

NOMINATION OF JAMIE RAPPAPORT CLARK

HEARING
BEFORE THE
COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
ONE HUNDRED FIFTH CONGRESS
FIRST SESSION

ON

THE NOMINATION OF JAMIE RAPPAPORT CLARK TO BE DIRECTOR,
U.S. FISH AND WILDLIFE SERVICE

JULY 16, 1997

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NOMINATION OF JAMIE RAPPAPORT CLARK

WEDNESDAY, JULY 16, 1997

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

The committee met, pursuant to notice, at 9:33 a.m. in room 406, Senate Dirksen Building, Hon. John H. Chafee (chairman of the committee) presiding.

Present: Senators Chafee, Kempthorne, Thomas, Allard, Baucus, and Wyden.

OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. Good morning, everyone. We want to welcome all here today.

This is a hearing on the nomination of Jamie Rappaport Clark for the position of director of the Fish and Wildlife Service. The President nominated Ms. Clark on July 9, and it is my intention to move quickly on this nomination, hopefully to allow the Senate, if they should so choose, to confirm this nomination before the August recess.

I am delighted to introduce Ms. Clark to the panel.

I understand you are accompanied by your husband. Is he here?

Ms. CLARK. Yes, sir, here is my husband, Jim.

Senator CHAFEE. Well, I understand that you have gone the full measure here, and that you were married on a wildlife refuge.

Ms. CLARK. Yes, I was.

Senator CHAFEE. Where does that come under the purposes of the Refuge Act?

[Laughter.]

Ms. CLARK. I can assure you, it was a "compatible use."

[Laughter.]

Senator CHAFEE. Compatible use. Well, we won't carry that any further.

Now, if confirmed, Jamie Clark will be responsible for developing and carrying out policies to conserve, protect, and enhance the Nation's fish and wildlife and their habitats. A number of challenging tasks fall on the shoulders of the Fish and Wildlife Service Director, including the management of the National Wildlife Refuge System; implementation of the Endangered Species Act; fish hatchery management; recreational fishing programs; management of non-indigenous and exotic species; conservation and management of migratory waterfowl, and wild birds.

The breadth of management tools that the service uses to carry out its mission is no less impressive. The service does its job through grant programs, land acquisitions, and user fee programs, such as the “duck stamp.”

I am pleased to report that Ms. Clark is an outstanding candidate for the tasks at hand. Throughout her educational and professional experiences, she has been involved on a daily basis with the principles of fish and wildlife management. She worked with the Fish and Wildlife Service for over 8 years, both at the regional level and at headquarters. For the past 4 years of her tenure she has held the position of assistant director of Ecological Services.

In her current position as assistant director she has worked closely with and reported directly to both the acting director of the Service, John Rogers, and former director, Mollie Beattie in the implementation of the Endangered Species Act and habitat protection. She has also overseen habitat restoration programs, wetlands protection, and other Service initiatives involving natural resource protection.

Before joining the Fish and Wildlife Service, Jamie Clark was the lead technical authority for fish and wildlife management on U.S. Army installations worldwide.

It's my understanding that you are—I hate the term, “Army brat”—that your dad was in the service?

Ms. CLARK. Yes, Mr. Chairman, he was in the Army.

Senator CHAFEE. And you grew up, moving around? He was a professional military officer, full-time?

Ms. CLARK. Mr. Chairman, he was in the Corps of Engineers, and I spent my childhood years moving every year and a half.

Senator CHAFEE. From 1984 to 1988 she managed the Natural and Cultural Resources Program within the National Guard. She was also a research biologist for the U.S. Army Medical Research Institute and worked for the National Institute for Urban Wildlife as a wildlife biologist.

Ms. Clark's educational background is equally impressive and suits her well for the position for which she has been nominated. She holds a master's degree in wildlife ecology from the University of Maryland and a bachelor's degree in wildlife biology—is that also from the University of Maryland?

Ms. CLARK. It's from Towson State University.

Senator CHAFEE. Towson State, in Maryland.

She has worked closely with the committee staff and committee members on the Endangered Species Act, and I have heard nothing but outstanding reports of your ability to work with the Administration and Congress. All of this will serve you well, if confirmed.

The Fish and Wildlife Service is an agency with the wonderful but difficult task of serving as an advocate for fish and wildlife. It must protect these public resources in the face of much criticism and question. The Service is charged with fulfilling its own mission in light of competing and sometimes conflicting mandates of other Federal agencies. It also must address the contentious issues of private property rights, water rights, and takings. The Service has done a remarkable job in recent years of developing initiatives that deal with many of these issues. The internal guidance documents for permits; the new safe harbor, candidate conservation, and “no

surprises” policies; the policy for Native Americans, and the streamlining initiatives for Federal agencies have all led to better implementation of the Endangered Species Act, better public relations and, ultimately, better protection for the species.

So I am delighted that you have been nominated for this position. It seems to me that you have the experience, the insight, and the strength to lead the Fish and Wildlife Service to continue these initiatives that I have mentioned and to develop new ones to face the challenges ahead.

Senator CHAFEE. Senator Baucus.

**OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR
FROM THE STATE OF MONTANA**

Senator BAUCUS. Thank you very much, Mr. Chairman.

I, also, want to welcome Ms. Clark to this hearing, as well as her husband, Jim.

I understand that your parents are not here, and it’s sort of a bittersweet moment that they’re not here, because they rarely—if ever—take vacations, and they are now on a vacation, and you did not want to draw them away from their vacation.

[Laughter.]

Senator BAUCUS. But I know that if they were here, they would be extremely proud of you. We all wish them well, too.

Mr. Chairman, it is clear to me that Ms. Clark has the background and experience for this job, but the fact, as you pointed out, that she married a wildlife biologist at a national wildlife refuge really shows her commitment to this line of work.

She has also held a wide range of positions at the Service, and I believe that this has given her a solid knowledge of how the agency works. I hope it also has given her a few ideas on how the agency can work even better.

It is a tribute to her performance that President Clinton has recognized a career civil servant to lead the Service at this time. That doesn’t always happen, and I’m very happy that it did happen this time.

As you mentioned, Mr. Chairman, the Service faces major challenges, not the least of which is helping this committee work through the reauthorization of the Endangered Species Act. I think we on this committee recognize that the ESA needs to do a better job of protecting species and being easier for landowners to deal with; those are the twin demands. It is clear that Ms. Clark understands that. Since last year, she has demonstrated her expertise and sound judgment time and time again as she has helped you, Mr. Chairman, Senator Kempthorne, Senator Reid, and me to deliberate over various legislative reforms to the ESA, and I thank you for that.

Furthermore, as assistant director of Ecological Services, she has been instrumental in implementing the various administrative reforms that have benefited both the landowners and the species, so I think she recognizes the twin demands that reauthorization must satisfy to help us achieve our goal.

Mr. Chairman, I appreciate the timeliness with which you have scheduled this hearing. The President nominated her only 1 week ago; that’s very fast and very speedy, and much faster than a lot

of nominations and appointments, as we all know. I hope this is a harbinger of a speedy vote in this committee and on the floor. I look forward to her testimony today and to working with her in the future.

I might add, Mr. Chairman, that there is a lot of interest in this nomination. At 8:15 this morning there was somebody standing in line to come into the hearing room.

So you have one person at least, Jamie, who is very interested in your nomination, and I don't think it was your husband.

[Laughter.]

Senator BAUCUS. Thank you.

Senator CHAFEE. Thank you, Senator.

Senator Kempthorne, I want to thank you very much for being willing to chair this hearing when it appeared that I might not be able to be here, so thank you.

**OPENING STATEMENT OF HON. DIRK KEMPTHORNE,
U.S. SENATOR FROM THE STATE OF IDAHO**

Senator KEMPTHORNE. Happy to do so, Mr. Chairman. Thank you very much.

Mr. Chairman, I first met Jamie Clark a few years ago when she came to my office with former Director Mollie Beattie on an official visit, and I want to say that since then Jamie has worked closely with me and my staff in our effort to reauthorize the Endangered Species Act. Jamie has distinguished herself as someone who is able to find innovative solutions to difficult problems, to listen to others, and to think creatively. I value that greatly.

I look forward this morning to hearing about Ms. Clark's plans for the Fish and Wildlife Service. Idaho has over 65 percent of its land in Federal ownership, so we have an up-close and personal experience with the Fish and Wildlife Service and other Federal agencies. What isn't owned by the Federal Government is controlled in one way or another through the Endangered Species Act. Idaho currently has 26 endangered and threatened species, so the Fish and Wildlife Service plays a large role in the lives of virtually every Idahoan.

I will be particularly interested to hear Jamie's perspective on the reauthorization of the Endangered Species Act. Senator Chafee, Senator Baucus, Senator Reid, and I have been working on a comprehensive bill to improve the Endangered Species Act since January 1995. The Administration has been involved from the beginning, and Jamie has played an important role in our discussions.

On a personal note, I can tell you that we have felt her absence from the negotiating table this year. I hope that Jamie will address her views on ESA reform and the role that she can play to make an improved ESA the law of the land.

I will also be asking Ms. Clark to address some of the very difficult wildlife issues that we are facing in the State of Idaho. In just the last month alone, the Fish and Wildlife Service has issued proposed rules on the reintroduction of the grizzly bear and the listing of the bull trout. Either one of these decisions, if finalized, could have a substantial impact on the lives, again, of virtually every Idahoan. Because of the very real impact of these decisions, I hope the Service will make a greater effort to work together with

the State of Idaho and its stakeholders before it takes any final action.

So, Ms. Clark, I look forward to your testimony, and Jamie, again, you are someone that I think will be very good in this position.

Senator CHAFEE. Thank you, Senator.

Senator Wyden.

**OPENING STATEMENT OF HON. RON WYDEN, U.S. SENATOR
FROM THE STATE OF OREGON**

Senator WYDEN. Thank you, Mr. Chairman. I want to commend you for holding this important hearing and moving ahead in a timely way. Ms. Clark is one of those rare people who gets high marks from just about everybody who has worked with her, and I am pleased to see the bipartisan support.

Mr. Chairman, I am especially interested in working with Ms. Clark on the approach that Oregon is moving ahead with, where we are pioneering in the area of the Endangered Species Act. Our State is going forward with a very different approach in terms of wildlife management. Recently the Federal Government indicated that Oregon was not going to have the coastal salmon listed on the Endangered Species Act because our State was going to be given a chance to try this new approach.

What the approach essentially says is that our State, with respect to the coastal salmon, will meet every single requirement of the Endangered Species Act, every requirement—all the biological requirements, all of the requirements of the Act—but that we want the opportunity to first try a home-grown, locally driven approach to meeting the requirements of the Act.

I will tell you, Mr. Chairman and colleagues, that in our State this has people working together who never worked together. In the past, the people who are now working together on this approach with respect to the coastal salmon were generally part of what I call the “lawyers’ full-employment program,” where they spent most of their day in Federal Court suing each other. This now has people working together, and I think it provides a nationwide precedent for trying something very creative, very fresh.

By the way, along the lines of what Senator Kempthorne has been talking about in a number of fora over the years, and I am interested in Ms. Clark’s views on this—Ms. Clark, as you know, we are looking at watershed councils and a variety of other approaches for pursuing these new policies. There may be other ways to go about doing it, but I am very hopeful on your watch, and we are looking forward to seeing you confirmed in this position, that you will really use this position as a kind of “bully pulpit” to push for these kinds of new home-grown, locally driven solutions.

Mr. Chairman, I thank you for the time and I look forward to working with you and Senator Baucus and Senator Kempthorne and others who have been involved in this statute for a number of years.

Senator CHAFEE. Thank you, Senator.

Senator Thomas.

**OPENING STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR
FROM THE STATE OF WYOMING**

Senator THOMAS. Thank you, Mr. Chairman.

Welcome, Ms. Clark. It's nice to have you here. I had read of your background and was impressed, but I am more impressed after your agent has been touting you here. I think that's fine.

The issue, of course, is where the agency will go and how the agency will behave with respect to the problems that we have. Of course, I remember John Turner from Wyoming being the director not long ago; John was a good friend and continues to be.

It seems to me that one of the challenges before us is to take a look, as we have tried rather unsuccessfully over the last couple of years, at some of the environmental laws that have been in place for some time, 20 years or so, and learn from that 20 years how we can make them better—for instance, the Endangered Species Act. But we haven't had a lot of support from the Administration to do that, and I think we ought to try to do it, whether it's wetlands or endangered species or clean water or natural management of wildlife in National Parks or brucellosis, which is very much a part of your problem in places like the Elk Refuge in Jackson, WY. We need to come to some solutions, and we haven't done that. We've talked a lot about it, but we really haven't.

You certainly have a good background, and I'm enthusiastic about your nomination, but I do say that there are some things we have to move forward on; grizzly bears, for example—when are we going to delist grizzly bears, when all the scientific evidence shows that we are much beyond the goal that we intended, but we continue not to do it? The same is true with the management of wolves, artificially reintroduced into the park. Now, what are we going to do when they go out of the park? We haven't gotten much support from your agency in terms of how we're going to do it. Our Game and Fish believes that the Fish and Wildlife Service should manage them until they are delisted. I don't know exactly how that will work.

So I guess all I'm saying to you—and I hope you will deal with some of those issues in your statement—is that there are some things to do, and frankly, not everyone is quite as happy as others in terms of the performance of this agency. One of them is dealing with local agencies. We hear a lot of talk about partnerships, but when it comes down to the bottom line, it's a one-way partnership. For instance, we have some water projects in Wyoming in which the Corps of Engineers and the Forest Service and the Fish and Wildlife Service cannot agree, and it's gone on for years, and the local people pay the tab. Now, it shouldn't be that way. So instead of just talking about partnerships, I hope that we indeed have some.

So I certainly am impressed—and it's nothing to do with you personally, but I don't think that all is perfectly well with the agency in terms of its working with other people. It seems to me that that's probably the key. The Senator from Oregon talks about doing some things there; well, I hope all the States have some opportunities. We are quite different in the way we are structured. From Rhode Island to Wyoming it's a different operation and we need to recognize that.

So I'm glad that you are here. I look forward to your statement, and thank you.

Senator CHAFEE. Thank you, Senator.
Senator Allard.

**OPENING STATEMENT OF HON. WAYNE ALLARD, U.S. SENATOR
FROM THE STATE OF COLORADO**

Senator ALLARD. Thank you, Mr. Chairman.

Yesterday I met with Ms. Clark and appreciated her candor and straightforward answers to my questions. I personally don't feel there's any problem with the confirmation, but I do want to bring up several issues relating to Colorado here in my opening remarks.

First, on the recent agreement reached in the principal States of Colorado, Nebraska, and Wyoming, and the Department of the Interior to protect endangered species on the Central Platte River, this agreement has taken a long time to reach. While the principles are agreed to, Fish and Wildlife will review the program under NEPA over the next 3 years. This review needs to be thorough and efficient, and I am sure that the nominee and many members of this committee can share plenty of examples of how NEPA has run out of control, wasting time and money, while doing nothing for the environment and the parties involved.

I will be paying very close attention to this process as it moves forward. Should the NEPA turn out to be overly cumbersome and decidedly inefficient, I will not support having Federal dollars continuing to support a process that ceases to be helpful to the species and to the water users of that drainage basin.

Second, to date the Colorado River Recovery Program has been successful in garnering the support of divergent groups and numerous States. I want to be assured that if the additional \$100 million in State and Federal money is spent, it will provide certainty to water users under section 7. The end result of all the money that we have spent and all the money that we may spend should be that Colorado is assured that we can develop our apportionment under the Colorado River Compact.

To that end, I hope, Ms. Clark, you will be able to tell me today whether the programmatic biological opinion being prepared on the program will answer this question. Also, will Fish and Wildlife accept the program for section 7 consultations?

Again, I want to be very clear that my support for this program is based upon it providing certainty and uniformity to Colorado water users, and if it does not provide that function, it merely becomes an unnecessary public works project that we can't afford.

Finally, I want to address a letter that the Acting Fish and Wildlife Service Director, John Rogers, wrote to the Farm Service Agency last November. In that letter he addressed a section of the Farm Bill that I worked very hard on. This section limited the ability of the USDA to place an environmental easement on active farmland or cropland that was placed in inventory; in other words, it had gone through foreclosure and the Government had ended up with it.

It is my view that Mr. Rogers' letter was attempting to undercut Congressional intent by arguing that certain types of agricultural land were, in fact, not agricultural land, and therefore should have

easements placed on them, thus lowering the productivity and value of that land. I hope that you will look over this letter and the law and actually go back into the committee testimony—I was chairman of that subcommittee of the Agriculture Committee on the other side—and look at those comments. I think you will find that the Congressional intent, certainly my intent, was to use a broad-term approach to what we call “agriculturally productive land.” In this letter he is saying that haying—you know, there is a lot of haying in New Mexico, Wyoming, Colorado, and Nebraska—that it would not be considered farmland. The clear intent of that committee—and certainly mine, I believe, if you look at the record—is that that was designed to be classified as agricultural land. In that letter from Fish and Wildlife Service to Mr. Butrock with the Farm Service Agency, from Acting Director John Rogers, he tries to make the interpretation that we had not intended for that to be classified as farmland. I think that is a very important issue for those States that put up a lot of native hay.

So I would appreciate your taking a close look at those issues. I felt you were very responsive to our concerns, and I look forward to working with you in the future.

Senator CHAFEE. Thank you, Senator.

Now, Ms. Clark, if you want to proceed with your statement, we will look forward to it.

**STATEMENT OF JAMIE RAPPAPORT CLARK, NOMINATED BY
THE PRESIDENT TO BE DIRECTOR, FISH AND WILDLIFE
SERVICE**

Ms. CLARK. Thank you, Mr. Chairman. Good morning, Mr. Chairman and all of you on the committee.

It is a great honor for me to be nominated by President Clinton as Director of the Fish and Wildlife Service, the Nation’s premier Federal fish and wildlife conservation agency, and to have that nomination considered here today by the committee.

It is also a privilege as a career civil servant to be considered for this position from within the ranks of our agency.

I have met with many of you over the past few days and found that we have significant common beliefs in the importance of conserving our natural heritage. I haven’t had the chance to meet with all of you, but I am committed to doing so, and I am available to meet with any of you if your time permits.

If I am confirmed, I look forward to continuing to work together with all of you over the next few years, focusing on our common commitment to fish and wildlife conservation. I care deeply about what we do at the Fish and Wildlife Service, and I am committed to our mission to protect, conserve, and enhance fish and wildlife and their habitats.

I am very proud of the job that we do. Our 7,000 employees are dedicated, motivated, and professional. They represent the best tradition of public service. Together we continue to work to protect that delicate balance of living in association with our natural environment.

Love of nature and the outdoors has been a major force in my life since I was a small child. As you know, I grew up in the military, in the Army, moving on an average every year and a half.

That certainly brought many challenges as a child, but it also gave me opportunities to see many areas of the United States. I fondly remember exploring spectacular open spaces on horseback, seeing new birds and other wildlife, and discovering unique habitats.

My passion for nature and wildlife eventually led me into the field of wildlife biology. My studies ranged from peregrine falcon reintroductions in northern Maryland, to my graduate thesis that involved working with hunters to evaluate white-tailed deer populations to ensure optimum herd density.

I learned first-hand the role of hunting as an effective wildlife management tool, and I share with hunters, anglers, and other outdoor enthusiasts an appreciation of wildlife that comes from long hours in the field observing nature.

As we have discussed this morning, I even married a wildlife biologist. The ceremony took place on Matagorda Island National Wildlife Refuge off the coast of Texas, where my husband, Jim, was the refuge manager. Jim is a nature photographer and writer and we spend all of our available free time exploring our National Wildlife Refuges, our National Parks, and forests, looking for new places to observe nature and, of course, new scenes to capture on film.

During my last 8 years with the Service I have been part of an agency undergoing significant change. Although the Service remains committed to its statutory obligations and mandates, like the Migratory Bird Treaty Act and the Endangered Species Act, I believe—as others do—that we need to continue to look for new and innovative ways to achieve species and habitat conservation. Most importantly, we have greatly expanded our work with partners outside the Service, whether they are State wildlife agencies, local governments, sportsmen's organizations, conservation groups, corporations, or individual private citizens.

In the course of this transformation, the Service is learning to assume many different roles, depending on our situation. Our State, Federal, tribal, and private partners have great capabilities, as many of you have mentioned this morning, to provide leadership and assistance in the management and recovery of our natural resources. We recognize this, and we are refining our ability to be a team player—knowing when to lead, when to assist, or when to follow, to accomplish common goals. I expect this process will continue.

I realize many folks associate me with endangered species programs. Although my years with the Service have focused primarily on habitat restoration, environmental contaminants, and endangered species conservation, my early years as a resource professional were spent working for the National Guard Bureau and the Department of the Army addressing land use management and environmental planning issues. I was responsible for developing and implementing fish and wildlife conservation practices Army-wide, emphasizing integration of wildlife management activities with complex military missions.

I spent much of my time in the field, visiting military installations throughout the country, working to balance wildlife conservation needs with military readiness objectives. I also developed land management programs to ensure that military lands continue to

support both wildlife conservation and military needs. I worked hard with military trainers and engineers, as well as with other Federal agencies and conservation organizations to ensure that neither military training nor wildlife habitat requirements were compromised.

From these experiences early in my career I learned the importance of listening to all sides, effectively communicating specific needs, and working collaboratively with others to achieve multiple goals on land supporting competing demands.

The Fish and Wildlife Service is widely recognized as the national and international leader in wildlife conservation, and, if confirmed, I will continue to ensure that that hard-earned reputation is maintained and enhanced. Again, to do this, an ever-growing emphasis on partnerships and looking at the big picture is essential. With more than 1,000 species on the list of endangered and threatened species, I know too well the feeling of frustration and failure associated with each new addition to the list. There is no way that we in the Service or any other public agency can single-handedly conserve our Nation's wildlife resources. We must work hard to leverage our own resources and our expertise with those of others to effect changes on the ground.

Since transferring to the Fish and Wildlife Service in 1989, I have spent considerable time looking for new ways to achieve wetlands conservation, to address and recover declining species, to restore degraded habitats, and to address the increasing concern about the effect of environmental contaminants on our natural resources. I have worked in partnership with folks like the ranchers in southern Arizona and New Mexico through the Malpai Borderlands Group; private landowners on Hawaii's Big Island, to prevent the extinction of the Hawaiian crow, while preserving the integrity of their commercial farming and ranching operations; and with the States of Illinois, Indiana, and Kentucky to balance the economic needs of the coal mining industry with wildlife conservation.

Again, all of these experiences have reinforced in me the value and importance of partnerships. Each of these partnerships was characterized by genuine trust, cooperation, mutual respect, and a desire for economic and environmental security. I believe the future of fish and wildlife conservation depends on collaborative partnerships such as these.

The Service also must continue our concerted efforts to reach out to the public and to important constituencies with a stake in our fish and wildlife resources. I have participated in numerous partnership efforts and firmly believe that involving stakeholders and other agency expertise early on reaps long-term benefits for fish and wildlife resources and the economy. As the Service gains experience in this way of doing business, I believe we will all realize the expanded skills that we must master to learn to listen more effectively, to work as a team player, to be open-minded, and to be prepared to take whatever approach is most effective in accomplishing our task.

I am convinced that as people better understand the connection between ecosystem health and quality of life, our success at managing for ecosystems and ensuring economic viability will continue to increase. The Service needs to continue to communicate to others

the fundamental message that the fate of wildlife and humans alike is linked to the well-being of the environment around us.

The Service is dedicated to addressing change, not only in how we explore new ways to conserve and manage our wildlife resources, but also in recognizing the importance of a workforce reflective of our Nation's citizenry. Increasing the diversity of our workforce is an important element in improving our efforts to develop unique and innovative approaches and strategies for wildlife conservation. A skilled workforce—diverse in cultures, experiences, and ideas—is equipped to build upon traditional and successful approaches by identifying new and fresh ideas for addressing conservation issues. The richness of this experience is an asset, and its absence is an enormous liability. I believe I can help the Service continue to work toward its goal of a diverse and skilled workforce.

Americans are passionate about wildlife, and that passion fuels the Fish and Wildlife Service. This is an exciting time to be at the helm of this agency. If confirmed as Director, I look forward with great enthusiasm and excitement to the challenge of leading an agency dedicated to conserving, protecting, and enhancing fish and wildlife and their habitats for the continuing benefit and enjoyment of the American people. I pledge to work with you, the American public, other Federal, State, tribal, and private entities, and with the outstanding employees of the Service to continue protecting our Nation's natural heritage for generations to come.

Senators thank you again for the honor of your consideration.

Senator CHAFEE. Thank you very much, Ms. Clark.

Now we will have some questions. We will have 6 minutes each, and everybody will get their chance, and then we'll go around again quickly.

I have several questions I would like to ask you.

Are you willing, at the request of any duly constituted committee of the Congress, to appear in front of it as a witness?

Ms. CLARK. Yes, Mr. Chairman, I am.

Senator CHAFEE. Do you know of any matters which you may or may not have thus far disclosed which might place you in any conflict of interest if you are confirmed in this position?

Ms. CLARK. No, Mr. Chairman.

Senator CHAFEE. Now, first of all, I want to join with you in your praise of the Fish and Wildlife Service, 7,000 employees who are dedicated, motivated, and professional. It has been my opportunity to work with them, both at home and around the country, and I think they are an outstanding group and we're lucky to have them. It's right for you, as the head of the whole organization, to be proud of this Service and do everything you can to help them increase in their skills and educational qualities.

You mentioned that you have seen cooperation and you talked about cooperation with the other players. I want to stress that. It isn't that the Service hasn't been doing it, but I just want to urge you on in working with the State fish and wildlife organizations, in working with private foundations that will donate land—the Nature Conservancy, for example—and through that cooperation, in my State, anyway, we have been able to acquire substantial pieces of open land that would not otherwise be available. Frequently we have the situation where the Nature Conservancy and other pri-

vate foundations, with the State, will fund the purchase of additional parcels of land contiguous to fish and wildlife areas, with the Fish and Wildlife Service subsequently being responsible for the policing of the areas and the protection of them because the Nature Conservancy, for example, doesn't have the personnel to be able to do that.

You mentioned that you have seen the restoration of wetlands. I, myself, had the opportunity—Senator Faircloth and I and some others went down to see some wetlands restoration, so-called “mitigation banking,” just south of the Potomac here, down toward Fredericksburg. What's your view on that? Do you think it's been pretty successful?

Ms. CLARK. Mitigation banking?

Senator CHAFEE. Well, just the restoration of wetlands. Then follow it on with the mitigation banking.

Ms. CLARK. Well, Mr. Chairman, we have had numerous positive successes with wetlands restoration, whether we're restoring degraded wetlands or enhancing existing wetlands. It's through programs like our North American Waterfowl Management Plan and the grants under the Wetlands Conservation Act, our Partners for Wildlife Program, the work that we're doing on our National Wildlife Refuges, as well as our activities with other Federal agencies, that I believe we have achieved enormous success with wetlands conservation.

However, I do believe we have a long way to go. We still have wetlands—particularly forested wetlands—that are in decline, and I think there are numerous opportunities for us to continue to work towards the goal of conserving and restoring wetlands.

Mitigation banking is an exciting opportunity. It focuses on leveraging existing wetlands and to recovering wetlands complexes, so it has been an important and valuable tool in wetlands conservation, if applied properly.

Senator CHAFEE. You think it works pretty well?

Ms. CLARK. It has the opportunity to work pretty well. It has—

Senator CHAFEE. Have you ever seen one that really works? Have you ever seen a restored wetlands that you think is nearly up to its pristine situation?

Ms. CLARK. I have not myself, but I have listened to reports of them.

The challenge for us in conserving or restoring wetlands is whether we have restored the functions and values. It's not just making another wet area in the environment; it's whether we restore the functions and values. There is a lot of science and research going into wetlands reestablishment, and I remain optimistic that it can be done.

Senator CHAFEE. Now, as Senator Kempthorne mentioned, we appreciate the work you've done on the Endangered Species Act reauthorization that we are trying to do here, with Senator Baucus and Senator Reid and Senator Kempthorne and myself. So you have been spending a lot of time on that and, of course, the National Wildlife Refuge bill, which passed the House in a vote that sounds impossible, 407 to 1. I don't know who that 1 was. We'll get to that here, too, very shortly.

Is there any other legislation that you want to bring to our attention that you've been working on?

Ms. CLARK. Well, I have been working—

Senator CHAFEE. Those are two pretty big ones right there, so don't feel you have to come up with another one. I'm just curious.

[Laughter.]

Ms. CLARK. That's a pretty good day job for me.

[Laughter.]

Ms. CLARK. The agency, though, has certainly been involved in many other legislative initiatives, whether it's the reauthorization of Superfund, whether it's preparing for Clean Water Act reauthorization, Migratory Bird Treaty Act issues; but certainly, at the top of our list has been reform of the Endangered Species Act and passage of organic legislation for the Refuge System.

Senator CHAFEE. All right.

Senator BAUCUS.

Senator BAUCUS. Thank you, Mr. Chairman.

Ms. Clark, I just want to mention a project that occurred in Montana which impressed me very, very much—

Senator CHAFEE. Impressed, or depressed?

Senator BAUCUS. Impressed.

[Laughter.]

Senator BAUCUS. Very much. It was largely at the behest of the Fish and Wildlife Service, and it's called Blackfoot Challenge. You may know about it.

Almost once a month I have a workday at home in Montana. I show up someplace at 8 o'clock with my sack lunch, and I'm there to work all day long at this job, whether it's waiting tables, working in sawmills, mines, nursing homes, whatever it is. One day I worked with Rick Foot at the Rick Foot Ranch in the Blackfoot Challenge Program. As you know, the Blackfoot Challenge Program is an effort by concerned people in the Big Blackfoot Drainage on the Rick Foot Ranch to reroute the tributary of the Big Blackfoot going through his place, to allow bull trout to spawn. In the old days ranchers would just plow right through those streams, and the water would run fast and the trout couldn't spawn.

But the Fish and Wildlife Service has been working for years and years, building up the trust of the people in the area. You have two wonderful people in the Service who are based out of Great Falls, MT, and for a couple of years they would sit down with the ranchers at the local bars and have beer together, just talking over things, and gradually, slowly but surely, they would get the trust of the ranchers; and after the ranchers, some of the townspeople; and then the State government, and all concerned.

The day I was there we had a backhoe tractor and we were re-channeling. We were planting willows and putting in some big rocks and doing all we could to just help change this channel.

I mention this because this was an example of cooperation. Essentially, these people worked on this project because those higher up weren't doing the job; that is, the heads of the agencies weren't talking to each other, whether it was the State of Montana or the Fish and Wildlife Service or whatnot, so they, down at the lower echelons, decided to take it upon themselves just to do it. I guess they got the blessings of those above, because they all sort of knew

each other. Some at first were very suspicious of each other, but gradually the trust was built up, and it has worked out very, very, very well. I mention it also because when I talked to the two Fish and Wildlife Service people, I said, "Boy, this is great. Why isn't there more of this?" And the answer I got was, "Well, gee, there could be more of this; but, you know, we're just a little part of the Fish and Wildlife Service budget. We don't get very much."

I've forgotten the name of their part—

Ms. CLARK. The Partners for Wildlife Program?

Senator BAUCUS. It could have been. I am putting in a big plug for these people and this section of the Fish and Wildlife Service because they are doing what I think should be done. It's at the local level; not Washington, not Helena, MT, but just the folks locally getting the job done the way they want it done and the way that works. I just urge you to keep that up. It works very, very well, at least in my experience in Montana.

Can you comment on the project that I'm talking about, if you know about it, or the part of the Fish and Wildlife Service whose mission it is to try to put these cooperative plans together?

Ms. CLARK. Well, I have heard great things about the Blackfoot Challenge. It serves as one of our models for partnerships in the Fish and Wildlife Service, working collaboratively with all the constituents and stakeholders that you mentioned.

I can speak about the Partners for Wildlife Program. It's under my organizational responsibility today. The Partners Program and the discussion that you just had about partnerships is what I believe is very much indicative of our entire agency, whether it's our Partners Program, our North American Program, our employees in the National Wildlife Refuge System, our fish hatcheries, in local ecological services or management assistance offices.

As I said in my statement, it's part of our trend towards more collaborative partnerships for conservation. The Partners for Wildlife Program is a program that is predicated on voluntary partnerships. Our employees, as members of the local community, go out and leverage our dollars with those of others to effect conservation on the ground. It's an extremely positive program and we're very proud of it.

Senator BAUCUS. I just encourage you to do a lot more of it, because it's working there.

Ms. CLARK. Absolutely.

Senator BAUCUS. On the other hand, as you know, the discretionary spending budgets—once you calculate inflation—are being effectively cut; that is, there's one-half of 1 percent increase, generally, in discretionary spending in the budget that is going through the Congress over the next 5 years, which effectively is a cut.

What would your priorities be under those circumstances?

Ms. CLARK. Our priorities remain balanced among those programs that achieve the best gain for fish and wildlife conservation. As reflected in the President's budget, our priorities are associated with migratory birds, the health of our Refuge System, endangered species, and wetlands conservation, and we balance all of our programs to achieve those mission objectives. Partners for Wildlife is certainly one of those very positive programs.

Senator BAUCUS. I'll get back to that.

This may be unfair, but I do pick up at home a bit of a sense that Fish and Wildlife Service doesn't listen as much, perhaps, to people as it should, compared with some other agencies. I've picked that up, too; I've just sensed it generally. I'll just tell you, there's nothing like going out early and talking to people way before something happens—or maybe, not happen—because if you do go out there early, several things happen. No. 1, you learn something; you learn something that you might not have known before. Second, you probably will find a different way of doing it; there are all kinds of ways to skin a cat. And you engender the trust of the people.

I urge you to get your people out of Washington, out of your head offices, as much as you possibly can, to get out in the field and just see people and talk to people.

Ms. CLARK. I would be glad to, myself included.

Senator BAUCUS. Thank you.

Senator CHAFEE. Thank you.

Senator Kempthorne.

Senator KEMPTHORNE. Mr. Chairman, thank you.

Ms. Clark, as you know, the Fish and Wildlife Service recently issued a proposed rule to list the bull trout as an endangered species, even though the State of Idaho had developed a bull trout plan, and various members of the regulated community were in the process of trying to develop prelisting agreements for bull trout with the Fish and Wildlife Service.

Is the Service willing to commit to work with the State of Idaho and public and private stakeholders to develop prelisting agreements for the bull trout, and to consider these agreements when it decides whether or not to list the bull trout?

Ms. CLARK. Absolutely, Senator. As you know, the bull trout was proposed as the result of a court order that was part of a court debate for quite a long time. We have been very much involved with the State of Idaho and other constituents in attempting to address the status and conservation needs of the bull trout early on.

The Fish and Wildlife Service does not believe that adding species to the list is a success; quite frankly, it's the opposite. It's a failure. We are very much committed to working out the status of species and addressing the decline of species before they have to stumble onto the Endangered Species List. Quite frankly, we are absolutely very much with you on addressing the conservation needs of the species early on, and we will consider fully any commitments and any conservation programs prior to making a final decision by next June.

Senator KEMPTHORNE. All right. That's very helpful. I appreciate that.

Now, another one of the issues that we've been dealing with is the Bruneau Hot Springs snail. Is the Fish and Wildlife Service willing to commit to work with the State of Idaho—and again, public and private stakeholders—to develop a conservation agreement for the Bruneau snail? Will the Fish and Wildlife Service commit to monitor water levels in the aquifer for the remainder of the year, and to include the data from that monitoring in any future decision?

Ms. CLARK. The Bruneau Hot Springs snail is a listed species today, and we are absolutely committed to working with the State of Idaho and other constituents to address recovery strategies for this snail. Monitoring is an important part of that, particularly given the change in water years, and I will certainly pledge to go back and work with the U.S. Geological Survey, as well as the service, to figure out the most appropriate way to ensure a monitoring regime for the snail.

Senator KEMPTHORNE. All right.

Again, the U.S. Geological Survey has put in the wells; we have seen a recharge of the aquifer over the last 2 years. It is critical information that should be included.

Ms. CLARK. Absolutely.

Senator KEMPTHORNE. With regard to the Fish and Wildlife Service releasing last week a draft EIS on the reintroduction of the grizzly bear in Idaho, while the draft EIS would provide for a citizens' management committee that would include individuals nominated by the Governor, I am concerned that the underlying decision to release grizzly bears in Idaho was made without consulting with the Idaho Department of Fish and Game. Can you assure me that grizzly bears will not be released in Idaho within the next 18 months, and that the State of Idaho will have an opportunity to work with the Service to define the conditions regarding this issue?

Ms. CLARK. I will assure you, Senator, that I believe we have ample time to work together with you, the State, and other interested parties to address the concerns of the State of Idaho, to address the needs of the grizzly bear, and to ensure that all of our collective interests are met.

Senator KEMPTHORNE. Is the Service willing to commit to work with Idaho Fish and Game and other State agencies before the release of any grizzly bears in the State in order to ensure that public safety is protected?

Ms. CLARK. Absolutely, Senator. Actually, there are discussions ongoing in the States of Idaho and Montana today which include everything from extending the public comment period on the environmental impact statement, to addressing changes in the public hearing schedule, to pulling together a coalition to address the very issues that you are concerned about.

Senator KEMPTHORNE. Will the Service provide clarification on the authority of the citizens' management committee to ensure that its decisions on the management of any grizzly bear population in Idaho will not be arbitrarily reversed by the Secretary?

Ms. CLARK. Yes, Senator, we will.

Senator KEMPTHORNE. In your written testimony you made the statement, "We need to look for new and innovative ways to achieve species and habitat conservation." I certainly agree with you in that statement. That's why we have included more flexible habitat conservation plans, safe harbor agreements, and the "no surprise" policy in our ESA bill.

What do you envision are the best new alternatives to conserve species and their habitats, and how do you expect that the Service will try to implement them?

Ms. CLARK. Well, some of the opportunities that you just mentioned are very much at the forefront. All of the innovative tools

that we have developed thus far, and others we are looking forward to developing in the future, have common themes of species conservation, certainty for the regulated public, and involvement of affected stakeholders. We are continuing to solicit other creative ideas. We have been working with many of you and your staffs to do so.

The kinds of activities or programs or policy initiatives that we are looking at should be predicated on addressing decline of species before they require Endangered Species Act protection, and maximizing the opportunities of the States and other parties to manage the species within their jurisdictions.

So I think the sky is the limit. I think we have tremendous opportunities, and there are a lot of creative minds committed to wildlife conservation. We ought to certainly be having those discussions.

Senator KEMPTHORNE. All right. Thank you very much.

Senator CHAFEE. Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman.

Ms. Clark, in my view, when the Federal Government gave the OK for the Oregon Coastal Salmon Plan, that was essentially a green light for an unprecedented, first-of-its-kind approach for recovering a species. Do you think that the Oregon approach has the potential to be a nationwide model?

Senator CHAFEE. Why don't you tell us a little bit, without going into too much detail, what is the Oregon approach? Just now it's Oregon, isn't it?

Senator WYDEN. It is. You've got it, Mr. Chairman.

[Laughter.]

Senator WYDEN. What it is about—and I'm glad you asked, because it touches on my—

Senator CHAFEE. I won't take it out of your time.

Senator WYDEN. I thank you.

The traditional approach to saving a species, of course, is that you list it, and then you have a recovery plan. That's the way we've always done "business as usual," and of course at home and in the rural west there is great concern about some of the economic consequences and some of the disruption.

What Oregon has essentially done is said, "Give us a chance to bring people together on a local level with a State plan; give us some time to make it work; and we will tell the Federal Government that we will meet all the requirements of the act." So essentially there are two schools to this: the traditional approach, you list it on a Federal listing, and then you go on to your recovery plan, and what Oregon is talking about is a different approach. We have a State plan, and because the Federal Government is convinced that it is biologically sound, the State is given a chance to make it work.

Senator CHAFEE. Thank you.

Ms. CLARK. Senator Wyden, you touched on the important points. We are absolutely committed to conservation objectives that address the biological needs of species and retain as much management flexibility for the States and others as possible.

Where States, local governments, and individual citizens step forward to conserve species before they need the protections of the

Endangered Species Act, it is good for species and good for the potentially regulated public. That's a win-win situation. That's a direction in which our agency is moving, along with the National Marine Fisheries Service, and a direction that I think is very critical to the future of wildlife conservation, so we heartily endorse those kinds of programs.

Senator WYDEN. Let's say that the Oregon approach is struck down on process grounds. The act, as you know—there is essentially the biology; Oregon has said, "We're going to meet every one of the biological requirements," but supposing a judge strikes it down on process grounds and says, "You know, my reading of this statute is that you can only do it the traditional way. You've got to have a listing and then a recovery plan, and what Oregon wants to do with a State plan and State dollars and time for doing it doesn't meet the requirements of the act from a process standpoint." Would the Administration be sympathetic to a change in the law on process grounds in order to encourage these kinds of State initiatives?

Ms. CLARK. Well, Senator, I will tell you that I have spent a lot of time in courts in the last few years with endangered species issues. It's a program that has been very much surrounded by litigation, as you well know.

When we have process debates we oftentimes lose, but in these particular instances, with candidate conservation initiatives, addressing the species' needs prior to an Endangered Species Act listing, the debate will be over the merits. If we, in partnership with the States or other involved parties, are committed to the structure and the intent and the specifics of a conservation plan, we will be right beside you, arguing for the support of that plan.

Senator WYDEN. Well, that sounds encouraging, but I think we may—I hope with every ounce of my strength that we don't end up with that here when the Chairman and Senators Kempthorne and Baucus are dealing with the Endangered Species Act. But I feel very, very strongly that we ought to keep the biological requirements of this act. We can do it. People at home want to do it. They want to protect species, but, by God, there's a better process, and we've seen it work in our State.

One last question that I wanted to touch on. We in Oregon in the Willamette Valley have had a very serious situation with the dusky geese, which is an overpopulation of Canadian geese. We've had the number triple in the last 5 years and there have been millions of dollars in crop losses and damage to Oregon's farmers. Essentially all sides—environmental, the science community, the farmers—agree that in effect the hand of man was not involved here.

What might the Service do to reduce the extraordinary damage that the geese are doing to private lands and crops, again, consistent with good science?

Ms. CLARK. Well, the dusky geese issue has been an interesting challenge for all of us. As I understand it, the population declines that have been observed and monitored since the early 1960's are as the result of an earthquake in Alaska that allowed for access by predators to the nesting grounds of the dusksies. We have been monitoring the declines, working with the Pacific Flyway Council.

Collectively, today, we are looking at a number of things, exploring flexibilities in the hunting season to try to address the increasing numbers of the other subspecies of geese; and looking at habitat modification needs. We are very much committed to working along with the Council and the States to address the very real depredation that is occurring as a result of the other, more populated subspecies of geese.

We are concerned, however, and we continue to monitor the population declines of the dusky subspecies, and as I understand it, the population is somewhere between 7,000 and 10,000 geese, which is precipitously low for that subspecies. But I am committed to continuing to try to work, along with the Council and the State, to look at flexibilities to address both issues, the long-term health of the dusky and the very severe depredation that is occurring from the other geese species.

Senator WYDEN. Thank you.

Thank you, Mr. Chairman.

Senator CHAFEE. Thank you, Senator.

Senator THOMAS.

Senator THOMAS. Thank you, sir.

I'm not sure I understood one of your earlier comments. I think the question was, would the Secretary override an advisory committee decision, and you said no. Is that what you meant?

Ms. CLARK. The question on the grizzly bear from Senator Kempthorne?

Senator THOMAS. I don't know where it came from, but it had to do with an advisory committee, and the question was, would the Secretary override it, and you said no.

Ms. CLARK. I believe, Senator—and Senator Kempthorne might help me out here—that the question had to do with the Secretary's override of jurisdiction with the Citizens' Management Committee that we have developed and put forth in the draft environmental impact statement and proposed rule for the reintroduction of the grizzly bear.

The Secretary intends to delegate full authority to the Citizens' Management Committee, so long as the committee's acts and decisions—

Senator THOMAS. Right. That's the caveat.

Ms. CLARK [continuing]. Are in support of recovery of the grizzly bear.

Senator THOMAS. OK. Well, I just wanted to make sure that I understood, because we've had quite a bit of experience with that. And to say he won't override it is a stretch. OK.

You talked about partnerships and you apparently have a number of them. Do you support the idea of having local and State agencies being cooperating agencies in the NEPA process?

Ms. CLARK. In the NEPA process? I'm not a NEPA expert, Senator, but I certainly support the involvement of local and State agencies in all of our fish and wildlife conservation work.

Senator THOMAS. Well, we're going to seek to make them. We can talk about cooperating, but do they really have a seat at the table? That has to do with being a cooperating agency. So I hope that when that arrives, that talking about partnerships is an easy thing to do—

Ms. CLARK. Absolutely.

Senator THOMAS [continuing]. But having a real role is not really quite as easy.

What about grizzly delisting in Yellowstone in Wyoming? That's been pending now for some time. Everyone recognizes that we have exceeded the goals. What is your position on that?

Senator CHAFEE. I missed that question, Senator. What was it?

Senator THOMAS. Delisting grizzly bears in Yellowstone and the Wyoming area.

Senator CHAFEE. I think that is a good question. I'm interested in this whole delisting process. But never mind, the question was strictly with the grizzly bear.

Ms. CLARK. OK, let me respond to grizzly bears first.

We are absolutely supportive of delisting the grizzly bear when appropriate to do so. I believe there is a huge debate, and I would be glad to get more specifics back to you for the record, Senator—over whether or not all of the goals outlined in the recovery plan for delisting the Yellowstone population have been met.

Ms. CLARK. The last 2 years we have had higher than normal mortality of our female bears with cubs. That is being closely monitored by us and some of our constituents, as you probably well know. We are very much committed to delisting the Yellowstone population as soon as possible. We are working on habitat-based criteria as a result of a lawsuit settlement, and we intend to complete that as soon as possible. As for the specific timeframes and more of the specifics I would be glad to get back to you on it.

Senator THOMAS. I wish you would. I mean, the Yellowstone officials and others for several years have said that it ought to be delisted, but it doesn't seem to move.

I think you need to be a little more specific sometimes. To say, "Well, as soon as all the conditions are met"—well, that could be never, if you want to continue to stress it. I just think people have lost some confidence in what you indicated when you said, "These are the goals," and then when most people are persuaded that the goals have been met, still nothing happens.

Ms. CLARK. I agree with you, Senator. I certainly believe it's our responsibility to articulate the specific requirements of a delisted population. I believe there has been a lot of confusion and debate over the grizzly bear population. I will certainly get back to you with some more specifics.

Senator THOMAS. I would be grateful if you would. There has been a considerable amount of, frankly, loss—not only of domestic animals, but even the people are concerned.

What about the brucellosis issue with the livestock that surrounds Yellowstone Park? Do you have a role? Do you have a suggestion? Do you have any remedies for what you're going to do there?

Ms. CLARK. Our agency certainly has a role. We have been working with the team of State and other Federal agency experts that are dealing with the brucellosis. I don't know much about the brucellosis issue, but I'd certainly be glad to get you back some specifics for the record.

Senator THOMAS. I think specifically, of course, is the management of the buffalo herd in Yellowstone which is, I suppose, largely a function of Yellowstone Park management.

Ms. CLARK. Right.

Senator THOMAS. But the Elk Refuge, which is in your agency, is also a very real part of that.

Ms. CLARK. Yes, it is.

Senator THOMAS. So it's something that needs to be resolved. I hope that we can find some solutions so that we don't run into the same kind of thing that we did last winter, which was not very pleasant for anyone, certainly.

Ms. CLARK. No, it wasn't.

Senator THOMAS. As I understand it, you have in your agency nearly 92 million acres that you manage. Do you have notions of additions to that? How do you see the future in terms of acquisitions, in terms of additions to that 92 million acres?

Ms. CLARK. Well, certainly, Senator, we support additions where they meet the needs of the intent of the Refuge System. We have a modest land acquisition budget on an annual basis that is aimed primarily at rounding out refuges. What I mean by that is addressing the in-holdings on our refuge lands primarily. So certainly our acquisition program continues, but it is very focused and specific.

Senator THOMAS. What would be your impressions of some kind of a policy that, if you have significant new acquisitions, that there be some tradeoffs? Somebody mentioned that in the west, 65 percent of the land belongs to the Federal Government now. What would be wrong, if you wanted to acquire a thousand acres from another agency, with disposing of a similar value, such as BLM?

Ms. CLARK. Well, that's a great question, Senator. What I will say—and I won't speak for BLM or any of the other Federal land agencies—

Senator THOMAS. Go ahead, if you want to.

[Laughter.]

Ms. CLARK. Not with a microphone, I won't.

[Laughter.]

Ms. CLARK. But what I will tell you is that the National Wildlife Refuge System is a unique network of lands, committed to fish and wildlife conservation. That's a very different mission than some of our other—

Senator THOMAS. I understand that, but I hope you understand that there is some concern in the west about increasing Federal ownership, when some States are up to nearly 90 percent. Certainly, inevitably, there are some excess lands. It's an idea that I think we ought to pursue.

Senator CHAFEE. She'll take all the money you've got for new land purchases for wildlife.

[Laughter.]

Senator THOMAS. Thank you, Mr. Chairman.

Senator CHAFEE. Anything extra, send our way.

Senator THOMAS. If you want to purchase some, Rhode Island.

[Laughter.]

Senator CHAFEE. Anything else, Senator?

Senator THOMAS. No, thank you.

Senator CHAFEE. As I mentioned, we are going to have a committee business meeting here a week from tomorrow, the 24th, at 9:30, and it would be my hope that we could then consider this nomination. As I mentioned before, I am anxious to get it out on the floor, and if the committee and the Senate so approves, to have it all completed before we leave for the August recess.

I would just like to bring to everybody's attention the success of some of these programs that we've had here that have come through this committee. One of them that has had great success—you mentioned it, Ms Clark—is the North American Waterfowl Management Plan, which was signed just 11 years ago by the United States and Canada and later Mexico joined in on it. To date, under that, over 4 million acres have been protected, restored, or enhanced in the United States and Canada, and 20 million additional acres have been protected in Mexico.

Our statistics show—and I would be curious to know if this coincides with your statistics—that the wetlands conservation efforts are really paying off. Not since 1955—these are some statistics that I compiled this year, actually—not since 1955 have we seen such a spectacular migration of waterfowl as during the past 2 years. In 1996, an estimated 89.5 million ducks, which is 6.5 million more than in 1995 and 18.5 million more than in 1994 and 24 million more than in 1993—in other words, these are the largest figures in the past 40 years. I gave you an awful lot of different figures there, but I think the key one is that in 1996, 90 million ducks migrated south for the winter. That's an incredible figure, and the largest since 21 years earlier.

Is that what your figures show?

[Laughter.]

Ms. CLARK. Yes, Mr. Chairman.

[Laughter.]

Ms. CLARK. I'm sure you have good figures.

Senator CHAFEE. Thank you. So you are an enthusiastic supporter of the North American Waterfowl Management Plan?

Ms. CLARK. Absolutely. It has been great. We need to be mindful that it is partnerships like the North American that have achieved the kinds of statistics that you were just able to share, and have gone a long ways toward achieving both wetlands and migratory bird conservation.

Senator CHAFEE. All right.

Well, I don't see any others here with questions. There may be some questions submitted in writing to you, and I would ask that you get those back very promptly.

Senator CHAFEE. As I mentioned, it's my intention to consider this nomination a week from tomorrow.

Thank you very much, Ms. Clark.

Ms. CLARK. Thank you, Mr. Chairman.

[Statements and additional information follow:]

Senator CHAFEE. That completes our hearing.

[Whereupon, at 12:42 p.m., the committee was adjourned, to reconvene at the call of the chair.]

PREPARED STATEMENT OF JAMIE RAPPAPORT CLARK, NOMINEE FOR DIRECTOR OF THE
U.S. FISH AND WILDLIFE SERVICE

Good morning Mr. Chairman and members of the Committee. It is a great honor to be nominated by President Clinton as Director of the U.S. Fish and Wildlife Service, the Nation's premier Federal fish and wildlife conservation agency, and to have that nomination considered by this committee. It is also a privilege, as a career civil servant, to be considered for this position from within the ranks of the agency.

I have met with many of you over the past few days and found that we have significant common beliefs in the importance of conserving our natural heritage. If I am confirmed, I look forward to continuing to work together with all of you over the next few years, focusing on our common commitment to fish and wildlife conservation.

I care deeply about the work we do at the Fish and Wildlife Service and I am committed to our mission to conserve, protect, and enhance fish and wildlife and their habitats. I am proud of the job we do. Our 7,000 employees are dedicated, motivated, and professional. They represent the best tradition of public service. Together, we continue to work to protect that delicate balance of living in association with our natural environment.

Love of nature and the outdoors has been a major force in my life since I was a small child. I grew up in the military, moving on an average every year and a half. That certainly brought many challenges, but it also gave me opportunities to see many areas of the United States. I fondly remember exploring spectacular open spaces on horseback, seeing new birds and other wildlife, and discovering unique habitats.

My passion for nature and wildlife eventually led me into the field of wildlife biology. My studies ranged from peregrine falcon reintroductions in Northern Maryland to my graduate thesis that involved working with hunters to evaluate white-tailed deer populations to ensure optimum herd density. I learned first hand the role of hunting as an effective wildlife management tool, and I share with hunters, anglers, and other outdoor enthusiasts an appreciation of wildlife that comes from long hours in the field observing nature.

I even married a wildlife biologist. The ceremony took place on Matagorda Island National Wildlife Refuge, where my husband Jim was the refuge manager. Jim is a nature photographer and writer and we spend all available free time exploring national wildlife refuges, national parks, and forests looking for new places to observe nature and, of course, new scenes to capture on film.

During my 8 years with the Fish and Wildlife Service, I have been part of an agency undergoing significant change. Though the Service remains committed to its statutory obligations and mandates like the Migratory Bird Treaty Act and the Endangered Species Act, I believe, as others do, that we need to continue to look for new and innovative ways to achieve species and habitat conservation. Most importantly, we have greatly expanded our work with partners outside the Service—whether they are State wildlife agencies, local governments, sportsmen's organizations, conservation groups, corporations, or individual private citizens.

In the course of this transformation, the Service is learning to assume many different roles, depending on the situation. Our State, Federal, Tribal, and private partners have great capabilities to provide leadership and assistance in the management and recovery of natural resources. We recognize this and we are refining our ability to be a team player—knowing when to lead, when to follow, or when to assist to accomplish common goals. And I expect this process to continue.

I realize that many folks may associate me with endangered species programs. Although my years with the Service have focused primarily on habitat restoration, environmental contaminants, and endangered species conservation, my early years as a resource professional were spent working for the National Guard Bureau and the Army as a wildlife biologist addressing land use management and environmental planning issues. I was responsible for developing and implementing fish and wildlife conservation practices Army-wide; emphasizing integration of wildlife management activities with the military mission. I spent much of my time in the field visiting military installations throughout the country, working to balance wildlife conservation needs with military readiness objectives. I also developed land management programs to ensure that military lands continued to support both wildlife conservation and military training objectives. I worked hard with military trainers and engineers, as well as with other Federal agencies and conservation organizations, to ensure neither military training nor wildlife habitat requirements were compromised. From these experiences early in my career, I learned about the importance of listening to all sides, effectively communicating specific needs, and working collaboratively.

ratively with others to achieve multiple goals on lands supporting competing demands.

The Fish and Wildlife Service is widely recognized as the national and international leader in wildlife conservation, and, if confirmed, I will work to ensure that hard-earned reputation is maintained and enhanced. Again, to do this, an ever-growing emphasis on partnerships and looking at the big picture is essential. With more than 1,100 species on the list of endangered and threatened species, I know too well the feeling of frustration and failure associated with each new addition to the list. There is no way the Service or any other public agency can single-handedly conserve our Nation's fish and wildlife resources. We must work hard to leverage our own resources and expertise with those of others to effect change on the ground.

Since transferring to the Fish and Wildlife Service in 1989, I have spent considerable time looking for new ways to achieve wetlands conservation, recover declining species, restore degraded habitats, and address the increasing concern about the effect of environmental contaminants on our natural resources. I have worked in partnership with folks like the ranchers in southern Arizona and New Mexico through the Malpai Borderlands Group; private landowners on Hawaii's Big Island working to prevent the extinction of the Hawaiian crow while preserving the integrity of their commercial farming and ranching operations; and the States of Illinois, Indiana, and Kentucky to balance the economic needs of the coal mining industry with wildlife conservation. Again, these experiences reinforced in me the value and importance of partnerships. Each of these partnerships was characterized by genuine trust, cooperation, mutual respect, and a desire for economic and environmental security. I believe the future of fish and wildlife conservation depends on collaborative partnerships such as these.

The Service also must continue our concerted efforts to reach out to the public and to important constituencies with a stake in our fish and wildlife resources. I have participated in numerous partnership efforts and firmly believe that involving stakeholders and other agency expertise early on reaps long-term benefits for fish and wildlife resources and the economy. As the Service gains experience in this way of doing business, I believe we will realize the expanded skills that we all must master to learn to listen more actively, to work as a team player, to be open-minded, and to be prepared to take whatever approach is most effective in accomplishing the task.

I am convinced that as people better understand the connection between ecosystem health and quality of life, our success at managing for ecosystems and ensuring economic viability will continue to increase. The Service needs to communicate to others the fundamental message that the fate of wildlife and humans alike is linked to the well-being of the environment around us.

The Service is dedicated to addressing change, not only in how we explore new ways to conserve and manage our wildlife resources, but also in recognizing the importance of a workforce reflective of our Nation's citizenry. Increasing the diversity of our workforce is an important element in improving our efforts to develop unique and innovative approaches and strategies for wildlife conservation. A skilled workforce, diverse in cultures, experiences, and ideas is equipped to build upon traditional and successful approaches by identifying new and fresh ideas for addressing conservation issues. The richness of this experience is an asset, and its absence is an enormous liability. I believe I can help the Service continue to work toward its goal of a diverse and skilled workforce.

Americans are passionate about wildlife, and that passion fuels the U.S. Fish and Wildlife Service. This is an exciting time to be at the helm of this agency. If confirmed as Director, I look forward with great enthusiasm and excitement to the challenge of leading an agency dedicated to conserving, protecting, and enhancing fish and wildlife and their habitats for the continuing benefit and enjoyment of the American people. I pledge to work with you, the American public, other Federal, State, Tribal, and private entities, and with the outstanding employees of the Service to continue protecting our Nation's natural heritage for generations to come.

Senators, thank you again for the honor of your consideration.

RESPONSES TO ADDITIONAL QUESTIONS FROM SENATOR CHAFEE

Question 1. It is rare indeed when a career civil servant rises through the ranks to become the director of an agency, particularly in the span of time you have been with the Fish and Wildlife Service. How will this background and experience shape your duties as Director, with respect both to policy issues and to the management of the Service?

Answer. During my 8 years with the Fish and Wildlife Service, I have been part of an agency undergoing significant change. It is increasingly clear to me, and to

my colleagues in and out of the Service, that we need to continue looking for new and innovative ways to achieve species and habitat conservation. Identifying new and innovative conservation measures for both species and habitat will be my goal as a policymaker; implementing these measures effectively will be a measure of my success as a manager. Service employees, other government agencies, and non-government organizations are finding creative approaches to conservation questions almost every day. Ensuring that those approaches are successful is our greatest challenge. The Service must work hard to leverage our own resources and expertise with those of State wildlife agencies, local governments, sportsmen's organizations, conservation groups, corporations, and individual private citizens to effect change on the ground. We must refine our ability to be a team player—knowing when to lead, when to follow, and when to assist to accomplish common goals. That is the direction I intend to set.

I believe my experience has given me a unique and useful perspective on working with the Service's partners to achieve the Nation's conservation goals. My early years as a resource professional were spent working for the National Guard Bureau and the Army as a wildlife biologist addressing land use management and environmental planning issues. I was responsible for developing and implementing fish and wildlife conservation practices Army-wide; emphasizing integration of wildlife management activities with the military mission. As a consequence, I recognize and understand the need to balance wildlife conservation needs with other objectives. Working to achieve balance also meant that I was actively engaged with military trainers, engineers, other Federal agencies, and conservation organizations in developing and implementing real world solutions. From these experiences, I learned about the importance of listening to all sides, effectively communicating specific needs, and working collaboratively with others to achieve multiple goals on lands supporting competing demands.

Since joining the Service in 1989, I have spent considerable time looking for new ways to achieve wetlands conservation, recover declining species, restore degraded habitats, and address the increasing concern about the effect of environmental contaminants on our natural resources. I have worked in partnership with folks like the ranchers in southern Arizona and New Mexico through the Malpai Borderlands Group; private landowners on Hawaii's Big Island working to prevent the extinction of the Hawaiian crow while preserving the integrity of their commercial farming and ranching operations; and the States of Illinois, Indiana, and Kentucky to balance the economic needs of the coal mining industry with wildlife conservation. I believe the future of fish and wildlife conservation depends on collaborative partnerships such as these.

Question 2. In recent years, the Service has undertaken many initiatives in implementing the Endangered Species Act. These include the "no-surprises" policy, the safe harbor and candidate conservation policies, streamlining agreements, among other. Some of these initiatives are being considered in the context of legislation; and some of these initiatives have been considered fairly controversial. I am certain that all of these have significant consequences to both the agencies and individuals subject to the law. I have two questions.

(a) First, with respect to Federal agencies, how have these initiatives affected the Service's interaction with other agencies?

Answer. These three recent initiatives are currently under review by the public, including the States, and other Federal agencies. The Service is now collecting and evaluating these comments. To date, the reaction from other Federal agencies has been favorable. The policies should benefit Federal agencies because they encourage greater participation of all stakeholders in recovery of listed species, or, in the case of the Candidate Conservation Policy, in precluding the need to list species. In the case of the No Surprises and Safe Harbor policies, if the public voluntarily assumes a greater role in recovery of listed species, Federal agencies may have their role lessened and species may be recovered in less time. Removing species from the list of protected species removes a regulatory burden from both the public and from Federal agencies. In the case of the Candidate Conservation Policy, if candidate conservation agreements sufficiently remove the threats to candidate species and the need to list the species is precluded, both the public and other Federal agencies benefit. There is no need to impose regulations and the cost to both the public and Federal agencies is lessened. The Service has numerous candidate conservation agreements with other Federal agencies for species occurring on Federal lands. The conservation agreement for the Jemez Mountain salamander with the U.S. Forest Service in New Mexico has been working to conserve this species for more than 5 years.

Question 2(b). Second, with respect to private landowners, how are you monitoring the effectiveness of these initiatives?

Answer. The Service has a monitoring obligation for any agreement designed to conserve species or minimize the impacts of activities on species. Such agreements include Section 7 biological consultations, Section 10(a)(1)(B) permits that accompany Habitat Conservation Plans, No Surprises agreements, Safe Harbor agreements, and Candidate Conservation agreements. Monitoring is composed of two functions: monitoring implementation and monitoring effectiveness. In monitoring implementation, it is the Service's responsibility to ensure that the measures included in the agreement are being implemented by the action agency or permit holder. The Service takes this responsibility seriously. To a large degree, the increases the President's fiscal year 1998 Budget requests for the Consultation Program and the Recovery Program are designed to ensure that the Service has the necessary resources to monitor the increasing number of biological opinions, permits, and agreements. The Service also plays a role in monitoring the effectiveness of the measures intended to conserve species. Sometimes Service biologists collect and interpret the relevant data. More often, the responsibility to monitor the effectiveness is part of the consulting Federal agency or permit holder's responsibility. The agreement in these cases provides that these other parties use agreed-upon methods to monitor for effectiveness, and report the results to the Service.

Question 3. Recently, the Service has lost a number of court decisions regarding its decision not to list certain species or designate critical habitat for certain species. Specifically, the Service has lost decisions relating to the Barton Springs salamander, the bull trout, and two species in the Tongass National Forest, in which the Service relied on ongoing or developing conservation initiatives. I am a little concerned both with the track record of the Service and the underlying bases for the Service's initial decisions not to list these species. It would be one thing if those decisions were upheld by the courts, but in light of the rejection by the courts, are you developing any guidance on how to incorporate newly developed conservation efforts into your listing decisions?

Answer. Yes, the Service is currently developing guidance concerning the role conservation agreements and other conservation measures should play when making listing determinations.

I believe that it is important to engage the public and private sectors in conserving declining species, preferably before species reach the point where they require listing. The Service has entered into approximately 40 candidate conservation agreements in the last 4 years and 5 of these led to withdrawals of listing proposals. One such conservation agreement is the northern copperbelly water snake agreement, where numerous coal companies and the States of Illinois, Indiana, and Kentucky ensured conservation of the species habitat, resulting in removal of threats to the species sufficient to preclude the need for listing under the Act.

Your question refers to adverse court decisions on the use of conservation agreements. The Barton Springs salamander is the only agreement where a court ordered the species to be listed despite a conservation agreement. This court decision was based on an unusual record, where the FWS had addressed the listing issue over several years, with the conservation agreement coming very late in the process. We do not regard this court decision as generally applicable to other cases.

In the case of the Queen Charlotte goshawk and the Alexander Archipelago wolf on the Tongass National Forest, the court set aside a not warranted listing determination. But here the Service's primary reasons for determining that listing was not warranted was that there was insufficient information to substantiate threats to either species. We also concluded that given the Forest Service's mandate to manage for viable populations of all native vertebrate species, the wolf and goshawk would likely not need the protection under the Act after a revised forest management plan was issued. Now that a revised plan has been issued, the Service will review whether the species need the protection of the Act.

The Service's original bull trout petition finding, which was challenged in court, was that listing the bull trout in the U.S. was "warranted but precluded" by other higher priority listing activities. This decision was based in part on planned protective measures on public lands. The court determined that the Service should not have relied upon future management actions like those planned measures when making its determination of threats. The Service did not rely on these conservation measures when making a final determination, but used them only in its attempt to prioritize use of its limited resources in order to first protect other species that do not enjoy ongoing protections. The Service believes, in the case of the bull trout, this was the right decision. Nevertheless, the Service recognizes that the Court has raised a valid question, and we are currently developing guidance to address this issue.

The Service has an overall outstanding record when making determinations on whether species need the protection of the Act. For example, since the listing moratorium was lifted in April 1996, the Service has published final rules for 133 species, proposed rules for 18 species, and withdrawals of proposals for 9 species, for a total of 160 listing decisions. It is noteworthy that so few of these determinations have been set aside in court.

RESPONSES TO ADDITIONAL QUESTIONS FROM SENATOR THOMAS

Question 1. What is your view on the role of cost-benefit analysis with respect to the natural resource damage assessment and restoration process?

Answer. Under the existing CERCLA natural resource damage assessment regulation, natural resource trustees consider a variety of factors, including costs and benefits, in evaluating alternatives to restore resources lost or injured as a result of hazardous substance releases. Trustees focus on making the public whole for losses to publicly owned or managed resources resulting from a release of hazardous materials or oil. In this process, trustees consider both on-site and off-site restoration alternatives. I support the Administration's position that the goals of CERCLA and the Oil Pollution Act (OPA) are to protect public health and the environment in the most cost-effective and sensible way. CERCLA and OPA declare that natural resources are held in trust for the public, and mandates that those who pollute the environment, not the American public, must be held accountable for restoring, replacing or acquiring the equivalent of natural resources injured or lost as a result of their actions. Thus, costs and benefits are important, but not controlling factors in selecting restoration actions to make the public whole for losses sustained as a result of hazardous materials or oil entering the environment.

Question 2. Under your leadership, how would technical and financial realities be taken into account in formulating plans for remediation?

Answer. In conducting remediation under CERCLA, the U.S. Department of the Interior and the U.S. Fish and Wildlife Service follow the National Contingency Plan (NCP), which requires consideration of technical feasibility and cost. As you know, the NCP contains extensive criteria for remedial actions under CERCLA.

Question 3. Would the planned use for the property be taken into account in formulating remediation activities and requirements?

Answer. In evaluating the adequacy of remedial action alternatives to eliminate risks to human health and the environment, the U.S. Fish and Wildlife Service considers future land use. For example, in remediating contamination on wildlife refuges, we consider the purposes of the refuge for protecting wildlife, as well as visitor activities on the refuge.

Question 4. What efforts will you make to ensure that the costs involved in the restoration of natural resources do not exceed the value of the property, thereby discouraging redevelopment?

Answer. The FWS has significant responsibilities under CERCLA and OPA related to its management, control and protection of land and natural resources. These resources belong to the public and include migratory birds, anadromous fish, and endangered species. We will continue to take our stewardship responsibilities seriously and focus on making the public whole in those situations where natural resources have been lost or degraded as a result of contamination of the environment. In selecting a restoration action, we consider a variety of actions, usually both on-site and off-site, and consider numerous factors (including cost) to identify the most appropriate and cost-effective restoration alternative.

Question 5. What steps do you intend to take to encourage early and meaningful participation by PRPs in the assessing and rectifying natural resource damages?

Answer. The CERCLA and natural resource damage assessment regulations require us to invite PRPs to join in the natural resource damage assessment process at the planning stage. The Service encourages this participation as it facilitates assessment, settlement and restoration. I will continue to encourage early PRP involvement in the Service's implementation of the NRD Program. We have successfully secured the input of many PRPs and they, in turn, have provided trustees with settlement agreements that provide for restoration either through payment of damages or through "in-kind" settlements. Similarly, I strongly support the use of Biological Technical Assistance Groups at the remediation stage, composed of parties with interest and expertise in the site.

Question 6. Do you support placing a cap on damages or other mechanisms for limiting liability of PRPs for natural resource damages?

Answer. As you know, the Administration has maintained a steadfast commitment to maintaining the trustee's ability to effect meaningful restoration of injured natural resources because it is so vital to the Nation's well being. For this reason, I support the Administration's opposition to legislative proposals that would place caps on liability for restoration, other than what is already contained in CERCLA. Caps risk denying the public compensation for its losses and could result in ineffective restoration or completely prohibit restoration for the most serious cases of injury caused by long-term hazardous substance release.

Question 7. If not, what measures would you take to promote expeditious settlements and prompt remediation?

Answer. I will continue to support efforts during CERCLA implementation that reaffirms the commitment to the principle that the polluters, not the American people, should be responsible for cleaning up toxic waste and for restoring resources injured as a result of the release of the waste. Current implementation by the EPA and the States allows for remediation decisions to occur as quickly as resources will allow. The Service, under my leadership, will continue to assist the EPA and the States to work within the Congressionally mandated responsibilities of CERCLA to protect public health and the environment. We have a successful track record of providing technical assistance to cleanup agencies that has resulted in the adoption of remediation techniques that have resulted in less injury to natural resources during response and remediation and the reduction of restoration challenges that have allowed natural resources to return to the State they were in before the release.

Question 8. How do you intend to promote the equitable treatment of PRPs in natural resource damage cases?

Answer. The Service has secured several negotiated settlements with PRPs resulting in in-kind settlements that have allowed PRPs to directly provide restoration of injured resources, rather than rely on trustee implementation. I will continue to encourage the U.S. Fish and Wildlife Service to invite PRP involvement as early as possible in the process to not only cut costs, but also to effect restoration of the natural environment as early as possible. Such involvement by all interested parties early in the process ensures fair and equitable treatment of all affected parties. Key issues are identified early, options can be developed openly among participants, and decisions made with relevant and up-to-date information. Such coordinated decisions ultimately treat all participants more fairly.

Question 9. What is the FWS role and involvement in managing the brucellosis problem around Yellowstone and National Elk NWR?

Answer. The FWS's role in managing brucellosis issues in the Greater Yellowstone Area is limited to management of brucellosis in the bison and elk in the Jackson Hole, WY area which frequent the Refuge during the year. The Service is using a four-pronged approach to manage brucellosis in these populations: (1) controlling animal numbers, (2) participating in scientific research efforts to develop an effective vaccine, (3) minimizing the possibility of transmitting the disease by rehabilitating an outdated irrigation system to improve forage production and distributing animals more widely on the Refuge, and (4) working with partners to secure land or easements to separate elk and bison to minimize possibility of interspecies transmission.

The National Elk Refuge was created in 1912 to provide elk feeding areas to mitigate for human encroachment onto elk winter range in the Jackson Hole area. Elk are a State managed species. Thus, the FWS manages the habitat, the State of Wyoming manages the animal numbers, and the State and FWS share costs of supplemental feeding. Because the perimeter of the refuge is not fenced, the only currently feasible mechanism for limiting the numbers of animals on the refuge is to manage the harvest, a State regulated activity. Because the elk and bison both migrate onto and off the Refuge, Grand Teton National Park, BLM, and Forest Service property, the Service must work with all of these partners and the State of Wyoming to accurately assess numbers of both species so the State can implement effective hunting regulations.

The Fish and Wildlife Service cooperated with the State of Wyoming in an experimental vaccination program on the Refuge in which approximately 2000 elk were vaccinated. It was labor intensive and difficult because of conditions at the Refuge, and was not a demonstrable success. Scientifically tested, effective, safe, orally administered vaccine must be developed for vaccination to be effective in such condi-

tions, and the Service is working with other Federal agencies to contribute to the development of such a vaccine.

The Service has recently consulted with the Natural Resource Conservation Service to develop plans for an effective, modern irrigation system to increase forage production on the Refuge. Preliminary estimates are that with an updated irrigation system, the Refuge could produce up to six times as much forage, almost eliminating the need for supplemental feeding in most years. This would widely distribute elk across the Refuge and greatly minimize possibilities of transmission of brucellosis. In naturally distributed populations of elk, about 1 percent of the population tests seropositive for brucellosis, and this is just about the same number as the error rate for the test.

Finally, the Service is working with partners to find wintering habitat off the Refuge for the small Jackson bison herd. Separating bison from elk would prevent possibilities of interspecies transmission of brucellosis.

Question 10. What is the status of delisting the Grizzly Bear? The "standards" for delisting have not been clear and the time line has continually changed. Could you clarify what the "standards" are and the time line for delisting.

Answer. The approved grizzly bear recovery plan delineates 6 separate recovery areas. Each population can be recovered and delisted separately, independently of the others. Recovery goals include such things as the number of females observed with cubs, human-caused mortality levels, human-caused female mortality levels, and occupancy of bear management units. The required level for each measure will vary among the 6 areas. The Recovery Plan does not delineate specific timeframes for delisting because many of the goals are dependent on exterior forces that are impossible to predict. As an example, the Yellowstone population is well on its way to recovery: the Yellowstone population of 33 females with cubs in 1996 exceeds the recovery goal of 15. Occupancy and mortality goals have also been met, but the human-induced female mortality goal is still being exceeded. In addition, as a result of a recent settlement of the Grizzly Bear Recovery Plan lawsuit brought by the Fund for Animals, National Audubon Society and three dozen other conservation groups, the Service is required to develop, measure and achieve habitat-based recovery criteria before delisting the bear. These criteria are being developed now by an interagency team and will be ready by fall of 1997. In addition, before the Yellowstone bear can be delisted, Montana and Wyoming must change State laws that currently allow high levels of bear mortality. The Service and the Interagency Grizzly Bear Committee (IGBC) hope to resolve all the Yellowstone delisting issues in the near future in order to delist the Yellowstone population as soon as possible.

The Northern Continental Divide population has also met its "female with cubs" recovery goals, but not some of the other objectives. The other three existing populations in the Selkirks, Cabinet/Yank, and Northern Cascades ecosystems are currently making little or no progress toward recovery. The Bitterroot recovery goals will be established by a Citizens Management Committee if and when bears are introduced into the ecosystem and sufficient scientific and commercial information becomes available. If 25 bears are introduced into the Bitterroot over a 5-year period, a tentative recovery goal of 280 bears over the 5,785 square miles of designated wilderness may take as long as 100 years.

In summary, 2 of the current 5 grizzly bear populations are well on their way to recovery, but the Service and the IGBC must meet several requirements before delisting is possible. We hope to meet those requirements in the near future. Time lines have not been established for any of the populations because recovery and delisting are highly dependent on external forces and because bears reproduce slowly.

RESPONSES TO ADDITIONAL QUESTIONS FROM SENATOR ALLARD

Question 1. Recently, Colorado, Wyoming, Nebraska and the U.S. Department of Interior agreed in principle to a program to protect species in the Central Platte. Fish & Wildlife will have a crucial role to play in this agreement because the first stage is a 3 year NEPA process.

Ms. Clark, I'm sure we have both seen NEPA's run wild. Please indicate to me how you would intend to ensure that the process is controlled so that it performs its function in the time allotted and that it is not an excuse for rewriting the agreement?

Answer. The Central Platte agreement is an excellent example of the kind of collaborative partnerships that will be key to balancing the environmental, economic and social needs of society in the future. Colorado, Nebraska and Wyoming all deserve special recognition for the enlightened approach they are taking in conserving

the fish and wildlife resources of the Platte Basin. The Fish and Wildlife Service is committed to making this agreement work in order to provide greater certainty of Platte River flows for a variety of uses, including agriculture, electric utilities, and other water uses as well as wildlife. I can assure you that I will do all I can to ensure that the NEPA process is completed in a timely and effective manner.

I believe there are several aspects of the agreement that will help keep the process on track. The agreement includes a description of the proposed program that will be one of the alternatives considered under the NEPA process. All parties realize that the proposed program must be properly analyzed in the NEPA process, but they also recognize that it is in everyone's long-term interest to ensure that the proposed program remains substantially intact. The agreement also established an 8-person Governance Committee with representatives from the States, water users, environmentalists and the Department of the Interior to review, direct, and provide oversight for agreement activities. Oversight of the NEPA process will be one of the major concerns of the Governance Committee. I believe the Governance Committee will have a direct interest in seeing that the NEPA process is carried out in a timely and effective manner to reach the agreement's goals. Finally, the Bureau of Reclamation and the Fish and Wildlife Service, as the two Federal agencies directly responsible for the NEPA process, will be cooperating closely. Both agencies were intimately involved in negotiating the agreement in principle and both have an interest in assuring that the agreement remains essentially intact.

Question 2. What is the status of the programmatic biological opinion being prepared on the Colorado River Recovery Program?

Answer. The biological opinion dealing with historic projects and new depletions on the Colorado River above the 15 mile reach of the Grand Valley is under development at this time, pending completion of the hydrological analyses being done by the Colorado Water Conservation Board. A draft biological opinion is tentatively scheduled for completion in October 1997, with a final opinion to be completed four to 6 months after the draft.

Question 3. Will this opinion fulfill its intended function of allowing development of Colorado's apportionment under the Colorado River Compact and protecting the various fish species?

Answer. The intended goal of the Upper Colorado River Recovery Program is to recover the endangered fish while allowing the States to meet their compact entitlements. The Recovery Program is also intended to serve as a reasonable and prudent alternative for water depletion impacts in the Upper Colorado River Basin. The specific purpose of the programmatic biological opinion is to determine the degree to which the recovery program can serve as the reasonable and prudent alternative for historic and new depletions, considering the status of the fish populations and the recovery program accomplishments. At this time, the Service has not made a final determination on this issue. While the biological opinion being developed must be consistent with the requirements of the Endangered Species Act, I believe we can protect species while still protecting Colorado's allocation.

Question 4. Eventually, State and Federal contributions to this project will be about an additional \$100 million. I've heard some complaints that Fish and Wildlife is not accepting this program as an acceptable method of meeting Section 7 consultation requirements. Can you give me some assurances that you will review this program with the goal of ensuring it provides certainty to those on the Colorado River and its tributaries?

Answer. The Fish and Wildlife Service has consulted on nearly 300 water development projects in the Upper Colorado River Basin since the inception of the Recovery Program in 1988. The biological opinions for each of these projects have identified reasonable and prudent alternatives that allow the projects to go forward but successfully offset the environmental impacts. It is difficult to continue to deplete water from a river system while trying to recover fish species that depend on the same water. However, all parties have done an admirable job so far, and I expect this to continue into the future. I will continue to work closely with the Service's Denver Regional Office to ensure that the Program continues to function smoothly.

Question 5. Will the new Animas-LaPlata project require any type of consultation with Fish and Wildlife?

Answer. That will have to be determined as the new project plan is developed. The Service completed a biological opinion on the Animas-LaPlata project several years ago based on the planned project at that time. If the future project is significantly different from the planned project that the previous biological opinion addressed, a revised or new biological opinion may be required.

RESPONSES TO ADDITIONAL QUESTIONS FROM SENATOR INHOFE

Question 1. What do you see as the proper role of the State in the NRD process?

Answer. Each State shares trustee responsibility with the U.S. Department of the Interior through the U.S. Fish and Wildlife Service, other Federal natural resource management agencies, and tribes. States, in partnership with all affected natural resource trustees, are working cooperatively and collectively to evaluate and quantify injuries to fish, wildlife and other natural resources and to secure restoration of injured natural resources. Working in partnership, states, tribes, and Federal natural resource trustees provide the best assurance for success in protecting and restoring injured resources.

Question 2. What options would you consider to provide States with greater opportunities to manage cleanups of sites within their borders and to promote their pursuit of innovative and cost-effective restoration programs?

Answer. States are encouraged to continue their cooperative technical assistance efforts among state, tribal and Federal organizations responsible for both the clean-up of the site and protection and restoration of natural resources, as a proven and effective way to ensure that the risks to both human health and ecological resources within individual State borders are evaluated thoroughly during remediation. We have a successful track record in assisting the EPA and our State partners in selecting response and remediation decisions that consider and protect fish and wildlife resources. We are pursuing opportunities for closer coordination of remediation and restoration activities. EPA is aggressively seeking our help and the Service stands ready to provide technical assistance to both the EPA and individual States during response and remediation decisionmaking to protect fish and wildlife resources. As you know, the EPA works with States directly to establish remediation goals. Increasingly, the Service has provided technical advice that has resulted in the reduction of Natural Resource Damage (NRD) liability by helping the EPA or the State to identify and/or select response and remediation techniques and strategies that result in accelerated restoration of injured resources.

Question 3. A number of states have established programs under which entities that successfully complete voluntary and mandatory remediation actions are released from liability for damages under State environmental laws. As a result of Pennsylvania's model program, for example, 64 sites have been cleaned up since establishment of the program in July 1996, compared with 8 of the 103 Superfund sites located in Pennsylvania that have been cleaned up over the course of Superfund's 16 year history. As the Director of the Fish and Wildlife Service, would you support a parallel statutory release of liability under CERCLA for entities that successfully complete remediation activities in connection with NRD claims and obtain a release from the State?

Answer. Coordination between the natural resource trustee entities of the Federal and State jurisdictions currently provide protection to fish and wildlife species, whether they are resident populations within the borders of one or many States as well as for those that migrate across State boundaries, making temporary stops within any one individual State. It is the migratory nature of many fish and wildlife resources and the interstate commerce relationship that created Federal protective statutes that currently exceed any one individual State's ability to protect such species during all phases of their migration. It is this Federal responsibility for protecting migratory fish and wildlife that serves as a strong complement to every State authority exercised within their sovereign boundaries. This State and Federal partnership affords our Nation's fish and wildlife resources their maximum stewardship and protection not only in any one State, but throughout entire Regions and flyways. We currently have very strong working relationships with many of our State natural resource trustees, and we do currently evaluate NRD liability at particular sites collectively. As such, when we jointly release a Responsible Party from NRD liability or grant a covenant-not-to-sue, it is our collective finding that binds both the State and the Federal Governments. For these reasons, our greatest strengths and abilities to protect fish and wildlife resources are afforded by building strong and complementary partnerships between State and Federal natural resource trustees, rather than by abrogating our Federal protective mandates through exclusion of Federal partners from such extensive State decisions.

Question 4. What plans do you have to ensure that the damage assessment process does not result in the unnecessary duplication of work by State and Federal entities?

Answer. The U.S. Fish and Wildlife Service has a strong history of entering into formal trustee agreements with many of our State and Federal partners to secure

cooperative damage assessments and NRD claims. By entering into such trustee agreements as early as possible during the pre-assessment phase of the NRD process, all participants can share information early, plan necessary investigations cooperatively to take advantage of shared resources, and execute investigations synergistically to avoid duplicative sampling or studies. We have also encouraged our State and other Federal trustees to join us in settlement negotiations. We in the FWS have been coordinating with our State and Federal partners since the beginning of the NRD program. We have been able to stretch limited resources with partnership planning and investigations that have yielded mutually beneficial results for cooperative NRD negotiations. Examples of such successful partnerships include settlements for the Tenyo Maru, the Cantara Loop, and Apex Houston Oil Spills.

The Service takes CERCLA's coordination requirement very seriously. It was designed to provide safeguards against inconsistencies and conflicts in both remediation and restoration decisionmaking. Memoranda of Understanding are in place to ensure effective coordination between both State and Federal entities on these decisions. Additionally, in most EPA Regions there are Biological Technical Assistance Groups (BTAGs) composed of scientists from resource management agencies, including the States, that work closely with EPA when EPA conducts ecological risk assessments and cleanups. As Director of the U.S. Fish and Wildlife Service, I will continue to encourage the cooperative efforts currently enjoyed by the Service's NRD program through its formal cooperative trustee agreements with its other Federal and State partners, through cooperative contaminant investigations, through encouraging public involvement in NRD restoration, and by continuing the Service's technical assistance capabilities and opportunities. Further, I will commit myself to ensure there is no duplication of work by State and Federal entities.

Question 5. What changes or measures would you suggest to increase the level of cooperation between State and Federal officials?

Answer. The Service has a long tradition of working closely on NRD issues with our State, tribal and Federal partners. Cooperation could be greatly increased through encouraging more informal and formal communication and sharing of information and expertise. The Service is an avid supporter of State cooperative associations and contributes to and hosts symposia, conferences, and issue initiatives that provide informal forums for mutual exchange of information and concerns. I will continue to support working relationships solidified through personnel exchanges, such as IPA's, through shared training opportunities among our National Conservation Training Center and State counterparts, and through partnered investigations designed to address operational fish and wildlife issues affecting a broad spectrum of State and Federal interests. Also, I believe that we can share natural resource data bases, such as Geographic Information Systems, that are beneficial and are applicable to a multitude of uses and analyses. The benefits of using common data bases are immense in terms of consistent claims, reducing costs, increasing knowledge base among trustees and PRP's, and expediting settlement and restoration decisions.

Question 6. What steps would you take to support efforts by the State to reach an expeditious settlement of State claims with PRP's in order to proceed quickly to the restoration stage?

Answer. The U.S. Fish and Wildlife Service currently works cooperatively with many of its State and Federal partners to avoid injury to fish and wildlife resources during response and remediation actions to minimize restoration challenges after cleanup is achieved. If after cleanup, restoration actions are necessary, these actions are pursued as quickly as resources allow in order to provide favorable conditions for the injured resources to return to the State they would have been in had the release not occurred. I firmly believe that the current cooperative nature of the NRD Program is the quickest way to achieve cost-effective restoration. Cooperation assures not only the State and Federal trustees that their collective concerns are met, but also provides the PRP with certainty that all affected parties are incorporated into the hazardous waste cleanup and site restoration, thereby effectively negating surprises during planning and implementation phases of the process.

Question 7. Do you support the listing of the Fox River/Green Bay area on the NPL?

Answer. Yes, this area is highly contaminated with PCB's, with injuries to fish and wildlife resources documented for over 30 years. There have been fish consumption advisories on this site for many years because the State of Wisconsin has concluded that there is a risk to human health. The listing of the site by EPA will enable issues of risk to human health and the environment to be addressed in the remediation process. The NPL process will assist in identifying the most cost-effective

solutions to the cleanup and provide incentives for the PRPs to participate in a more significant way. We plan to work closely with EPA to seek consistency, to the greatest extent possible, of remediation and restoration activities.

Question 8. Was DOI consulted by EPA with respect to the proposed listing? What position did it take?

Answer. Yes. The Department supported the listing.

Question 9. How would the listing affect voluntary efforts that are underway as a result of the January 1997 agreement?

Answer. It will help this effort by adding more financial resources and expertise from EPA to the cleanup. It also will provide additional incentives for the PRPs to make commitments to cleanup the river. All parties agree that a negotiated settlement based on a voluntary cleanup is preferable to litigation. The NPL listing will provide additional certainty that the Fox River will actually get cleaned up and restored. The Service will continue to support all parties working together, and has agreed to work cooperatively with the State, EPA and the 2 tribes in a Memorandum of Agreement which was signed on July 11, 1997.

Question 10. Is the NPL listing just another way to assert Federal control over the restoration process?

Answer. No. Efforts to date have focused on restoration of natural resources but not remediation of the river. NPL listing will bring EPA to the site to oversee the remediation process. It is in the public's best interest, as well as in the interest of the Responsible Parties, for all relevant units of government to be involved in addressing this problem so that all cleanup and restoration issues can be resolved. The Federal Government is an affected and interested party in this matter. The NPL process will introduce certainty that progress will be made in responding to threats to human health and the environment and injuries to natural resources.

RESPONSES TO ADDITIONAL QUESTIONS FROM SENATOR BOXER

Question 1. How will establishment of a regional office in Sacramento improve service to California?

Answer. The establishment of a regional office in Sacramento will greatly improve service delivery in California and Nevada. The reorganization will provide additional service to the public and the Service's many other customers and partners to meet their needs in the increasingly complex natural resource environment facing California and Nevada. In particular, improved services to the public are needed for the Bay/Delta restoration initiative, the recovery of endangered species, meeting the demand for habitat conservation planning assistance, restoring habitats injured by spills of oil or hazardous substances, and meeting the rapidly increasing expectations for Service refuge and fisheries facilities. California is already home to more than 30 million people, and is projected to grow by more than 58 percent by the year 2020. Growth in metropolitan areas of Nevada has been similarly explosive.

Currently, Region 11, based in Portland, Oregon, has a workload greater than any other region in the country. Even with the creation of a new region, the workload in California and Nevada will exceed those of many other regions. For example, California alone has about 20 percent of the nation's listed species and about 10 percent of the nation's recovery plans for listed species. The 109 listed species in California and Nevada comprise 24 percent of the species that need recovery plans in the future. In addition, California and Nevada have been national leaders in the development of Habitat Conservation Plans. The Service is responsible for 112 Habitat Conservation Plans in various stages of development in those two states and must monitor the approved plans; this workload far exceeds that of any other region. The Sacramento office will also serve more than three million acres of refuge properties within California and Nevada; once again more refuge land than many other regions. The establishment of a regional office in Sacramento will improve services by placing a dedicated Regional Director on the ground in California; streamlining review of section 7 consultations; streamlining approval of Habitat Conservation Plans; and providing a quicker response to damages. In sum, the Service decisionmakers will be closer to the customers that the agency serves and the office will be better staffed to meet the current and future needs of those customers.

Question 2. What is the Service doing to shorten the review times for environmental analysis?

Answer. The Service has taken several steps to shorten the review times for environmental analysis. The Service's current National Environmental Policy Act

(NEPA) procedures encourage agency personnel to use streamlining techniques, such as scoping of alternatives and impact, incorporation by reference, joint process (i.e., public reviews and joint documents) with other Federal and State agencies, and the establishment of cooperative agency agreements in planning and decisionmaking of Service actions. In January 1997, the Service revised its NEPA procedures to expand and update the list of categorical exclusions (actions not requiring the preparation of environmental analyses) and to identify more instances when environmental assessments, rather than environmental impact statements, are appropriate. These improvements effectively shorten the time periods for agency decisionmaking, while still providing consideration of alternatives and analysis of Service proposals and permit approvals where environmental impacts are anticipated. The Service has also developed NEPA training courses for Service personnel, conducted by the Service's National Conservation Training Center, in Shepherdstown, WV, that provide instruction on streamlining techniques for Service activities, including section 10 habitat conservation plans, refuge comprehensive management planning, and grants programs. Over 200 Service employees are training annually in this effort.

Question 3. Are there any species in California being considered for listing?

Answer. Yes. A total of 28 candidates are being considered for Federal listing in California. Candidate species are plants and animals for which the Fish and Wildlife Service has sufficient information on their biological status and threats to propose them for listing as endangered or threatened under the Endangered Species Act. However, development of a proposed listing regulation is precluded by other higher priority listing activities. The candidate species in California include:

Amole, Cammatta Canyon
 Amole, Purple
 Buckwheat, Ione
 Buckwheat, Irish Hill
 Buckwheat, Red Mountain
 Campion, Red Mountain
 Checkerbloom, Keck's
 Checkerbloom, Parish's
 Chub, Cowhead Lake
 Larkspur, yellow
 Larkspur, Baker's
 Lathyrus, tow-flowered
 Lupine, Nipomo Mesa
 Manzanita, Ione
 Penny-cress, Kneeland Prairie
 Phlox, Yreka
 Rabbit, riparian brush
 Rat, San Bernardino Kangaroo
 Salamander, California tiger
 San-verbena, Ramshaw
 Shrew, Bueana Vista Lake
 Stonecrop, Read Mountain
 Tarweed, Santa Cruz
 Tarweed, Gaviota
 Thistle, La Graciosa
 Trout, McCloud River redband
 Woodrat, San Joaquin Valley
 Yerba santa, Lompoc

A total of 54 species have been proposed for Federal listing as endangered or threatened under the Endangered Species Act in California, and await final decisions. The proposed species include:

Adobe-lily, Greenhorn
 Allocarya, Calistoga
 Alumroot, island
 Bear-grass, Dehesa
 Bird's-beak, soft
 Bluecurls, Hidden Lake
 Bluegrass, Napa
 Bluegrass, San Bernardino
 Brodiaea, Chinese Camp
 Brodiaea, thread-leaved
 Buckwheat, Irish Hill
 Buckwheat, Ione

Buckwheat, southern mountain
 Butterfly, callippe silverspot
 Butterfly, Behren's silverspot
 Carpenteria
 Ceanothus, Vail Lake
 Checker-mallow, Kenwood Marsh
 Cinquefoil, Hickman's
 Clarkia, Springville
 Clarkia, Vine Hill
 Crownscale, San Jacinto
 Cypress, Gowen
 Dandelion, California
 Dudleya, munchkin
 Dudleya, Santa Cruz Island
 Dudleya, Santa Rosa Island
 Flannelbush, Mexican
 Larkspur, Baker's
 Larkspur, yellow
 Lily, Pitkin Marsh
 Lupine, Mariposa
 Manzanita, Ione
 Manzanita, pallid
 Milk-vetch, Clara Hunt's
 Monkeyflower, Kelso Creek
 Mountain-mahogany, Catalina
 Navarretia, Piute Mountains
 Navarretia, prostrate
 Paintbrush, ash-grey
 Phlox, Yreka
 Piperia, Yadon's
 Pussepaws, Mariposa
 Rattleweed, coastal dunes
 Rock-cress, island
 Rock-cress, Johnston's
 Sandwort, Bear Valley
 Sedge, white
 Sheep, bighorn (Peninsular)
 Splittail, Sacramento
 Thistle, Suisun
 Valley Barberry, Nevin's
 Whipsnake, Alameda
 Woodland star, San Clemente Island

RESPONSES TO ADDITIONAL QUESTIONS FROM SENATOR SMITH

Question 1(a). As the Chairman of the Senate Superfund, Waste Control and Risk Assessment Subcommittee, I am interested in knowing your views on the Natural Resources Damages (NRD) program of CERCLA and how you, as part of the Federal trustee team, would work with PRPs and State trustees to restore confidence in the NRD program. As such, I request that you respond to the following questions:

According to the April 1996 GAO report on natural resource damage settlements, as of April 1995, \$33.9 million had been collected through settlements in the five largest natural resource damages (NRD) cases but only \$3.6 million had been spent. The GAO found, however, that expenditures had gone "mostly to reimburse trustees for performing past damage assessments and to pay for preparing natural resource restoration plans. With the exception of one small experimental restoration project, no restoration actions had been taken with the moneys collected as of July 1995."

A follow-up GAO report issued in November 1996 reported that settlements had been reached at 62 sites in addition to the five large NRD settlements discussed in the first report. Only 19 percent of the funds collected from these 62 settlements had been allocated for performing damage assessments, planning or restoration. Further, as of July 1996, restoration had been completed at only one site.

Can you explain why more actual restoration work has not taken place?

Answer. It is important to note that the NRD process is still relatively new. We did not receive appropriations until Fiscal Year 1992 and we were developing guidance and procedures to implement these important Congressional mandates. As settlements are received and cooperative working relationship between the State and

Federal trustees develop, the U.S. Fish and Wildlife Service (FWS or Service) is moving into an era of undertaking actual restoration work. I would agree that the pace of spending on actual restoration needs to increase. I am informed that since the release of the GAO Report, additional funds have been allocated to assessment and restoration work at a number of sites, including the following sites listed in the GAO report: Applied Environmental Services, New York; Army Creek Landfill, Delaware; Bunker Hill Mine, Idaho; Charles George Reclamation Landfill, Massachusetts; Coker's Sanitation Service Landfills, Delaware; Crab Orchard NWR, Illinois; Douglass Road/Uniroyal Inc., Landfill, Indiana; Hi View Terrace, New York; Jack's Creek/Sitkin Smelting and Refinery, Pennsylvania; Saegertown Industrial Area, Pennsylvania; Sharon Steel Corp., Utah; Southern Ohio Coal, Ohio; and Wide Beach Development, New York. Of the \$27.1 million identified as collected settlements in the November 1996 GAO report, a total of \$9,162,243, or 34 percent, has been allocated as of July 1997. This is compared with 19 percent allocated as of July 1996.

Restoration planning is underway at a number of these sites, including the Applied Environmental Services, Crab Orchard NWR, Hi View Terrace and Wide Beach Development Sites. Since the GAO Report, Restoration Plans have been completed for a number of sites including the Douglass Road Site (Indiana), the Fisher-Calo Chemical Site (Indiana), the Fish Creek Oil Spill (Indiana), the Envirochem, Northside Landfill, and Great Lakes Asphalt Sites (Indiana), and the Coakley Landfill (New Hampshire). Restoration work at these sites will commence in the near future as working relationships are formalized, contracts are negotiated and released, and construction begins.

It is important to note that the GAO report to which you refer focuses strictly on restoration activities for which damages under CERCLA were collected and deposited to the Department's Natural Resource Damage Assessment and Restoration (NRDAR) Fund. Because of this limitation, the report omits a number of restoration projects undertaken as a result of the Service's involvement. These settlement dollars have been deposited in court registry accounts or represent "in-kind" settlements where Responsible Parties (RPs) actually perform the restoration action under a consent decree or administrative order. Also, the report does not include restoration projects which have been undertaken pursuant to the Oil Pollution Act (OPA). One example is the Apex Oil Spill (Texas) settlement. At that site the Service will participate in a \$2.2 million dollar project that will restore and enhance nearly 750 acres of wetland and aquatic habitat. Another example of such work is the Motco Superfund Site (Texas) where the RPs created a replacement salt marsh that is now managed as a local park. The GAO report also does not include restoration projects undertaken by the RPs either as part of the remediation process in cooperation with the EPA or undertaken by the RPs at the request of the trustees to resolve natural resource damage claims. Two examples of such projects are the purchase and enhancement of about 80 acres of wetland to resolve a NRD claim for a site in Ohio, and the creation of a marsh by the RPs at the Wildcat Landfill (Delaware) to replace one that was filled in the remedial process. These projects, which were excluded in the GAO report, represent a significant bulk of settlements in terms of dollars and benefits to the natural resources and the public.

Question 1(b). As Director of the U.S. Fish and Wildlife Service, what steps would you take to expedite the pace of initiating restoration projects under the NRD program?

Answer. The Service is now moving into an era of implementing restoration projects. By building upon our past successes, we have increased the pace of our restoration program. We have greater experience with various restoration techniques that can be applied to new sites. In addition, we have existing Memoranda of Agreement, funding mechanisms, and cooperative working relationships with RPs, other natural resource trustees, conservation organizations, and other government agencies that provide technical expertise and logistical support. We can use these tools to get new projects off the ground faster and in a more focused fashion to the benefit of the natural resources and the public.

Question 2(a). According to the April 1996 GAO report, agency officials have explained "that restoration had not begun at sites because of continuing litigation, the need to coordinate with the Environmental Protection Agency's cleanup process and other site-specific reasons."

What actions has the agency taken in the past year to respond to the GAO report's findings?

Answer. As manager of the Department of the Interior's NRDAR Fund, the FWS has implemented a number of reforms which will ultimately improve the pace of res-

torations at NRD sites. These reforms, which focus on improving communications and providing project funding faster and more efficiently, include the following:

- Streamlined the approval process required for release of restoration funds from the Departmental NRDAR Fund. Approval and release of funds can now occur in days, compared to weeks and even months previously;
- Provided training to field staff on simplified mechanics of NRDAR Fund, with an emphasis on required documentation and how to request a release of restoration funds. Delays caused by inadequate documentation have been reduced significantly;
- Clarified that reasonable restoration planning costs can be funded from restoration settlements. Earlier Fund guidance discouraged use of settlement dollars for planning purposes and, as a result, restorations were delayed. Since the policy change, restoration planning efforts have increased substantially;
- Improved communications between Fund managers and field staff. Field and regional staff are now notified on monthly basis of all settlements and payments received and interest earned; and
- Improved working relationships with Justice, EPA, and NOAA financial staffs in order to more quickly identify and resolve problems in carrying out financial terms of settlements.

Question 2(b) What plans, if any, do you have to decrease the amount of litigation and delay that currently plagues the NRD program?

Answer. I will continue to support Service efforts to encourage meaningful involvement from the PRPs, as well as other Federal, State, and tribal entities early on in the NRD process. To date, the Service has secured several negotiated settlements with PRPs resulting in settlements that have staved off litigation. Involvement by all interested parties early in the process helps ensure fair and equitable treatment of all affected parties and helps limit litigation and unwarranted delays.

Further, the FWS was instrumental in developing a funding mechanism within the NRDAR Fund to allow Bureaus to work more cooperatively with RPs in conducting damage assessments. Under the recently approved process it is easier to conduct RP-funded cooperative assessments, provide RP's an opportunity to participate in and influence what studies are conducted, and decrease the likelihood of contentious litigation, since both sides will share a common source of data.

An effort to revise existing authorizing language in the Department's NRDAR account is presently before Congress. The proposed changes seek to clarify the authority of the NRDAR fund to administer joint NRD recoveries by being able to transfer settlement receipts to other non-Interior and State trustees to implement joint restoration plans. Congressional approval of the requested changes will help remove obstacles to cooperative restoration efforts and will improve relationships with State trustees. I believe this will ultimately speed up the pace of restorations.

Lastly, I support the proposal submitted last October by the Administration that outlined reforms for the natural resource damage (NRD) provisions of CERCLA. The proposed reforms were designed to reduce litigation and expedite restoration. Also, they were specifically designed to shift the emphasis away from spending money on litigation and to focus instead on spending money on restoration of injured natural resources. This shift was in response to concerns that too much time and money were spent on damage assessment and not enough emphasis was placed on restoring injured resources. I will continue to support such reforms designed to improve the NRD program by providing greater clarity concerning restoration, by assuring more timely and more orderly presentation of claims and by discouraging premature litigation.

Question 3(a). Regarding the Fox River site in Green Bay, Wisconsin, I understand that Federal, State and tribal trustees met on a number of occasions to attempt to reach agreement on division of responsibilities for the damage assessments to be performed and on the designation of a lead authorized official but were unable to come to an agreement. I understand further that in light of the failure to reach agreement, State officials asserted their authority to serve as the lead authority for State natural resources and on January 31, 1997, entered into an agreement with the PRPs, who contributed \$10 million for resources assessment and restoration projects.

What steps could we expect you to take to support the State of Wisconsin's effort to reduce transaction costs and cooperate with PRPs to address natural resource damage without protracted and expensive litigation?

Answer. This question, as well as some of the following questions regarding the Fox River have been overtaken by events. The Service initiated the effort to work with the State of Wisconsin to address natural resource damage in the Fox River/Green Bay environment using a collaborative approach. Initially, the Governor elect-

ed not to participate. However, in the fall of 1996, we were able to begin discussions at the staff level regarding how to work together on this problem. We have always stated our preference to resolve natural resource damage issues through negotiation rather than litigation. This culminated in a July 11, 1997 agreement signed by the FWS (representing DOI), 2 tribes, NOAA, EPA and the State of Wisconsin to work together by blending the State activities, the FWS NRDA activities and EPA's activities into one process—with a firm pledge to work together for the public benefit. I am confident this process will result in a complete solution to cleanup, restoration and compensation for lost resource values of the Fox River and Green Bay area. It is our hope that this joint governmental effort, which has been DOI's goal, will result in a negotiated settlement with the PRPs that will avoid litigation.

Question 3(b). It is my understanding that the parties to the Fox River agreement have encouraged the participation and involvement of the Federal Government in their efforts and have specifically invited the Federal Government to become a party to the agreement reached in January. Is that correct? What was your involvement in that decision?

Answer. The DOI was not involved in the development of the State/company agreement that was signed in January. It was signed without any consultation with the DOI, EPA or the tribes that have trusteeship for natural resources. The agreement contains provisions that are unacceptable to the Federal and tribal trustees and would need to be substantially modified. While the agreement contains a commitment for a \$10 million down payment in order to begin cleanup, this is a very small commitment given the magnitude of the problem. However, it is a start and we support any effort to begin to cleanup the river and bay.

Question 3(c). Is it true that the Department of the Interior has refused to participate in this agreement and decided to conduct its own assessment even though it will cover virtually the same resources already being addressed by the State and the PRPs under the terms of the agreement?

Answer. It is not true that DOI has refused to participate in the agreement and decided to conduct its own assessment. The Interior Department initiated the Natural Resources Damage Assessment (NRDA) process years ago and invited the State of Wisconsin to participate. Although the Governor initially declined, we have continued to reach out to the State to work with us as joint natural resource trustees. This goal has been achieved as evidenced by our signing an agreement with the State on July 11, 1997. The assessment called for in the State/company agreement is limited in scope, and currently not well defined. Given the potential for duplication of effort with the Federal NRDA, we have agreed to work with the State to coordinate our assessment activities through a NRDA workgroup authorized under the July 11, 1997 Memorandum of Agreement.

Question 3(d). As Director of the U.S. Fish and Wildlife Service, would you advocate becoming a signatory to this agreement? If not, how do you plan to pursue assessment and remediation without unnecessarily duplicating efforts of the State at the taxpayers' expense?

Answer. I would consider becoming a signatory to the State/company agreement if provisions that are unfavorable to the Federal and tribal trustees and the public can be addressed satisfactorily. The Department will explore that possibility with the affected parties in the future. As explained elsewhere, we have recently entered into a agreement with the State to collaborate our efforts to clean up and restore the Fox River and Green Bay environment, which should avoid unnecessary duplication of effort.

Question 3(e). In your view, is the Fox River situation one in which the Federal Government has supported State efforts to reach a negotiated settlement of claims with PRPs in order to move quickly to planning and implementing restoration activities?

Answer. The U.S. Fish and Wildlife Service initiated discussions with the State in the fall of 1996 for the purpose of merging State, Federal and tribal efforts to achieve a negotiated settlement with the PRPs in order to move quickly to cleanup and restore the affected environment. The initial idea for a "downpayment" came from the Service and is reflected in the State/company agreement. The Service has always supported the idea of a voluntary cleanup and will continue to do so provided there are substantial commitments made by the PRPs toward cleanup and restoration.

Question 3(f). What steps do you intend to take to resolve the differences between the Administration and the State of Wisconsin?

Answer. As previously stated, the Department of the Interior signed an agreement with the State of Wisconsin on July 11, 1997 which forges a new partnership to work together to cleanup and restore the Fox River and the affected environment.

Question 4(a). It is my understanding that EPA Region V is engaged in a process that would lead to the NPL listing of Fox River, despite the explicit and vigorous objection of Wisconsin Governor Tommy Thompson.

Wouldn't a NPL listing simply require the devotion of additional time and resources to administrative activities rather than accelerate the cleanup/restoration process?

Answer. A NPL listing proposal will bring additional Federal resources to the table to plan and implement the cleanup. EPA has stated that NPL listing will accelerate the cleanup/restoration process. It may also accelerate the commitments of the PRPs to the State's voluntary program so that regulatory or legal actions in the future by either EPA or DOI are minimized or avoided.

Question 4(b). What steps could we expect you to take to prevent further delay of restoration activities as a result of the proposed listing?

Answer: The DOI will be working hard through the new committees established by the MOA to support the cleanup and restoration efforts. We do not see the proposed listing as slowing down or delaying the ability of the PRPs to commit substantial resources to voluntarily cleanup and restore the river and affected environment. As stated above, we believe the proposed NPL listing will accelerate the cleanup—not delay it.

RESPONSE TO ADDITIONAL QUESTION FROM SENATOR SESSIONS

Question. I understand there have been some administrative problems with the implementation of the Endangered Species Act in Alabama with species being listed by the Fish and Wildlife Service office in Jackson, Mississippi and conservation plans being implemented by the Alabama office. As director, do you have any plans which would streamline the agency's implementation of the Endangered Species Act?

Answer. I am not aware of any administrative problems in the implementation of the Endangered Species Act in Mississippi and Alabama. However, I have asked the Acting Regional Director of the Southeast Region to look into this situation.

Please let me take this opportunity to explain how the Fish and Wildlife Service delivers the Endangered Species Program across the Nation. The Washington Office Division of Endangered Species provides staff support to the Director through the Assistant Director of Ecological Services, develops policies for the consistent application of the Endangered Species Act, and acts as the liaison and provides technical support to the Regional Offices and the field. Regional Offices provide direct supervision of the Service's field stations and coordinate Service activities with other Regions and between and among field stations within their jurisdictional areas. Service Field Offices are given the responsibility of working with other Federal agencies, State governments, Native American Indian Tribes, industries, farmers and ranchers, non-governmental organizations, and the American public on endangered species issues.

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ROOM 410 DIRKSEN BUILDING

WASHINGTON, DC 20510

INFORMATION

REQUESTED OF PRESIDENTIAL NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to Honorable John H. Chafee, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC (Attn: Staff Director) as soon as possible.

Name of Nominee: Jamie Rappaport Clark

Business Address: U.S. Fish and Wildlife Service
1849 C Street, NW, Room 3242, Washington, DC 20240

Business Phone: (202) 208-4646

Home Address: 504 Meade Drive, SW
Leesburg, VA 20175

Home Phone: (703) 771-1554

UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Clark Jamie Rappaport
(Last) (First) (Middle)

Position to which nominated: Director, U.S. Fish and Wildlife Service Date of Nomination: _____

Date of birth: 08 October 1957 Place of birth: New York City, NY
(Day) (Month) (Year)

Marital status: married Full name of spouse: James Melvin Clark

Name and ages of children: N/A

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	<u>Fairfield University, CT</u>	<u>1975-76</u>		
	<u>Harford Community College, MD</u>	<u>1976-77</u>		
	<u>Towson State University, MD</u>	<u>1977-79</u>	<u>B.S.</u>	<u>1979</u>
	<u>University of Maryland</u>	<u>1980-83</u>	<u>M.S.</u>	<u>1983</u>
	<u>Towson State Univ., MD</u>	<u>1983-85</u>	<u>post-grad.</u>	

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

National Institute for Urban Wildlife - Columbia, MD, Wildlife Biologist
1979-81

U.S. Army Medical Research Institute - Aberdeen Proving Ground, MD,
Research Biologist 1981-83

National Guard Bureau - Pentagon, Natural/Cultural Resources Program
Manager 1983-88

Department of the Army - Washington, D.C., Fish and Wildlife Administrator
1988-89

U.S. Fish and Wildlife Service (FWS) - Arlington, VA, Senior Staff Biologis
1989-91

Employment record—Continued

FWS - Albuquerque, NM, Deputy Assistant Director, Endangered Species/Perm
~~1991-93~~
 FWS - Arlington, VA, Chief, Division of Endangered Species 1993-94
 FWS - Washington, D.C., Assistant Director - Ecological Services
~~1994-present~~

Honors and
awards:

List significant scholarships, fellowships, honorary degrees, military medals,
 honorary society memberships, and any other special recognitions for outstanding
 service or achievement.
 Exceptional Performance Awards - Dept. of the Army: 1982, 1983
 Exceptional Performance Awards - Army National Guard: 1984, 1985, 1986,
~~1987, 1988, 1989~~
 Outstanding Performance Awards- Fish and Wildlife Service: 1990, 1991,
~~1992, 1993~~
 Special Act Service Award - Fish and Wildlife Service: 1991
 Most Outstanding Employee Award - Fish and Wildlife Service: 1991
 Upper Level Management Development Program - Fish and Wildlife Service:
~~Class of 1992-93~~

Memberships:

STAR Award - Department of the Interior: 1997
 List significant memberships and offices held in professional, fraternal, business,
 scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
N/A		

Qualifications: State fully your qualifications to serve in the position to which you have been named.

In addition to both an undergraduate and graduate education in the wildlife biology/natural resources area, I have worked for the Federal Government for the past 16 years dedicating my professional life to natural resources conservation efforts. Starting with the military, I spent a considerable amount of time providing guidance and policy interpretation regarding the integration of critical military missions with natural resources conservation and sound land management practices. Since transferring to the U.S. Fish and Wildlife Service, I have focused my efforts on endangered species conservation issues, wetland and upland habitat restoration efforts, and addressing the effects of environmental contaminants on fish and wildlife resources. I routinely coordinate fish and wildlife conservation initiatives with other Federal agencies, State agencies, the private sector, and the Congress. Having worked in the natural resource policy arena for a number of years, I feel I have a solid foundation of practical experience, policy development and implementation knowledge, and coordination and communication skills necessary to become the Director of the U.S. Fish and Wildlife Service.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

No, I am currently a career employee within the organization for which I am nominated to be the Director.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

I am currently a career employee with an intent to resume career service with the Federal government upon completion of this appointment

3. Has anybody made a commitment to you for a job after you leave government?

N/A; see #2 above.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

N/A

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

None

Financial
Statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

None

3. Are any assets pledged? (Add schedule).

N/A

4. Are you currently a party to any legal action?

No

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

None

Potential conflicts of interest: 1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest or the appearance of conflicts of interest, with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest with the position to which you have been nominated.

None

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

I will contact my servicing ethics officer for advice and guidance
in connection with any ethics situation or issue before me.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

If I am confronted by a situation that may create an actual or apparent conflict of interest, I will seek the advice and guidance of my servicing ethics counselor before proceeding. Attached is a copy of the ethics opinion letter issued by the Department of the Interior's Designated Agency Ethics Official to the Director, U.S. Office of Government Ethics with regard to my reported financial interests. This letter also mentions the ethics provisions that will cover me as Director, U.S. Fish and Wildlife Service.

Political affiliation and activities: List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

None

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

None

Additional
Matters:

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

None

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

No

AFFIDAVIT

James Rappaport Clark ss. being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

James Rappaport Clark

Subscribed and sworn before me this 10th day of July, 1997.

Mason Tsai
Notary Public

Mason Tsai
Notary Public District of Columbia
My Commission Expires April 30, 2000

