

## TESTIMONY OF HOWARD ROITMAN

September 9, 2003

Good afternoon Mr. Chairman and distinguished members, we would like to thank you for the opportunity to testify this afternoon on HR 37 and HR 2138, pertaining to the elevation of the U. S. Environmental Protection Agency to cabinet status. My name is Howard Roitman, and I am the Director of the Office of Environmental Programs, at the Colorado Department of Public Health and Environment.

The Colorado Department of Public Health and Environment conceptually supports HR 2138 because it not only elevates EPA to cabinet level, but it also makes tangible first steps toward bringing our laws into the 21<sup>st</sup> century. HR 2138 does this through the reorganization of EPA to: strengthen science, provide more consistent oversight for the regional offices, and provide leadership for the program offices and centralized policy making.

There is no question that the current regulatory system has garnered significant environmental improvements over the past 30 years. However, these laws were designed to resolve discrete problems that existed at the time. Congress did this through passing laws that dealt exclusively with air, land or water. This single media approach has been effective in achieving environmental improvements, but has also resulted in a fragmented, patchwork of regulatory programs and requirements. This patchwork makes it more difficult to achieve the cross-media environmental challenges of the future. New and innovative approaches and ideas will be necessary.

So, today with HR 2138 before you, we are at a cross road – you have the opportunity to direct the federal and state environmental programs as to which direction we will move in the future.

If we open one door, we will continue down our current path – a single media, command and control approach, which often discourages innovation and efficiency. This path will continue to require more prescriptive, technology-based controls without considering the cross media impacts of our decisions. And we will continue to struggle with how to address transfers of pollutants between media.

To illustrate our point, the current federal programs, being media specific, are not required and often are not allowed to consider the cross media impacts of the decisions we are making. If the air program has a regulation that requires a company to install a control device, such as a wet gas scrubber, the program is typically only allowed to consider the percentage of air emissions reductions that are gained from the proposed control. This means in deciding what controls to require, we do not consider the resulting hazardous waste generated by the scrubber that must be transported, stored, treated and disposed; we do not consider the treatment system that must be built to treat the wastewater generated by the control; we do not consider the increased in energy consumption – which increases air emissions; we do not consider the increased water usage – a precious natural resource; nor do we consider any other increase in natural resources consumed as a result of this decision. Instead, the program simply considers – the scrubber can control 99% of the sulfur dioxide emissions out of the stack. In the alternative, the company in our example could use a catalyst additive that once spent or used, is purchased by a cement manufacturer which uses it as product in place of mining additional limestone – thus, avoiding an environmental impact; the catalyst does not generate wastewater that then must be treated, nor does it use as much energy or water as the scrubber. The catalyst will control 95% of the stack emissions. We call this the “environmental balance sheet” approach to making environmental decisions – consider both sides of the balance sheet the costs and benefits of an option. This approach is discouraged and at times not allowed under the current system. The air quality program staff is told their job is to ensure air quality is benefited to the greatest extent possible. As a result, there are significant institutional, policy and regulatory barriers built into the current system preventing EPA staff from using the environmental balance sheet approach.

If we stay on our current path, we will continue to drive companies’ environmental staff to be “paper pushers” instead of environmental problem solvers. The current system requires an enormous amount of record keeping, reporting, and monitoring for each media program. This results in companies spending an inordinate amount of time and resources providing us information and very little time trying to solve environmental problems. The environmental professional in this country is one of the most underutilized resources in our companies. If utilized as a problem solver, this person can be a profit center for the company – driving ideas for greater efficiencies and reduced costs. A multi-media system that better coordinates and streamlines these administrative requirements can achieve this end.

This path will also drive companies that are environmental leaders to continue to push against the prescriptive nature of the federal programs. These companies are moving beyond our current regulatory requirements and towards eliminating all wastes, using renewable energy resources, and prevention pollution before it happens. Certain prescriptive programs discourage and impede these opportunities. We also fail to full the “resource conservation” goals of environmental statutes like RCRA.

So, what is the alternative path? This path, which can be achieved through the concepts in HR 2138, would require agencies to make environmental decisions considering the environmental balance sheet or cross media approach. This approach asks the question – which solution to the environmental problem at hand results in the greatest environmental benefit with the least environmental cost? This allows companies to select the most efficient approach, such as preventing pollution before it is created, engineering the use of toxics out of products, and designing products that have no waste stream.

This alternative path will require the federal and state programs to gather better information and utilize that information when making decisions. This is why the creation of a Bureau of Environmental Statistics and the other Science and Technology elements of HR 2138 are important. Agencies will be required to continually assess, using data and science, what are the greatest environmental issues that need to be addressed and whether the current programs are successful in fixing these problems. This will not only encourage, but make essential to success, innovative approaches. It will also ensure that we have identified the real problem, the causes behind it, and allow us to evaluate the alternatives most effectively.

This path has several benefits. First, it will require EPA to consider the full impact of its decisions on the environment. Second, it will encourage innovative programs and ideas to be embraced by the agency. Third, it will garner even more significant environmental benefits. Finally, it will encourage companies to search for the most efficient approach to reducing environmental impacts, which usually results in making the company more competitive on a global scale.

Colorado is currently implementing the alternative path – but continues to run into roadblocks. Some of these are encountered by different approaches and interpretations taken by different offices of EPA. Sometimes there are differences among program offices, like OSWER and OECA; sometimes differences

between Regions and Headquarters; other times among Regions. What we are looking for is a federal system that requires cross media approaches and encourages and integrates innovations. The goals of this system would be: 1) to better collect and utilize data, 2) to achieve greater environmental benefits, 3) with less process, 4) while placing a greater degree of responsibility on the company to select the method of achieving compliance. We know this is possible, because we are moving down that path today. The way down this path could be made much faster and easier with better program implementation coordination and accountability.

So, we are at that cross road – one direction is the status quo with a diminishing rate of return on our investments; the other direction, proposed by HR 2138, provides us the opportunity to embrace innovations and efficiencies, consider the environmental balance sheet in decisions, and better collect, analyze and utilize the information we gather.

Thank you for your time and attention. I am pleased to take any questions at this time.