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May 22, 2002

MEMORANDUM FOR MEMBERS OF THE SUBCOMMITTEE ON ENERGY POLICY NATURAL RESOURCES AND REGULATORY AFFAIRS

FROM: Doug Ose 

SUBJECT: Briefing Memorandum for May 28, 2002 Hearing – Environmental Innovation

On May 28, 2002, at 9:30 am, the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs will hold a hearing entitled, "New Concepts in Environmental Policy," in room 209-A of the Argyros Forum Building at Chapman University in Orange, California

Over the past 30 years, environmental protection in the United States has taken a largely top down command and control approach to solving environmental problems. This approach has largely been implemented by pollution type. For example, Congress passed one law to address air, another law to address water, another to address endangered species, another to address toxic waste in the ground, etc.

When the U.S. first began enacting environmental laws, that approach was feasible. In the 1970s, the U.S. was faced with rivers that were catching fire, raw sewage being discharged directly into our rivers and streams, smokestacks billowing untreated fumes, and toxic waste threatening neighborhoods.

Now, there are dozens of major laws and hundreds of minor ones that govern Federal environmental policy. The resulting policies are often fragmented, complex, disjointed, beset by rigidity, and lack coherence. More worrisome is the fact that priorities have changed little since the Environmental Protection Agency (EPA) was founded in 1970 with a main focus on water, air and traditional toxins.

Current environmental problems, however, are more complex than those the U.S. faced in the 1970s. For example, the largest sources of pollution in the nation's rivers, lakes and streams today are agricultural and urban runoff, not industrial pollution. The original top down command and control approach cannot easily solve these problems. For example, the Clean Air Act Amendments of 1990 imposed a mandatory oxygenate requirement for gasoline. To meet that

mandate, petroleum refiners put MTBE (a gasoline additive) in the gasoline supply. Unfortunately, MTBE is now causing groundwater contamination in some areas of the country. In addition, a 1999 National Academy of Sciences study found that the use of oxygenates in reformulated gasoline has little impact on improving ozone air quality.¹ In other words, the command and control approach of mandating oxygenate in fuel has done little to reduce smog and has contributed to groundwater contamination.

Other environmental solutions have been more successful. The same 1990 Clean Air Act Amendments also created a national program in tradable sulfur dioxide emissions, the first of its kind in the country. Under the program, the electrical generating industry is allocated a fixed number of total allowances. Companies are required to hold one allowance for each ton of sulfur dioxide they emit. Companies are allowed to transfer allowances among facilities, to other companies or to bank them for use in future years. In retrospect, the system worked even more efficiently at reducing sulfur dioxide than its proponents had initially hoped. One study conducted by Resources for the Future, an environmental think tank, estimated that the cost of compliance was as much as 140 percent lower than some initial projections.²

As the population of the U.S. and the world continues to expand, the environmental problems our nation faces both domestically and internationally will likely grow not only in magnitude but also in complexity. In order to solve these emerging complex environmental problems, policy makers will need to explore innovative and flexible solutions.

Invited witnesses include: Wayne Nastri, Regional Administrator, EPA Region IX; Professor A. Danny Ellerman, MIT Center for Energy and Environmental Policy Research; and Kenneth Green, Director, Environmental Program, Reason Foundation.

¹ National Research Council, *Ozone Forming Potential of Reformulated Gasoline*, National Academy of Sciences, 1999, p. 7.

² Dallas Burtraw, "Innovation Under Tradable Sulfur Dioxide Emission Permits Program in the U.S. Electricity Sector," Resources for the Future, Discussion Paper 00-38, September 2000.