National Environmental Policy at 30 Years: Where Do We Go From Here?

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Event Transcript

Introduction:
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Speaker:
Mary Graham
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Panel I: New Partnerships

Moderator:
Jonathan Walters
Governing Magazine

Panelists:
Paul Portney
President, Resources for the Future
Jeff Smoller
Wisconsin Department of Natural Resources
John P. DeVillars
Administrator, U.S. EPA Region I

Panel II: New Strategies

Moderator:
Shelley Metzenbaum
University of Maryland

Panelists:
Gary Risner
Federal Environmental Affairs Manager, Weyerhaeuser Company
Gary Bass
OMB Watch

Keynote Speaker:
Carol Browner
Administrator, U.S. Environmental Protection Agency

MR. KETTL: National environmental policy at 30 years: where do we go from here. I'm Don Kettl. I'm the Director of the Brookings Center for Public

Management and also Director of the Robert La Follette Institute of Public Affairs at the University of Wisconsin, Madison. And I want to thank you all very much for coming.

This is, we hope, the first of a series of conversations like this where our goals is to try to focus on the cutting edge issues in environmental policy — to think about, as we've been describing — the second generation of environmental policy. We'll talk a little bit more today about what is we that might look like, to try to think about what the options are, to think about where we might consider making choices as time goes by. But what we want more than anything else to do is to try as best we can to stimulate you to ask as many interesting and challenging questions of the panelists who will be joining me here this morning. Save them all for them, please. And in the end try to assess what it is that we think about the current state of environmental policy, to think about where it is that the issues are going and to try to assess in the end the kinds of problems that we need to try to tackle and solve.

Our plan for the morning is for me to spend just a couple of minutes trying to explain what it is I think I just said. Turn it over to Mary Graham from the Kennedy School to flush that out in more detail. And then to have two panels that explore the issues of new partnerships, first, to try to assess where it is that these programs are going and new strategies to help us get there. And finally, Carol Browner who's the Administrator in the Environmental Protection Agency will be our luncheon speaker as we explore where the Federal Government is taking these issues.

Quick program note before going on, you'll notice that the introduction will go on until 9:30. Mary Graham, then, will pick-up from there from 9:30 to 10:00 and the new partnerships' discussion will start at 10 o'clock and not 9:45.

Let's stop before going on further, though, and figure out where it is we are and where it is we think we might be going and why we're all here. One of the things that's happening in many ways is that people are talking about cutting edge and break through issues in welfare reform; stunning issue in transportation policy. But it turns out that even a casual look at the state of environmental policy tells us very clearly that we are in the midst of a transformation that's tremendously profound. But, frankly, if you look toward the future, not exactly clear in terms of a sense of direction. We have a set of issues facing us that are in many ways just as stark, just as important as those that 30 years ago, almost 30 years ago when the first Earth Day was held, when the Environmental Protection Agency (EPA) was created in Washington, we debated as a nation. The question and the problem now is now that we've essentially finished the first generation of environmental policy where are we going with the second generation? What is it that we're going to have to try to tackle?

Any careful look at what it is that's happened over the last 30 years would surely

have to begin with a recognition that, frankly, quite a lot has happened. Frankly, quite a lot of progress has been made. My wife and I not long ago were in Boston, took a cruise out in Boston Harbor and the water there is incredibly cleaner than it was 30 years ago. Galveston Bay is now cleaner. The Connecticut River is now cleaner. The famous k river in Cleveland which caught fire a generation ago now has cruise ships sailing on it. By any measure, water is cleaner in this nation. The air is cleaner. That it's now possible, on a good day at least, to see the Los Angeles skyline from the mountains and the mountains from the basin in Los Angeles. If you look at the soil, we've made tremendous progress in cleaning-up super fund cites. So, while it is clear we have a long way to go. It is clear, also, that the first generation of environmental policy has accomplished some very real things. We have made progress in the environment.

But there are also big questions, which I scarcely need to tell this audience. There's the first issue of cost. Industry continues to complain and to criticize the current environmental regime for being much too expensive for the results that are being produced. And, in fact, estimates of the annual cost of the environmental protection, the cost of compliance by industry range from 144 to 185 billion dollars, 185 billion dollars a year. The companies claim that that's money that in some cases is taking away the ability to be able to hire people. It's taking jobs away. It's costing Americans in their ability to compete. Whether you buy that argument or not, it is clear that just about everybody directly involved in the environmental policy process is heavily involved in litigation. There are all kinds of estimates and statistics about how many of EPA's regulations end up being litigated in court and it's hard to get a good fix on that. But the fact is that EPA inevitably has to try to cast its strategy in terms of the court-based processes. That litigation is the watch word by which environmental policy is set. And while lots of attorneys have gotten very rich engaging lots of litigation for the first generation, it's pretty clear that just about everybody has said that it's not clear we're getting very much out of that any more. That the kind of performance that we want and our ability to get continued performance is really being hindered by the fact that we're spending so much time fighting with each other in court. And on top of that it's also clear that political battles have increasingly surrounded environmental policy. In part, because of the cost, in part, because of litigation, and in part, because the differences in what environmental policy ought to try to accomplish, we found ourselves enmeshed in some very fundamental debates about the role and the future of the EPA; the kind of goals that environmental policy ought to try to seek; in the end what it is that we want to try to accomplish.

In the end, if you think about what it is that we've really proven in the first generation of environmental policy, it is that first we've accomplished quite a lot. Second, and in all likelihood we can't stay where we are because the combination of the political battles, the economic costs and the legal contests have made the status quo untenable. It's also clear we can't go back. Nobody's

interested in trying to role back environmental policy. And nobody's interested in trying to role back environmental regulation. Nobody's really interested in closing down EPA or the state agencies and going home. We've had that debate in this country and what we've concluded is the public wants a clean environment. The third, I guess, the fourth thing that we've also proven is that we have also new problems that are problems that can't really be attached to the current regime. So, we have big accomplishments, first. Second, an assessment that we can't stay with the status quo. Third, that we can't go back and fourth that we have to press ahead but where we need to go the current strategies won't take us.

What is it that I mean by that last point? First, is that if you look at the kinds of things that the current environmental regime is best at, it has been best at trying to attack kind of point source pollution problems. We can go out look at it. Walk around it. Touch it. Fix it. Automobile emissions, smoke stack emissions and other kinds of things where there are clear sources to the problem and clear technologies we've been, in many cases, very successful at producing. Where we've been less successful is, especially in using current environmental regulatory regimes, is non-point source pollution. I come from the state of Wisconsin and one of the very best things about my job is looking out over this gorgeous lake, which is beautiful ten months of the year. And the two months of the year when it's not pretty, not as you suspect the two months where the frozen tundra becomes the frozen tundra but during July and August where just about the time the water temperature is nice and warm and toasty for swimming algae blooms everywhere. And the reason is that the nutrients are incredibly rich in there because the run-off from fertilizers applied by farmers upstream. It's the growing problem of non-point source pollutions where you can't look at it. Walk around it. Touch it and fix it that the current regime has not really attacked very effectively.

We have a second set of problems. It's clear that we are now concerned about a new stage of environmental policy worldwide. We have a summit in Kyoto where we're worrying about problems of global warming and where it was clear regardless of whether you accept or don't the idea that there is global warming that we have a whole set of issues facing us in this world that no one country can on its own try to solve. We have global issues in that way. And the other thing is the first generation has been very clearly focused on media-based strategies. That is, we've been working on trying to attack problems dealing with water or with soil or with air. And then increasingly the issues that we have to deal with like this lake outside my office window have to do with the affects of soil pollution on water pollution, cross media activities if you will. And have to do with partnerships that are required for getting all that to work; figuring out how to get EPA to work with the states; the states to work with private companies; private companies to work with citizens and define some way of putting all that together. So, in short for all of that, I think we're now at the point where after 30 years roughly of the first generation of environmental policy we have new problems that require new strategies. And it doesn't mean abandoning the old ones but it

means finding thoughtful new ways of attacking what it is that we need to try to attack.

Two interesting things have come up as ways of thinking that through. The first is market-based strategies. I have lots of friends who are economists who would tell me the problems are always best attacked if you can reduce them to market. And if you can, for example, create a ceiling for how much pollution you want in certain kinds of things. Take, not hypothetically, sulphur dioxide, for example, in terms of air pollution and you allow companies to trade the right to pollute back and forth. The companies that have the easiest, that is the cheapest, that is the most efficient strategies for reducing levels of pollution will do so and the rights to pollute can be bought and sold back and forth. So that you produce the most efficient way in the marketplace of being able to try to reduce that level of pollution. In fact, this strategy has worked so far to reduce the level of sulphur dioxide emissions by 30 percent. And now EPA is thinking about extending this to nitrogen dioxide, a primary component of smog to try to do the same kinds of things. This is terrific as long as you can measure the pollution to begin with. You can isolate its components out and create and make markets. But there's a lot of pollution, a lot of pollution sources like my friends who spread fertilizers into the fields up river from the lake in which I'm located where that's not possible.

And so, what do you do with the set of environmental issues that the second generation has to attack, that market strategies are not very effective at dealing with. And the answer is we don't know for sure. But one of the things — and this is what we want to spend most of today talking about. One strategy is setting performance standards and building new partnerships for being able to implement them. One thing that has been suggested is ISO 14,001, a system of allowing companies to establish their own environmental management systems that are designed to meet performance goals. Much more flexibility on the part of the companies in exchange for being able to hit those standards that the government establishes. Having more devolution of authority to the states to figure out how to do their own strategies hitting federal standards. In short, worrying more about what it is we're trying to do and a bit less about how it gets done. Focusing on setting those performance standards and building partnerships to make sure that we, in fact, hit the levels of environmental cleanliness, environmental improvement that we seek. But this in turn leads us to really four tough questions that I want to suggest that we need to wrestle with today. As we enter into the next generation of environmental policy, first, in terms of policy, how much are we willing to pay for how much environmental improvement. We have not been very good at confronting that question because command and control-style regulations for the most part have simply said, "There's the standard, you will meet it." It's very clear that we're at the point now where we have to scratch our heads and think about just how much progress we want and how much we're willing to pay for it.

The second thing is in terms of management. It's one thing to talk about market-

based approaches. It's another thing to talk about performance-based approaches. It's quite another to figure out how to do it. And while, in theory, these things are clear, self-executing, in practice, they require very carefully designed management systems within government agencies to try to make that work. And on top of that it requires not only figuring out these management strategies within government agencies to make them work but layering in many cases that on top of an existing system of command and control regulation, which at this point we can't and are not willing and don't want to give up. So, it's not only figuring out how to do new and very hard things but how to do new and very hard things on top of old and tried and proven things. And trying to find a way to them both within an organizational culture where doing those things simultaneously may well clash.

The third thing that we have to try to figure out is how to devolve authority out to state governments from the national government. Ronald Reagan reminded us of the basic principle, here, he said, "Trust but verify." And one of the things that we talking about increasingly is having the national government set standards and trust the states and the corporate sector to figure out ways of meeting it. But how much trust is enough? How much is too much? And how will we verify? How will we, in fact, build these partnerships in a way that are trustworthy?

And the fourth point, a subtle point, an often forgotten point is the fact that these partnerships really require new relationships in governance. They require new ways of the federal government relating with the states; new ways of the states relating to corporations; a new way of corporations relating to citizens; and new ways of citizens and interests groups relating to everybody. And quite frankly, this is at the earliest stages. This is more hypothesis than it is reality at this point. What we have to do is figure out what kind of new governance system we have in mind and how we're going to create it and how we're going to make it work. And how we're going to make it work in a way that creates a system that's trustworthy and doesn't get us all back in the same litigation battle again. In many ways, this is the mother of all devolution projects. This is nothing less than an effort to try to redefine at its very most fundamental levels the very notion of what we mean by federalism and devolution in this country, which in many ways, I think, makes it incredibly interesting, which is the challenge that in many ways that I set for the people who are following me. One of the nice things about giving the lead off talk is that you can afford to ask very hard questions and tell the audience that the people following you will answer them all. And so, I will do that now. But I'm lucky enough to have some of the smartest people I know to try to tackle these issues. And they will, I think, succeed in stimulating lots of interesting questions in your minds.

One of the things that I said is I asked Mary Graham to come to and talk is that what it is that you've heard from me is about as much as I know about this. I'm much better at asking questions than in trying to provide answers. But she knows more than anybody else I know about trying to define what this next generation of

environmental policy might look like. She has experience as an attorney and an author. She has been a budget examiner in the Office of Management and Budget and a program analyst in the Department of Transportation where she received the secretary's gold medal for distinguished service. She has been a writer for the Atlantic Monthly and has written a series of path breaking pieces there; has also written for the New Republic, the American Prospect and the Brookings Review. She's also now the author of Environmental Policy: What Next?, which is going to be published in 1999 by the Governance Institute and the Brookings Institution. What Mary's going to be talking to us is what we know about where we've been, where we need to go and how to get there; the title of her talk, "The Past is Prologue, Where We've Been and Where We Need to Go." Mary Graham.

MS. GRAHAM: Morning. I want to thank Don Kettl for inviting me to talk about the past is prologue in environmental policy. I usually describe myself as a lapsed lawyer but somebody this morning told me that the proper term is reformed lawyer. So, from this point on those of you who are lawyers and are not practicing, you're reformed lawyers.

Some years ago the National Academy of Sciences published a paper by Ronald Outen called, "Environmental Pollution Laws and the Architecture of Tobacco Road." It included this description of our national policy framework. "If you have traveled to the remote parts of the deep south, I'm sure that you have seen the architecture of Tobacco Road. Shacks built of whatever materials were available at the time, often by a series of owners. Maybe the roof is corrugated tin but one wall is made from a billboard and the doorstep is a cinder block. No part matches any other part and there are hole here and there. Still it provides a measure of basic shelter and there comes a point when it's easier to tack on a new board over a gap that appears than to redesign the entire structure.

For nearly 30 years, we've constructed our environmental policies one board at a time, often in response to crisis, usually using whatever materials were at hand. But now the structure is ungainly, sprawling, probably so complex that it's unlikely that any one person understands it all. Everyone agrees that it suffers from structural cracks. It is also uniquely American. Our political system does not construct grand edifices nor, for that matter, does it usually employ bulldozers though bulldozers are often suggested. We are the masters of adaptation. New kinds of conflicts are resolved by tacking on new means of reaching agreement. Materials are borrowed from neighboring structures and we usually try to do our renovations on the cheap.

Our framework of environmental laws has by now been expanded and remodeled by 14 Congresses and six presidents. Two groups of owners, the Reagan Administration in 1981 and some members of the 104th Congress in 1995, got fed up and just tried to get support to tear down some walls. They wanted to rely more on frameworks constructed in the 50 states. Both of those efforts have left their mark. In many ways it's a constructive mark but both

ultimately failed.

Today, people still have widely different ideas about how the size and shape of the building should be changed. We do now know though that some such structure is permanent. Through the smoke of continuing political battles, it's absolutely clear that the core idea that pollution control and ecological health are appropriate matters for national attention is accepted by Democrats and Republicans, alike. After 30 years, environmental protection has been assimilated into the political system. We have been through a very long learning process. We're today as far removed in time from Congressional action in the 1970s as policy makers were then from the start of World War II. College students who participated in the first Earth Day are today 50 years old. Their children, who are the first generation to be schooled in environmental science and environmental law, are taking their places in the work force.

This morning you're going to spend most of your time talking about repairs — how to better manage environmental policy. It's a sign of political health that the last five years have produced an extraordinary number of critiques that are grist for that mill. To mention a few from outside government, two reports by the National Academy of Public Administration, a major effort at Yale with some conclusions that were summarized in a book called, Thinking Ecologically, the broad-based enterprise for the environment report, a major new book from Resources for the Future by Terry Davies and Jan Mazurik. Add to these unusual efforts from within the government — a new report evaluating risks that will soon be issued by the EPA's science advisory board. The Council on Environmental Quality's 25th anniversary report and work by the General Accounting Office, the Congressional Budget Office and the Congressional Research Service.

I am going to try to fill in the background against which your discussions can take place. I'm going to talk about what we thought we were building when we started construction on a framework for environmental protection in the early 1970s and how that structure is adapting to very different problems in very different times.

To summarize two main themes, the good news is that we're still hammering away. Conflicts between economic and environmental interests have to be resolved somehow. It does matter that debate in Washington remains polarized, that Congressional action is stalled and that federal funds are insufficient. It is true, that issues remain contentious and that big money politics has as much influence as it ever did. But across the country disputes are being resolved. Pragmatism is gaining ground and we're seeing new ways invented to promote pollution control and ecological health. These inventions are worth watching.

The bad news is that two troublesome political dilemmas both of which we managed to avoid in the 1970s are now harder to avoid. Unless they are addressed we may be facing not a turning point but a stalemate. One dilemma is the result of changing environmental problems. To borrow from Pogo, "We have

seen the enemy and it is us." Today, the need for action is strongest where the political process has proven weakest in changing ordinary people's everyday habits. Around the country the question being played out is, is there national support for convincing farmers, small business owners, developers, drivers or homeowners to alter the way they plant crops, use chemicals, plan sub-divisions, get to work or fertilize their lawns. To be blunt about it, for the last 30 years when these issues have occasionally come up, the answer often has been no. Where national policy has been successful, it's mainly relied on technological change not behavioral change. In polls, majorities have consistently said that they would not alter everyday routines and believe the technology would provide environmental progress, though there's certainly also some evidence and actions to the contrary. Three quarters of those polled, for example, report that their households have not changed car use for environmental purposes. In practice, we, so far, have accepted the fact that the pace of progress is more or less the pace at which technology is introduced, industrial processes or materials are modified. So, that's the dilemma of changing problems.

The second dilemma is the result of changing times. It is what I called the insidious threat of hollow government — a term, I think, I should credit to — the first time I saw it was on a headline in an article in Government Executive about ten years ago on a completely different subject. It is the danger that the environmental agenda that the public through it's elected representatives has adopted is not the environmental agenda that the public is willing to pay for and may not be the environmental agenda that federal and state governments and businesses can carry out, at least, in the time allotted even with the best intentions.

So, to begin with the first dilemma, we have seen the enemy and it is us. How and why have environmental problems changed? Much of our national framework of laws was pieced together between 1969 and 1973, almost overnight in political terms in an atmosphere of crisis. The focus was on factory pollution, on municipal pollution and on the need to do a better job protecting natural resources, mainly on public lands. These were problems clearly solvable by big business and by government. The remedies prescribed were in general the quick introduction of new technology and more balanced management of the nearly third of the country's acres that belonged to the federal government.

In 1969 and 1970, environmental hazards seemed to be everywhere. If you were watching the evening news on newly popular color television, you would have seen a 400 square mile oil slick, moving toward the beaches of Santa Barbara, California. It was the result of a blow-out at Union Oil Company, well off-shore and one of dozens of oil spills that got media coverage that year. You would have seen reporting on Cleveland's burning Cuyahoga River a small and very bizarre event in itself but one that became an instant symbol of industrial pollution. As a Cleveland State University professor said at the time, "That river burned on newscasts all over the world." You would have seen footage of public lands

stripped by timber cutting and mining and coverage of threatened whales and other endangered species. Such incidents helped fuel growing public outrage and demands for national action. By the time that ordinary Americans including ten million school children gathered all over the country to celebrate the first Earth Day on April 22, 1970, the majority of those polled supported federal rules to reduce environmental damage. That ground swell gained power also from competition between a Democratic Congress and a Republican White House; in particular between Edwin Muskie and President Richard Nixon who in 1970 were seen as the likely contenders for the 1972 presidency. It also gained power from the effective tactics of environmental groups themselves strengthened by changes in IRS rules and the growth of direct mail solicitation. The result was bi-partisan majorities in Congress approving extraordinary statutes. New laws addressed air and water pollution, creation of national parks and wilderness areas, protection of endangered species and marine mammals, protection of wild and scenic rivers and coastal areas, regulation of pesticides and integration of environmental concerns into major federal actions. This all within four years.

Now though many of the most serious environmental threats are of a fundamentally different kind. Scientists and policy makers report that the most critical water pollution, as Don said, is from diverse chemicals, nutrients, organic waste washed by rain from farmers fields, from commercial developments, from city and suburban streets, from homeowners' lawns and driveways and septic fields into rivers, lakes and bays. They report that the most serious health threats from air pollution arise from diverse sources inside homes and work place rather than from outdoor pollution. Today's most serious auto pollution problems concern drivers' habits, how they commute to work and maintain their aging cars rather than technological advances in new cars, which are after a generation of battles with the auto industry 90 percent cleaner than they were in 1970. But much remains to be learned about a category of chemicals of particular toxicity called hazardous air pollutants, which were subject to stronger national regulation in the 1990 Clean Air Act. But we know that many such emissions are from scattered sources: vehicles, motorized equipment, consumer and commercial solvent use, dry cleaners and other neighborhood businesses. The most critical wildlife habit and watershed area are on private land. This is a vast country but plants, animals and people compete for very small portions of it. Half the country's population lives in coastal counties including the Great Lakes, which amount to 11 percent of the land area. Most of it also ecologically critical territory. In short, these are not tomorrow's problems but today's central issues.

Why are such controversies gaining prominence now? One issue, sorry, one reason is past successes. Some visible concentrated sources of pollution have been reduced. Some guidelines for conservation on public lands have been adopted. Another reason is that new scientific findings continue to extend the known chain of environmental consequences from the immediate and visible toward the remote, the invisible and the indirect including pressure, sorry, increasing pressure for public action. Finally, economic activity has doubled in 30

years and population has grown by a third. These different kinds of problems do not replace concern with industrial pollution and management of public lands but they do change the political calculus. They often are not amenable to national standards. They tend to be less visible, less easily traceable to a source, less well-understood than traditional problems. They create more direct clashes between the public's proven commitment to environmental protection and traditional values like protection of private property, encouragement of small businesses and family farms, preservation of local autonomy with regard to land use decisions and respect for individual choice. There is admittedly a good deal of mythology mixed up with those values. The family farmer, to take one, but mythology also has political consequences. The cost and inconvenience of making these kinds of improvements tend to fall more directly on more people than has been true in the past. Intellectually, we know that the price of environmental protection mostly paid by business is passed along to consumers, shareholders and employees. Its impact, though, is rarely discernable. But progress that relies on changing everyday habits and land use practices is experienced directly by many people. Finally, these newly prominent problems confound the administrative structure that we have built over 30 years. The confuse lines of federal and state authority and show that national environmental policy is, in fact, made in part by agriculture laws, transportation laws, housing laws, laws that have traditionally simply sought to maximize economic growth.

The second dilemma, hollow government is not a result of changing problems but a result of changing times. The framework of laws approved by Congress between 1969 and 1973 were based on four fairly straight forward ideas. One was the public sense that there was a crisis that demanded immediate action. The second was an unusual confidence at that time in Congress's ability to find quick remedies for national problems. In the 1960s, the civil rights movement, the war on poverty and programs like Medicare and Medicaid embodied the idea that the federal government had the capability, the obligation and the resources to achieve great national goals. A third idea was that state and local governments could not be trusted to initiate environmental policy. The track record of those governments in the 1960s on pollution control convinced many members of Congress that states lack both the capability and the political will to direct change. In the context of Congressional initiatives to rebuild cities, to improve civil rights or to reduce poverty many state governments seemed to be remnants of an earlier time when rural interests dominated politics and political patronage dominated program management. Finally, a fourth idea the spectacular record of American business growth and technological improvement, which was juxtaposed on growing publicity about pollution incidents convinced many people that big business had limitless capabilities but very limited interest in clean-up and conservation. This incongruity provided much of the energy that drove national action and it contributed to a dual vision. Because of its technological capabilities, big business could be expected to reduce pollution quickly and for consumers and taxpayers, painlessly. But because of its intransigence it would have to forced to do so by clear, strict national measures backed by harsh

penalties.

A generation later the economic and political ground has shifted between that framework, beneath that framework of national laws, replacing those four simple ideas with four complicated paradoxes. One is that the public not demonstrates an enduring support for the values of pollution control and conservation rather than just a response to a media crisis. But the public also demonstrates resistance to pay for the governmental costs of that protection. That enduring public support which is probably the biggest change in the last 30 years is demonstrated convincingly by Everett Carl Ladd who's President of the Roper Center and Carlin Bowman of the American Enterprise Institute in a 1995 analysis, which is fascinating, in which they tried to determine how public attitudes toward environmental protection had changed over 25 years. It's also borne out by the growing breath and depth of federal requirements and by the resilience of national policies in response to political attack. At the same time, the public's federal and state representatives have consistently skimped on the relatively small portion of pollution control expenses that support research, monitoring and enforcement — less than two percent of the total. That is a critical problem when national laws make government the gatekeeper for new economic activity that increases pollution. When the line lengthens in front of the gatekeeper, everybody suffers.

A second paradox is the federal capabilities to understand and manage environmental problems have improved immeasurably in the early 1970s despite the chronic shortage of resources. But in practice national actions are severely limited in new ways by increasing power of international forces, by declining influence over state and local governments partly due to the decline in federal grants as a proportion of the total amounts spent on environmental protection. And due to an increasingly unmanageable work load and to an aging system of laws and regulations that is now out of sync with new science and new problems.

A third paradox concerns the states. State governments have gained in competence and gained in responsibilities but the states now are caught in a funding squeeze between taxpayer revolts and diminishing federal funds despite the good news of last year's surpluses, which were a welcomed summit in what Alice Rivlin has called the states' fiscal roller coaster. As a result the evidence is accumulating that state and local governments are unable to muster resources to carry out even the most basic provisions of national pollution control laws. The problem is documented in reports by the General Accounting Office. That funding squeeze is especially damaging in relatively poor states where evidence indicates that environmental programs are weaker than they are in prosperous states. Here again, the threat of hollow government.

A final paradox concerns business. American firms once insulated by tariffs and technological superiority increasingly compete in a fast changing national and international economy. Interestingly, business attitudes toward environmental

protection have become more positive as businesses' economic position has become less secure. Now, that the public accepts the value of environmental protection, large corporations with reputations to protect have increased incentives to comply. As a corporate nightmare the 1984 toxic gas leak at Union Carbide pesticide plant in Bhopal, India that killed 2,800 people and injured 50,000 people remains current. But big business also has new competitive reasons to minimize costs and it is clear that smaller businesses and farmers upon whom much future progress depends, often lack resources knowledge or incentives to change.

These incongruities, the results of changing problems and changing times, lead to a final question. Are we adapting? Today's piecemeal assortment of laws, rules and procedures will never be replaced by a rational structure. The architecture of Tobacco Road will always prevail in our pragmatic system of government. But in the absence of Congressional action this has become a fascinating period of piecemeal adaptation, taking place in Washington and taking place around the country often without much fanfare that offers some hope in reconciling the ambitious environmental agenda with discouraging paradoxes of the 1990s. These adaptations supplement but do not replace established rules and penalties. Their usefulness lies in providing clues about what works. Clues that may prove helpful in future remodeling. I see three adaptations underway. The first is a trend that I call customizing of policy. The relatively simple structure of uniform rules and strict deadlines mandated by Congress in the early 1970s is being replaced gradually by a more complex pattern that includes national rules but also includes requirements customized by states and localities and regions, customized by industry, customized by individual factories sometimes. Customized policy can be performance standards. It can be negotiated agreements. It can be regional approaches. None of them new tools, of course, but used differently in the 1990s. By the way, this is not for the most part policy devolution. Policy remains in federal hands but often it does amount to what I would call administrative devolution. Policy performance standards setting clear national goals, you're going to hear more about in the next hour.

Second adaptation, along with customized requirements, is the more frequent use by both federal and state governments of taxes, subsidies, emission trading and other financial incentives to influence the balance between environmental protection and economic development. Again, this is not a new tool but it's differently used in the 1990s. Federal subsidies and taxes have long influenced the choices between economic and environmental interests in agriculture, in logging, in grazing, for example. I want to just make two points about financial incentives. First, evidence of their importance is in the administration's proposal to combat global warming. That's evidence that those policies are moving into the mainstream. A broad array of tax credits and grants are included in those policies to deal with what is the grandfather of all problems of diverse sources, carbon emissions. Secondly, financial incentives are best when they're used as precision tools rather than blunt instruments. They work best when sources are many,

when variable results are appropriate, which they often are not. But different forms, different dollar amounts and different kinds of targeting create very different behavioral and economic results.

The final adaptation and the one that is particularly suited to our times is the use of information as regulation. This is a phrase that has been used by Senator Daniel Patrick Moynihan in a different context in his work on government secrecy. The idea of information as a kind of regulation is counter intuitive. We are accustomed to thinking of information as a technical tool related to government action, not as a regulatory device. But at a time when national authority is limited in other ways, government's unique ability to command the collection and use of information offers enduring strength. Disclosure can provide powerful incentives for businesses, agencies or individuals to limit pollution or protect natural resources in order to improve efficiency, to gain customers or to gain votes or to avoid bad publicity. Some examples:

the 1996 amendments to the Safe Drinking Water Act passed by the 104th Congress after two years of acrimony requires 56,000 local water systems to alert customers to any violation of national standards with serious health affects and to notify customers once a year about bacteria and chemical in tap water as one way of encouraging the government's careful monitoring. Using EPA's Internet site, anyone who enters a zip code can now get specific information about pollution sources, about water quality and about drinking water sources.

The toxic release inventory, probably the best known example of information as regulation, is a 1996 federal requirement that certain companies report on their discharges of toxic substances. That provision is credited with encouraging leadership by chemical companies and with contributing to a 43 percent decline in toxic emissions by industry between 1987 and 1997. State and federal authorities are getting more aggressive and demanding environmental information from industry. A number of states require electric utilities to report environmental information. Earlier this year, Illinois, Michigan and Wisconsin negotiated commitments from Ford, General Motors and Chrysler to provide over the Internet and on paper not only toxic release information but also environmental inspection and compliance records for five factories. Federal officials are also working with companies to agree on the release of factory information about pollution generally and about law violations.

Both government and private groups also attempt to influence corporate actions by releasing information about firms that are leaders. A broader national and international trend is requirements for environmental audits or for business self-certification. In 1993, the European unions set ground rules for voluntary environmental auditing by companies — setting management criteria requiring public disclosure of performance and a commitment to continuous improvement and offering technical assistance. Rules provide for company audits to be verified by independent environmental accountants. In the United States, however, the

potential for using company audits remains entangled in liability issues.

Eco-labeling is another way that information can create incentives for improvement if customers respond. Evidence is so far mixed about their effectiveness. Perhaps, because it varies with the products placed in the market and with the kind of label. It would be a mistake, though, to view the use of information as regulation as an easy step. It depends on the willingness of leaders to wade into treacherous political waters in order to set ground rules that assure fairness to guarantee that information is always accompanied by clear and neutral interpretation and to minimize unintended consequences.

Finally, the power of information to influence action depends, as does the rest of the national framework, on a vigilant public to conclude the necessity of resolving immediate conflicts between environmental and economic interests is producing interventions that are worth watching. They are inventions hampered by unresolved dilemmas. The strong need for action where the political system has been weakest in fostering behavioral changes and the public's adoption of an agenda that it may not be willing to pay for. They are inventions inseparable from continuing political battles because environmental issues inevitably tap into the permanent fissures in American society. But adaptation is our strength. In the past, we have been successful at inventing permanent mechanisms for balancing clashing interests. Zoning, for example, which was approved by the Supreme Court only in the 1920s was the last great accommodation between private property values and public needs. Despite its frustrations then, this is a rich experimental time in environmental policy and one in which remodeling of the ungainly structure that we have built is, in fact, underway.

Thank you.

MR. KETTL: Mary, thank you very much for that talk. It really does do a great job of setting the stage of where it is that we've been, where it is that we're going and in a sense building a bridge from one to the other. I appreciate it, in fact, all of that except a reminder of how old the people who were marching in Earth Day are now. Passing over that point, however, it really does begin to sketch the nature of the bridge, the nature of the issues that we need to confront and some of how we want to get there.

And to get that discussion what we want to do is break that into two pieces. One is a discussion of the nature of the partnerships that are now being constructed being followed by a nature of the discussion of the kinds of glue to hold it all together. The first piece will be a discussion of the new partnerships, the new strategies, that are being constructed and the new relationships between and among the federal government, the states, companies, interests groups, citizens. Chairing that session is Jonathan Walters, who for 20 years has been covering state and local public policy issues as a writer for *The Washington Post*, *The*

New York Times, *USA Today* and especially for *Governing Magazine*. He's the author of a book just out by Governing Magazine called, Measuring Up on Performance Measurement. He's a senior staff writer and also the writer every other month and by far the better half of a column called Potomac Chronicles in Governing Magazine. Jonathan and I share, in fact, that column. He writes one month, I the next. And he, by far, is the better half of that and so I'm very pleased to ask Jonathan to come forward to chair our next session along with his panel participants. He will introduce them. Jonathan, thanks much.

MR. WALTERS: Thank you, Don. I don't know which half is caring the heaviest load in the column. It's always scary to come to a session like this. It's not comfortable for me to be in a room full of people who are a lot smarter than I am. Plus when the issue is the environment, I always have to confess I am a non-point source polluter. I drive a 1970 Chevy C-10 truck that burns more oil than gas. But I'm also a telecommuter so it all works out.

The complexity of the issues and the cull and intermingling of the interests that Mary and Don have talked about are very real in this whole issue. The emotions are high. The politics is ugly and it no longer works that you have the feds telling the states telling businesses what to do with activists and citizen activists and environmental interests sort of on the outside dancing around, trying to get their two cents in. We're not making any real progress that way. And so, you are seeing this whole new approach. What I am actually fairly optimistic about is a new generation of people trying to deal with this stuff in a much more creative way. And I would add to some of the new problems that we're facing the sort of problem that I know John DeVillars is dealing with right now, which is what do you do with the messes that we have around the country that exists. It's not just new types of pollution that are pouring into the air and pouring into rivers and streams. There's hot spots all over the country that we're not dealing with very well at this point.

So, I'm going to get right into introductions because this is a very good group, a very good mix of folks who I think can talk about how you develop these new partnerships from really important perspectives. I'm not going to read your entire bios because yours are all longer than mine. But Paul Portney, President of Resources for the Future is going to talk about state/fed relationships and who ought to be playing what role.

Jeff Smoller, top policy analyst with the Wisconsin Department of Natural Resources, a person who's on the front line in this stuff. He's going to talk about developing partnerships between state and industry. But I'm sure he has got some opinions about working in partnership with the federal government as well.

John DeVillars, Regional Administrator for U.S. EPA Region 1, I met actually when he was working for the state in 1991 and I was doing a story on what is affectionately called in Massachusetts, the Big Dick, where they're taking the

southeast expressway also known to locals as the southeast distress way, and they're burying it. And they're Boston waterfront will be reborn as they get rid of this waterfront highway. And the one thing that I remember about that story was this key three-part partnership. This project was going to have a huge impact on commuters, lobsters and rats. And I said, I don't want to head that association. But anyway, John, lately, and I have a copy of the Berkshire Eagle here just to bring some fond memories back. John has been in the middle of negotiating with Pittsfield, Massachusetts — neighborhood activists in Pittsfield, Massachusetts; local business groups in Pittsfield, Massachusetts; outside environmental interests in Pittsfield, Massachusetts; state regulators, I'm sure there are some people in your office who have interests in this besides you; and GE. And has done a remarkable job, and I hope you will talk about this a little bit today, a remarkable job of pulling this faction, these factions together and they have actually hammered an agreement for cleaning-up both the Housatonic River, pieces of the Housatonic River, but also sites within Pittsfield that are contaminated with PCBs.

Five minutes to ten minutes each gentlemen. And take it away, Paul

MR. PORTNEY: Well, thank you. Excuse me. I'm very please to be here and honored to participate in such a distinguished panel and I'm especially pleased to participate in an event that is stimulated, in part, by Mary Graham's very interesting and insightful book. I've had a sneak peek at this book and I commend it to your attention quite highly.

I've been asked in my time here to speak to the subject of environmental devolution. And in thinking about this, it occurred to me that the politic thing for me to do here is to say something about the great progress that we've made under a largely federal environmental system over the last 30 years. And then to mumble some words of encouragement about the national environmental policy partnerships that EPA has been working hard on, commendably so to try to strengthen and improve cooperative relations between the federal government and state and local governments in the environmental area. I won't do that. Rather let me assert, here, that the next 30 years of environmental policy will be a failure in my view if we don't soon have a serious discussion joined by the federal, regional, state and local governments as well as those in the environmental advocacy community and the business community here in the United States about whether or not we've appropriately assigned environmental responsibilities, regulatory responsibilities, that is, to the right levels of government during our first 30 years. To put this much more directly, it seems to me that we need to consider seriously going beyond the policy devolution that we have now seen over the last five or ten years here in the United States that's taken place de facto to a de jure reassignment of some standard-setting authority from the feds to lower levels of government. Now, in making this case and saying that's what we need to talk about here in the United States, one typically marks oneself as a right-winged Republican or a Libertarian. Those who know me from

the brief time I've spent in government, 1979 and 1980 at the Council on Environmental Quality in the Carter Administration, know that that's not true unless you think that that somehow doesn't sufficiency sanctify me. Let me say that in thinking about environmental regulation in the United States over the past 25 or 30 years, it seems perfectly clear to me although it's often not clear to those that I just identified that air pollution and water, virtually all air pollution standard setting and most water pollution standard setting have been appropriately nested at the federal level of government. There's no question about that. And it's clearly the case that for some air pollution problems and some water pollution problems, we from time to time are going to have to engage in international negotiation as we've done with acid deposition, as we're doing now with climate change because standard-setting, even at the federal level, may be insufficiently broad, maybe overly provincial.

But having said that, I think we became seduced in environmental policy in the early 1970s in the following way. A decision was made in those years to take what to that point had been a largely state regulatory responsibility, air pollution control, water pollution control, etc. and federalize those responsibilities — largely, appropriately. But because we had then made environmental regulation a federal responsibility for air and water pollution, I think, we too quickly fell into the trap in the United States or assuming, therefore, that all environmental problems were appropriately handled at the federal level of government. I don't think that's the case. And although time is sufficiently short that I can't go into these examples in great detail, perhaps, the question and answer period will provide more time for this but let me give you several examples where we are currently handling problems at the federal level where we ought to, at least, think about whether or not standard-setting authority can be further devolved to lower levels of government.

One example, perhaps the most controversial of the examples I'll raise here, has to do with drinking water standards. And I want to emphasize here that I am not referring to the practice of setting the standards at the federal level of government and then allowing responsibility for enforcement and, as Shelley Metzenbaum has pointed out recently, taking responsibility for the actual performance of the system. I'm suggesting going beyond that to allowing individual states to select their own drinking water standards. And the reason I say this is that unlike air pollution, water pollution or federal product standards, environmental product standards for toxic chemicals or pesticides, which again I think would be largely a federal responsibility, if one state elects to have a relatively weak drinking water standard and the adjacent state to it elects to have a relatively strong standard there are no inter-state spillovers; no externalities as can occur if a state said we're not going to control air polluters or water polluters in our state at all. And thus, inflict the damage on a neighboring state with the possible exception of biological contaminants that won't happen in the drinking water case and I think we need to discuss whether or not the responsibility for setting the drinking water standards themselves ought to be devolved to lower

levels of government. Similarly, I see no reason whatsoever that the federal government ought to decide the extent to which landfills, dumps as we used to call them when I was a kid, the extent to which landfills are cleaned-up. If a particular state feels that there should be four plastic liners and 100 feet of clay underneath a landfill, they ought to have the responsibility to do that. And if another state decides that that's over control and that they would prefer to see landfills less securely put in place, I think that we ought to discuss giving them that responsibility as well. Naturally, the same thing occurs with regard to the question of the extent to which super fund sites ought to be cleaned-up. Again, I see no state to state externality there and if one state wants to impose very strict requirements for super fund clean-ups and another state believes that those are too expensive and that they would rather reserve those on-budget or regulatory compliance cost expenditures for a more serious problem, I think we ought to think about giving them that responsibility as well.

You'll note when I made my introductory remark about air pollution and water pollution that I said for most air pollution and water pollution problems we ought to continue to have federally set ambient standards, I think that EPA's recent success with the OTAG process, that stands for Ozone Transport Assessment Group, suggests that we might even be able to consider devolving regulatory responsibility for, at least, some air pollution problems to at least regional governments. And what I mean is the following: In the OTAG process, the Environmental Protection Agency identified a 30 state area, think of it as basically the states east of the Mississippi with an exception or two, and identified that region because those are the states the pollution from which affects the other states in that same area. And they recently devolved in my view, my interpretation of this, responsibility, gave authority to this 30-state region for solving the problem associated with volatile, organic compound and nitrogen oxide emissions from these states, how shall we apportion emission reductions among these states so that we can solve our common air pollution problem. Well, if that's the 30 states that are fit to decide how we reduce pollution in order to meet a federally imposed ozone standard, why don't we just give that 30-state OTAG region the responsibility for setting their own ozone standard. If their emissions affect each other then let them communally decide what standard they ought to aim for. And that might well be a different standard than southern California or the western part of the United States aims for.

Now, having said this that we ought to take a very hard look and have a serious national discussion about whether or not we have assigned regulatory responsibilities to the right level of government, I want to be very quick to say that after that discussion, we might decide that we have it about right now. And that would be perfectly fine. But the truth is while we have debated cost effective ways of reducing emissions in the past, as the first speaker noted, and while we have had ongoing debates about do we have the benefit cost balance right in environmental regulation, there's a third leg to what I call the rationalist approach to environmental policy in the United States and that's the leg that says are we

assigning these responsibilities (tape changes) government. And we have never in the 30 years or so now that we've had a significant federal presence in environmental regulation, we have never had a serious informed discussion about the allocation of responsibilities between the levels of government in environmental protection in the United States. I've said that after this discussion we might decide that we have it about right. I doubt that we would decided we have it about right on every single locus of standard setting. Given the skepticism about what the federal government can do, not made better by the current debacle in the White House and on the Hill, I think we would probably come up with a different answer to, at least, some of these questions. All I said was that we need a serious discussion. I've been working on environmental issues for 25 years, even after that time I'm very, very seldom certain that I have the right answers. I am increasingly confident that I can occasionally identify a question and the question about whether or not we're assigning responsibilities to the right level of government is one that, I think, merits the attention of this panel and all serious students of environmental policy.

With that, I'll stop and again, thanks very much to Don and the conference organizers for allowing me to be here. Thank you.

MR. SMOLLER: Thank you very much. It's a pleasure to be here to represent Secretary Meyer, who regrets he could not be with you today. In terms of some of those underlying responsibilities, the Secretary and the Governor are confronted with something called Tribes of States and as a consequence we're in a negotiating process with a number of tribes in Wisconsin with respect to a number of different aspects, some of which relate to the national environment. So, I know, Secretary Meyer wishes that he could be here and sends his regrets, his regards to this group.

I'm particularly proud to represent the Secretary because of some of the innovative things that Wisconsin has been doing over the years, some of the partnerships that many of you have heard about, the pulp and paper an issue to the great printers project and so forth. And because we have in the embryonic stage a number of grass roots partnerships, which I think I as a state representative, can make reference to.

We in Wisconsin are beginning a partnership process at the watershed level. We call them geographic management units (GMUs — not unlike some of the other states, Massachusetts, for example, I think is working in this area and some of you are familiar with the Chesapeake Bay. We're going at it a little bit more comprehensively, however, looking at the natural resource called the watershed or the GMU, which in some cases has some very distinctive characteristics that are sense of community, the Kickapoo Valley, for example. And trying to work from the ground up in terms of setting priorities that we as the environmental agency in the community can relate to, in terms of outcome areas, in terms of output areas and inputs with respect to how we spend our money as a state

agency.

But given those examples, I'd like to take two steps back, which I sometimes try to do successfully and sometimes don't. I have a little policy to speak to truth, do what's right and ask forgiveness. And so I'd like to speak a few truths with respect to devolution, with respect to the performance partnership and with respect to how we think about environmental issues that, perhaps, will cause some reflection and discussion.

I do a fair amount of management training and one of the most, I think, compelling phrases that was given to me by a management professor was, what you think depends upon how you think. And I think with respect to the next generation of environmental management that's a very relevant question, a very relevant issue. What you think depends upon how you think. As it's applied to the Environmental Protection Agency, for example, and to the regulatory agencies in the various states, are we thinking as regulators or are we thinking as environmentalists. Think about that in terms of issues of devolution, in terms of the tools you choose, in terms of whether you view the world as a compliance world or as a performance world. What you think depends upon how you think. If, indeed, we are thinking as regulators and the tools we use are regulations, enforcement, etc. frankly that's a minimalist approach. And our standards of performance are standards that would be akin to looking at the economic success in the United States in terms of the number of bankruptcies. The more bankruptcies, the better off we are. The enforcement actions, the better off we are. What's wrong with this picture?

So, are we a regulatory agency or are we an environmental agency. And if we're an environmental agency, are we simply an environmental agency that relates to the environmental sphere of the ecosystem, the biological and physical environment. Or do we relate to the total ecosystem, the community and the economy as well when we define problems, when we set priorities, when we set our collaborative paths. And what about collaborative paths? When we look at the world out there, do we only see government in the context of devolution or state/local. Or do we see the business sector? Do we see what Peter Drucker calls the third sector in the context of moving into this next generation of environmental policy, assuming that we are environmentalists or ecologists and not regulators, which is a big assumption.

If, in fact, we see the world as three spheres, not only the ecosystem but the third sector, the government and the business sector, what do we do about it? How do we work with them? How does that define our approach to partnerships as opposed to if we only thought we were the government sector and the world kind of evolved around us — around us as regulators, around us as state/local, around us as federal/state? What you think depends upon how you think.

And what about a relationship with those other sectors — those levels of

government and the third sector and the business sector. Is it a parent/child relationship, a master/servant relationship or a teacher/student relationship? Somebody in this room who I won't name said there was a time when the states couldn't spell the word pollution. They spelled it with three "ls"or one "l." Well, we're beyond that as you've heard before. The states can not only spell it but we can do it. We can control it. We can manage it. We can work with others to accomplish results with respect to it. Results, perhaps, that are more collaboratively arrived at and ecologically relevant than the rules and regulations that come from the linear air, water, and waste acts in Washington. What you think depends upon how you think.

And in terms of some of the frustrations that we've experienced we've made reference to earlier — frustrations on Capitol Hill, in the administration. I look back, Jonathan, at some of the articles that you've written over the years and comments made by people in this room. We've been talking about this stuff for 20 gosh darn years, 20 years. We've known the system's broken for 20 years and we haven't decided to fix it. We haven't had the resolve to fix it. We haven't have the resolve, the resolve to fix it.

One of the things that Wisconsin is looking at in the context of partnerships is the Dutch covenant system. And there are those who would argue that the covenant system is only applicable to the Netherlands because of its homogeneous nature, because of its size and other reasons. And yet the question is, why not. Why not? Why cannot we have a system, a partnership system, an outcome driven system, a performance system that's collaboratively arrived at, organized around the economic sectors that we think about? And frankly we think about economics more than we think about ecology. So, why can't we think ecologically and act economically in terms of how we get stuff done? Because the economic system, frankly, is much more efficient in getting stuff done especially if you talk about supply chain. So, in the context of the Dutch covenant system, or a contract system, or a two-tier system that responds to both of those, what about that? What you think depends upon how you think.

Why can't the three sectors in a partnership process talk about the goals relative to the chemical sector, or the pulp and paper sector, or the agricultural sector? And agree upon those goals that will have performance indicators relevant to sustainable jobs. Sustainable is a word I haven't heard in this room before. Sustainable jobs, a sustainable system that's negotiated over time. What you think depends upon how you think.

If you think in terms of compliance, if you think in terms of performance that's going to guide your definition of partnerships — parent/child, master/servant. If you think as collaboratively as a covenant system or as a contract system then you sitting around the table as equals. And if you were the government person, if you're the government expert in Washington or the state capitols who has been the regulator, the last court of resort, my way or the highway, how comfortable

are you going to be to sit at the table as an equal with an NGO or with a business person, or with a community? Will you talk about sustainable development in terms of the central city? What will your standard be for that brown field clean-up? Will the children have to eat the soil because you've not been flexible enough to allow economic development in the central city that, by the way, is denuded in part because in order to achieve attainment new plants are out in the green fields? What you think depends upon how you think.

So, we in Wisconsin are looking at partnerships or attempting to look at partnerships because we don't have many of answers. We don't even know all of the questions. In a little bit different way, from the grass roots up and a watershed basis, our pollution performance partnership with the pulp and paper industry is a two party partnership right now. We'd like to have a three party with the public interest community. But it requires you to think differently about outcomes, about process, about adjustments and adaptability instead of inflexibility. And so, when the issue is partnerships it seems to me and many of us in Wisconsin, who are trying to find the new way, trying to create the next generation, that we have to think about things a little bit differently. We have to be mindful of standards to be sure but we should not confuse compliance with standards. Because compliance may not always but may have a lot of non-value at its steps.

One of the things that Don Kettl is aware of and I really have such a high regard for Don and what the La Follette Institute is doing and, I think, will be a partner with the state of Wisconsin and many others in creating the next generation, is to look at when we looked at together the state of Wisconsin and its government processes, public sector processes. And frankly, we haven't dealt with this reality but it really hit us in the face. Where government by and large wastes 33 cents on a dollar — got a real smart person from Cambridge to figure that out; 33 cents on the dollars non-valuated — maybe some of that waste is okay in terms of the checkers checking the checkers. That's called keeping the graft and corruption out. But yet how can that money be better spent. And how can the money be better spent that the private sector spends on compliance in the context of performance.

The multi-state working group that the state of Wisconsin and approximately 25 other states are now involved with are trying to find that better way using environmental management system and we have some propaganda out in the hallway. Using environmental management systems as a tool to use in the next generation. And it's our view that by using a systems approach you'll be a) be able to identify, expose and address some of those non-valuated steps and reassign the resources that you would normally have assigned in a compliance area that, perhaps, should be better spent on an unregulated aspect using the ISO 14,000 vernacular. Setting priorities without regard to what's regulated and what's not, realizing you must meet standards but saying there might be a better way to use resources than on paperwork. Those kinds of decision, we've

concluded, cannot happen, cannot happen unless and until you sit around the table as equals, as partners; negotiating giving and take, negotiating outcomes, negotiating time, negotiating contributions — contributions from the government sector with respect to some of the incentives you heard about before, with respect to the private sector, perhaps going beyond compliance and doing things that are not required by the law, not required by the law with respect to jobs in the community, including minority community, building community infrastructure and addressing unregulated aspects.

And commitment from the non-government sector. If you're a service organization, following through in terms of technical assistance. And if you're an activist organization, perhaps, even as Green Peace did with respect to Shell, putting out a nice little press release that Shell didn't do that badly this last year in terms of its environmental agenda, in terms of its social contract. Because the NGO sector has something to give at the table as well. So, when the question is partnership, what you think depends upon how you think. And the partnerships, it seems to me, are better focused around processes that are equal and collaborative, transparent in outcomes that are performance driven as opposed to compliance driven. And these are some of the things we're going to be testing in Wisconsin. And our colleagues in the multi-state working group will be testing in different and in their own ways as well.

MR. DEVILLARS: Good morning, I'm John DeVillars. Jonathan gave a lengthy introduction there. He talked about the rats and the Boston Harbor project, which sinking this highway is unearthing lots of rats is what that connection is. I don't think we have time to talk much about GE today. I would only say there were a lot of rats in that process as well. But it's also one that Jack Welch, the Chairman and the CEO of General Electric, who was very much directly involved in it described as a model for the rest of the country. And for a company that has 86 super fund sites, more than in other company in America, it may represent something of a break through and very consistent with this whole partnership notion, actually. And bringing economic interests as well as environmental interests in a community together and I'm happy to talk about that afterwards but we don't have a lot of time to talk about what I was supposed to talk about, which is privatization.

As somebody who has spent most of his career in the public sector is sort of ironic that I would be asked to speak about privatization. I subscribe to the notion that Ed Koch put out that public service is the best and most honorable profession if done honorably and well. Those who can't do it honorably should be in jail. Those who can't do it well should be in the private sector. But nevertheless, I do think the private sector has a much greater role to play. Frankly, is playing a much greater role in environmental protection than policy makers and regulators are comfortable acknowledging and has a much greater role to play even beyond that. And I wanted to talk about that just a little bit. I'm going to talk about three experiments in privatization that I think are underway

that deserve special focus. In Mary Graham's excellent talk and essay, she talked about the whole reinvention agenda as areas worth watching and I would agree with that. I think, frankly, especially in the privatization area there are areas worth accelerating. We are under investing in energy, intellectual talent, money, legislative activity in some of these areas. And I want to talk a little bit about what some of those models are, if you will, for doing that.

Let me ask first though just to get a sense of all of you. How many of you are from think tanks or universities or other? Hold your hand high. Deborah Knobman is a great thinker in this area. How many from government, itself, from the executive side, state or federal government? And who am I leaving out here? Partnership from the business community? And from the Hill? You're from the Hill. That's good. I'm talking to you. No, not really, but I do think and Progressive Policy Institute, actually, has been very much a leader in this regard. Getting more people on the Hill engaged in some of these reinvention issues including privatization would be a good thing.

Let me just before going into those experiments that I think are worth focusing on and talking a little bit about lay out for you what I think six principles for the public sector role are. I do believe that fundamentally environmental protection is a public responsibility but we have got to get the private sector much more involved and get the regulatory system and policy system much more in sync with what the private sector is doing. But there's always going to be a role for government. Six things:

One, setting performance standards. I'm not sure I agree with Paul's theory although I think his question is a good one to ask and debate. But government, at whatever level, should be setting performance standards. The reason that OTAG knocks strategy worked was because there are tough performance standards that were set by the Environmental Protection Agency. And that's what drove the Midwestern states into a position that they couldn't get out of. But setting those performance standards — I'll give you another example of how important that is. Right at this moment, the governor of Maine is announcing the results of a public health study showing significant amounts of MTBE used in reformulated gasoline in drinking water supplies in the state of Maine. That is a requirement of law, not that we have clean gasoline but that it contain a certain amount of MTBE. We're creating a public health problem with that requirement as opposed to setting a performance standard. This is the air quality benefits that the EOC and the knocks benefits that we expect out of alternative clean fuels. So, getting the performance standards right is important.

Mary talked about technology being a great force for environmental improvement. I think government has a role to play in promoting technology. The Vice-President's environmental technology initiative, which has been basically eviscerated due to a lack of funding from the Congress, was absolutely the right way to go. We picked up on it in New England and established the first Center for

Environmental Industry and Technology, designed to promote cleaner, cheaper technologies into the marketplace. Among other things, getting venture capitalists together with people with, what we viewed, as promising business plans and trying to arrange financing, which has actually worked on three occasions. We call it a dating service but it's working. Government should be promoting technology.

Getting information to the public, several people have mentioned that today. Toxic use reduction inventory as an example. Very important. One of the initiatives that I'm going to talk about in a minute, Star Track, a central purpose of it is getting more information on corporate performance into the public.

Fourth, establishing the management architecture if you will. This knocks trading system among what turned out to be 23 states that face these knocks reduction requirements. Establishing the architecture for that is going to be important to do and to do right and it's one example of government's role. The performance partnership agreements with the state is another sort of architectural innovation if you will. But fundamentally a public responsibility.

Two others, assuring adequate financing; we are under investing in environmental protection in this country. I come from one of the most environmentally progressive regions of the country. Every New England state this year spent less on environmental protection than they did the year before. And the year before they had spent less than the year before that. This in a region where the economy is booming and where public support for environmental investments is very high.

And finally, ensuring integrity in the system; the compliance assurance function. Some of the, what Jeff was talking about in Wisconsin there's an important public role for that. Star Track, which I'm going to address in a minute, critical — the government maintaining the integrity in that case privatized system.

So, three experiments if you will that I'll just touch on and most of you are aware of most of this. But trading, promoting market forces through trading, absolutely the way to go in driving down the cost. You'll all familiar with the huge reductions in sulphur dioxide. Costs control, costs of controlling sulphur dioxide; the trading system for knocks in the northeast and Midwest, very important that we design that architecture and get it into place and facilitate what has begun to happen — trading of knocks and BOCs but that's really privatizing in many ways the approach to getting to those performance standards. We need to do it much more. I think the momentum is there for it to happen in the air area, frankly, without a lot of more force behind it. But in the water area huge opportunities that I think the federal government and the state governments are under realizing, under investing in if you will. We just completed the first trade for water pollution control in New England and saved the developer $700,000, allowed an old historic building to be reused. And the savings was on his waste water treatment

capacity. In return for that, his development company is fixing the septic systems for about 36 homes in that neighborhood, triple the environmental benefit, $700,000 in savings to the developer. It took about a year to make that happen, which is an example, I think, of the government infrastructure, a lot of the attitudes within the government not being aligned with smart, effective environmental protection, fearing it in many ways.

Another example that's in the works that I think we're going to complete in the next week or two is in Manchester, New Hampshire, dealing with its — is that a sign of too long?

PARTICIPANT: No, no, not at all.

MR. DEVILLARS: Dealing with the CSO problem in Manchester, New Hampshire. I got a call one day from Senator Smith and Congressman Sununu, Sununu, Jr. and Governor Sheehy, a bi-partisan coalition basically saying, "What the hell are you doing in Manchester, New Hampshire?" And what we were doing was imposing $110,000,000 CSO control program in that community. The last $50,000,000 was getting the last 5 percent of nutrient loading into the Merrimack River, a drinking water supply not just in New Hampshire but in Massachusetts. And in essence what we've done is to create an alternative investment fund of about $8,000,000 that is acquiring open space, is dealing with agriculture non-point source run-off, is financing education programs for kids to go out into the community and monitor water quality in the Merrimack River, build greater understanding. Some things that both directly and indirectly will achieve greater environmental benefit than that last $50,000,000 of CSO controls. We don't do that very much in this country. New England, alone, is facing a two billion dollar price tag for dealing with CSOs. That's, I think, privatization in some fashion of introducing a trading system in essence to managing our environmental responsibilities more effectively.

One of the great innovations in the NGO area is something that the Conservation Law Foundation is doing. They've set up a for-profit subsidiary to go out and compete in the environmental consulting world in essence and to take their profits and channel it back into land acquisition and other environmental improvements. We've hired them at EPA in New England to basically go out with us and design the Manchester program in industrial sectors as well as focusing on CSOs in about a half a dozen communities. That's, I think, the type of acceleration we need of a market force, in essence, a trading approach to achieve environmental benefits. Otherwise, it's political suicide in Manchester, New Hampshire. And the bottom line is people aren't going to pay for it and we're going to have years of litigation and not get the job done. There's a better way to achieve better environmental results at less cost. Privatization are some of the forces behind it, I think, is relevant to that.

The other experiment that I want to mention and it's picking up on what Jeff was

talking about in Wisconsin. And just a brief advertisement, I think Wisconsin has been a very innovative, creative thinking and I'm sure, Don your work and the university's has contributed to this, pioneer in new approaches to environmental protection. And I think they deserve a lot of credit for that. We have something underway in New England that strikes many of those same themes. We call it Star Track and we're about to take it national, actually. And it is basically designed to establish a system for assuring the environmental integrity of corporations, similar to the system that's used in this country to assure the financial integrity of corporations. To have certified environmental auditors, akin to certified public accountants. And for some universe of corporations based on the TURI, TURI inventory or some other measure of environmental impact — to have those companies and those facilities come into a system whereby they're doing annual environmental compliance audits, annual environmental management system reviews as in ISO 14,001 or something akin to it as a standard. And having them have certified the results of those audits, that they are accurate. If there are violations, to develop corrective action plans that will bring them into compliance — violations of a certain nature, not criminal violations. But to bring them back into compliance in an appropriate period of time and have all that certified and report it to the public, to regulators, to NGOs and the like. Establishing an independent, something akin to the FASB, the Financial Accounting Standards Board, an independent standards-setting group, to license environmental auditors to certify to the integrity and the validity of the audit instruments that are being used — to standardize that to some degree.

But, again, a public role is key assuring, helping to design that system and make it happen. But also once it's up and operating to insure the integrity of that system through random audits and the like. It allows us to redeploy scare state and federal resources to hire value added environmental work pollution prevention audits for metal platers or dry cleaners or other appliance assistance activities and privatizes, in essence, the compliance assurance function in this country. There's no reason the taxpayers should be paying to assure that General Electric or General Motors or others are in compliance with environmental laws, fundamentally that should be a private obligation, I think, to finance that. So, we started with the Gillette Corporation. We've expanded it to about 15 other fortune 1,000-type companies in New England and with the help of the President's Council on Sustainable Development and the Office of Reinvention at EPA after a long internal battle, we're about to take it out to other regions of the country and expand it beyond there. Another example, I think, of a privatization if properly managed and implemented being worthwhile.

MR. WALTERS: Thank you, John. I guess there are two microphones out in the audience. Okay. First, I'm going to give our panelists the opportunity to ask each other a question or two and then we'll kick it out to the audience. And just state your name as well as your question into the microphone. The proceedings will be transcribed so it's helpful to the folks who are doing that.

Do you folks have questions for each other at this point?

PARTICIPANT: I would ask in the interest of giving these folks who —

MR. WALTERS: Go ahead. Are there questions out there from folks? Go ahead, your name and affiliation.

PARTICIPANT: My name is Paul Singer. I'm a reporter with the Inside EPA.

MR. WALTERS: With whom, I couldn't —

PARTICIPANT: With Inside EPA.

MR. WALTERS: Okay.

MR. DEVILLARS: I neglected to ask if there were any journalists in the —

[LAUGHTER]

PARTICIPANT: I just wanted to ask about you gets to say no. We talk a lot about this devolution. It becomes sort of an interesting question. As a taxpayer, I sort of pay EPA to say no for me because I don't really know whether dioxin kills me. By the same token, at some point in the process I would like someone to be saying no when dumb ideas come up and to have the authority to say, "Look partnership is partnership but the fact of the matter this is a dumb idea." Does that now fall to me as a citizen to be a partner in these activities, to study up on dioxin, to show up at the community meetings twice a week and to say no because if I don't, nobody else will?

MR. WALTERS: John —

MR. DEVILLARS: I'll take the first swing at that, which fundamentally, ultimately it is a citizen democracy so hopefully that will, the opportunity will continue to be available even to journalists. But the —

[LAUGHTER]

MR. DEVILLARS: — Geez, but it's actually where I part company, I think, with Paul though I have to confess to not having thought about this very much. I really do think that ultimately it is a national responsibility to assure appropriate standards and sound science behind them and as experiments role out that it not be a license to pollute and that work properly. Just from my own experience at EPA I would say there are no shortage of people who are asking the tough questions. We, frankly, have a shortage of people who are not sort of getting the answer and then moving forward in a responsible fashion. But I do think there are plenty of breaks on dangerous ideas.

MR. SMOLLER: Speaking as journalist, Paul, I am journalist myself. Mad dog journalist is what they call me at the multi-state group. I think your question relates to a core issue with respect to representative democracy and that is to what extent are the people engaged in their common good. Do we consider nanny government to be the only approach to the fulfillment of the public good? And I think that while it's true that there are levels of expertise and there are complexities with respect to environmental protection or education or any other issue. I think it is unacceptable, frankly, in the context of the public square that the people devolve their, transfer their total authority and interest to a government bureaucrat. Wisconsin gave birth to the progressive era as we all know. And the progressive era gave birth to the expert bureaucrat who acted insulated from the public, appropriately for purposes of not being susceptible to corruption and all of the things the progressive era brought forth. At the same time, the public expert of which I am one, perhaps, although I am a journalist became disconnected from the general public and has a general disdain for and disregard for, frankly, the general public in many instances. And I think every regulator in this room can identify instances where that has happened.

So, my response to your question as a state regulator or official is yeah, we have to say no but, I think, it's better to say no together because you cannot, you cannot relinquish your citizenship responsibility.

MR. WALTERS: Paul, did you have —

MR. PORTNEY: Briefly, John started by saying speaking as a federal official. Jeff said speaking as a journalist. I'll speak as a guy who occasionally has bad ideas and say that I don't necessarily think that this is one of them.

Remember nobody said including me that no level of government would do this that we'd just leave it up to citizens to figure out how harmful dioxin is and what you have to do to avoid it. We're talking about what level of government is the right one to do it. And keep in mind that if we decided to hand a current standard-setting responsibility that's nested at the federal level to lower levels of government, that wouldn't necessarily mean that all 50 states would then duplicate the research that EPA does in the Office of Research and Development. You could continue to have research done on the health affects associated with drinking water contaminants or leach (indiscernible) from a hazardous waste or solid waste disposal site. You could continue to have federal research on the cost associated with various treatment technologies. And that information could be made available to the states so that they might choose that trade-off between risks and cost that's most appropriate for them in those cases where their decision is not going to hurt somebody in another state, etc.

MR. WALTERS: Other questions — go.

PARTICIPANT: Uh, is this on?

I'm Ken Fisher with (indiscernible), here. A question for Mr. Smoller, then a follow-up to Mr. DeVillars and then finally to Mr. Portney.

Does the state of Wisconsin have an environmental audit law that provides some type of liability protection for self-reporting? That's the question for the state of Wisconsin. And to the federal government, does the federal government have a position of supporting that type of legislation? And then just to Mr. Portney, what's your position as a policy matter for environmental audit laws?

MR. SMOLLER: The state of Wisconsin has something called an Environmental Cooperation Act that essentially is state excel. Although, I would not label it as such because of XL's history. I would —

[UNIDENTIFIED]: Bright future, though.

MR. SMOLLER: I would — in that law, which authorizes ten projects over time there is what I might call the detect and correct, self-detect and self-correct aspect in terms of self-auditing with transparency so there's no audit privilege. And we fought, as many states. No legislature has gone through the audit privilege circumstance, the give and take and so forth, other states have different histories and we as a regulatory agency have resisted the audit privilege legislation. We have acknowledged that a detect and correct mode for non-serious, non-criminal violations is something that's worth thinking about. In that context, we're testing it. But I think the mantra is transparency, transparency, transparency. And it's our responsibility along with the other sectors to create a climate within which those kinds of minor indiscretions in the context of a compliance record that is otherwise laudable do not impugn the reputation of the firm.

MR. WALTERS: Go ahead, John.

MR. DEVILLARS: You asked if EPA supports state audit laws or what have you. I guess it depends on how you define support. It has been controversial as you know. We have an audit policy that from my understanding is working quite well. A number of companies have taken advantage of it all over the country including in New England. And it's consistent with the vast majority of state audit laws. I think 30 some states have audit privilege laws and it's only a small handful of states, Texas and Michigan, I think, among them at the margin's New Hampshire, but consistent with all but a small handful of states' audit laws.

MR. PORTNEY: And I don't know too much about this so I don't have too much to add. I would just say that if we're going to put in place an audit policy, I hope it extends to publicly owned sources of pollution as well as privately because if you look at violations of the NPDES permits, private sources industries, big point

sources are overwhelmingly compliant. And according to the General Accounting Office, the only widespread non-compliance for NPDES permits is municipal sewage treatment plants. So, that if we're going to be auditing private sources to see how well they're doing with respect to their permits, we ought to do the same for public sources. And that's one reason why we've got a project started now at RFF looking at the way that the government regulates itself. Because the government doesn't set a very good model across the board in the environmental area.

MR. WALTERS: We're running behind. We have time for one more, one more question.

PARTICIPANT: I'm Barry Rabe with the University of Michigan. There is brief reference made to the NEPP, the National Environmental Performance Partnership Agreements, which are an interesting test of a lot of aspects of administrative devolution. I've begun to look at some of these, not in the case of Wisconsin, but have been struck by how in many states when one looks at the language of the agreements, they're dynamic. States progressive, innovative pollution prevention, non-point pollution cross media, it sounds like the third or fourth generation is about to begin. When you go beyond the agreements and actually ask what states are doing or anticipate doing, it's striking how unambitious much of it is. In some cases, it's to cover up some budget cuts that were being made by the state. In other cases, it's, perhaps, to ease paper work processing but I see very little in that very formal delegation of authority to states that comports with this general sense we have of a very dynamic sub-national policy process. I'm wondering am I missing something here in your perceptions? Or is this an illustration of the potential —

MR. SMOLLER: Famous capacity question. Are people looking at me or not. For the state of Wisconsin, I'm not the performance partnership expert of the state but I've had the good fortune to talk with those who have had that assignment and have been burned out and moved on. Let me say this about that as someone said. The performance partnership is a wonderful concept as is excel. At the same time, I can relate the story and we speak in stories, the performance partnership relationship between a region five individual and one of the performance partnership aspect managers who was challenged as to how much she was going to pay on a brochure as a part of the performance partnership as opposed to how the mileage reimbursement rate is going to be. And so, we have a wee little language in some aspects of the partnership but I do think that's put into context by some of the other language where other reports where certain of the line organizations that she or you has the goal mixed the rules kind of thing. And if the U.S. Congress, which is like up there, continues to think when nearly by media that's going to be expressed on the chain to the line programs.

And we in Wisconsin, and this is speak the truth to what's right and ask forgiveness time, we are organized around media. I mean, we are organized at

the bottom level around watersheds. And the watersheds are supposed to be the GMUs, the bubble up kind of thing, which is kind of a performance partnership in a way. And you had the appropriations process, these bi-federal statute and in many respects by the performance partnership are media driven. And I think I would be very interested in seeing what you're finding in other states but you're dealing with culture, you're dealing with inertia, you're dealing with an appropriation process and you're dealing with what you said very correctly are budget cuts all over the place. Or at least cuts in the context of what people perceive as need and I think you can very much predict what's going to happen.

Now, I'm sure there are a million and one good examples of performance partnerships working and some in Wisconsin, too.

MR. WALTERS: Go ahead, John.

MR. DEVILLARS: I'll respond briefly. I think that as a concept and by and large in practice it's absolutely the way to go and it's not perfect yet but it's in its, I think, third year, about to start its fourth year. And it's getting pretty close to, at least from my experience, working as intended--reducing paper work, getting the public more involved in setting priorities and holding agencies accountable. But there are three things, I think, that are key for making it work. One is adequate funding. It's about how dollars are spent and if there aren't enough dollars to get the jobs done, plans aren't going to be as ambitious in performance as they may be in promise. Secondly, assuring flexibility so that you can work, deal with media, orientations as grant making or structural issue and insure that the dollars that you do have get spent on the highest priority problems. And thirdly, holding states accountable, frankly, and doing it in a smart way, not what you're paying for brochures but making certain that there's enough in that plan that gives you a sense of, "All right, if enforcement is an important part of our responsibilities as it is, what's the state's strategy? What are they going to get done this year on enforcement with us if P2 is an important part of our responsibilities?" You know, enough detail to know that there's really action and activity there. And, I think, that's been uneven. As I understand it, uneven across the country in terms of getting those accountability measures right and, you know, then managing it.

MR. WALTERS: It's a delicate dance done indelicately. Don, you want to take us out of here.

MR. KETTL: I want to thank the panelists very much for just a terrific presentation. I know you probably have a few more questions. What we want to do is add one more layer of having to do with the question, strategies and performance and come back and take another crack at them. So, a thanks to the panelists.

Let's take a five minute break just to stretch if we can and then we'll come back and reconvene for the next panel.

[BREAK]

MR. KETTL: I'd like to reconvene at this point and move on to the next point of our program. Before doing that, I want to on behalf of all of us here, express our thanks to the foundations and individuals who provided very generous support that made this day possible, including the lunch that we're about to enjoy, which is why we have to get going so that it's still hot when you eat it. The Richard and Rhoda Goldman Fund provided generous support for this event in particular along with the Joyce Foundation and the Ford Foundation. So, we wanted to express our thanks to them for the generosity. The policy brief, which you find in your folder, is provided by support from the Cabot Family Charitable Trust, B. Francis Saul and the Millstein Family Foundation. So, our thanks to all of them.

As I threatened earlier, the real problem with building a partnership is only a piece of it and as the questions at the end began to get at is the problem of what kind of glue will hold all these together. It's the issue of how to try to make them not only strong but also trustworthy.

Shelley Metzenbaum who's chairing our next session has written a tremendous report, which really outlines a lot of those issues. And you'll find that in your packet as well. It's really the issue of trying to figure out how to build and keep lively and strong and trustworthy an environmental performance system. Shelley comes to us as a former associate administrator of EPA where she was in charge of regional operations and state and local relations and led the design and implementation of the national environmental performance partnership system, which you heard a bit about in the last session. Previously, she served as Undersecretary of the Massachusetts Office of Environmental Affairs and also served as Director of the Office of Capital Budgeting for the state of Massachusetts. She's now visiting professor in the University of Maryland's School of Public Affairs and is the Director of the Performance Management Project at the Kennedy School. We're proud to have the author of Making Measurement Matter.

I ask Shelley to come forward along with the panelists of the session. They have promised to keep each of their presentations to no more than five minutes so we'll have more time for questions and answers before Administrator Browner arrives for our lunch time speech.

Shelley.

MS. METZENBAUM: Thanks Don. I haven't warned my panelists. You've each been cut to five minutes so that we can get lots of questions. So, let me ask that of you.

We've had some fantastic presentations so far this morning and I know each of these three personally and can assure you we've got a lot to learn from each of them. We talked a little bit, the earlier panel talked about partnerships. Paul provoked us to think about who should be doing what. I think a very important sort of invitation to think hard about how we manage these environmental programs.

Jeff really invited us to think about the different roles of different parties. You've got the business community, the government and the private sector. And each has an important and we talked about the partnerships in the earlier panel.

And John moved us into some really exciting concepts of privatization. But I'd actually suggest what he's really talking about is deputization where you're getting the government to deputize private entities to act on behalf of the government in advancing the public sector needs and, in fact, advancing the public welfare. And if you're interested in that, there are a number of projects actually in the state of Massachusetts that John and I worked on when we were there. The license site practitioner program that deputized people to oversee clean-up of hazardous waste sites. So, there's a track record there that you can actually look at.

We're now going to turn our attention to thinking about strategies. Partnership is one element of that strategy. Performance and a focus on performance is another key element of that strategy. And we're going to ask some of our panelists to speak about performance, about information, another very critical element in new strategies for protecting the environment.

Let me tell you briefly about our panelists — John Mitchell who's from the state of Maryland; Bob Hoyt was supposed to join us unfortunately his mom is very, very ill. John has been with the department for about five years. He has worked in a number of offices there but now is in charge of the multi-media permitting office and is really trying to get a new approach to permitting up and out of the way, up and underway. I think, it's particularly interesting that John's doing that, given that he worked for Green Peace for ten years prior to that. So, we've got the fellow in Maryland working on permits who used to work at Green Peace. That's a partnership in one body.

We have Gary Risner, who works with Weyerhaeuser and really has, I think, was instrumental in helping Weyerhaeuser get the Excel Project up and underway in Georgia. Gary is an Arkansan and that's way back in his roots but I will say that my guess is he brings to all that we're doing in public policy these days a cultural understanding of the way things get done in Arkansas that we can appreciate there. I say that because I used to work for the state of Arkansas. And Gary went and worked for the Air Force for a number of years. And as I found out when I was in Arkansas that is a stream of some of the best and brightest go on to Air

Force and some of the best and brightest go on to politics. And I'm not sure if it's the same stream or not but Gary can give us a little insight on that.

And then, finally, Gary Bass; Gary started the right-to-know net. He's at OMB Watch, the head of OMB Watch. But it's a very important precedent that he got started in terms of information driven approaches to environmental protection. That right-to-know net really took EPA's databases and put them out in the public realm for the first time. And so Gary brings to his discussion today real insight into both the opportunities and the challenges.

So, with that very brief overview of some very interesting panelists, let me begin and ask John to get us started.

MR. MITCHELL: Thank you, Shelley. I'm sorry Bob isn't here, today, both because I have to give his speech and because of his enthusiasm for performance partnerships is really contagious. And, I think, he would really enjoy this debate and talking about why it can work and some reasons why it may not.

In Maryland, we've been working on performance partnerships for two years, now. We just signed our second partnership with region three for fiscal year '99. And what makes Maryland unique is two things. One is that we have two state agencies that are involved in partnership, the Department of Environment as well as our Department of Natural Resources.

And secondly, is the inclusion of public participation in the process. We've had two rounds of public participation meetings. We've gone out to our stakeholder groups and really tried to involve them and their input to shape the process. As we've moved forward in our performance partnership, we have an internal debate at literally every meeting about whether we should continue to go and why we should and what are the benefits and some of the [tape change]. and hear some of those points today.

We believe that focusing on results can improve performance because what gets measured, gets done. It's strategic planning's first maxim. If you want to get results from an organization, you develop a goal, a way to measure the progress and then the organization will focus on the goal. In the absence of a goal, the organization can be busy and perhaps productive, activity is dispersed and unfocused. Also without a results based goal you oftentimes have the activity take a more prominent role than the result. I'm going to use an example. In our performance partnership, there's not a state agency. The Department of Agriculture, which has significant impact on the environment, I'd argue throughout the United States, in Maryland on the Chesapeake Bay, they sometimes participate in our performance partnership activities and where we try to focus on our goal, which is reducing nutrients to the Bay, oftentimes they focus on the number of acres under nutrient management plans rather than what those plans are actually doing.

Third, if your performance is being evaluated, you need an agreed upon measure otherwise you're left to be judged by whim or arbitrary and changing standards. And beyond accountability, evaluating performance is an excellent tool for motivating, staff, providing focus and additionally, changing activities to reach those goals rather than sticking with activities that are not working.

Now, I'll outline a few reasons why we sometimes feel focusing on performance will not improve results. There's a long road form the planners and the policy makers to the people doing the work. By the time the policy makers' goals and performances trickle down through the layers of bureaucracy, the motivation, the context and the focus have been diluted. The goals and the performance measures are often viewed as just an additional part of their job. When Bob told me, well, he asked me actually, to do this speech, he used a phrase he said, "A strategic plan is where the rubber meets the sky." I'm sure many of you have heard about it but I've been laughing all weekend about that. I work for Bob as staff and when I meet with other staff to implement this there is real resistance. It's just a program de jure. If we're going to get another governor, four years, a year remains to be seen and people feel that we just might get another strategic planning program.

Secondly, you can't set goals that are long-term and continue to have meaning because size is changing, public opinion changes, resources change and there's some thought that as soon as performance-based plan is finished it is obsolete. This is plan long, plan wrong.

And finally, there are too many decision makers and they change too often to set long-term goals. There's no way to get stakeholders to agree on long-term goals. And oftentimes the ones who are unhappy with the goals don't want to play. They'll continue to evaluate performance their way. For example, if EPA disagrees with the state, we haven't gotten anywhere in the performance partnership. Changes in leadership, change priorities.

Apathy is another problem with performance based planning and most people outside of policy makers and staff care only about the environmental issues that impact them directly, usually viewed as having a negative impact on them, for example, citing a facility. Getting useful and valuable input is harder than you might think. And I mentioned we had two rounds of public meetings and we talked to our stakeholders. But getting people to come to these public meetings was very difficult. Although it was rewarding, the discussions we had from those people who came to talk about priorities rather than a facility that was going to impact them, the number of people is disappointing.

So, why do we continue to do this given those challenges? We believe that focusing on performance and away from activity increases the understanding of the issues, the facts and the challenges that we face. When you get the policy

makers and the stakeholders talking about improving results, we can shift the debate away from philosophical differences into practical concerns and legitimate interests. And there are numerous examples, now, in Maryland of governments and non-profits seizing on results-based planning. In addition to our performance partnership, all Maryland state agencies are now participating in Managing Maryland for Results, which ties our goals, our activities to our budget. We're only in the second year of this but it's going to get pretty scary next year when they actually look at what we're doing, the Budget Office does in Maryland and compares our activities with our goals and then looks at our budget. The Chesapeake Bay Foundation has a Bay report card with goals and measuring sticks to convey the health of the Bay and identifies where we need to do better. And by doing that, they hold the regulators feet to the fire. They also can engage the public to support their activities.

And I want to end in just mentioning the most enduring and widely known performance measure in our Chesapeake Bay restoration and protection activities and that's our nutrient reduction program and our 40 percent goal. Now, this is a goal that works and has stood the test of time. It is evaluated and reevaluated and commands the attention of almost all the Bay players in the three states, Maryland, Virginia and Pennsylvania and in D.C. But additionally, it commands respect under both Republican and Democratic Administrations and this is really important to achieve this goal. And I think when you think about it, we choose the right goal and we got enough buy-in early enough when the goal was far away by all parties to make this enduring.

I'm going to stop here and I look forward to answering your questions.

MS. METZENBAUM: Gary.

MR. RISNER: Well, I want to thank you very much for allowing me the opportunity to participate today. I think I'm probably in the minority here being a kind of industrial person in the group today but I'll try to do my best not to embarrass the others that are in here that are part of the industry.

Before I begin my presentation, I want to talk a little bit about Weyerhaeuser Company. We're in the business of growing trees and utilizing those trees to make wood products and pulp and paper. Our corporate office is located in Federal Way, Washington. We manage our own over 30 million acres of timberlands between the United States and Canada. So, we're very interested in providing a sustainable raw material for our mills as well as to products for you.

What I want to talk about today is, you know, can industry be a partner in looking at improving environmental performance. And I'll say unequivocally, yes they can. I've got living evidence here on project Excel. This is a project Excel agreement took me and a team about a little over a year to get to and we're very proud of it. Why did Weyerhaeuser choose Excel? We were very excited when

President Clinton announced this initiative. It looked like an opportunity to, you know, to begin thinking outside the box. You know, looking at ways to not only improve environmental performance but look at more costed ways of doing that. So, we looked at our facilities and looked at which one had the most promise of delivering that and we chose one in Georgia. Our goal, our philosophy is minimum impact manufacturing, looking at ways to as we make modifications, make changes to look at ways of engineering pollution out of the process. You know, if we're changing a pump, we're looking at a more efficient pump that has less leaky seals and things like that. If we're looking at a process change, we're looking at improving a process and using less raw materials. Thus, creating less waste. So, those are the type of things we're looking at. And project Excel based at this facility fit very well because at this particular facility we also had an ongoing stakeholder process in place with a community that had a long history of trust and relationships, looking at the local community and what types of goals as it relates to environment should this facility be looking at. And the primary goals that the community and the facility had was looking at improving water quality as well as, you know, making sure that this facility, which is a pulp and paper facility has no order. Or at least they can't smell it. So, those were kind of joint things going into the project. It made it a cooperative agreement. Also, we had great support from the state of Georgia as well as region four.

So, I think this is a good example of how you can look at dealing with incentives and providing input from the community in meeting not only the goals of the community but also the goals of the company. Now, this was a business transaction. There were dollars saved in this process but there was also environmental performance. And also what made this more easy to negotiate and get buy-in from headquarters was it is performance based. There are clear, it was a clear baseline set for this project. It had clear, quantitative performance measures that we've established for ourselves. There's also stretch goals, looking at going even further beyond and working with the state and with EPA and seeing if we can even go farther. So, I think this is a good example of how it can happen.

And with that I want to just make a recommendation from an industry perspective anyway that if you look at going forward in looking at partnerships, in looking at incentive-based approaches, it's very important to establish that communication, understand what types of incentives are appropriate. You can have all kinds of incentives but if no one uses them then they're really not incentives at all. So, I think that's very important and also establishing common goals and making sure that you set targets to reach those.

So, in closing I just say yes, you know, the partnership can happen, it can improve the environment at the national level but also I think we got to expand it even to the international perspective as we look at climate change and what could happen there. From my company's perspective, you know, we do grow a lot of trees. That sequesters carbon. I think there are opportunities there in the

future as we look at emissions trading schemes and carbon syncs. Also our industry is very energy intensive. We've got projects online or I should say in the hopper to look at potentially becoming energy self-sufficient here within the next 20 years. And we're working closely with the DOE and EPA on working those type of activities. So, if you place the right incentives you're going to get not only a good partnership but you'll also see environmental benefit. I'll close right there.

MR. BASS: There's a story about a fellow who wanted to get some information; went to one of those government buildings over on Pennsylvania Avenue. Walks in, two doors in front of him — one of them says, "Juicy Information," the other says, "Crummy Information." He goes to the door that says, "Juicy Information" — two more doors, one says, "Pollution Data" and the other says, "Other Data." He goes in the door that says, "Pollution Data" — two more doors, one says, "Pesticides and Toxics data and very detailed about each company and the other says, "Other Stuff." Goes in the one that has all the right data, two more doors — one says income above $20,000, the other says income below. Goes in the door that says income below, ends up back out on Pennsylvania Avenue. That is at the heart of what a lot of us in the public interest community are concerned about. The question that was asked earlier might be refined to what you think depends on what information you have.

Information access is not an easy thing. And in the conversation this morning, Mary you referred to the TRI and other wonderful public access databases, Shelley, you referred to in your paper. Well, it just so happens that the toxics release inventory, which is one of the most accessible databases is also one of the most criticized by those who use it as poor quality data. It's based on estimates. There's no peak release. The list could go on. There's no verification of the data. But it's not just simply the toxics release inventory. There are others. The Safe Drinking Water Act that you mentioned. There's a major debate should it be compiled from all the local data sources to a national database. In order for you the consumer, whoever you are, to get access to that. Or take for example it's not just quality of data. I was just chatting about risk management plans required under the Clean Air Act, a major battle that has emerged — disclosure of those risk management plans will lead to terrorism because all those international terrorists are getting up on the Internet and will discover what companies to bomb in our country. Or maybe where to steal the goods.

Well, if that isn't a big enough battle then expansion of the TRI has been a nightmare. In your paper, Shelley, you talk about lawsuits. It isn't just lawsuits. It's the political battle surrounding it — the expansion to the number of chemicals, expansion to the number of facilities, has been fought by many of you in this room and by others in the industry community to stop that expansion. And when you talk about chemical use, the industry community will say that is the battle royale.

So, the first point, access to information isn't as easy as we would all want it to

be. And yet it's at the heart of the debate today. Secondly, I would dispute the adapting value, Mary, that you referred to earlier about information is the substitute for regulation. If that's happening that is unfortunate. Information should be an empowering tool to help us in staking out and assuring sustainable communities. It should never be and certainly was not one that I fought for in pushing for right-to-know intended to be a substitute for regulation. It is a tool to get us to more and better protections.

And that brings me now to the point of government performance. This whole meeting this morning is about performance focus systems. And yet I have yet at least at the federal level to see evidence of where performance based approaches showed definitively that something will be better. And, in fact, under the Government Performance Results Act (GPRA), which is the most viable and most clear form of operating under a government performance, I see trends going the wrong direction. For example, if you talk about government performance at the greatest level of government and take a look at GPRA, the Government Performance and Results Act, it amazes me that those people who passed the law in 1993 talked about improving government. In 1997 and 1998, those people who are overseeing the law are talking about it as a tool to dismantle government. And nothing is evident as Budget Chairman Cassock's comments at a press conference in the first stage of GPRA, which were the strategic plans, where he said very directly because the agency's plans were so poor, it gives grounds for cutting the agency budget. And they concluded that same press statement with and if those strategic get better it will give us grounds for cutting the agency budgets. Well, if I were an agency I kind of think, "Holy cow, there's no place really to go." So, the question I ask at the grandest scale of government performance, what's the objective? Where are we headed with this?

Move it down a level to the regulatory arena and Shelley's paper does a very good job of talking about outcomes, flexibility, transparency and she adds in flexibility. Well, at the heart of the fights that I deal with on the regulatory arena, that oftentimes those issues of flexibility versus improved performance collide. That is, the regulated community is looking for flexibility in ways of reducing burden. The public interest community is looking for ways to improve the outcome or performance or outputs, whatever measure you want to talk about — it's improved public protection. And too often those to collide. The challenge for any kind of performance activity will be to somehow wrestle with those missions. It was very clear — I was talking to Shelley before this — the National Performance Review, which is Vice-President Gore's initiative became extremely clear where those two conflicted, you have conflicting missions. The very first report talked about improving government activity, meeting citizen needs. And just before it was published, inserted at both the beginning and the end of the report were dollar savings. And the Executive Summary mixed and matched improved government performance with cost savings. And those two from that very moment were always on conflicting paths. Do you improve quality of government to save money and give it back? Do you improve government quality

and any savings goes back into more service? That problem exists very much at the heart of the performance measure.

Go down to the local level, to the individual level, to the company level. You have the same problem about why do this. What is the objective? What are we going to measure? Who determines what is measured? Where do those numbers come from? And there are a host of other issues embedded in that, that I would certainly want to debate before jumping down it.

One final comment about going in the door and ending up back on the street. Paul, you suggested that we have a devolution debate. And I completely agree that debate should be undertaken and my guess is that if you had a slightly different audience in the room, some that was reflective of all the different audiences of stakeholders, including public interest, you would find that your example of safe drinking water is a compelling argument for national standards. I was on a talk show where callers called in and said, "I don't have a problem with different standards from one state to the other because I'll buy bottled water." Well, not everyone can buy bottled water. We are a united states. That is why this country is called United States. There are certain standards. So, if we're to move forward in this area, I would hope at a minimum that we begin talking about some of the hard, hard debates before just jumping into we do government performance.

Thanks.

MS. METZENBAUM: I want to thank our panelists for some great presentations. We have time for a few questions, far too few because I know I have a dozen myself but let me open it up to the audience.

PARTICIPANT: Thank you. Gordon Jones, I'm with Global Business Access Limited and I'm also on the board of a new Indo-Swiss global warming institute.

I particularly appreciated what Mr. Risner said about the international aspects of environmental questions and particularly as global warming is going to be a very important future aspect of all these regulatory matters. I thought I'd just ask a few panelists and, perhaps you as well, to go a little further into the international side of all of this.

MS. METZENBAUM: Gary, you want to —

MR. BASS: I think the same issues that raise exist on the global level. Access to information is even harder at the global level. When you have an international body like the World Trade Organization (WTO) making decisions that have enormous implications for the sovereignty of, for sovereign states in our country, there are lots of questions. And there are questions about public access to the WTO not only in terms of what data it has but its decision making apparatus. So,

I would hope that the kind of comments I made would be extended to the global level including OECD and other entities.

MR. MITCHELL: At the state of Maryland, frankly I was thinking of this earlier, discussions like this are a luxury. We're doing our job everyday implementing state and federal environmental regulations. And taking the time out to think about where Maryland fits in the country is a luxury we don't have the resources to spend a lot of time on. However, I would like to make one analogy. I just came from a Maryland Chamber of Commerce convention in Ocean City and there's a lot of talk there about where does Maryland state versus the rest of the states, particularly Pennsylvania and Virginia. And our legislators want every environmental regulation. They want to know where our competitors stand. And then they add, of course, if we're going to save the Bay then we'll do it but what is Pennsylvania doing? And I guess you could just extrapolate that out to see what other countries are doing versus the United States and why much is — in Maryland we appreciate federal standards so it allows us protection to be actually able to implement them without seeing whether Maryland goes further. I think international standards can be important as well.

MS. METZENBAUM: Gary Risner.

MR. RISNER: I would just like to add right now there's really no mechanisms in place for any type of early credits for reductions at this time. And I think a lot of industries, the ones the ones that have been very proactive are looking for something right now. And I think that that's probably one of the issues that's going to be facing us over the next couple of years is how can we begin setting up the policies in place that — whether it's through, you know, some type of emissions trading early, reduction type process that would facilitate (indiscernible)

MS. METZENBAUM: The only thing I'd add to that, I mean, two things. One is, you know, you've got a lot of companies that are functioning in an international environment and hopefully those companies and some of them are taking leadership positions. Shell Oil, for example, has now got a social responsibility report. Perhaps, they can get out there and demonstrate the way it should be so that everybody else can follow.

But also there was a new story yesterday about Washington State apples. The apple growers in Washington State have a problem because the apples are coming in from China. And the apples going into our apple juice is all coming from China and my first reaction to it was, "Whoa, what are they doing in terms of pesticides on those apples. And before I buy them, I sure would like to know about it." But going to Gary Bass's point, you know, sometimes it's not just information. Unless you're going to label every apple, sometimes you need and want your government to be protecting you and keeping out apples that aren't safe to eat. So, I think, there's a huge international context here. The challenge is

figuring out how we deal with it.

MR. KETTL: Let me steal the microphone just for a split second. The staff is going to begin setting the tables for lunch so there will be a little bit of distraction in the background but that means we can also continue talking for a little bit longer as well. So, let me just encourage you to keep on going and just overlook the little bit of background noise in the process, please.

MS. METZENBAUM: I want to thank the panelists who kept on time. Even though, Don is telling us we're still a little late. Other questions? In the blue, yeah.

PARTICIPANT: I'm Nancy Hill with Washington Facts. I'm a reporter. I wonder about small companies. I used to write about chemical plant safety. I have written many stories about small plants that had these terrible incidents that killed workers and produced toxic clouds. I remember one particular incident near my home town of Columbus, Ohio where the small outfit was tolling for a large multi-national company, doing work for a large multi-national when they had an incident that killed a worker and they had done every wrong. When I got a copy of an audit report, they had moved a reactor and the relief valves had gotten broken off in the process. It was just, it was just amazing. And the National Association of Manufacturers and the U.S. Chamber of Commerce put an awful lot of pressure on Congress and on these federal agencies to come up with exemptions for small businesses. With OSHA I think ten employees or fewer people, you know, there's no reporting so that really skews the reporting of how dangerous these facilities are and I have the impression, to some extent, a lot of EPA's regs are built on OSHA's because OSHA's are maybe a little bit older. But some of these standards they had had preceded OSHA.

I'm just wondering when you're talking about getting into deputizing people. And, you know, these larger companies have a big public profile. Nike is now doing this stuff with polyvinyl fluoride and so on. But what about these smaller companies that have so many of these incidents and that you keep reading about when you read about environmental enforcement. Can they really be trusted to buy into this system to pay the people to do the audits and to comply with it fairly and honestly?

MS. METZENBAUM: Anyone?

MR. MITCHELL: Okay. I'll start with this one. Small business is a concern. It's a concern from business representatives because larger businesses have the money to hire consultants or have on staff environmental inspectors or compliance people. Small businesses don't have that. I think that EPA under the Clean Air Amendments of 1990 recognized that small business has an impact on the environment and they directed all the states to implement a small business assistance program to do outreach to the small businesses on certain air emission sectors, like dry cleaners and auto body shops. In the state of

Maryland, we've expanded that to make it multi-media so we have air, water and waste. And basically what we do is outreach to different small business sectors and try to inform them of what the regulations are and try to encourage them to come into compliance. Frankly, our inspectors are busy with the major sources and don't get around to small businesses. So, it is pretty much — I won't say that it's voluntary — but it's up to us to do outreach to the companies to try to bring them in.

MS. METZENBAUM: If I could try and take a crack at that one, too. I think one of the things that's important to think about when we talk about these new systems is not only what's this new system in theory versus what's the old system like in theory but what can it be like in practice versus the old system in practice. The existing system basically doesn't deal with most small entities. That is the hard, ugly reality. And I'd suggest folks might look at something like the Massachusetts Environmental Results Program. They've got a program to deal with dry cleaners where they've been very clear about what the performance standards are and articulate it in detail what is expected of dry cleaners. There 800 dry cleaners they've identified in the state of Massachusetts. Prior to this system, only 200 of them were even permit holders. They weren't even in the system. They now have a system where those 800 dry cleaners not only know what they need to do but their management needs to certify that they're in compliance and that is a matter of public record. And they can post things in the windows of their dry cleaners. Is it great? It is much better than what was before. It's not perfect but it is much better than what was before. And I think for small entities, auto body shops, things like that — that 's one of the realities we have to deal with and deputizing may, in fact, be the best way to deal with that because the state agencies and the EPA, certainly, weren't dealing with it to begin with.

MR. BASS: I must say that a significant power base in Washington comes from small business. It is some of the most powerful lobby forces. It has a federal agency called the Small Business Administration that lobbies on behalf of small business. And so, the exemptions that exists are not by accident. By the same token, what I've noticed at least under things like the toxics release inventory is that those same toxic chemicals are being used in a small business do the same danger, have the same danger and the same damage as in a large business. And so, there's a balancing act that has to occur.

One of the things that I think has not happened in our quest to try and create the kind of performance environment that you're talking about is there really has been not adequate use of electronic submission or electronic data management. So that companies, businesses, the regulated community doesn't have to keep repeating the same type of information. I don't think there has been adequate discussion about that in terms of the relationship between the state and the federal government in that kind of component.

Finally, I would say, the last thing is there has not been an adequate discussion

that I've been part of to talk about comprehensive information plans. That is, what do we really need from a company totally instead of sort of the piecemeal approach which has gone on.

MR. RISNER: I'd just like to comment. First, acknowledge that indeed there is a problem there. But from an incentive standpoint, I think one can look at maybe the OSHA Star Program where you have companies that enter that program and get some benefits like reduced inspections. And part of that program is partnering with smaller business in the local community that has definitely helped to add to not only the education but also assuring a broader compliance and I think that's something that could be rolled over into more of the environmental regulatory relief.

Another area is that at Weyerhaeuser and other large forest products companies have is we do buy third party timber. And we have best management practices that we follow that a lot of the small land owners won't recognize — excuse me — because of property rights; won't recognize the benefits — would not recognize the benefits associated with stream side management. And we may go in there and cut only to our prescribed BMBs, and at later day someone else would come in and cut the rest of tress. So there's an education effort there. But I think it's, you know, those types of things where you partner with private land owners, partner with small businesses that can make a difference.

MS. METZENBAUM: There was a question back there. Yeah, okay.

PARTICIPANT: Christian Richter with the National Association of Metal Finishers. Mr. Bass, mainly a comment for you and a comment on small manufacturing. I think we need to be very careful not to characterize small business in this country as a model and this is where sector based reinvention programs come into play. You know, one small business is not like another small business.

As a representative of the metal finishing industry, one of the most heavily regulated manufacturing segments in the country, mostly small business, average employment of around 15 to 20 employees per shop, TRI reporters, generators, water reg notifiers and permittees, Clean Air Act regulations apply to our folks as well. And one of the reasons why we got into the common sense initiative, EPA, Carol Browner's reinvention program is because we felt, perhaps, we can separate the rogues, the folks who are truly damaging the environment from folks who can move up the performance ladder and maybe we can get an incentive system from EPA to states so that you're rewarded for performance, and we've established ambitious performance goals over five years, you're rewarded for your performance by getting flexibility. And flexibility and performance aren't always at odds with one another and particularly when you look at the small business industry, the small manufacturing sectors we have to realize that incentives don't work for small manufacturing the way they work for

large fortune 100 companies. Recognition doesn't work. We need to put in place concrete, bottom line kinds of incentives so that people will move up the performance chain. Part commentary but part question. How do we get performance oriented machinery in place when the current regulatory machinery at EPA doesn't allow for experimentation even on a small scale? We don't have the regulatory machinery to experiment with performance based regulation. My apologies for going on so long.

MR. BASS: I think that's exactly the — your final comment may be the answer, which is to begin the experimentation. One of the things that a new staffer at Brookings, Paul Light, wrote about is that all these reform movements come like tides. They come in and then they wash out. And part of it is that, you know, there's very little serious both evaluation and experimentation in government; ways of assessing it in meaningful ways. And I think what you're talking about of sector approach is exactly is something, Shelley, you might want to comment on which is what you've talked about is maybe one strategy for trying to cut or break the nut. It may be a way. But I think that the problem that exists are all the tensions that are mentioned in Shelley's paper. There is enormous distrust between small business and the public interest and government and the news media. The range of angst is enormous and how you get through that is absolutely critical before talking about substance.

MS. METZENBAUM: Panel, Gary or — Yeah and I guess I would just add to that building on what Gary said we're looking for a few good companies. I mean, if there are some companies out there who are ready to talk about what a performance track really ought to look like. How you should judge their past performance? What kind of performance goals they're willing to go to in the future and what it is — how they'd like to see the system operate in return? Let's spell it out. If we could get a few companies to really come forward and say, "Look, if my compliance record has been strong for the last ten years, or eight years or something and if my actual emissions record is 30 percent beyond where I needed to be by regulations and I'm willing to report on my information and do continuous environmental improvement in the future and meet certain goals and I'll report to the public and have that information verified. If we could find some companies willing to come forward and do that, let's define what the system ought to look like and see if we can move it forward. But we need to find the companies ready to do it.

MR. BASS: Again, one caveat and that is in order to get to that state, the decision over, for example you said release data or emission data — well maybe it's waste data.

MS. METZENBAUM: Yeah.

MR. BASS: And I think that that debate has to occur among the players that are critically involved before you can get to the performance discussion.

PARTICIPANT: We have done that with the common sense —

MR. BASS: Sure.

PARTICIPANT: And the only success we have charted out, kind of a Magna Carta of how we get there. And the problem we're running into is the current machinery of that doesn't allow EPA to depart from regs and statutes to offer the flexibility.

MR. BASS: I agree.

PARTICIPANT: That's the problem.

MS. METZENBAUM: Interesting point. And just technical breakthroughs are also occurring. Gary makes the distinction on emissions data. There's an experiment going on with Tellus Institute and some New Jersey companies that really set up a material accounting kind of system that distinguishes waste as opposed to emissions and we don't get into, you know, so there's breakthroughs that are happening in the, you know, nuts and bolts of what it would take this system work effectively that make this discussion possible in a way it wouldn't have been even a year ago. Paul, last question.

PARTICIPANT: Well, it goes back to this question about what you said, that you want companies to step forward, Shelley, in light of the inability to make big changes without additional statutory flexibility, in light of EPA's inability to say, "If you do all of this, we'll cut you a deal. Why would any company come forward and say, "We'll do this. We'll be 30 percent above and beyond. We'll put in place an environmental auditing system and what we hope is that we'll be able to do something that will make that worthwhile. Without the statutory flexibility that EPA doesn't have now, why would a company step forward and do that?

MS. METZENBAUM: My simple answer is complicated but it's we're not going anywhere where we are now. May be we ought to take it, get the proposals. Maybe we can work some things out with a few states. I don't know. You know, you need to go through the details. Why would a company do it? Because they're not comfortable with where it is now and there are enough forward thinkers. You have companies like interface corporation, which really has put out an entire materials accounting report. Why did they do it? Because they thought it was the right thing to do and it's changing the nature of the debate. So, I think that is the challenge. You've obviously got some metal finishers who have tried to step forward. You know, the question is are there some ways we can really begin to change practice. Recognizing that the Washington based debate is now so contentious and so polarized that you need to take that into account because you can't do some of the, you know, some of the fine tuning Carol Browner tried to do when she first walked into her job, you know. It was difficult.

Let me thank you all.

MR. RISNER: Can I make just more quick comment about the inefficiencies?

MS. METZENBAUM: Yeah, go ahead.

MR. RISNER: When Weyerhaeuser negotiated this agreement it was real easy to get out of the box. I mean, it's in the box and look at innovative approaches. But most of the time during that year working through this was how to figure out how we could get back in the box and look at the existing regulatory system to meet what we had determined was a good idea. So, there are definitely constraints there associated with that and I would echo what gentlemen from the finishing talked about, too.

MR. BASS: If I could just add. One thing that EPA might be able to do given the constraints that exist beyond its scope is in the area of information policy it has a lot of latitude. They really don't even have an information policy framework. One thing they could do is to develop one and talk about how to better manage including vis-a-vis state activities. That might be a way where it's a less contentious, less politically charged area.

MS. METZENBAUM: Well, let me thank you all. Don came and whispered in my ear about five minutes ago, one minute, so I'm going to — let us take a break. Let you talk among yourselves. Thank our panelists for superb presentations and answers. And thank all of you for joining us. Enjoy your lunch and the Administrator will be here if she's not outside the door already.

Thank you.

[LUNCH BREAK]

MR. MANN: (tape change) . . . as we speak. So, by all means do but we want to take advantage of the time we have available with Carol Browner. My name is Tom Mann. I direct the Governmental Studies Program at Brookings and I have the privilege of introducing the keynote speaker at our National Issues Forum.

This morning has featured a wonderfully stimulating and productive discussion of environmental policy. Actually I had begun to despair of any constructive policy conversation taking place in Washington in this era of 24 hour, all Monica, all the time news. But this week education and the IMF came to the fore in the appropriations battles in Congress and now we've added the environment to the mix.

I can't image a better person than Carol Browner to drive home the importance of a strong and effective environmental policy for the future of our country and of our globe. Appointed by President Clinton in January of 1993, Ms. Browner is now the longest serving administrator in the history of EPA. She brought to EPA a wealth of experience working in legislative and executive settings in state and national governments and with a grass roots consumer group. She served in senior staff and administrative positions with then Senator and now Governor Lawton Chiles and then Senator Al Gore. Since coming to EPA, Ms. Browner has been an articulate advocate for sensible policies to protect the environment and an innovative manager constantly seeking more effective, more efficient and politically sustainable means of delivering this critically important public good. Brookings is honored to have her with us today on the eve of the thirtieth anniversary of Earth Day to discuss the future of environmental policy. Carol Browner.

MS. BROWNER: Thank you Tom for that introduction. And recently someone was introducing me and they were set to say, as you said, that I am now the longest serving administrator of EPA and instead they said, "She is now the longest suffering administrator of EPA." I prefer the word as you did it.

It's great to be here with all of you. I see a number of my colleagues from EPA and former colleague Shelley Metzenbaum. I thank all of them for joining us here today. And I want to thank the Brookings Institution for what you do to bring scholarship, reason, understanding to all of our most important national policy debates.

Now, as I understand it, John DeVillars, as I understand it the forum that you all are participating in asks an important question. As I understand the question it is simply, "What will the next generation of environmental policy look like? Where does the nation go from here?" Now whenever I think about Brookings I think about people like Rene Descartes and his famous words, "I think, therefore, I am." I imagine all of you here at Brookings with your chins resting on you fists. Your brows furrowed. I think, therefore, I am going to ask the EPA Administrator the most difficult question I can think of. Now, I'm supposed to answer this question. I have to tell you I look forward to the day when I get to ask the difficult questions. But be that as it is or may be.

It is with great pleasure that I come here today to talk what actually is a very, very serious question and that is where do we go from here. And I would say to you that in many ways the President, the Vice-President, the members of the administration who work on these issues, we really faced this question almost five and a half years ago. Now, when we first came to Washington, these were the questions we were asking ourselves. We've recognized that the nation has really made tremendous progress, has made great progress since we passed our major environmental laws almost 30 years ago now. I think few would disagree with that. Certainly, our air is cleaner, our water is healthier, our land is freer from

toxic chemicals. I think we would also agree that the work is not done.

Here, in the room today, we're economists, lawyers, policy makers but we're also parents, we're uncles, we're aunts. I think any one of us who has been faced with telling a child that the air is not healthy for them to breath, telling an asthmatic child that they'll have to spend the afternoon inside, telling a child that the fish are not safe to eat, the water too polluted for swimming really recognizes that we still have real work to do when it comes to protecting our environment, when it come to protecting our health. I think the question that the administration, the President, the Vice-President, that I had to really ask was why haven't our laws finished the job of cleaning our air, our water and our land. Why are nearly 40 percent of our surveyed rivers, lakes, coastal waters, still too polluted for fishing and swimming? Why do one third of all Americans still live in an area that does not meet the EPA public health air standards? Why do four million children still live within four miles of a toxic waste dump? Now when you ask the question that way you get, I think, sort of two extreme answers. You get he answer, and this is where some people find themselves, they would simply say because the laws didn't go far enough. We need more regulations. We need more prescriptive regulations. There are others who would argue what is really the opposite. They would say that the problems would be best solved by a marketplace unfettered by rules and regulations, that every decision should be based solely on the outcome of a cost benefit analysis. Do the benefits clearly outweigh the costs? That is, I think, the extreme ends of the debate. But that is frequently where the debate takes place. Unfortunately, there is still a tremendous amount of polarization in this whole debate of public health and environmental protection; how best to achieve that.

If you look back over the last 25, 30 years of efforts in this country, what you will see is that the problems we have addressed thus far, the work we have done to date has largely been the easy things. It's the type of challenge, the type of problem that has lent itself to the more simple solutions and that the problems that we face today and we will face in the coming decades are not as simple. They don't lend themselves to the black and white solutions. I mean, it was one thing when all you had to do was go out and find the pipe that discharged the raw sewage, that discharged the industrial waste into the river or the lake. It was one thing when all you had to do was find the buried toxic waste that was causing a neighborhood, a group of children to become ill. People could see what was happening to their environment. They could see the Cuyahoga River catching on fire on hot summer day. And as a result, they demanded action.

Today, and this comes after enormous, enormous national financial investment, the problems are literally not as apparent. The sources of pollution are much harder to identify. The flow of pollution more difficult to follow. You have airborne pollution we now understand that can literally travel hundreds of miles. When it becomes hot here on a summer day and the smog sets in that pollution may have originated over in Ohio, in Kentucky in the case of climate change. In the

case of global warming you have pollutants that literally can affect the quality of life thousands and thousands and thousands of miles away. When you talk about water pollution today, the biggest source of water pollution is not the industrial factory, it's not the sewer plant but it's the run-off from parking lots, from construction sites, from urban, from rural areas, it's that rain water that picks up all of that stuff out there and immediately carries it down into our rivers and lakes.

Our climate is changing because of human activities. All of these very real problems but far more difficult for the American people to see. There probably is no problem that we face today — there's probably in terms of ecological and politically complex challenges than the challenge of global warming. It has been very clear to the administration from the beginning that these types of problems, be it polluted run-off, be it the transport of air pollutants, be it global warming, really demand a new generation of solutions — a reinvention of the process and the system of environmental regulations to make them not only more effective and scientifically based but also less costly and more sensible.

Under the President, the Vice-President's leadership, we've taken important measure to improve the quality of the air we breath. We've set the strongest public health measures in two decades. These measures will, these protections will protect children. They will protect many of our elderly from premature death, literally thousands of premature deaths each year and improve the health protections for people of all ages. These are public health standards based on more scientific analysis, more peer reviewed published scientific studies — something on the order, I think, of 80 than any other decision in the history of EPA. We've cleaned up more the nation's hazardous waste dumps in the past five and a half years than in the first twelve years of the program. We're doing it today 20 percent faster, 20 percent cheaper. Across the country, we're helping cities redevelop their abandoned industrial properties — the brown fields, breathing new life into our inner city neighborhoods and at the same time saving the pristine, the green areas, outside of our cities. We've expanded the public's right to know about the air they breath, the water they drink, giving families, giving communities the information they need to become an active participant in how best to protect their family, their community. These really are examples of what we believe the system of public health and environmental protection must be based on.

First and foremost, tough protective standards and vigorous enforcement of those standards. Any business person who make an investment to meet environmental standards has the right to know if their competitor doesn't make that investment and enforcement action will be taken. They have a right to a level playing field. And that is what an enforcement program is premised on in some measure.

Second, environmental protection, economic progress do, in fact, go hand in hand. That you can have both. They we don't have to choose between a healthy

economy and a healthy environment. I think that has been proven over and over again in the last five and a half years — everything from brown field redevelopment to cleaner cars to new environmental technologies. When implemented wisely and in a common sense manner, you can have both strong public health, strong environmental protection and a robust economic prosperity growth. That you don't have to choose between the two.

Third, we recognize that government can't do the work alone. That the progress that we must make, the challenges that we must face hinge on people working together — industry, government, communities working together to find solutions to get the job done. Forward progress also hinges on providing incentives, providing flexibility; being willing to reward those who are willing to go forward, who are willing to go beyond compliance with the law, who are willing to push the envelope, to create the new technologies, to find the new answers. We can't simply reward people for doing the bare minimum. There will always be those who simply want to be told what to do, when to do it and how to do it. And that is fine but you should not develop your entire system of public health and environmental protection around those. Rather you should reach out to the companies, to the individuals who have the creativity, who have the ingenuity, who have the desire to go further and who, in going further actually provide all of us with the new solutions, the new generation of technologies.

So, when you all ask where do we go from here, what will the next generation of environmental protection look like, I would say to you that it's not a question that is answered in one sentence. It's not a question that's answered in one day. It is something that we have been at work and we will all be at work at in the coming years. It is something that has to constantly capture where we find ourselves as a society, where we find ourselves in terms of new technology, where we find ourselves in terms of better information to inform the decisions that we have to make.

An example of the kind of partnerships that we think are really important to this effort is a partnership that we announced just last week. The Vice-President announced a partnership between the Chemical Manufacturers Association, CMA, the Environmental Defense Fund and EPA. I don't think in the five and half years that I've been in this job I've had the opportunity of standing with a group as arrayed as that — from the chemical manufacturers to one of the leading environmental organizations to government. And it's important to understand why this agreement has such significance. Historically, EPA has not really had good authority, some would say we've only had limited authority, to require that the chemical manufacturers actually test the chemicals that move in commerce. There are literally tens of thousands of these. Many of them were grand-fathered in when the environmental laws were first put on the book. The burden was put on EPA to show that they were not safe rather than on the companies to demonstrate their safety. And so, for many of these chemicals little or no testing was make available to the public. What this agreement does and it is a voluntary

agreement is bring CMA, EDF together. We have agreed on a list of three thousand chemicals there — the most commonly found chemicals, the most commonly in use chemicals in the United States — and we've agreed to a testing protocol. CMA did not have to do this. Their member companies did not have to agree to this. EPA's role in this is will be to serve as a back stop in case there is a problem, in case the appropriate testing hasn't been done, in case it hasn't been made available, we can then use that small part of the law that really hasn't been that valuable to us thus far, we can use it to bridge whatever gap may exist. But these are the kind of partnerships, I think, the kind of examples of how we can sit down with industry, with environmentalists, that we can work together to make a difference that results in better decision making, better environmental and public health protections.

I think that as we look to the future, without a doubt, the greatest test of our ability to make sensible, to make firm, to make strong environmental and public health decisions will be within the context of global warming. It is without a doubt a challenge that will require all of us, all of the nations of the world to work together. Now, there are still those who would suggest this is not a real problem. That we don't know enough about this problem. Yet, we have two thousand of the world's experts on global environment all saying there is ample evidence for the first time in history pollution from human activities is, in fact, changing the Earth's climate; two thousand scientists. I don't know if any other public health or environmental issue that has had that kind of support, that kind of recognition in the scientific community. The average surface temperature is now a full degree Fahrenheit higher than it was at the beginning of this century and it may rise another two or six degrees over the next century. Already, we've been experiencing the heat. Looks like 1998 will probably be another year of record high temperatures. We've certainly seen that here on the east coast, certainly here in Washington, D.C.

What does the scientific community tell us about this temperature rise? What does it mean over the course of the next century? It means more frequent, more intense heat waves causing heat related deaths, thousands of heat related deaths. It means severe droughts. Floods will become more common like many of the floods we've seen over the last several years. Tropical diseases like malaria will expand their range. Agriculture will suffer. The oceans will rise, perhaps by several feet over the next century, swamping many, many coastal areas. As the President has said this is a great challenge for our democracy. We have the evidence. We know that the train is coming. We may not know precisely when but we know the train is coming. But for most ordinary Americans in their day to day lives they cannot yet hear the whistle blowing. Now, those who oppose any action, even the most cost effective, the most sensible, simple steps are really, I think, distorting the public debate on this topic. I don't think there's a day that goes by where I don't pick up some newspaper, see some TV show where there's another ad attempting to really portray the fight against global warming as a loser for America. You have these ads warn of dire consequences,

higher fuel prices, economic catastrophe. I mean the list goes on and on of the bad things that will come if we begin to take the steps to address the problem.

Now, remember you have two thousand scientists telling us it's real. You also two thousand economists, including something like six American Nobel prize winners, telling us that we can, in fact, tackle global warming without harming the living standards of the American people. You even have a economists that go so far as to say that measures to combat global warming could actually improve U.S. productivity. You even have industry leaders. It's not simply economists. It's industry leaders out there saying that this can be done and making public commitments, acting on their commitments, their vision of the future. You have, take the CEO of British Petroleum, Sir John Brown, he has said over and over again that he actually sees economic opportunity in reducing his company's greenhouse gas emissions. He's not simply doing this because he thinks it's the right thing to do for his children or his grandchildren. He sees economic opportunity for his country. His company has actually — did I say his country, I meant his company. His company has actually committed to a ten percent reduction in their emissions from 1990 levels by the year 2010. That is more than the nations of the world committed to in Kyoto. He actually goes further than what was negotiated in Japan earlier this year.

Addressing the problem of global warming is not about rationing down our economy. It is about investing in new technologies. It is about using America's technological leadership to develop new ways, to make new things. It is what we have long been so good at — finding the best solutions, meeting the challenges, growing our economy. You know, I really believe that those who are first in bringing the efficiency, the pollution reducing technologies into the market are going to be very, very well positioned in the global economy of the twenty first century. I f you talk to people who have looked at the opportunities. The National Academy of Scientists says that we can cut global warming pollution by one fifth right now today at no cost simply by taking advantage of technologies already on the market. That, in fact, many of our industries by using these energy efficiency technologies would not only be doing something to reduce greenhouse gases, they could actually save money in the process. Using, for example, a typical manufacturing plant, by using already available technologies can cut its pollution and energy use by ten to 20 percent and recoup the investment in those new technologies in about two years. After that, all of those energy savings are pure profit.

We also know that for many homeowners they can cut their energy bills by as much as 30 percent by using new energy efficient appliances, heating, cooling systems, building materials, insulation. We're working in partnership with the automobile industry, with the manufacturers. We believe in the not too distant future, you will be able to choose a car that gets as much as three times the gas mileage of today's vehicles. A typical car today emits more than 10,000 pounds of carbon dioxide each and every year — tripling the gas mileage will go a long,

long way towards reducing greenhouse gases.

At EPA we've been working in partnerships with businesses across the country. We now have more than 5,000 organizations and businesses including some of the biggest companies in the country — Walt Disney, IBM, Weyerhaeuser, all working in partnership with EPA to use energy more efficiency and everything from television to computers to lights and office buildings. The Empire State Building is part of the program. They're replacing windows, changing their light bulbs, reducing their energy use. Another example of how the administration recognizes that to meet the challenges of the future, the simple tools of the past, of the command and control tools of the past will not be adequate. You need to build partnerships. You need to understand what is in the interest of those that you are asking to make these kind of investments. And in these partnerships at the end of the day, it is about the bottom line. It is about saving money.

In 1997, the partnership programs that we run at EPA prevented the release of nearly 60 million tons of carbon dioxide and at the same time it saved businesses and consumers more than a billion dollars in energy because these are real savings. Clearly, the opportunity, the stakes are high for America's competitiveness. When you look at the global market for new technologies, for environmental technologies, for energy efficiency technologies, the estimates run as high as 80 billion dollars a year — that's the global demand for these kind of technologies. And many people think that this is a market that will grow significantly over the next decade. Clearly, the United States is a real leader in developing the new technologies but other countries are seizing the opportunity. Japan just recently announced a new set of incentives designed to stimulate 14 billion dollars in new technologies. They're making the investment because they recognize the world wide market for these technologies. If the United States is going to be able to keep it's competitive edge, we're going to have to do same. We're going to have to invest in the technologies that actually prevent the pollution. Now, many of you are probably aware that the President did propose as part of his balanced budget agreement six billion dollars in tax cuts, research and development to encourage innovation, to encourage renewable energy, energy efficient homes, to build the kind of partnerships that we're already building, to find the innovative, the creative technologies that will allow us to participate in this global market and at the same time find the common sense, the cost effective solutions necessary to fight global warming.

We also believe important in that effort will be the marketplace, working through emissions credit trading programs, allowing companies to decide where to make the investments to get the pollution reductions, using market based strategies, capping emissions and then saying to the business community you decide where it is most cost effective to find the reductions necessary to meet the standards. We have — many of you may be aware of this, but have had real successes using these kind of market based emissions credit trading programs. The acid rain program is a great example. The actual cost of reducing the pollutants that

cause acid rain has turned out to be significantly lower than anyone, industry, EPA, anyone estimated and that is because the business community was allowed to make the decisions. They were allowed to decide where to make the investments as long as the cap, the overall emissions reductions were being met. Government didn't get involved in whether it was this facility or that facility. We let the market control those decisions.

EPA just two weeks ago has encouraged the northeast states, the District Columbia and the 27 sort of eastern states, think of the Mississippi east, to set up a program now to deal with smog. A similar type of program, an emissions credit trading program to allow utilities and very large industrial sources to trade as they bring on line the technologies to reduce the pollutants that contribute to the formation of smog. Unfortunately, EPA does not have legal authority to set up the program on its own. Congress didn't grant us that authority. But what we've done is put together a model program and we're encouraging all of the states to sign up to the same model program so they can actually trade across state boundaries. Many of the state are already trading within their states, Massachusetts, New Jersey and others but we'd like to see a regional approach to this problem because, again, the more trades you have the lower the cost of meeting the standards. What these type of programs allow us to do at EPA is continue our work based on the available science, to set the tough public health, the tough environmental standards that the science warns while giving industry, state/local government the flexibility to find the cost effective ways to actually meet the standards.

Now, all of this, I think, makes lots of sense. Unfortunately, we are still faced with a Congress that doesn't agree with us in some part. They are continually trying to discredit the science, to scare the public with dire predictions of, you know, the economy will collapse rather than working with us to take the kind of common sense steps. You know, if you think back, it was almost now ten years ago, when the first proposals for acid rain and a market based program were put forward; catalytic converters, when someone said, you know, you can have a cleaner car; substitutes for ozone depleting chemicals, when the first people said you don't have to — there are substitutes for those things which deplete the upper ozone. There were many, many people who said no, it's going to cost too much. We don't have the technology. And yet in every single instance we found the answers. We found them at a far lower cost than anyone predicted. We found them more quickly. In the case of CFC, chlorofluorocarbons, no one, no one, believed there would be a substitute within the time frames laid out in the law. It happened, I think, three or four years earlier than what the law provide for. In part, because there were companies out there who recognized the financial rewards associated with being the first or being the second to find the substitutes. And as we look to the challenge of global warming, I think it is important to remember this history, to remember that every time some have said it wasn't possible, it would cost too much, they've been proven wrong. It's not to say that this is not a small problem. It's not to say that it won't require the most

creative, far reaching visionary thinking ever. But it is certainly a problem that we have to address. And in addressing it sooner rather than later, we have a greater opportunity to find those cost effective, those sensible solutions. If we don't address the problem, if we wait for the sea level to rise, if we wait for agriculture to be disrupted, what will be the cost of solving the problem then? In human terms the cost would essentially be all but impossible to calculate. I mean, what is the dollar amount you assign to the farmer put out of business, the coastal water under water.

I come from Florida. In the area part of Florida that I come from if they don't have their beaches, if they don't have their tourism industry, they don't exist. There's one study that shows that to replace all of the beaches that could be destroyed because of sea level rise would cost 9 billion dollars, just in the state of Florida alone. Those beaches are fundamental to their economic well being. You know, what about the drinking water supplies that are lost because the salt water intrudes into the underground aquifer? What about the child who has a disease that could have been treated by a rare plant that is now gone extinct?

Let me say something here. I want to thank Brookings for its recent work on cost benefit analysis. This is an incredibly important policy tool to be sure. But let's also remember its limitations — the value of human life, the value of government's moral duty to protect its citizens, the value of forward thinking actions are really lost in a strict cost benefit economic analysis of solutions to these problems. I think the climate change debate really shows it quite well. You know, disputes about whether benefits outweigh costs can get bogged down in endless arguments about the legitimacy of underlying assumptions. We will not all agree on the value of a human life. That is an incredibly subjective undertaking. It's not something that I'm even comfortable with. It is something we have to do at EPA because we are required to look at the number lives that will be saved and to place a value on that as part of a cost benefit analysis. And I dare say if we went back and looked at and used the tools of cost benefit analysis when we made the first decisions about protecting our environment, about protecting our air, our water, we might find that in many instances the costs of reducing the pollution actually outweighed the benefits. So, let's remember as we look to the future, as we work to address some of the greatest environmental challenges that the world has ever faced that we will only be able to do it if we are open to opportunities, if we are willing to take those tools which have served us well. Market based incentives, new technologies, investment in new technologies. And if we're willing to recognize, and this is hard for us at EPA, it is hard for some in the environmental community, those things which have not, perhaps, served us as well. Those rules, those means of meeting the standards, which in fact, discourage innovation, discourage creativity, discourage ingenuity.

You know, maybe the question, there's a simpler way to put the question. Do you fix your leaking roof on a sunny day or do you wait until a couple of months down the road when it's already raining, again, and more damage is being done? You

fix your roof on a sunny day. If you believe two thousand climate experts, if you believe two thousand economists, then the time is now. The opportunity is now. And our ability to find the better answers, to find the more cost effective solutions, the more sensible solutions is now. If you wait, the choices will be very limited and they will be very, very expensive.

As we look back at the true thinkers of our times as those who challenged the status quo and think about the good that came from the questions they posed, a hundred years from now let us all hope that the people of the world will look back and say of our generation that we saw the challenge, that we answered the call and that we didn't flinch in the face of our responsibility to build a better world. It will not be easy. It has never been easy. But as it was true, 30 years ago when we put the first environmental laws on the book and we made the tough the decisions and we developed an entire system of law designed to protect where we live and how we live, it is only by beginning to take the steps today will we be able to meet the challenge and be suited to make the best decisions. We'll certainly make our mistakes. We certainly made our mistakes in the last 25, the last 30 years but out of that we will learn and out of that an even better system will develop. And that's really what we have committed ourselves to in this administration at EPA as we have sought to reinvent the system that guarantees all of us clean air to breath, safe water to drink and a healthy community in which to raise our children.

Thank you all very much.

MR. MANN: Ms. Browner has agreed to take some questions so I invite those from the floor. By the way, I was going to say I was with you the whole way until you got to the point of the six Nobel Laureate economists and then I really began to get nervous. You know, would six Nobel Laureate economists have three times the impact of two working on hedge funds.

MS. BROWNER: Yes.

PARTICIPANT: Can you just brief us a little bit about what's been going on in the appropriations' process? The efforts that have been made to introduce destructive amendments, how successful you've been in fending them off.

MS. BROWNER: The good news is in terms of the Environmental Protection Agency we have been very, very successful. You know, we all remember three years ago now when the EPA appropriations' bill had 17 different legal prohibitions on my ability to do our job, whether it be to take enforcement actions, to set public health standards, 17 different bill languages as we refer to them, riders. We didn't see that kind of activity this go around in terms of EPA. Unfortunately, we're seeing over at Interior but not in terms of EPA.

And I'll tell you why I think that's the case. I think that the leadership in Congress

discovered three and a half years ago while they may think the air is clean enough and the water's safe, the American people don't agree. And if the American people want anything from their government, they want their government to protect the things that we all share. That they really view this as a very, very important function of government. And so the response to this kind of attention from the public, this outcry from the public was all those things eventually got removed. If you remember there were votes and they were on and they were off and they were on they were off. EPA was shut down, reopen, shut down, reopen. But eventually, they were removed and we moved forward. We come to this round and people are a little bit more sophisticated. They know we're going to cry loudly if there are limitations on our ability to protect public health. If you want to change EPA's authority, let's have a national debate. Let's do it in the Clean Air Act. Let's do it in the Clean Water Act. But don't try and do it, you know, in the dark of night in an appropriations bill that nobody knows what you're talking about.

What they have done or what they did try to do is go into what's called report language. So, the document that sits with our money that sort of says, "Well, we think you should do this. We think you should do that," included a whole host of recommendations including such things as you really shouldn't dredge any more PCB contaminated sediment until the National Academy of Sciences finishes some study, which no one seems to know when it would be done. Similarly, on mercury, you really shouldn't take the next steps in terms of making decisions about whether or not to regulate mercury emissions until some study gets done. And there were any number of these sort of statement, paragraphs, directions in our appropriations' report language. There was also one piece of bill language, which we objected to and it went something along the lines of — I mean, I'll just paraphrase it. I couldn't even contemplate climate change. I never even figured out what that meant. I guess I couldn't have come here today and given a speech about climate change because clearly I had to contemplate climate change to be able to give a speech about it. But that was actually in the language. We got that fixed. We've gotten our report language fixed. We can work with all of it and continue to do the things that we think are important.

Unfortunately, the Interior language has not been fixed. As of this morning, the Interior bill continues to have a long, long list of prohibitions on their ability to take certain actions and, you know, depending upon where the negotiations go today, that could be one of the last issues resolved. There didn't — I checked late yesterday — there didn't seem to be a lot of movement on a number of those. But as we all know in Washington, it's not over until it's over and everything has a way of sort of coming together at the last moment. But the President, the White House has been very clear about its opposition to those Interior riders and many people have recommended, within the administration, have recommended to the President a veto of that bill should it be presented in its current form.

MR. MANN: All right. Yes. Please.

PARTICIPANT: Yes sir. You've spoken quite eloquently of the aspects of, the international aspects of climate change and the need to move in this direction. One specific area I wanted to ask about though, what you anticipate happening next month at Buenos Aires and the follow up to the Kyoto protocol.

MS. BROWNER: First of all, I think, it's important to understand that Buenos Aires is not Kyoto. Kyoto was about negotiating an agreement. And the United States was very, very successful in those negotiations. For example, we can into the negotiations with Europe, the EEU only wanting three of the greenhouse gases covered. The United States wanted all six and we were able to get all six covered. We came into Kyoto wanting a recognition of market mechanisms, emissions credit trading. We achieved that. We wanted a recognition of joint implementation and through the clean development mechanism we were able to achieve that.

What Buenos Aires will do. It's really the nuts and bolts. It's the working meeting. It's where people come back together now and say, "Okay, we've all agreed on joint implementation. We've all agreed on a clean development mechanism. We've all agreed that there should be some kind of international trading. What are the parameters of those efforts? It's sort of nuts and bolts. It's putting the pieces together. It's taking the next step. But it is not another Kyoto. It is not going back to the underlying agreement. It's really about beginning to put all of the details that will be necessary ultimately for the nations of the world to work together, to really sort of start to fine tune all of that.

Now, let me just say something. That the President continues — the position of the administration continues to be and Buenos Aires will not affect this — the treaty as negotiated in Japan will not be sent to the Senate for ratification until we have been able to develop and do the work with developing countries that, I think all of us would agree is extremely important to the long-term success of the world's effort to reduce greenhouse gases. And there are a number of activities underway, sort of country to country efforts, looking at what kind of relationships that the United States might be able to develop with some of these countries. And I think they're real win, win because, perhaps, you can have trading programs that would allow American businesses to make investments in developing countries. Cleaner technologies would then bring with it all of the benefits to that country, which are not only climate change benefits. Some of them can have very real, very immediate public health benefits. It's a win for American businesses because it's their technology that they're getting to make available to sell around the world. And those are the sorts of activities that are going on right now; starting to build those relationships, country to country relationships, country to country programs that will then allow us to say to Congress, to say to the American people as we believe that the developing nations of the world are properly a part of this effort to reduce greenhouse gases.

PARTICIPANT: (indiscernible) reports that you're contemplating leaving the agency by the end of the year to head the —

MS. BROWNER: You know, the number of rumors — my personal favorite was I remember I was only pregnant for 19 months. That one was out there literally. Yeah, it was like I — what you think I'm going to deliver a baby elephant. I have this incredibly great job. I love what I do. I love being a part of this administration. I think the work we've been able to do across the administration to really shape a new generation of public health and environmental protection has been incredibly successful and I have a lot more that I want to do. I mean, I have no plans to go anywhere.

PARTICIPANT: You made mention of different programs that you're implementing right now to get companies involved.

MS. BROWNER: Uh-huh.

PARTICIPANT: Do you foresee any plans with the EPA trying to expand education programs or grass roots coalitions to try and tell the American consumer or the average household how they can contribute to —

MS. BROWNER: Yes, yes and yes.

PARTICIPANT: Okay.

MS. BROWNER: Let me mention a few things. One of the efforts that we've had underway at EPA over the last several years is expanding what we call the public's right to know. Here's what I believe. I believe that the kind of environmental challenges we face today in many instances will be best addressed because communities come together. Let's take a river, a polluted river. You know, we've already dealt with all the pipes that are discharging but now you have to deal with polluted run-off. It's highly unlikely that some decision we could make here in Washington would fit every single community that faces this challenge because we'd have to a one size fits all. So, instead we've tried to work to give the public access to information about what's happening to their river. What kind of steps they can take so they can become an active participant in making the decisions about how best to protect that river. You know, I really believe that when a local community has access to information, when they understand the information, when they take the time to become involved in the decision making, the decision making about that resource will be far better than any decision we can make here in Washington. So, first is expanding the public's right to know.

Second, is environmental education. Again, as we face more difficult, more complex problems, harder to see problems, we need to make sure that people understand all of the choices available. Now, you should know there are some in

the conservative movement in this country who think that environmental education, particularly in the elementary school, is nothing but an effort to brainwash children. We do run programs. We try and run them in a very factual manner to really give people, you know, sort of all of the information, to give them the ability to come a part of the decision making process.

So, first is public right to know. We now have — EPA has a very large web site and when I first came to EPA we would get on weekly basis a couple hundred thousand hits on our hits. The last time I checked I think we were up at 20 million hits. You don't know how many of those are the same people coming back but what it demonstrates to us is this huge desire on the part of the public to really know what's happening to their air and their water and I think out of that can then grow the opportunity for greater participation.

MR. MANN: Okay, we have time for one last question. If we get the mike over here and go.

PARTICIPANT: You give an impassioned plea for action now on global warming. Can you say anything more about domestically what is therefore being done or will be done next? Or is now a time for arguing, for action and for dealing with developing countries. But what domestically will you be doing?

MS. BROWNER: A simple answer. I mean, one example energy efficiency programs. The energy efficiency programs at EPA, which have been under attack, by some in Congress are voluntary partnership programs. They are not command and control regulations. And they've been hugely, hugely successful. Some of them have literally been oversubscribed before we can even announce them. Many of them were not started by this administration. They were the work of my predecessor, of President Bush and we've just found them to be so successful, we've really tried to expand them. So, taking advantage of all of the domestic opportunities for energy efficiency, building the partnerships that bring with them not only a reduction in greenhouse gases but also a savings to the energy user has tremendous, tremendous opportunity here in the United States.

You should know the EPA budget requests for climate change, which was to dramatically expand those programs. I think the request was, the President's request was about 200 million and I think we only got about 99 million of that request. And yet this is the same Congress that is repeatedly saying to me, "Why don't you go out and work in partnership with the business community? Why don't you use voluntary programs? Why don't you use incentives? Why don't you go outside of the traditional kind of environmental regulations?" That's exactly what we're doing and yet when we do it, we can't get Congress to fully fund our requests. And this may become a subject of the Omnibus bill. We'll see later in the day and tomorrow where that all goes but I think there are tremendous domestic opportunities.

MR. MANN: All right. Carol Browner, thank you very much. We appreciate your willingness to join us this afternoon, for your very informative and spirited presentation. I for one and I bet you everyone here is persuaded you like your job a lot and you're not going anywhere.

We are adjourned.

[END OF EVENT.]