were a couple of fix-it men in town who could be in my field in 30 minutes or so to fix the problem. No more. Regulations. Most fix-it men had to quit the business because they could not afford the new equipment they were forced to buy to reclaim and clean the old freon taken out of the units to be repaired.

That part sounds reasonable, doesn't it? Recycle, that is the American way. But no. They have to put a new refrigerant in the system because warranties on new replacement parts will be voided if recycled freon is put back in the system. He has to store the old refrigerant in steel containers, as per Government regulations.

He has to keep different kinds of refrigerants separate. And when he gets a full container, he takes it back to where he bought it, and the dealer gives him an empty container. The freon is then shipped to be incinerated someplace else—and I think some of it goes out of State—which involves a lot of cost.

So I have to pay for new freon. The price has now gone to \$13 to \$20 a pound, the 98-cent stuff. The mechanic will charge me \$40

to put his gauges on my machine. And my machine is in the field, impossible to road to town. If the mechanic will come to my field, he has to shut his shop down and irritate his regular customers.

If I call my equipment dealer to come and repair my machine, he charges me \$1.20 a mile, both directions, which is approximately 100 miles; that would cost me \$250, plus a minimum of \$40 an hour from the time he leaves the shop until the time he gets back, a minimum time of 3 hours. That is \$120 plus \$250 travel time; that is \$370 plus parts. And I may have been able to fix the problem myself for less than a dollar before regulations. But now, it is illegal for me to purchase freon.

Why couldn't freon have just been phased out over a time? Vehicles since 1992 have new refrigerant in them. The pre-1992 vehicles will not be around forever; most of what is left would be farm and construction equipment.

Who is reaping the extra money on the price of freon, our Government? Dupont? Who? I feel as though I am being robbed and can do nothing to stop it. All of my representatives that have been made aware of the problem agree that the Government acted in haste, but nothing gets done.

I have seven vehicles, pre-1992, that use freon. They could be changed over to the new refrigerant at approximately a \$1,000 cost per vehicle. When most of you have a problem, you drive into the repair shop and get it fixed. Before regulations, most costs were \$10 or so. Now, costs start at \$40 and go on up from there. And you have the same problem I do, but not on the same scale.

This is what we in agriculture mean when we say compare the cost to the benefit ratio. This is a great problem for us in agriculture. Some of these tractors and combines will be around for a long time.

Thank you, gentlemen, very much.

[The prepared statement of Mr. Sloan follows:]

THE FREON FIASCO
A large problem for a small
Percentage of the people

R-12 = Freon = Hole in the ozone | Who knows ? The scientist disagree. There is very little scientific evidence that proves the product damages the ozone, mostly emotions. Also there are agency's, both inside and outside government, that apply for and get federal money, grants, budgets, etc. To study the ozone. If these agencies find no problem, no more money.

Now my problem, I am a small percentage of two of the population, who cares ?

Who cares if on a hot dusty day in June combining wheat that my air conditioner quits cooling, a quick inspection reveals I am low on refrigerate, Freon, R-12 in my system. The system holds four lbs. I am probably less than one lb low but it stops me, from cutting wheat, stops my trucks, stops my sprayer and most important, stops my planter.

Before regulations, I kept Freon on hand that I paid 98 cents a lb for. I keep a set of gauges in my truck to safely install Freon in my equipment, if the job was bigger than me or my son could handle, there were a couple of (fix-it-all) men in town who could be in my field in 30 minutes or so to fix the problem.

No more! Regulations, most fix it men had to quit the business because they could not afford the new equipment they were forced to buy to reclaim and clean the old Freon taken out of units to be repaired.

That part sounds reasonable doesn't it, Recycle, that the American way but no, they have to put new refrigerate in the system because warranties on new replacement parts will be voided if recycled Freon is put back in the system. He has to store the old refrigerate in steel containers as per government regulations. He has to keep different kinds of refrigerate separate. When he gets a full container he takes it back where he bought it and the dealer gives him a empty container, the Freon is then shipped to be incinerated a lot of cost is involved.

So I will have to pay for new Freon, the price has now went to 13-20 dollars a lb. (98 cents stuff). The mechanic will charge me \$40.00 to put his gauges on my machine, and my machine is in the field, impossible to road

to town, if the mechanic will come to my field he has to shut his shop down and irritate his regular customers.

If I call my equipment dealer to come and repair my machine, he charges me \$1.25 per mile both directions 100 miles \$250.00 plus \$40.00 an hour from the time he leaves his shop till he gets back, minimum 3 hours \$120.00 plus mileage \$250.00 equals \$370.00 plus parts. I may have been to fix the problem myself for less than a \$1.00 before regulations. But now it is illegal for me to purchase Freon.

Why couldn't Freon have been phased out over a time, vehicles since 92 has a new refrigerate in them, the pre 92 vehicle will not be around forever, most of what is left would be farm and construction equipment.

Who is reaping the extra money on the price of Freon, our government, Dupont, who?

I feel as though I am being robbed and can do nothing to stop it. All my representatives that have been made of aware of the problem agrees that the government acted in haste, but nothing gets done.

I have seven vehicles pre 92 that uses Freon, they could be changed to the new refrigerate at approximately a thousand dollar cost per vehicle. When most of you have a problem, you drive into the repair shop and get it fixed, before 92 regulations most cost where \$10.00 or so, now cost start at \$40.00 and go up you have the same problem I do but you don't know it. This is what we in agricultural mean what we say, (compare the cost to benefit ratio). This is a great problem for us in agricultural. Some of these tractors and combines will be around for a long time.

Charles Sloan, Sequoyah County Farm Bureau

The Chemical Policy Department of Interior
The US Fish and Wildlife Service
(PHASE OUT ALL CHEMICAL USE)

And in turn this will phase out all the farmers and ranchers on the land.

I live on the Arkansas River in Eastern Oklahoma, born there, being farming there most of my life as my father and grand-father before me.

Then the U.S. Corp. Of Engineers decided they wanted our land, there were voluntarily and forced sales, they build there dam, raised the water level, covered about half of the farm land, then leased the remaining land back to us. They said there would be hardly any changes. Then the Corp. Gave the lands to the U.S. Fish and Wildlife Services for a migratory bird refuge. This was happening in quite a few places across Oklahoma and U.S. The federal government owns a large percentage of the U.S. and want more.

The Oklahoma Wildlife Service has bought more acres of land since 1986 than owned since statehood till 86, people, on a average, we are losing a million acres of farm land every year. Think about it.

But back to the chemical policy, first we were told we were going to be limited to what and how much we could use, than after awhile we were told to cut that in half with a goal of no use.

Folks, I contend that the process the manufactures of chemicals goes through to get a product approved by the EPA for use should be efficient. It takes approximately ten years and millions of dollars to get a new product approved by EPA. Once a label is put on a product for where, how and rate, precautions, etc than the department of the Interior, U.S. Fish and Wildlife Service, or any other entity should not put further restrictions on these products.

Our refuge is approximately 4,000 acres, does the wildlife ducks, geese, deer and so forth stay on the refuge? No! The refuges are surrounded by private lands, the wildlife feeds off the refuges as much as they feed on. And on some of the private lands we are growing people foods, does that mean they are more concerned with wildlife than with people? And I say people, the products are safe for both! What makes them the authority on the environment? That is what the EPA is.

Something else to consider. Texas A&M and Purdue did studies on no

chemical use, what would happen? Within two years production would be cut in half on most products and continue to decline. We would have to plant twice as many acres to keep productions up to present levels. The extra land would come from reserves, wet lands, refuges etc. Food cost would at least double and be less appealing. There would be less land for wildlife.

So I will ask you gentlemen for your help. If they can get the chemicals off of the refuges, want they try to get it off the other farms as well? And with a President like Al Gore or Ted Kennedy, that could happen. People, we are blessed in America, we have the safest most abundant food supply ever known to man.

Sincerely,

Charles Sloan, Sequoyah County Farm Bureau

Mr. McINTOSH. Thank you, Mr. Sloan. I appreciate that. I think you have identified a 37,000-percent increase in cost there, if I do my math correctly.

Our next witness is Mr. Larry McFerron, who owns McFerron's Quality Meats.

Mr. McFerron, thank you for joining us.

Mr. McFERRON. I am very pleased to have this opportunity to present this testimony to the committee. My name is Larry McFerron; I am operator of McFerron's Quality Meats, Inc., of Nowata, OK. Our business was established in December 1977. Originally, it provided employment for myself and one part-time meatwrapper; we now provide employment for nine people.

We believe that companies like ours fill a vital niche in America's food delivery system. Without our existence, many of our customers and, presumably, customers of similar companies would be left out of the meat inspection loop, as they would purchase much of their product from retail establishments which are governed by different and often more lax regulations. If this would occur, I believe we might experience a greater threat to our Nation's food safety.

The regulatory measures proposed by USDA and FSIS appear to be bent on eliminating small meatpackers. During the past few years, we have found ourselves battling for survival as labeling requirements and pathogen reduction programs have been proposed, which do not adequately take into account the volume of the individual products being sold. As a result, it would have been quite conceivable that my small plant would have had expenses for compliance more than doubling the cost to those processing 50 to 100 times more product.

To make matters worse, these regulations were proposed not out of science or real concern for food safety, but, rather, as a response to political posturing by special interest groups bent on destroying the beef industry. Despite not being able to track *E. coli* to specific beef products, Jeremy Rifkin and his PETA crowd were able to pressure USDA into handing down rules which, if they had been enacted, would have shut our doors.

Although we have heard reports of moratoriums on this type of regulation, we are still hearing that similar rules will be handed down. We only hope that once they are endorsed, we will have time to come into compliance.

While we have been successful in defeating, changing or delaying some of these regulations, the entire process is flawed; too often, the original timetables established for compliance require that preparations be undertaken in advance of final rules. For example, in 1994, it was proposed that every ounce of product sold would have to have safe-handling labels, and that different safe-handling labels would be necessary for the exact same product if it were being sold retail, instead of wholesale.

In an attempt to comply, we ordered some of the necessary labels. But later, the labels were deemed inappropriate, and a new label was designed.

Furthermore, the process is too political. The only lip service is paid to food safety. This is the only way to explain the difference in the regulation of the various food groups: seafood, poultry, grains, and vegetables do not have the expansive regulations

placed on them that are on the beef industry. If the same regulations were placed on the handling of grain that are placed on beef, it would be virtually impossible to buy a loaf of bread or a bowl of beans.

As a result of the political pressure, we end up with regulations such as the Mega reg, which I think would do more harm than good as far as food safety is concerned. This plan placed food safety on the processor, neglecting the ultimate consumer. I believe that this would have given consumers a false sense of security, causing them to abdicate the responsibility they have in adequately preparing and handling meat products.

One example which is unique to the meat industry is the relationship between the State and Federal inspection programs; although Oklahoma's program is annually certified as being "at least equal to" the Federal program, I am prohibited from transporting my product across State lines. To compound my frustration further, it appears that NAFTA allows Canadian and Mexican product to cross State lines with no more certification and inspection than my product.

Many might question why my plant would not go Federal in order to sell across State lines. There are numerous regulations required of Federal plants that make little or no sense that become cost-prohibitive to a small packing plant such as ours. When I examined the possibility a few years ago, I was told that I needed to pave the parking lot of my establishment, this despite the fact that we are located on a gravel road. Clearly, the safety of meat products would not be enhanced by a paved parking lot.

I find it very difficult to believe that many of the proposed and enacted regulations are truly in the best interest of the Nation; more often than not, it appears that regulations must be produced solely to justify the existence of the entity promulgating the regulations. It is imperative to remember that the Government was created to serve the people, and not simply those in its direct employ. Thank you.

[The prepared statement of Mr. McFerron follows:]

TESTIMONY TO THE

HOUSE GOVERNMENT REFORM AND OVERSIGHT

SUB-COMMITTEE ON NATIONAL ECONOMIC GROWTH,

NATURAL RESOURCES, AND REGULATORY AFFAIRS

PRESENTED IN CLAREMORE, OKLAHOMA

MAY 20, 1996

Prepared by
Larry McFerron
Operator
McFerron's Quality Meats, Inc.
Nowata, Oklahoma

I am very pleased to have the opportunity to present this testimony to the committee.

My name is Larry McFerron, and I am the operator of McFerron's Quality Meats, Inc. of Nowata, Oklahoma. Our business was established in December of 1977 on a site that had been closed and vacant for more than 10 months. Originally, it provided employment for myself and one part-time meat wrapper. We now provide employment for nine people. Our firm is small. Our clientele is composed primarily of restaurants and institutions who are too small to be served by larger packers. We are not always able to compete on price alone, so we strive to be a service oriented company. We believe that companies like ours fill a vital niche in America's food delivery system. Without our existencce, many of our customers, and presumably customers of similar companies, would be left out of the meat inspection loop as they would purchase much of their product from retail establishments which are governed by different, and often more lax, regulations. If this would occur, I believe that we might experience a greater threat to our nations food safety. In essence, I believe that a reasonable approach to regulating the meat industry will do more to protect our food supply, than a more stringent approach which would lead to the elimination of many small packers.

Additionally, I believe that maintaining diversity in the meat packing industry is vital for supporting the cattleman in Oklahoma and the nation. Without our presence, there is little doubt that the cattle industry would be suffering more than is already the case.

Unfortunately, regulatory measures proposed by USDA and FSIS appear to be bent on eliminating small meat packers. During the past few years, we have found ourselves battling for survival as labeling requirements and pathogen reduction programs have been proposed which do not adequately take into account the volume of individual products being sold. As a result, it would have been quite conceivable that my small plant would have had expenses for compliance more than doubling the cost to those processing 50 to 100 times more product..

To make matters worse, these regulations were proposed, not out of science or a real concern for food safety, but rather as a response to political posturing by special interest groups bent on destroying the beef industry. Despite not being able to track *e coli* to specific beef products, Jeremy Rifkin and the PETA crowd were able to pressure USDA / FSIS into handing down rules which, if they had been enacted, would have shut our doors. Although we have heard reports of moratoriums on this type of regulation, we are still hearing indications that similar rules will be handed down. We only hope that once they are endorsed that we will have enough time to come into compliance.

While we have been successful in defeating, changing or delaying some of these regulations, the entire process is flawed. Too often, the original timetables established for compliance require that preparations be undertaken in advance of final rules. For example, in 1994, it was proposed that every ounce of product sold would have to have a safe-handling label AND that different safe handling labels would be necessary for the exact same product if it were to be sold retail instead of wholesale. In an attempt to comply, we ordered some of the necessary labels, but later, the labels were deemed inappropriate and a new label was designed. This was an expense which was unnecessary and a real burden for a small company, yet if we had not purchased the labels in advance and the original rule had gone through, we would have had to shut our doors until the labels were produced.

This approach is indicative of USDA/FSIS approach to "one size fits all" regulations. As mentioned earlier, to economically survive, I must offer a variety of products and services. This is very difficult to continue doing as USDA/FSIS rules require specialized treatment for each product. This approach not only stifles my current business, but also keeps me from expanding. For example, I currently produce a beef pattie mixture which contains added soy bean grits. Because of the cost prohibitive nutritional labeling and testing which would be required, I do not sell this product to retail

customers. If I were to sell even one pound of this product, it would cost thousands of dollars to meet these requirements. I do not have to do so as long as I sell the product exclusively wholesale. If this nutritional labeling trend continues to other products, however, I would have to shut my doors as the nature of my small business requires that we deal in both wholesale and retail.

Furthermore, the process is too political. Too often, food safety is the justification, not the real reason, for creating new rules. This is the only way to explain differences in regulating various food groups: Seafood, poultry, grains and vegetables do not have the expansive regulations placed on them that are on the beef industry. Don't get me wrong, I'm not necessarily saying that these groups should be more regulated, just that the system is not consistent. If the same regulations were placed on the handling of grain that are placed on meat, then it would be virtually impossible to buy a loaf of bread or a bowl of beans. As a result of the political pressures, we end up with regulations such as the "Mega Reg" which I think would do more harm than good, as far as food safety is concerned. This plan placed the entire onus of food safety on the processor -- neglecting the ultimate consumer. I believe that this would have given consumers a false sense of security, causing them to abdicate the responsibility they have in adequately preparing and handling meat products.

One example which is unique to the meat packing industry is the relationship between state and federal inspection programs. Although Oklahoma's program is annually certified as being "at least equal to" the federal program, I am prohibited from transporting my product across state lines. Being located only 19 miles from the Kansas border, this has hampered my business opportunities for the past 18 years. Although I have traveled as many as 100 miles in any other direction, I am not able to go 20 miles north -- even though the federal government repeatedly states that my product's inspection is at least as stringent as a that at a federal plant. To compound my frustration further, it appears that NAFTA allows Canadian and Mexican products to cross state lines with no more certification and inspection than my product.

Many might question as to why my plant would not go federal in order to sell across the state-line. First of all, USDA does not want new federal plants as they are having difficulty funding the inspection of those currently operating. As a result, there are numerous regulations required of federal plants that make little or no sense that become cost prohibitive for small packing plants such as ours. For example, when I examined this possibility a few years ago, I was told that I needed to pave the parking lot of my establishment -- this despite the fact that we are located on a gravel road. Clearly the safety of the meat product would not be enhanced by a paved parking lot.

It is also my understanding that if I were to become a federal plant, that I would have to enter under a different set of standards than those that were in place when my facility was built. This is of great concern to me as it devalues the facility which is the current source of my retirement investment. Although I will likely be able to continue operating until my retirement, it is already difficult to imagine that anyone would purchase my facility because of the numerous regulations which would have to be met. Not only will a new owner have to comply with a myriad of USDA regulations, but EPA and others as well. Some of these might appear minuscule -- such as drain and vent locations -- yet can change often. Anyone purchasing this property would have to meet requirements on the date they start operation -- regardless of the cost of updating the facility. If it were decided that the drains should be separated by 11 feet rather than 12, an inordinate expense would be incurred.

These are really but a few of the regulatory problems facing the industry which I encounter on a daily basis, but which have an important impact on my bottom line. I'm certain that there are many which have an indirect effect such as the process for becoming an approved cleaning product. Every product I purchase must be on an approved list. I've spoken with some company representatives who believe it is not cost effective for their product to gain approval. I'm certain that this process could be streamlined so that more companies would be willing to undergo this expense, ultimately decreasing the cost of such products.

Additionally, there are other areas that, quite frankly, are overlooked because they are known to be superfluous. Although I hope that this testimony is not later used to enforce this regulation or punish the inspectors who have allowed it to occur, I will give one example of this: Current regulations state that I must provide not only an office for the inspector on duty, but a separate restroom and shower as well. When the plant was built, this requirement was met. Approximately 15 years ago, however, the hot water heater serving this shower broke. It has not been replaced, and not one of the many inspectors to visit the facility have ever mentioned it. Obviously, this regulation was never necessary.

I find it very difficult to believe that many of the proposed and enacted regulations are truly in the best interest of the nation. More often than not, it appears that regulations must be produced solely to justify the existence of the entity promulgating the regulations. It is imperative to remember that the government was created to serve the people, not simply those in its direct employ.

Mr. McINTOSH. Thank you very much, Mr. McFerron. I appreciate particularly your discussion of the *E. coli* issue, since we have heard a lot about that in our committee back from—when we were considering the moratorium.

Our next witness is also in the meat industry: Mr. Don Turner, with Turner Brothers' Meats.

Mr. TURNER. I am Don Turner; I am with Turner Brothers' Meats. We have been in the city of Nowata since 1925, in the meat business. We have also—in our time, we have been in a grocery store and, also, a restaurant. So this is more or less what mine is pertaining to.

If Oklahoma inspection is equal to that of Federal, why can't we deliver our products into other States? We are inspected daily, yet once our product leaves our plant to other public outlets—grocery stores or restaurants—their establishments are under very little inspection; more contamination takes place after it leaves our plant than while in our plant.

In the restaurant, I know approximately three or four times a year is all that an inspection is done. And in the grocery store—we have been out of it for several years, but it also has very little inspection.

And another question I have is: How can approximately five meat companies control over 90 percent of the beef business? And I don't know, I am sure poultry and hog production is probably at least very nearly the same.

And we are just struggling to keep our heads above water, and then they keep raining down regulations on us. And eventually, they are going to get us if we continue the way we are going. And I thank you for your time.

Mr. McINTOSH. Thank you very much, Mr. Turner. I appreciate that.

Our final witness on this panel is Mr. James Zangger, who is with Greenleaf Nurseries.

Mr. ZANGGER. Thank you, Mr. McIntosh and Dr. Coburn.

Mr. McINTOSH. Now, Dr. Coburn was asking me whether you have a facility up in Indiana. Is that—

Mr. ZANGGER. No. We have one in south Texas, on the gulf coast down there. And we are looking for one in North Carolina right now.

Mr. McINTOSH. Oh. OK.

Mr. ZANGGER. My name is Jim Zangger, and I am president of Greenleaf Nursery Co.

Mr. COBURN. Let me interrupt you. We would like to see you expand that here, in the second district, rather than over in North Carolina.

Mr. ZANGGER. Well, I will talk to you about that later. [Laughter.]

I am president of Greenleaf Nursery Co. Greenleaf Nursery Co. is a wholesale nursery company located in Cherokee County, OK. We employ 600 people, and our annual local payroll in the county is \$8,500,000. Our production of 10 million ornamental plants and trees is sold to customers in 36 States east of the Rockies and in southern Canada, and we even have a couple of customers in Mexico.

Because of our close proximity to Lake Tenkiller and the general concern for water quality, we have over the years developed management practices that keep us in compliance with water quality regulations. In 1990, a company decision was made to go a step further than regulations require and design a system of detention basins so all of our irrigation tail water could be caught and recycled.

Visitors to Cherokee County are impressed with the beauty of the rugged hills and hollows that give the area its charm. These same features make a project such as we were proposing on 600 acres very difficult; it became clear that any success with our recycling project would require the use of some of the low hollows adjacent to our property and owned by the U.S. Government and under the management of the U.S. Army Corps of Engineers.

The following is a synopsis of our 5-year effort to obtain the 23 acres of land we would need to complete our project, if you will bear with me here.

May 1, 1990: Our first attempt to ask the Corps of Engineers for consideration. We approached the Tenkiller Corps project manager with our plan, gave him a tour of our nursery so that he could visualize what we were trying to accomplish and why we needed the use of corps land to accomplish our goal.

May 19, 1990: The Tenkiller project manager sent a memorandum to the Tulsa Corps office regarding our request for an easement to build detention basins on Corps property.

June 1991: We were informed by the Tenkiller corps office that our proposal appeared feasible, and we were encouraged to proceed with the development of the detailed plans. Plans were developed at a cost to us of \$7,000, and submitted to the Tulsa Corps office.

September 1991: The Tenkiller project manager informed us that our request had been turned down by the Tulsa office.

October 1, 1991: We wrote a request for reconsideration to the colonel in charge of the Tulsa Corps office.

December 18, 1991: We received a letter from the Tulsa Corps office turning us down again.

March 11, 1992: After asking for help from Senator Nickles' and Senator Boren's offices, we met with the Tulsa Corps people at Senator Nickles' Tulsa office. The colonel suggested we request to purchase the land we would need from the corps. He asked us to meet with the Tenkiller project people for guidance as to how to correctly request a land purchase from the U.S. Government. He warned us an answer may take up to 1 year.

April 14, 1992: We met with the Tenkiller project people to formulate our letter of request; the letter was sent April 27.

November 1992: We called the Tenkiller project office to ask if they could find out what the status of our request was. Our contact person at the Tulsa Corps office had been reassigned. We had called monthly since our April 27 letter was sent; each time, we were told that our request was still going through channels at the Tulsa Corps office.

The Tenkiller project manager called back to report that there were some problems or confusion with our request for two pieces of land on one form; this was the way we were advised to present our request by the corps people.

December 15, 1992: We were informed by the Tenkiller project office that our request was now back to the real estate department at the Tulsa corps office.

July 1993: The corps completed an environmental survey of the land: No problems found. The corps performed an archaeology search: Nothing found.

November 17, 1993: The Tenkiller Corps office informed us nothing is holding up our request now, our request has been through the operations review, and the package is ready to go to the Tulsa Corps real estate department; however, if the value of the land is above \$10,000, they must ask for approval from Washington, DC. Oh, no. [Laughter.]

August 1994: The corps completed an endangered species survey of the proposed purchased land without trapping anything of interest, particularly the burying beetle. The corps requested we have an independent appraisal of the land done and have copies sent to them.

September 1994: We again request help from our Senators and Representatives to help to expedite our request through Washington.

July 6, 1995: We are called to a meeting at the Tulsa Corps office; they don't agree with our independent appraisal. We ask what their appraisal is, and we accept their appraisal on the spot.

March 6, 1996: We receive the deed to the land from the Tulsa Corps of Engineers.

We would like to sum up our experience by saying that our local Tenkiller project people were very helpful, and encouraged us along the way; but the higher up the bureaucratic chain we got with our proposal, the longer the road blocks became. We believe the system is at fault.

Thank you very much for letting me tell that story.

[The prepared statement of Mr. Zangger follows:]

Regulatory Hearing Report

Greenleaf Nursery Company, Inc.
Jim Zangger, President

Greenleaf Nursery Company is a wholesale nursery company located in Cherokee County Oklahoma. We employ 600 people and our annual local payroll is \$8,500,000.

Our production of 10,000,000 ornamental plants and trees are sold to customers in thirty-six states East of the Rockies and Southern Canada.

Because of our close proximity to Lake Tenkiller, and the general concern for water quality, we have over the years, developed management practices that keep us in compliance with water quality regulations.

In 1990, a company decision was made to go a step further than regulations require, and design a system of detention basins so that all of our irrigation tail water could be caught and recycled.

Visitors to Cherokee County are impressed with the beauty of the rugged hills and hollows that give the area its charm. These same features make a project such as we were proposing on 600 acres very difficult.

It became clear that any success with our recycling project would require the use of some of the low hollows adjacent to our property owned by the U.S. Government and under the management of the U.S. Corps of Engineers.

The following is a synopsis of our five year effort to obtain the 23 acres of land we would need to complete our project:

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Our first attempt to ask the Corps of Engineers for consideration. We approached the Tenkiller Corps project manager with our plan, gave him a tour of our nursery so that he could visualize what we were trying to accomplish, and why we needed the use of Corps land to accomplish our goal.

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Our contact person at the Tulsa Corps' office had been reassigned. We had called monthly since our April 27th letter was sent. Each time we were told that our request was still going through channels at the Tulsa Corps office.

The Tenkiller project manager called back to report that there were some problems or confusion with our request for two pieces of land on one form. This was the way we were advised to present our request by the Corps people.

December 15, 1992

We were informed by the Tenkiller project office that our request was now back to the realstate department at the Tulsa Corps office.

July 1993

The Corps completed an environmental survey of the land - no problems found. The Corps performed an archaeology search - nothing found.

November 17, 1993

The Tenkiller Corps' office informed us nothing is holding up our request now. Our request has been through the operations review and the package is ready to go to the Tulsa Corps' realstate department. However, if the value of the land is above \$10,000 they must ask for approval from Washington, D.C.

August 1994

The Corps completed an endangered species survey of the proposed purchase land without trapping anything of interest, particularly the burying beetle.

The Corps request we have an independent appraisal of the land done and copies sent to them.

September 1994

We again request help from our senators and representatives to help expedite our request through Washington.

July 6, 1995

We are called to a meeting at the Tulsa Corps' office - They don't agree with our independent appraisal - We ask what their appraisal is - We accept their appraisal.

March 6, 1996

We receive the deed to the land from the Tulsa Corps of Engineers.

We would like to sum up our experience by saying that:

Our local Tenkiller project people were very helpful and encouraged us along the way. The higher up the bureaucratic chain we got with our proposal, the longer the road blocks became. The system is at fault!

Mr. MCINTOSH. And thank you very much. So, I take it, the inability to get that type of approval means you are looking elsewhere.

Mr. COBURN. No. They got it.

Mr. ZANGGER. No, not at all. It is just that we are out of land that we own presently that is contiguous, and we need to be closer. We do a lot of business up at the east coast. Believe it or not, plants grown in this part of the country furnish landscapes in the Boston and New York areas and all over that part of New England. So we feel we need to be closer to our customers up there.

Mr. MCINTOSH. OK. Well, I appreciate you coming. That sounds like a horrible nightmare. It reminds me of a story someone once was telling me about a fellow who knocked on their door and said, I am here from the Government, and I am here to help you, and was the last person that individual wanted to see.

Let me ask you, Mr. Sloan. You had mentioned that—the studies at Texas A&M and Purdue that showed that without the use of pesticides and herbicides in our production of agricultural, it would cut—was it that it would cut in half the supply, or double the cost? I have to go back and check.

Mr. SLOAN. The American Farm Bureau helped fund that study, and the main part of it was at Texas A&M. And it was established that within 2 years, with no chemicals, production on most crops would be cut in half and then would continue to go down as pests and other situations buildup.

Mr. MCINTOSH. And the other factor that is often left out of it is the safety of our food supply that, with those—particularly the pesticides, they help ensure that we don't have dangerous food products reaching into the food supply system in the country.

Mr. SLOAN. Right.

Mr. MCINTOSH. And those are often discounted in the process.

I wanted to check with you, Mrs. Henderson, on the wetlands portion of your property. I take it that if it weren't for the beavers, that drainage ditch would keep that land dry or fairly dry, and you wouldn't have somebody coming in to say it is a wetland?

Ms. HENDERSON. That is correct. But you cannot drain the wetlands, either; that is prohibited by law. But after the Agriculture Department did help me last fall to blow out some of the beaver dams and let the water go through, it didn't come in on my pecan orchard, which was a big help. And I did that through the Agriculture Department.

Mr. MCINTOSH. And they were able to assist you in that?

Ms. HENDERSON. They were able to let the fellows that worked for them come and blow out the dams and me pay for the chemicals that they used to blow out the dams. And that helped a tremendous lot.

Mr. MCINTOSH. Now, if you were to do that yourself or hire someone to do that, would you have been in danger of breaking the law?

Ms. HENDERSON. Yes, sir. That is right. You have to go through the right channels in order to be able to do it. And when I first—when my land was first designated wetlands, I went through the correct channels: the county, the district, the State and Washing-

ton, DC. And they all came up with the same idea, that they had to conclude that it was wetlands.

And then, last year, I had the Corps of Engineers and all of these agencies to come and evaluate the land again. And they said that it was such a small acreage, they couldn't do anything about it; I had to let it remain as wetlands, and they couldn't do anything to help me.

Mr. MCINTOSH. They couldn't help you. Did any of your family members serve in the military or in World War II or Korea or Vietnam?

Ms. HENDERSON. My son did. My oldest son, Don.

Mr. MCINTOSH. And I imagine he felt he was fighting to preserve our freedoms?

Ms. HENDERSON. That is right. I imagine so.

Mr. MCINTOSH. Is he a little surprised that you don't have the freedom to take care of your own property?

Ms. HENDERSON. I don't think it bothers him so much as it does me. [Laughter.]

Mr. MCINTOSH. Sometimes, the younger generations don't catch on, huh?

Mr. COBURN. It should.

Mr. MCINTOSH. Yes.

Because what you are describing sounds to me a lot like some of the problems people have—used to have behind the Iron Curtain—

Ms. HENDERSON. Yes, that is right.

Mr. MCINTOSH [continuing]. When the government told them how to use their own property and that they could do it with them, but not on their own.

Ms. HENDERSON. And just recently, I have—I will throw this in and then hush. A school over, I think, at Sepulpa asked the Government to let them make a wetlands on their school property, and they got a grant for it. I would be glad to give them my wetlands. [Laughter.]

Mr. MCINTOSH. For a grant?

Ms. HENDERSON. Right.

Mr. MCINTOSH. Let me ask, either Mr. McFerron or Mr. Turner, if you are familiar with some of the alternative processes to help combat the *E. coli* bacteria. And my understanding is that right now, the regulations require a visual inspection that can't really detect it, anyway, and that what they want to do is add to that a series of tests that would have to be done on the product; but they weren't going to get rid of any of the old requirements, so you would be double-paying; and that there is a new technology that is not even considered, the cold pasteurization that they use in some foreign countries.

Are you all familiar with that, where it—sometimes they call it irradiation?

Mr. MCFERRON. Slightly. One of the things that they came up with is a chemical rinse, and one of them is a chlorine rinse. And they have not passed down a regulation as of yet on it. But the thing of it is that with many of this chemical rinse—for instance, I am out in the country, and I have a lagoon system. I am not on

the city sewer; I have a private lagoon. And they have never told us how we are to dispose of this chemical after it is used as a rinse.

Basically, they take away a lot of the tools we have used for years to put out a clean product, because they wanted to actually try to do away with a lot of the inspection personnel; however, they want to keep them on the payroll.

Mr. MCINTOSH. Oh. So they want to have it both ways: where they impose more costs on you, but keep their own payroll up?

Mr. MCFERRON. Evidently, they are trying to pass—now, I am speaking of USDA here, not our State—

Mr. COBURN. You are talking Federal?

Mr. MCFERRON. Not our State meat inspection system. But, evidently, they would like to maintain their power and their employees and their authority, but dissolve themselves of all the responsibilities for the safety of meat in this country. And that is—

Mr. MCINTOSH. That way, you get the best of all worlds.

Mr. MCFERRON. That is basically what this boils down to.

Mr. MCINTOSH. I appreciate all of you coming. Let me turn now to Dr. Coburn.

Do you have questions for this panel?

Mr. COBURN. Just a few.

I wanted to make a comment to Mr. Turner and Mr. McFerron. In February 1995, I made a request to the Department of Justice, because it was my opinion that we had a monopoly in meat packing in this country. I have a letter in my office returned from them that they told us that there was no problem.

It is very interesting now that the President, through one of his commissions, is now looking at that because of the price of beef cattle and, also, the fact that we now truly are seeing that there obviously is a monopolistic pattern in the meat packing. And my assurance to you is that we are not going to let up on that until we see that the same opportunity is provided.

So that when we see beef prices down the way they are today and there is no drop in the price at the grocery store, there is something wrong. Somewhere, there is something wrong.

Why—Robert, if I can ask you. What would you do to change this in terms of chemicals on the farm? In taking some good, Oklahoma common sense, what would you tell us to go back and try to do?

Mr. ROSS. No doubt, Congressman, in Oklahoma, our inspectors—our State Department of Agriculture uses common sense in their judgment. Of course, I would like to see the rules sent back to the States and gotten out of Washington. But education, and no legislation. Education.

You know, there was a time when we depended upon our common sense to guide us and our knowledge to guide us; now, we have to be guided by rules and regulations passed by people who know nothing about the process or what we have to go through. So we need to think in terms of education, and not legislation.

Mr. COBURN. OK.

Mr. Zanger, you may not want to answer this, but I kind of wanted a corollary of what was going on. The 23 acres of land that you wanted from the corps, was it of any value to the corps whatsoever?

Mr. ZANGGER. None at all. When I say a hollow, it was, you know, what they call out in the West a ravine, I guess.

Mr. COBURN. Right. And so it had no aesthetic value for the corps, it had no recreational value for the corps?

Mr. ZANGGER. No.

Mr. COBURN. So it was a piece of land that was caught between your property and the water?

Mr. ZANGGER. That is right. And if you see the terminology I used, I used retention basin because if we called it a lagoon or a pond and there were any fish in it and the fish died, then we would have the wildlife people on us. [Laughter.]

Mr. COBURN. Right.

Mr. ZANGGER. So we used a different terminology there.

Mr. COBURN. It is a basin, instead of a pond?

Mr. ZANGGER. It is a retention basin.

Mr. COBURN. I understand. And that—everybody kind of giggles, but that is an important—this is an example for us of the ludicrous nature to the extent of which the regulations have impacted us.

Now I want to ask you one other question, and you may not want to answer it. What did you all pay for that 23,000—the 23 acres?

Mr. ZANGGER. I am going to say around \$12,000.

Mr. COBURN. \$12,000? And we have 6 years and I don't know how many lawyers in the Department at the corps and how many people that worked in the corps. And I don't know how many lawyers that worked for you and the executive time and the business time it took for you. But that is the smallest, probably, portion of that cost.

Mr. ZANGGER. That is right.

Mr. COBURN. So probably in excess of \$80,000 or \$90,000 were spent by both the Federal Government and your business in trying to get \$12,000 worth of land that has—that had no value to the corps, no value on the lake, and was going to do something very positive from a voluntary standpoint to lower chemical levels and to recycle those chemicals in a nursery. It is a great example of what we should not be doing.

Ms. Henderson, so everybody understands: The land that is wetland—that has been classified wetland, your land that has been essentially taken away from you, came about because your husband did a good deed for the city of Bixby. Is that right?

Ms. HENDERSON. Probably so.

Mr. COBURN. He dug a drainage ditch.

Ms. HENDERSON. But that was 40 years ago.

Mr. COBURN. Forty years ago, right. A man-made drainage ditch that now is considered—because that drainage ditch is there and because it has some obstruction made by wildlife, that has created wetlands part of the time of the year?

Ms. HENDERSON. That is right.

Mr. COBURN. Is that correct?

Ms. HENDERSON. That is correct.

Mr. COBURN. Which—because it was put there to help the city and to alleviate a problem, we have a man-made-occurring wetlands, rather than a naturally occurring wetlands. And so everybody here understands: This isn't an unprotected piece of property; this is a piece of property that has been manipulated by us that

the Federal Government now comes back in and says, This is a wetland, as a result of what has been done through the years.

Ms. HENDERSON. For years, it was a beautiful pasture; it had fescue and Bermuda grass, and we mowed it and kept it nice until this.

Mr. COBURN. Until when? Let's follow that a little bit.

Ms. HENDERSON. Until we had a very, very wet spring of the year. And this colored man that was working for the Soil Conservation came out and looked it over and took some soil tests. And he was getting ready to retire, and I think he wanted to make a name for himself. So that is when it first started that he designated that 6 acres as wetlands. And then 1 acre behind my house which is nothing but a drainage ditch, that was designated, too, as 1 acre. But he took that off with my first appeal and left the 6 acres.

Mr. MCINTOSH. When did he first come out to your property?

Ms. HENDERSON. I think it was probably about 1990 or 1991. This has been going on for a long time. It was the first property in Oklahoma, I think, that was designated as wetlands.

Mr. COBURN. I wanted to followup one other question—

Ms. HENDERSON. All right.

Mr. COBURN [continuing]. With Mr. McFerron, if I can.

Ms. HENDERSON. Oh. Excuse me.

Mr. COBURN. You stated that if you were to decide to have a Federal plant, you would have to pave your parking lot. Would you kind of explain that to me so I will understand what that has to do with packing meat?

Mr. MCFERRON. I have no idea. [Laughter.]

I have no idea, other than the possibility of keeping dust down. But I have no idea what—we have never had a problem with that inside the plant. And I have no idea why. It just happens to be a Federal regulation. There are ways around it; I have seen plants open that didn't have it. But it happened to be one man's opinion that I needed to pave around my building.

Mr. COBURN. OK. All right.

David, I will limit my questions with this.

Mr. TURNER. May I—

Mr. MCINTOSH. Yes.

Mr. TURNER. I wanted to expand on that a little bit.

Mr. COBURN. OK.

Mr. TURNER. OK. We have about a 15-foot kill floor that has a bare ceiling. But if we went under Federal regulations, we would have to cover that ceiling because—and the reason being? I don't know. But we would have to cover our ceiling if we went Federal.

Mr. COBURN. And is there somebody that can explain the reasons for those things to you? I mean is there a source in, for example, the Small Meat Packing Association or your trade association?

Mr. TURNER. They have a book.

Mr. COBURN. There is not a source for an explanation of those things to you?

Mr. TURNER. Well, they can give you reasons, but—

Mr. COBURN. Nothing that happens with good, old common—

Mr. TURNER. Right.

Mr. COBURN [continuing]. Oklahoma common sense?

Mr. TURNER. Right.

Mr. MCINTOSH. Let me ask, actually, everyone on the panel: If the agencies came to you and said, We think that you should cover the ceiling, or do something and could show you that it would actually improve the workers' safety or the health of your working environment or maybe the health of your meat supply, would anybody argue with making the changes if they could show it would really make an improvement in your product or what you were doing?

[Chorus of noes.]

Mr. TURNER. That has been generally the answer that I have gotten as I ask people that all over the country. They want to have a safer workplace, healthier food, and a cleaner environment; but they don't understand how the different regulations lead to that and, in fact, often view it as a waste of money that doesn't add to any of those things.

One thing that—I wanted to followup, particularly with you, Mr. Ross, on the list of different regulations that you have provided for us. You mentioned the MSDS, or Materials Safety Data Sheets, which were originally intended to warn people about hazardous substances that they might find in the workplace or on the farm.

And can you describe some of them? I am a little bit curious about what they warn people about with sawdust.

Mr. ROSS. Oh, they have several pages. It just seems so ridiculous, really. Of course, you know, naturally, all compounds are made up of chemical elements. It doesn't make any difference what you are talking about; they are made of chemical elements. And you can break down nearly any chemical element and make combinations that can be dangerous, which, of course, is part of that sawdust bit.

But even hardware items. And people—actually, if you offer them one and they read it, they laugh about it. It is ridiculous. There is no value in it; all it can do is cause us to break the law, and cost the Government and ourselves additional time and money. We have volumes of that stuff.

Mr. MCINTOSH. Do you find that because there is an MSDS on sawdust and maybe sand or gravel and other things that people don't consider to be that hazardous, they maybe don't pay as much attention to some of the ones on chemicals where there might be some real hazards?

Mr. ROSS. Absolutely. It reminds me of a deal that I saw in Old Mexico some 10 or 11 years ago, ALTO, at every intersection. And you would ask a taxi driver what it means, and he would say, It doesn't mean a dad-gummed thing. And that is what we have got ourselves into: We have come to the point where we put laws, rules, and regulations on everything; and soon, we just disregard all laws, rules, and regulations. And it is a danger because there are some laws, rules, and regulations that we ought to observe.

Mr. MCINTOSH. In order to increase health and safety protection?

Mr. ROSS. Absolutely. To survive.

Mr. MCINTOSH. Yes. I appreciate you mentioning that.

Well, I have no further questions for this panel.

Dr. Coburn, did you have any additional ones for this?

Mr. COBURN. No. I am fine.

Mr. MCINTOSH. Thank you all for coming. I appreciate you taking time out of your busy time of the year to be with us.

We are now going to move to the portion of the hearing that I refer to as the open microphone portion; this is where anybody in the audience is welcome to come forward. Several people have signed up already and asked to testify, and I am going to call out your names. If you don't mind coming up close to the microphone in the order that people signed up, then we will move very quickly to give everybody a chance to testify.

I would ask if you could limit your remarks to about 2 or 3 minutes just so we can make time for people. And then, if Dr. Coburn or I have any questions, we will do that. If you have anything in writing that you would like to add, we can also make that part of the official transcript for this hearing.

The first person who had signed up is Mr. Larry Oliver. And then, on deck, will be Mr. T.W. Slocum.

If Mr. Oliver wants to come forward?

Great.

And Mr. Slocum, if you want to come up and join us in the line?

And then, after that, will be Bill York, Harry Perryman, Wanda Stipes and Darryl Hazle.

Mr. Oliver, thank you.

STATEMENT OF LARRY OLIVER, OWNER, MOBILE HOME PARK, CLEVELAND, OK

Mr. OLIVER. Thank you. Gentlemen, I would thank you for coming here and bringing your subcommittee to our part of the world so that you could hear our comments.

I own a small mobile home park, about 30 spaces, just outside a small town in northeast Oklahoma—Cleveland, as a matter of fact. It was a thriving oil town during the boom of the late 1970's and the early 1980's, but the economy of the community turned sour with the bust that followed. Due to these economic pressures, rents remained unchanged in my park from 1983 until 1995. And I would point out that water and sewer costs are imbedded in the rent costs; there are no additional charges for those.

While rents remained unchanged, occupancy, nonetheless, went down due to job losses or transfers. The population of the community and surrounding areas as a whole declined. At this very time that the tax base of the community was shrinking, they were mandated by the State Health Department, acting on behalf of the EPA through the authority granted by the Safe Drinking Water Act, to upgrade both water and sewage treatment facilities.

In the mathematical formula that follows such a large-scale expenditure, the smaller the number in the divisor, the greater the cost to each individual making up that divisor. In my own case, my water and sewer costs now total more than 25 percent of my total revenue. Not 25 percent of my total expenses, but 25 percent of total revenue.

These costs, while they greatly impact my business, at least, should supply a safe water supply and sewer system for the community served. They must maintain treatment plants for both water and sewer, have a trained work force to operate them, take samples to insure that treatment is effective and keep records to document that all of these things are done.

All of the municipal water and sewer systems, rural water districts, and any other system, public or private, which collects, treats, and distributes water must comply with these regulations. And that is as it should be, although I know they have, perhaps, unnecessary, costly requirements imposed upon them.

Where the real burden of needless cost and paperwork enters in is when some of these same regulations are pushed down to other small entities such as my mobile home park. Under the Safe Drinking Water Act, if you have 15 or more points of connection in your water system, by definition you own a public water distribution system. Thus defined, we are required to sample water monthly, submit the samples to a lab for testing and maintain records for a period of 10 years.

Well, that is not such a big deal, you may say. But in fact it is a big deal. First of all, we buy all of our water from a public water supply which gathers, treats, samples, and distributes water as I described earlier. We have one water meter just like people have at their individual homes, just slightly larger to measure the larger volume. We additionally have several points on our water distribution lines for tenants to connect to the water supply.

We have no treatment facilities and, therefore, have no ability whatever to effect water quality one way or the other. If the water we purchase from the water supply were to be contaminated with bacteria, we would be powerless to do anything about it other than to advise our tenants to boil the water. But, should this happen, we are treated as though we have total control over the water. We must publish in the local paper and issue a news release to television that our water system is not in compliance with EPA regulations.

Did we cause or could we have prevented the failure? Not at all. We have no facilities to do so.

Second, I would like to list some of the routine costs involved. Each month, we must sample the water supply. The number of monthly samples depends on the size of the system, but most mobile home parks require only one. These samples can either be sent to the State lab in Oklahoma City or taken to an approved lab.

The associated cost is for postage; the sample must be in the lab so that it can be tested within 30 hours of being taken. This is no small feat to gather a sample, fill out the required paperwork and get it to the post office and mailed quickly enough for it to arrive in another city, have the lab pick it up at their post office box and complete testing within 30 hours. The cost of postage, therefore, ranges from \$3.45 to \$10, depending on whether you choose priority or express service. The risk of using the lower cost priority mail is that the sample will not reach the lab for testing in less than 30 hours and will be failed because it is too old.

I have gone through some other costs here. And I will wrap this up briefly, as I am running out of time.

The annual costs to me, in summary, for just one sample per month: Mailing of the samples, using the lowest cost method, is \$41.40; the travel expense for collecting the samples is \$261; the sample processing fee is \$50; the license fee, because I have to be a licensed water operator because I own the system, is \$30; a vacation day that I have to take off each year to get the necessary 4

hours of training to maintain the license is \$200; travel for the training is \$21.75; special testing—this is the lead and copper tests and these intermittent tests that we have to take—is \$150. A total cost of \$754.15, minimum.

That is \$754 for absolutely nothing. And this is assuming the low-cost methods are used. These kinds of costs are commonly dismissed as though a business is some sort of impersonal being that could easily afford such senseless expenditures or could simply pass them through to customers. In the case of my small business, as with most other small businesses, the business is an extension of the owner.

My mobile home park has not made a profit in a number of years; therefore these costs come out of the earnings I receive from my full-time employment, and not from some bottomless money pit. Thank you.

[The prepared statement of Mr. Oliver follows:]

Larry Olivier

Congressional Hearings, "Examining the Hidden Costs of Federal Government"

Claremore, Oklahoma, May 20, 1996

I own a small mobile home park, about 30 spaces, just outside a small town in northeast Oklahoma. It was a thriving oil town during the boom of the late 70's and early 80's but the economy of the community went sour with the bust that followed. Due to these economic pressures, rents remained unchanged in my park from 1983 until 1995.

While rents remained unchanged, occupancy, none the less, went down due to job losses or transfers. The population of the community and surrounding areas as a whole declined. At this very time that the tax base of the community was shrinking, they were mandated by the State Health Department acting on behalf of the EPA through authority granted by the Clean Water Act to upgrade both water and sewage treatment facilities. In the mathematical formula that follows such a large scale expenditure, the smaller the number in the divisor the greater the cost to each individual making up that divisor. In my own case, my water and sewer costs now total more that 25% of my total revenue, not 25% of my total expenses, mind you, 25% of total revenue.

These costs, while they greatly impact my business, at least should provide a safe water supply and sewer system for the community served. They must maintain treatment plants for both water and sewer, have a trained work force to operate them, take samples to insure that treatment is effective and keep records to document that all of these are done. All of the municipal water and sewer systems, rural water districts and any other system, public or private, which collects, treats and distributes water must comply with

these regulations and this is as it should be although I know that they have, perhaps, unnecessary, costly requirements imposed upon them.

Where the real burden of needless cost and paperwork enters in is when some of these same regulations are pushed down to other entities such as my mobile home park. Under the Clean Water Act, if you have 15 or more points of connection to your water system by definition you own a "Public Water Distribution System". Thus defined, we are required to sample water monthly, submit the samples to a lab for testing and maintain records for a period of 10 years.

Well that's not such a big deal you may say, but it is in fact, a big deal. First of all, we buy all of our water from a public water supply which gathers, treats, samples and distributes water as I described earlier. We have one water meter just like people have at their individual homes just slightly larger to measure the larger volume. We additionally have several points on our water distribution lines for tenants to connect to the water supply. We have no treatment facilities and, therefore, have no ability whatever to effect water quality one way or the other. If the water we purchase from the water supply were to be contaminated with bacteria we would be powerless to do anything about it other than advise out tenants to boil the water. But, should this happen, we are treated as though we had total control of the water. We must publish in the local newspaper and issue a news release to television that our water system is not in compliance with EPA regulations. Did we cause or could we have prevented the failure? Not at all, we have no facilities to do so.

Secondly, I would like to list some of the routine costs involved. Each month we must sample the water supply, the number of monthly samples depends on the size of the system but most mobile home parks require only one. These samples can either be sent to the State lab in Oklahoma City or taken to an approved lab. There is no charge, per se, for testing in the State lab. The associated cost is for postage. The sample must be in the lab so that it can be tested within 30 hours of being taken. This is no small feat to gather a sample, fill out the required paperwork, get it to the post office and mailed quickly enough for it to arrive in another city, have the lab pick it up at their post office box and complete testing in under 30 hours. The cost of postage, therefore, ranges from \$3.45 to \$10.00 depending on whether you choose Priority or Overnight service. The risk of using the lower cost Priority mail is that the sample will not reach the lab for testing in less than 30 hours and will be failed as being too old. So sample mailing costs can range from \$41.40 to \$120.00 per year. Samples cannot be mailed on either Friday, Saturday or Sunday because they will not reach their destination on time. In fact, the time constraints are so close that you must immediately get it in the mail to have any chance that it arrives on time. In my case, I must drive to the mobile home park, a distance of about 75 miles round trip from my home, and back for the specific purpose of collecting the sample and getting it immediately in the mail. At \$.29 per mile, the cost associated with this trip is \$21.75 or \$261.00 a year. As I stated, there is no charge for testing but there is a charge of \$50.00 per year records processing fee which is charged regardless of whether you use the State or a private lab. If you choose to have your samples tested by a lab other than the State lab, it must be pre-approved for this purpose. Testing in other labs can run

between \$10.00 and \$50.00. Another requirement which adds needless cost is that a licensed water operator must be responsible for the sample taking. This means that you must either contract with, employ, or be a licensed water operator to take water samples and handle the paperwork. The cost of this license is \$30.00 a year, but additionally, you are required to have annual training. Again, there is no direct cost for the training, the actual cost however, are that I must use a vacation day from my regular job, cost, about \$200.00, and I have to travel to the training site, with is usually about a 75 mile round trip, costing \$21.75. Another cost is for special testing as required. The last two years, I have had to test for lead and copper. I own no lead or copper lines in my system, in fact, there are very few systems, if any, in the state or this region of the country containing lead or copper lines. If lead or copper is present in the tenants water where it is tested, it comes from the copper lines or solder joints within their mobile homes. Again, I am powerless to adjust the corrosiveness of the water to prevent this from happening yet the EPA holds me responsible. Because of this responsibility, I have had to submit 5 samples each year for testing. These tests cost \$30.00 each, therefore, totaled \$150.00 each year.

In summary, the annual costs to me, which I would point out, did absolutely nothing to improve water quality for the consumer, are as follows:

Mailing of samples	\$41.40
Travel Expenses for samples	261.00
Sample processing fee	50.00
License fee	30.00
Vacation day for training	200.00

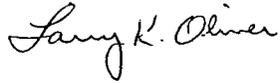
Travel for training	21.75
Special testing	<u>150.00</u>
Total Annual Cost	\$754.15

That's \$754.15 for absolutely nothing and this is assuming the least cost methods of mailing and testing are used. There is no benefit derived from these expenditures, water quality cannot be altered in any way. The quality is exactly the same as any other water delivered by the supplying system. This water has been treated and tested at other sample sites throughout their system to insure that is safe for human consumption.

These kinds of costs are commonly dismissed as though a business was some impersonal being that could easily afford such senseless expenditures or could simply pass them through to customers. In the case of my small business, as well as most other small businesses, the business is an extension of the owner. My mobile home park has not made a profit in a number of years, therefore, these costs come out of the earnings I receive from my full time employment not from some bottomless money pit.

I have addressed only the cost issues here, the other issues such as the heavy-handed methods used to force compliance, i.e. threats of penalties of up to \$10,000 fines and a year in jail, and the resistance toward the intrusion upon their lives of tenants for required water testing have not been dealt with.

I thank you for this opportunity to address these issues which are of great concern to me and to other small businesses that struggle daily with governmental regulation and its associated red tape.

A handwritten signature in cursive script that reads "Larry K. Oliver".

Larry K. Oliver, Owner

Country Acres Mobile Home Park

Rt. 2, Box 353

Cleveland, Oklahoma 74020

Mr. COBURN. Stay up there, Mr. Oliver.

Mr. MCINTOSH. Thank you, Mr. Oliver. I appreciate that. And we will take that testimony in print, the entire, into the record. Really quickly, you have indicated that you have limited ability to pass on the increase of costs in higher rents in there.

If you were to pass that on in higher rents, would your tenants see the value of paying that additional cost for those tests?

Mr. OLIVER. I am not sure that they would. Part of the testing that we have to do we have to get from the tenants' taps, particularly in the case of the copper and lead samples. And they very much resent the intrusion in their lives when we are gathering any samples, you know. Unlike the people who seem to think—that are really concerned about this, if the water looks good and tastes good and they don't get sick, they are pretty content with that.

Mr. MCINTOSH. So they don't appreciate the loss of freedom of—you coming in and taking tests?

Mr. OLIVER. No; not in the least.

Mr. MCINTOSH. Dr. Coburn, did you have any other questions?

Mr. COBURN. Well, I just want to followup a little bit.

You know, I am on the committee that is going to reauthorize and try to put some common sense into the Safe Drinking Water Act. And, hopefully, you won't come under those same regulations when we get through with it.

But I also want to make the point that we have had all of this stuff coming from the Environmental Working Group, which is a lobbyist group, an environmental activist group that is telling us that the water in northeastern Oklahoma isn't clean. And the fact is, that it is.

Have you ever had water that is violated? In the time that you have tested, have you ever had a problem with your water?

Mr. OLIVER. Yes, I have.

Mr. COBURN. OK. Tell us what—how many times you have had a problem with the water and what the consequence was with you.

Mr. OLIVER. OK. I have had a water sample that failed once. The consequence of that is that you have to provide four samples for one that failed. When those were tested, some of those failed; again, you get the four for one. Pretty soon, you are up to 18 to 24 samples you are taking in. Then they make you publish in the local paper that your water is not in compliance. They make you distribute to all of your tenants that your water is not in compliance, and publish it on TV.

Mr. COBURN. And where do you get your water?

Mr. OLIVER. From the city of Cleveland.

Mr. COBURN. OK. The city of Cleveland, were they in noncompliance at the same time?

Mr. OLIVER. No; they were not.

Mr. COBURN. OK. So I just want to extend this on out a little bit. Was there anybody that had any illness associated with any of the times that you were supposedly not in compliance?

Mr. OLIVER. No; there was not.

Mr. COBURN. All right. And was—

Mr. OLIVER. Further—

Mr. COBURN. Go ahead.

Mr. OLIVER. Further, I would like to say that at the time that I had the samples that failed, I did not have my operator's license. They were not at that time insisting that you have those in order to take samples. The county sanitarian was insistent that I hire someone who had an operator's license, and I chose to get my own license and have not had any failures since then.

Mr. COBURN. OK. And the reason that is important is that in collecting the samples, often samples are contaminated so that the water is fine, but the device at which the water goes in or the collection technique is abnormal. Almost every one, save two in Oklahoma, of violations of EPA guidelines on safe drinking water are associated with that exact same thing.

We don't have illness in Oklahoma associated with water; we have clean water. And our local water districts work hard to make sure that we have that. And I take it as an affront that somebody in Washington says that they are more interested in our water than the very people that are taking care of the water and drinking the same water that we are.

I thank you for your testimony. And if I can, I am going to make the burdens of the Safe Drinking Water Act less for you as we reauthorize that bill.

Mr. OLIVER. Thank you, sir.

Mr. MCINTOSH. Thank you very much. Another good one.

Mr. Slocum, come forward.

I will say to everybody here that, having worked with Dr. Coburn in Congress, when he says, "If I can," that means he is going to rattle a lot of cages until he gets some results and people listening to him. So you should be proud of the effort that he puts in on your behalf back there. That sometimes gets him into trouble with some of the more senior Members, but that is—what we freshmen are all about is getting into a little trouble to make things right for the people in this country.

Now our next person who had signed up is Mr. T.W. Slocum.

Mr. SLOCUM. That is correct, sir.

Mr. MCINTOSH. Mr. Slocum, thank you for joining us.

STATEMENT OF T.W. SLOCUM

Mr. SLOCUM. I thank you, sir, and honorable gentlemen and ladies and gentlemen of the audience. I appreciate your efforts, all of you. And perhaps we need to get rid of some of the people up there who are causing you problems when you are trying to do the right thing.

I believe that I could comment on every one of these things that have been brought up. I mean, this speaks volumes about the problems that we have. I have been touched by a few of them myself, and some of the bureaucratic ideas are passed right on down to my local government; I have been up before them with problems, and it is just like a brick wall. And it really makes you mad.

So I really don't have anything for you except to get up and say thank you, and we appreciate your efforts.

Mr. MCINTOSH. Thank you.

Mr. COBURN. Thank you.

Mr. SLOCUM. I will back you any way I can.

Mr. MCINTOSH. Thank you for coming today, Mr. Slocum. We appreciate that.

Mr. SLOCUM. You are welcome.

Mr. MCINTOSH. The next person who had signed up is Mr. Bill York. Thank you for coming, Mr. York.

STATEMENT OF BILL R. YORK

Mr. YORK. Thank you, sir.

I own three mobile home parks in this area, and I have the same problem Mr. Oliver has. These locations—the locations of these parks requires me to purchase water from three different municipal water supplies. And I would like to read this.

The EPA Clean Water Act compels these suppliers to sample and test the supplied water. I am also compelled to sample and test this same water. It doesn't benefit anyone. I have closed PVC systems and have no way of impacting water quality either way. All of my repairs are done by licensed plumbers who know how to keep from contaminating the water.

I would like for this useless, redundant, and costly sampling to be eliminated on my level; it places an economic burden on me which I have to pass on to the mobile home park tenants. The Clean Water Act has increased the cost of producing domestic water and treating sewer discharge significantly. My cost of meeting my customers' water and sewer needs has increased over 400 percent in recent years. And that doesn't count—I am not considering this cost of this useless sampling; that is just what it costs me to—my water and sewer has increased 400 percent.

And I put a second topic on there that wasn't the reason I came here tonight; I came here because of this water sampling issue.

But a few years ago, we had some publicity about the spotted owl and the old-growth forest cutting and things like that, which led me to think that housing was going to go up, timber prices were going to go up. So I chose to buy 16 mobile homes and set them up, at a cost of around \$100,000, for rental units in the Claremore area.

And we got them set up, and we were in the rental business about 9 months, and a black person and a white person came out and applied for one of our units that we had open—and a number of others, but this particular pair filed an unfair housing complaint against me. Now, we had other blacks and whites living in our other parks; we do not discriminate. But these people had no history whatsoever of performance, and we had no way of checking them out; they didn't have good employment. And they told us they were going to file this unfair labor [sic] practice.

And about almost a year later, a Federal—a representative of the Federal or the State government came out—Mr. Rowe [phonetic] was his name; I don't remember who he was with—and he—the first thing he said was, Hi, Mr. York; I will settle for \$37,000. And I said, For what? And he informed me of what he was talking about.

We met about four or five times subsequent to that, and the price ranged from \$83,000 down to \$27,000, I think. Ultimately, I paid off—I went to an attorney, and he said each case would cost me around \$25,000 to fight this. He said, You are right, and we will

win; It will cost you \$25, and there is no one you can go to to get your money back.

I—at that point, I rented no more of the mobile homes; I put them up for sale. I think I have seven left now. But they sent a second couple out after the first couple. And I know they were sent out to set me up for the second one. And they told me they were going to file an unfair case against me—unfair housing case against me. And I told my manager, don't rent any more houses; I can't be unfair if I don't rent any more of them.

I think we have 3 out of the 16 that are rented now, and we have got, I believe, 4 empty. The rest of them I have sold.

In my Government, through these ridiculous regulations and not making people accountable for what they do, I have no way of holding anybody's feet to the fire; if I could, I could win. But I can't win against this bureaucratic thing, and it is—it makes it difficult.

And I think the result is going to be the Government is going to have to furnish us housing; I wonder how many more people they are putting out of the business. Thank you all. I have a write-up here on the water thing. I don't on the other; that was a second thought.

[The prepared statement of Mr. York follows:]

Congressional Hearings, "Examining the Hidden Costs of Federal Government"
Claremore, Oklahoma, May 20, 1996

I own three mobile home parks in Northeast Oklahoma. The location of these parks require me to purchase water from three different municipal water systems. The EPA Clean Water Act compels these suppliers to sample and test the supplied water. I'm also compelled to sample and test this same water. It doesn't benefit anyone. I have closed PVC systems and have no way of impacting water quality. All of my repairs are done by licensed plumbers who know how to keep from contaminating the water. I would like for this useless, redundant, costly sampling to be eliminated on my level.

It places an economic burden on me which I have to pass on to the mobile home park tenants. The Clean Water Act has increased the cost of producing domestic water and treating sewer discharge significantly. My cost of meeting my customer's water and sewer needs have increased 400% in recent years.



Bill R. York

Mr. MCINTOSH. Thank you.

Mr. COBURN. I want to ask a question if I may?

Mr. MCINTOSH. Yes; certainly. Karen will take that, and we will make that part of the record.

Dr. Coburn, yes.

Mr. COBURN. For those of you that don't know this: Last year, 100 million lawsuits were filed in the United States. If you take children out of that, that is one for every one of us to be either on the plaintiff or defendant side. Our legal system has become an extortion system because what they can do is, they can extort money out of you to settle, rather than pay. So you lose, either way, when you are innocent.

When a justice comes to that point, it is no longer a justice system. And I think that from what you have heard here tonight from Mr. York, it would pay us all good credence to do to start doing our part in terms of being responsible. The key to all this, I think, is that it is not always somebody else's fault if things don't go right; and it is certainly not the Government's fault, and it may not be yours.

And that is—we have to change the thinking before we are going to change anything else. We have to be individually responsible before we can be corporately responsible. And I thank you for bringing that up. And each one of us here could experience that exact same thing.

The second point I would make about the story that he told is that with him having no intention to do wrong, the Government has put him in the position of being wrong. His Government. And that goes back—that is not great freedom. That—and now, the fear is the fear of your own Government putting you in a position of loss.

I thank you for coming and sharing that story with us.

Mr. YORK. Thank you.

Mr. MCINTOSH. Thank you very much, Bill.

Our next witness is Mr. Harry Perryman.

Welcome. Thank you for joining us.

STATEMENT OF HARRY PERRYMAN

Mr. PERRYMAN. Thank you, gentlemen. I am Harry Perryman. I have spent 22 years in the military; I managed an \$80 billion investment program and a \$10 billion spending program. I came from—have gotten my feet muddy here in Oklahoma several times.

I have a problem. And it is a personal problem, and I realize you are not the chaplain. However, I am a nondisability veteran. OK? I am having difficulty accessing either system, either the Indian Health Service or the Veterans' Affairs Administration, after 22 years in the military.

The Veterans' Affairs won't treat me for a spider bite because it was too small of a spider and could not have been poisonous, despite the fact they couldn't identify it. They would not treat me for a bloody nose because a bloody nose is not a life-threatening situation, despite a 2-quart loss of blood. I measured that myself, incidentally.

What I am saying is—I am not going into great detail—before I go ahead and continue, pardon me; I am not well prepared. And I hope you will excuse that.

I went to the IHS over here, which is also a system which I am qualified for. They gave me treatment—with a balloon thing in my nose which subsequently slipped and almost choked me to death. And it kept bleeding, just causing me more problems.

You know, I am not going to address the issue of quality of service—those people try. So I am not going to address that side of that issue.

They referred me out to another hospital. To a civilian institution. Now I am having trouble getting up—the onus of the bill is placed on my back. They don't want to bill CHAMPUS because CHAMPUS cuts their money. They want to bill those people and me direct.

Now, the Contract Health Service, which operates under a different management system than the Indian Health Service—it is the same dollars to you, I am sure, at your level; but it is a different system—they cannot pay, because I have not exhausted all of my other avenues of approach. In other words, they are a last resort.

And they will use Federal welfare dollars which come out of Indiana's pocket, they will use Federal welfare dollars which come out of Oklahoma's pocket, doubly so with the 25-percent buy-in program, and that is the reason I mentioned the different item earlier: They do, in fact, cost the State of Oklahoma money if the VAA strips off the funds from the IHS.

We could address the quality of the system, but I address the issue from the point of view that those people—some of them are really young hot-doggers really interested in doing their jobs; some have been there awhile, and they feel frustrated with the system. But, at any rate, my specific problem is I can't get my bills paid. Now I am stuck with everything down at the Contract Health Service, who tells me they cannot pay it because they have a catch 22: Somebody else has to pay before they can.

And I realize there are solutions. I could go to CHAMPUS. But, in fact, I am qualified under both systems, and I was referred to their system by the hospital and the physician, which constitutes a certification of nonavailability. And I am sorry for the personal issue, but it is a universal issue, too.

Mr. COBURN. It is OK. You are explaining problems that are in the system. What I want to do is refer you to one of our case-workers so we can particularly help you with that problem. But No. 2 is to talk about how we have some problems in meeting the commitments that we promised the people who serve our country.

And in the last 20 years, our Government has not been good at meeting those commitments. And that is one of the things we are trying to change, both in terms of the veterans' programs and, also, in terms of those people that are eligible for CHAMPUS.

This has all gotten caught up in the cost of health care. In many instances, IHS does a great job. And in many instances, the CHAMPUS system supplies the care. And there are not simple answers to any one of the problems that you just described, and the reason is one Government agency is not talking to another Govern-

ment agency. I mean that is one of the reasons, that is right: If we can send it to CHAMPUS, then it is not our problem; if we can send it to IHS, it is not our problem, and it doesn't come out of our money.

Let us help you with it. I am not sure that I know an answer to that now other than reforming the responsible nature of the Government and in terms of looking at how we deliver health care in this country.

Mr. MCINTOSH. Thank you, Mr. Perryman. Let me also add to that that part of what you are encountering have been efforts by the Government to make sure that we keep the costs under control because some people are cheating on the system. And so you get people who need help in the system, deserve it, and are qualified to be aided in these programs, but they have to go through all of the bureaucratic roadblocks and the redtape because other people have cheated it and cheated the taxpayer.

So one of the problems we have to face in this country is reestablishing some of the moral values that made this country great: that you take the responsibility for yourself, but you also take what is due you and you don't try to cheat other people out of what is not due you. And that is not a problem you can solve; it is something all of us have to work on to try to work and make sure that we try to improve that.

But I appreciate you coming forward today and sharing your experience.

Mr. PERRYMAN. I would interject again. A University of Michigan study showed that 500 people don't need a mission, don't need a job, to be able to have all of their time taken up with managing each other. And I do thank you for your time.

Mr. COBURN. Thank you.

Mr. MCINTOSH. Thank you.

The next witness is Ms. Wanda Stipes.

I appreciate you coming today.

STATEMENT OF WANDA STIPES

Ms. STIPES. Congressmen, I do thank you for coming here, and I thank you for the chance to be able to say something today. As a matter of record, I am not prepared like the other guy was. I am not prepared.

Mr. COBURN. That is OK.

Ms. STIPES. But I do want to get on the record by saying that I am one of the founders of the Oklahoma Pet Breeders' Association. And we got off to a good start. And due to some intimidation by the—some of the officials of the USDA, we are down to probably five members. But they are five good, fighting members.

The USDA regulations that I want to get on record are some of the things that are destroying many rural businesses, the fact is, we are under house arrest, and we feel like that targets one group of people, because we are required to be at home or have someone that is at home to be able to show the inspector around. He will make either one or two trips a year, but we have to be there every day in case he wants to come by.

We feel like that is treating us like second-class citizens. We are professional people, and we do our jobs good. Our being licensed

should prove that. The problem is not with the licensed people. Now, there probably is a very small percentage that does have sub-standard kennels, but mainly, the licensed people are responsible people.

And the USDA has no jurisdiction over the unlicensed kennel. If there are 100 dogs across the road starving to death, and they are not licensed, they say, It ain't our problem; You are our problem; We don't make the laws; we enforce them.

And this is only some of the things—this problem of having to be at home. We all have busy lives. We have older people and people in the nursing homes, and stuff to do. If we are not there when the USDA inspector comes by, he will leave a note. And if we are not there the second time he comes, we will have a letter from the regulatory people saying that we are subject to a \$2,500 fine per offense.

We feel like that is wrong, it goes against the grain, you know; we are being punished for something that we haven't done.

Another thing is that we are forced to have a Federal I.D. number on each dog—everyone that raises purebred dogs that are registered with the American Kennel Club, have their dogs identified. It's important that they have their records straight, that they have an identifying number on the dog, either on the collar or a tattoo. And we find no fault with that. But because of input from the HSUS—and I have it on their letterhead in their paperwork that their purpose is to eliminate pure-bred breeding—they have pushed through some regulations that say we have to use either another tattoo or another form of identification, just for USDA; they will not accept the American Kennel Club's registration number. Or their records—I mean we have to keep really good records or they (AKC) will not register our dogs, but the USDA will not honor that.

Mr. MCINTOSH. Ms. Stipes, what group wanted to get rid of the pure breed?

Ms. STIPES. The HSUS, the Humane Society of America [sic], an organization that does have input into Washington.

Mr. MCINTOSH. Why do they want to get rid of pure-breds?

Ms. STIPES. Because they are animal rights activists, and that is their purpose. And we do have it on their letterhead that says that that is—their purpose is to make the records so burdensome that we cannot stay in business.

And some of the other regulations that they have pushed through. In the early 1990's, we went up the chain of command through the south sector office to our inspector's supervisor in the south sector office and all the way to Maryland with letters complaining about this. We also went to our Representatives and the Senators, Mike Synar's office, to Senator Boren's office. We had no positive response to our problems, and we begged them!

But they are forcing us outside of the law. Please help us. We do not want to have that burden hanging over us in order to make a living. And they say, Well, you know, we will work on it. But—

Mr. COBURN. Will you give us a copy of that letter?

Ms. STIPES. You bet. I have copies.

Mr. COBURN. Thank you.

Ms. STIPES. I have proof. Anything I tell you, I do have proof.

Mr. COBURN. OK. And you make sure we get it.

Mr. McINTOSH. I appreciate that. A side question: What type of dogs do you breed?

Ms. STIPES. Well, I am one of the ones that quit because I couldn't—I just had to knuckle under. But my son raises Chihuahuas.

Mr. McINTOSH. Chihuahuas? Well, we have a Wheaten Terrier. So I was just wondering about that.

Mr. COBURN. I want to ask you a question.

Ms. STIPES. Yes?

Mr. COBURN. If those regulations were not in place, but yet, you were still licensed, would you still be raising dogs? Would you still be breeding animals?

Ms. STIPES. Yes, I would. That—

Mr. COBURN. All right. Now I want to kind of go with that a little bit.

Ms. STIPES. OK.

Mr. COBURN. Here is a lady who is not doing something because the—something that she, No. 1, enjoys, but, also, was making a living at—because the Federal Government has made it onerous beyond reason.

Ms. STIPES. That is right. I want to say that we probably have \$70,000 worth of buildings set up. It was not a requirement at the time. I mean we were probably supposed to be licensed, but it didn't make a difference whether you were or were not; you would still sell your puppies just the same. But because of that—our purpose was to, you know, upgrade the industry and have a respectful business, we probably have 75, maybe—I don't even know how many thousands of dollars worth of buildings and related equipment we have.

And because of the fact that I was told, "Our inspectors are gods; treat them as such, and you will get along with them," that goes against the grain. I just couldn't handle it. So my buildings are sitting there. I just lost my husband—

Mr. COBURN. Congressman McIntosh is probably going to want to buy them and go into business.

Ms. STIPES. Go into the Wheaten business?

Mr. McINTOSH. My wife Ruthie would be. The one campaign promise I made to her was that I would buy her a puppy when we were done.

Ms. STIPES. Well, it is a fun—it was a fun business, and until these regulations were pushed through by HSUS, you know, we all tried to upgrade the business and everything. But it is hard to handle the pressure.

I talked to one auctioneer that in 3 years, he had done 3,500 sales, 3,500 dog sales for people getting out of the business. But at the head of that sale bill, it would say, "Due to health," or, "Due to change of environment," or due to something else. They never would say that they just can't handle it any more.

But I am telling you I couldn't handle it because I have talked to lots of people that said that they could hardly stand to get out of bed in the morning and start the day because they know they are outside the law. And that is hard to live with. You know, we have lived and raised our kids to respect the law and respect the

Government. And the Government—we have raised an alligator. And it is eating us, you know [applause].

Mr. MCINTOSH. Thank you very much. I appreciate you coming, Ms. Stipes.

Ms. STIPES. Thank you.

Mr. MCINTOSH. And we will.

Ms. STIPES. And that is why we are voting for a change, because, we want it different. We want to get back our own lives and have our right to live in freedom, and we have not gotten it.

Mr. MCINTOSH. Amen.

Ms. STIPES. And I thank you.

Mr. MCINTOSH. Thank you.

Mr. COBURN. Thank you.

Ms. STIPES. Let me tell you one other thing, and then I will quit. I had a son murdered in January 1993 because of the justice system; they had convicted the person and put off the sentencing too long.

My husband died in January. I asked the doctors for nutrition support for him, and they said, We can't justify it—I believe that was what they said: We can't justify it. And I followed him down the hall.

And, Doctor, you probably understand. But I mean they would not give him the nutritional support. I don't know what it took to justify it. But I don't feel sorry for myself, but I am angry enough to fight. And so if the young—

Mr. COBURN. You hang in there and keep fighting.

Ms. STIPES. If the young Representatives and Senators will stay in there and fight, you will find most of the rural folk ready to back you. I thank you.

Mr. COBURN. Thank you.

Mr. MCINTOSH. Thank you. That is what it is going to take. Thank you [applause].

Now this card says he might be able to testify or come forward: Mr. Darryl Hazle. Is he here?

Welcome, Mr. Hazle.

STATEMENT OF DARRELL HAZLE

Mr. HAZLE. Thank you. You don't have any Hazles in Indiana, I suppose. It is Hazel.

Mr. MCINTOSH. Is it?

Mr. HAZLE. Darrell Hazle.

Mr. MCINTOSH. Oh. I am sorry; I misread it.

Mr. HAZLE. That is OK. I am used to that down here in Oklahoma, and I am from Kentucky originally. I spent 25 years in the U.S. Public Health Service, and just retired last November.

But they asked—they told me I had to have a number if I wanted to speak. And they said, What are you going to speak on. And I said, Well, I don't know; It depends on what comes up here; I might like to speak.

So I came to put in a little plug for the Office of the Surgeon General. That office has been taken out of the House budget proposal. I don't know—did you know that?

Mr. COBURN. Yes. I didn't vote for the house budget proposal, either.

Mr. HAZLE. OK. I know you didn't. I appreciate you coming to speak to the Public Health Service meeting last week, and we had a lot of favorable comments. I did write you a letter since then. I doubt if you have had time to see it.

But the Surgeon General's Office is something that costs very little for the benefit that we get from it. And the Office is budgeted for \$750,000. That seems like a lot of money to people around here.

But every time the Surgeon General is on the TV with a news bit about some health promotion item—and some of the ones that we have had most recently that were the best were Dr. Koop that we know, who still gets paid \$50,000 every time he goes to speak to a group. But we are still getting benefits from that because of his reputation as Surgeon General.

Dr. Novela was good. Dr. Elders, I can't say did us the same service. But maybe in her own way, you know, she had something to say—

Mr. MCINTOSH. Well, I want to—

Mr. HAZLE [continuing]. But maybe just didn't go about it in the right way.

Mr. MCINTOSH. Yes. I want to be real candid with you because I—to be honest with you, I think that it is because of Dr. Elders that we don't have that money in the budget—

Mr. COBURN. I do, too.

Mr. HAZLE. Yes.

Mr. MCINTOSH [continuing]. And some of her real controversial stuff about condom trees on the desks and things like that that—people just didn't feel the taxpayer should be supporting that. And if we get back to someone like Dr. Koop, I think everyone would say, Yes, that was a real service to the country. And so that is really the state of play.

Mr. COBURN. Let me jump in. And you know I align myself with the Commission Corps on this issue.

Mr. HAZLE. Yes.

Mr. COBURN. The Commission Corps is officers of the U.S. Government who have spent or invested their lives to treat us and care for us. They deserve to have a leader that will, No. 1, represent them, but, also, No. 2, help us with public health matters.

The problem with the Surgeon General is we appoint people based on political needs, rather than what we need from medical. And Jocelyn Elders was never a part of the Commission Corps until she was made Surgeon General. What we need is a Surgeon General that comes from the Commission Corps that can speak on those issues.

And the second thing on Jocelyn Elders is that she did not teach and speak public health; she taught and spoke public health destruction. And that is why the position of Surgeon General is not in the budget. That doesn't mean it won't be, and I am going to be working to fight there just in that parameter.

We need a spokesman for public health in this country. And we need somebody that we can trust and we can count on. It shows us a very good lesson: When you abuse a position, the position becomes in jeopardy. And that is what is happening to the Surgeon General's position.

Mr. HAZLE. I guess that knowing you are in favor of the position just leaves me to say that we need somebody to kind of champion our cause, not somebody that is just going to vote for them. And there is just a kind of a balance between good and evil. We go through this trying to get legislation in the State now to restrict youth access to tobacco. So lots of money is pouring down for promotion of the bad side, and we just need a little bit more promotion to help us to support the good side. So I would appreciate that.

Mr. COBURN. Well, we will work on it.

Mr. MCINTOSH. And, interestingly, keep up the fight because just last week, one of the major tobacco companies switched sides and said, Yes, you are right; We need to have those greater restrictions.

Mr. HAZLE. Yes. But there—

Mr. MCINTOSH. And because it was the pressure. They didn't do it because they decided they wanted to.

Mr. HAZLE. Yes. You have always got to watch out when they tell you they are going to do something good for you, because they told the State of Oklahoma that 5 or 6 years ago when they passed the pre-emption laws. So now, the local communities can't license tobacco sales; consequently, there is no enforcement because nobody can take away their license when they sell to minors.

And just today, I stopped at a Get-N-Go. And the sales clerk was asked by a young, teen-aged boy who was also buying some pop—he said, I want some Skoal. And the clerk said, No; I can't sell you that, but I would be glad to sell you the pop. He said, Without an ID, I can't sell you that.

So I thanked the sales clerk, and I said, That is great, and I am glad to see it, you know. But about 70 percent of the time when they go in to buy it, they can buy it. That is according to the surveys that have been done over the country today.

Mr. COBURN. All right. Thank you.

Mr. HAZLE. So I appreciate your support. Thank you.

Mr. MCINTOSH. Thank you very much. I appreciate it.

The next card I had was from one of our earlier witnesses who wanted to make a followup comment, Mr. Charles Sloan.

STATEMENT OF CHARLES SLOAN

Mr. SLOAN. Thank you. Just a short followup, as I see some of the problems.

And in my case particularly, when I mentioned awhile ago the Department of the Interior and U.S. Wildlife Service policy regarding chemicals, when I started trying to trace down where this policy comes from, I am directed to—I am talking to my area manager. And he in turn directs me to talk to Albuquerque, which is the district.

And I can't get past Albuquerque; I can't find out where the policy comes from. I am locked in right there, but I know it comes from Washington. Well, I have been—I go to Washington every year, and I would like to look up who had some input in that policy. But I can't find out who it is.

I think that part of the problem we have is that you gentlemen, you know, you are just going to be around a certain amount of time. The President is going to be around a certain amount of time. He appoints the Secretary of the Department of the Interior, Bruce

Babbit; he is going to be here a short amount of time. And the people within the departments are here forever.

And they—the policies and the regulations build on each other. They just keep building and building and building; that justifies jobs for all of them. And I think that is the reason that we have so many policy decisions and so many regulations: it creates jobs for the people. And I think—as long as that is going to be the situation, I think it is not going to change. I just wanted to follow that up.

Mr. MCINTOSH. I appreciate that.

Mr. COBURN. I just want to comment. I think it is going to change, because I think people are fed up. I think people are going to demand change. And I think that is what 1994 was about, and I hope that is—what the next 10 years in this country are about is making the Federal Government responsible and responsive.

And we have eliminated 200 agencies of the Federal Government in the last year. There is about 1,500 more we need to eliminate. When we eliminate the agencies, nobody is working there any more, and there is no career bureaucrat.

And the second component of that is we are going to transfer stuff to the States. We are responsible. Plus, under the Constitution, we are guaranteed that right. All of those rights are reserved for the States; they are not specifically spelled out in the Constitution as a Federal power. So I am not negative any more; I am positive. And you guys need to help [applause].

Thank you all.

Mr. MCINTOSH. Let me second that notion. I do think things are going to change. Although I think we are going to have to find some ways to make the people in the bureaucracies more responsible to the citizenry.

And one of the things we have been looking at in the subcommittee is an idea of maybe borrowing it from some of the American companies where they make “The customer comes first” the leading theory, and maybe condition some of the pay raises that they get in the Federal Government on what type of customer feedback they get from the American citizens. If you get complaints, you don’t get a pay raise; if you get compliments for helping people, you get a pay raise. And I bet the attitude would change a lot in some of these situations if we did something like that.

One other card that has been brought up is Mr. Ken——

Is it Frost?

Mr. COBURN. Freze.

Mr. MCINTOSH. Freze?

Mr. FROZE. Froze.

Mr. MCINTOSH. Froze?

Mr. FROZE. I am frozen.

Mr. MCINTOSH. It is already frozen. Thank you for joining us, Mr. Froze.

STATEMENT OF KEN FROZE

Mr. FROZE. I didn’t come prepared or anything. I just had a concern I wanted to mention.

I am in agriculture; I farm and ranch in this area. And it seems like we are in a dying breed. We are seeing—a lot of the guys were

talking about the chemicals and the stuff that we are using. And I can testify to the fact that if—when we cut back on our chemicals and pesticides and stuff like that, our crop just isn't there. And it seems like it is taking more.

And the feeling that we are finding—I am on a committee here in Rogers County on the—what used to be the ASCS Board; it is Farm Services now. As we sit and talk and see the things that are going on, it feels like Washington no longer has a feeling for agriculture. I have been in agriculture all my life. And then we have some members that have been on there a lot longer, have a lot more age to them, and they have seen a lot of things.

And it seems like you used to—when we had hard times like we are having right now, the dollars don't reach. I mean the bills are just a lot bigger than anything. You can take your cattle to the sale, and the feed bill was more to feed those cattle than it was, you know, when you sell them. And the crops—the reason the grain prices are so high is because of the drought. Mother Nature is against you, too.

And it used to be there was drought relief. There was some help in a low income—I mean in a low interest rate loan or something like that. It seems like now, they have turned away the farmer who, I guess, has been too efficient. And now, there is no concern; I mean nobody cares.

That is a feeling that we get. I don't know what the answer is. I know our farmers don't want a handout; they just want a fair price. As the guys in the meat business can relate, we raise a good product, and we raise good cattle. You take them to the sale, and they are not worth anything. And then you turn around and go to the market, and the price is just as high as ever.

In the milk business—I used to be in dairy—you go to buy a gallon of milk, and milk is as high as ever. Milk prices were down to \$12 a hundred. I will guarantee you—you mark my words: They are talking that the dairy deal will turn around this fall, and we could see \$16 to a hundred on milk, which could possibly be a break even for the guys, as high as feed is.

Milk will skyrocket, kind of like a loaf of bread. A loaf of bread is \$1.73 in our store in town. Of that, the farmer has 10 cents. It is just—you know, it is snowballing on us. The middle man is getting bigger, and the farmer is getting smaller. And you look at the age of our national farmers, you will realize that, too, they are just getting older and older, and a young farmer is crazy to get into it.

I graduated from Oklahoma State University with an agriculture degree, an animal science degree. I feel like if I knew what I know now, I probably would have looked at another avenue of livelihood. It is just—you know, there is—

Mr. MCINTOSH. And let me tell you this, Mr. Froze: Part of what is happening is that that difference is being eaten up by these costs of regulations.

Mr. FROZE. True.

Mr. MCINTOSH. And let me give you an example in the bread that you mentioned. What we all enjoy smelling in our kitchens is homemade bread, which is now considered air pollution by EPA when a bakery lets it out the smoke stacks.

Mr. COBURN. Yes.

Mr. MCINTOSH. And so they are starting to have to install pollution control equipment when they bake bread.

Mr. FROZE. I see.

Mr. MCINTOSH. And see? They have to pass that on to the customer, too.

Mr. FROZE. Sure.

Mr. MCINTOSH. We see incidents that you see on the farm end up happening at every step of the line, and we don't know about them except where we deal with them.

Mr. FROZE. Yes.

Mr. MCINTOSH. And then the customer ends up paying for it.

Mr. FROZE. They didn't realize it, yes. The hidden costs that we don't see.

Mr. MCINTOSH. So that is one thing we have to focus on.

Mr. FROZE. Thank you.

Mr. COBURN. Ken, thank you.

Mr. MCINTOSH. But I appreciate your coming forward.

Mr. FROZE. Thank you.

VOICE. Are you open to comments or questions from the audience?

Mr. MCINTOSH. Do you want to do that?

Mr. COBURN. Yes. We have about 5 minutes.

Mr. MCINTOSH. Dr. Coburn says we have a few more minutes. Yes; why don't I take any comment or question that anybody would like to ask?

VOICE. You raised an interesting question in that—with the bread and the great smell, like Wonder Bread or Continental Bread or any of them and that smell they put out, and I loved it. But when I go to church on Sunday morning, I go past the Sunoco refinery over there, and it about knocks your eyeballs out. They are spewing stuff out in the air, and they have the ground so contaminated from 75—nearly 100 years of petroleum use. I went over there one time and nearly passed out. So, you know, it doesn't seem equitable.

Mr. MCINTOSH. You are making a very good point because what we want to do is focus our efforts on cleaning up places like that.

VOICE. It is really bad.

Mr. MCINTOSH. And, you know, it is my belief that 75 years ago, people didn't intend to create terrible pollution.

VOICE. No. They didn't care.

Mr. MCINTOSH. They didn't care or they didn't know. They had so much abundance that they didn't take care of their resource. Now we know.

VOICE. We had a plant right across our country that salt poured out of, you know, and nobody thought anything about it. It ran down the creeks. And I kind of like the smell of crude in the morning, to paraphrase that movie. [Laughter.]

Mr. MCINTOSH. But now we know better. And we know how to take care of it.

Mr. FROZE. But we can't have it.

Mr. MCINTOSH. One thing we heard about at the field hearing in Norman earlier today is that the regulations don't actually target in on the worst problems. And so they did a study at one of the refineries—I think it was called the Yorktown Refinery that Amoco

has—and found out that for about a quarter of the cost, they could do something different in the way they contain all of the emissions and actually do a better job of protecting the environment. But because the regulations were so strict, they couldn't shift over and spend the money on the way that would actually do a better job.

Now, the good news is that this information is starting to percolate in Washington. And even President Clinton in his State of the Union Address said, "Well, if you guys can figure out a better way to protect the environment, then go ahead and do it." Now, the problem is we have to pass a law to make that legal for them. But I think you are going to see changes being made—I am an optimist—that we can try to address that to make sure that we have a cleaner environment, a healthier work place.

VOICE. But we have to take some of these people out of the fox-holes that aren't getting out and voting—guys like you want to change it—and voting out the people that want to corrupt the system. We have to do that. Thank you for the opportunity to speak to you all today.

Mr. MCINTOSH. Thank you.

Mr. COBURN. I am not sure we want Congressman McIntosh down here running for office. [Laughter.]

VOICE. Well, not here, but—

Mr. MCINTOSH. Write to all of your friends in Indiana.

Mr. COBURN. Yes, ma'am?

STATEMENT OF PEGGY COSE

Ms. COSE. I am Peggy Cose, from Claremore. And I hadn't prepared a speech for you, either. But I come to the meetings of Congressman Coburn because we think he has done an outstanding job, and we are sure proud of him [applause].

Mr. COBURN. Thank you.

Mr. MCINTOSH. He has.

Ms. COSE. We moved here in 1991 from Galveston, TX, and I had had a real estate business there for 30 years. And hearing all this regulation business has brought out one of my pet peeves.

There was an apartment complex close to the University of Texas medical branch which was prime property that went into foreclosure. And Galveston has more subsidized housing than any city in the United States for a city of that size, about 65,000 people. And there is some regulation on the books that allows the Government to offer any kind of repossessed property to another Government agency before it can go into the private sector.

So the Galveston housing authority bid, or did whatever they had to do, on this 200-apartment complex which was on Ferry Road near the University of Texas. George Mitchell, who is a very outstanding person in that area as far as contributing to the economy of Galveston and Houston—he owns Mitchell Energy Co. in Houston and has developed the Woodlands and been very progressive.

And he had submitted a bid to buy these 200 apartment units to put them on the private property rolls. But because of whatever this regulation is, that the Government can intercede before private citizens on any kind of a repossessed property, that property is now more subsidized housing for Galveston. And it shouldn't be that way.

Mr. MCINTOSH. Yes. You are so right. Thank you.

Mr. COBURN. Thank you.

Ms. COSE. Thank you.

Mr. MCINTOSH. At this point, I think we are going to go ahead and finish the hearing. Before I turn it over to Dr. Coburn for closing remarks, just let me say I want to thank you all for coming today and thank the staff and Dr. Coburn's staff for helping us set this hearing up. It has been very helpful to me to hear more information about things we need to do.

The one thing I would ask, if I could, of my good colleague is: I would love a book of Will Rogers' sayings—because I think it is appropriate that we are here today at Rogers State College, across the way from his memorial—when he pointed out many of the follies of our Government. And I think he would probably be turning in his grave today if he heard some of the things that were talked about at this field hearing.

But if you could get me a copy of that, I think——

Mr. COBURN. I will do it.

Mr. MCINTOSH. I would appreciate that.

And I want to also say that I do think we can change things in this Government, but it is going to take your help. The gentleman there mentioned we have got to get people out to vote. We are going to need your help to contact the good Senators and Representatives you have here in the district coming to meetings like this so that we can speak up and take that message back to Washington, because even though we have good people, particularly in this freshman class, it is going to take all of us in America to make those changes.

Your commitment in coming today and participating in this is a sign to me that you are willing to help, and to help us get the job done. And, as Dr. Coburn has said, freedom is the issue. And as we fight for these changes, we have to keep in mind that we are fighting for the freedom and the values that made this country great.

So thank you to everybody who came and made this one of the best field hearings this subcommittee has had.

Dr. Coburn.

Mr. COBURN. Well, David, I want to thank you, and the committee, and the staff on the committee for being here.

People in Oklahoma do care. We want to preserve our country, and we want to see our freedoms preserved. And through this type of process, we know that that is possible.

And to each of you that participated or came and listened: You are what makes the difference. This is not a spectator sport. For us to preserve opportunity for our children, for us to restore integrity to our Government, for us to renew an optimism in our country means that we all have to participate in that process. And I just would congratulate you for being here.

And I want to thank all of the people that testified, giving of their time to try to make this a better place. Thank you all very much.

Mr. MCINTOSH. Thank you [applause].

The subcommittee is adjourned.

[Whereupon, at 7:22 p.m., the subcommittee was adjourned.]

