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STATEMENT OF
ANNE MCGILL GORSUCH
BEFORE THE
U.S. SENATE COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS

May 1, 1981

Date: 5/1/81

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STATEMENT OF
ANNE MCGILL GORSUCH
PRESIDENT'S DESIGNEE FOR ADMINISTRATOR OF
THE ENVIRONMENTAL PROTECTION AGENCY

Mr. Chairman and Members of the Senate Committee on Environment and Public Works:

It is a singular honor and privilege to appear before you as President Reagan's designee for Administrator of the Environmental Protection Agency.

As you may know, the Administrator's position is one which I actively sought, and I feel that my reasons for so doing are relevant to your deliberations today.

In my opinion, and I am confident that you would agree, the position of Administrator of the Environmental Protection Agency presents one of the most challenging and critical opportunities in government to formulate and implement significant domestic policy.

In light of the policies of President Reagan, the challenges and opportunities of the position are enhanced. The Administrator must manage one of the largest federal agencies in America—large both in terms of numbers of employees as well as budget—to implement policies which can achieve the important national objective of enhancing and improving our national environment in a manner that accommodates the objectives of change which are the hallmarks of this Administration. The task presents enormous opportunities and challenges.

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The President is committed to the preservation and enhancement of environmental values, and that is a commitment I share.

The President is committed to achieving a new federalism in which the decisions and the power to implement those decisions will be shifted from the banks of the Potomac back to the level of government which is closest and most accountable to the people it serves. I share that commitment. No greater opportunity exists for implementation of that new federalism than that presented to the Administrator of EPA, who is charged with exercising powers and duties, the clear Congressional intent of which was to involve the state governments as full and active partners in the achievement of national environmental goals.

The President is committed to regulatory reform, and here I believe it is important to emphasize that the reform is not limited to withdrawal of unnecessary or overly burdensome singular regulations, but envisions a much broader scope involving the process by which new regulations are formulated and current regulations evaluated. We should seek and accept input from all points of view, evaluate alternatives in light of best possible information, and then select the least costly options--in terms of both indirect and direct costs to the consuming public--consistent with the goals and policies of the law. I share the President's commitment to the goal of regulatory reform. I am confident that you will concur in my judgment that there is no greater opportunity to effectuate that goal than the opportunity to serve the people of this country as the Administrator of the Agency charged with developing the regulatory framework for such vital industries as farming, steel, autos and

mining, to name a few. How such industries are regulated impacts the daily lives of each of us through our utility bills, the market availability of new chemical substances, and the control of pollutants in our air, water and land.

Though the following is not intended to be exhaustive, we know that the President is committed to achieving our national goals with expenditure of less of the taxpayer's money, that he is committed to the development of domestic energy resources, to the careful husbanding of our natural resources, to the revitalization of industry, to the creation of new jobs, to the elimination of the governmental causes of inflation, and, as I stated earlier, most certainly to the preservation and enhancement of environmental quality. I share these commitments and recognize the great opportunity to participate in the achievement of those goals, as a public servant exercising the powers and duties granted by Congress to the Administrator of the Environmental Protection Agency.

The challenge of administering the Agency in a manner which will achieve those goals is enormous and intricate—one which I am eager to undertake.

While there is no organic act which delineates the several duties of the Administrator, it is clear from an examination of the several statutes that the requirements for the position are several. The Administrator must be an experienced policy maker and an effective communicator of the policies developed, must have the ability to make decisions within broad grants of discretionary authority, must be able to understand and implement policy within the

framework of a budget, and must also be a careful manager of time and resources. Additionally, the Administrator of the Environmental Protection Agency is charged with several judicial functions requiring the careful balancing of all relevant evidence and the independence of thought necessary to arrive at equitable decisions.

I appreciate having had the opportunity to meet with most of the members of this committee on an informal basis, but in light of the requirements, I feel that it is appropriate here to formally acquaint you with some of the elements of my prior experience and training which may be relevant to your consideration of the President's nomination, before discussing the specific objectives which I intend to pursue in the position.

I do not come before you as one of a select handful of people who can claim to have managed a company or government agency of the size and with the scope of the Environmental Protection Agency. I do, however, feel that my education and experience provide me with the broad background sufficient to warrant your endorsement of the President's selection.

I was born in the State of Wyoming but my family moved to Denver when I was a young girl, and it has been my home ever since. I received most of my formal education in Colorado, graduating with a Bachelor of Arts from the University of Colorado in 1961 and my degree from Law School from the same institution in 1964. My education at the undergraduate level concentrated on political science and economics. I was fortunate to have the opportunity to study in Mexico City at various times prior to the completion of my

his school education, and to participate in the Fulbright program in India immediately afterward.

As a long-term Coloradan I come before you with a deep appreciation of the unique beauties which we enjoy in our environment --the majesty and grandeur of the Rocky Mountains, the openness and sense of space of our eastern plains, a climate which enjoys the variety and change afforded by each season of the year. As a Westerner I come before you with a profound appreciation for the role that water plays in every aspect of our lives, for the necessity of its conservation and beneficial use.

I have actively pursued the practice of law in various capacities in the last 14 years and the experiences have been diverse.

Among my first pursuits in the legal profession, I shared a job with a fellow attorney and good friend who is present here today, Mrs. Ann Allott. The sharing of responsibilities came as we endeavored to continue our professional careers while starting our families. Mrs. Allott and I were Assistant District Attorneys in Jefferson County with primary responsibility for juvenile prosecutions and the collection of money from non-supporting parents. In that position I had a unique opportunity to come to appreciate the necessity for careful exercise of discretion. As you gentlemen are undoubtedly aware, the grant of prosecutorial discretion is among the broadest and most unfettered enjoyed by any public official. In its exercise there is a necessity for a full understanding of the needs of the community to appropriately prioritize the expenditure of time,

budget and resources. A decision to prosecute on certain cases is, implicitly, a decision not to act upon others.

The experience in the District Attorney's Office likewise prepared me for the management function of the position which I now seek. It was our challenge and our opportunity to refurbish and, in many instances, to create, the component parts of a management system which allowed for the efficient ongoing collection effort. We established a collection system which called for the orderly referral of AFDC recipients; allowed for the prompt handling of non-welfare petitioners; initiated investigative efforts where necessary; corresponded with responding or initiating officials in other jurisdictions and other states; scheduled court time; provided for prompt follow-up; established collection procedures in other branches of the court system and created an internal system for prompt and efficient follow-up on delinquencies.

That experience served me well in my next professional position which was as a gubernatorially appointed hearing officer for the State of Colorado; in effect serving as an Administrative Judge for a variety of State Boards and Commissions.

My entire professional legal experience, especially my service as a prosecutor and Colorado Hearing Officer, has given me a deep-seated appreciation for the necessity of knowledgeable and independent judicial decisions. The cases involved allegations of statutory or regulatory violations by licensees and practitioners and required the unbiased consideration of all evidence presented, an

unbiased and impartial application of the law to the evidence adduced. The law with which I dealt prescribed such unrelated topics as consumer protection, professional standards, regulations to protect the public health, to name but a few.

It was an experience which I thoroughly enjoyed and which stood me in good stead as an elected State legislator, where one is called upon to make decisions in seemingly unrelated policy areas and where decisions must be premised on a fair and impartial hearing of all interested parties, a weighing of the competing policy objectives, an awareness of the fiscal and resource restrictions, a sensitivity to the needs of the people served, and a broad overview of the needs of the State as a whole.

Like many of you who come to the federal effort from a state legislative background, I am sure that you will agree that it is a valuable training ground.

In my first term, beginning in 1977, I served as a member of the Finance Committee, the Appropriations Committee, and as Vice Chairman to the Judiciary Committee. I was the prime sponsor of several pieces of legislation. Among my efforts was a complete rewrite of the sentencing provisions of the Colorado Criminal Code which changed the structure of our law from indeterminate sentencing to prescriptive sentencing, and which is now, after a stormy course, the

law of the State. I was selected Outstanding Freshman Legislator in a press poll of my peers, lobbyists, legislative staff.

In my second term I served as a Member of the Transportation and Energy Committee, and as Chairman of the House State Affairs Committee. Additionally, I served as the majority leader's designee on the Joint House-Senate Legal Services Committee and became its Chairman in the final year of my legislative activities.

As Chairman of the House State Affairs Committee, I worked with a relatively small but effective staff and with fellow members of the committee to resolve most of the politically sensitive measures introduced in the House. Excluding appropriations measures, of the more than 1,300 bills and resolutions introduced in the House and forwarded to the House by the Senate in 1979 and 1980, 245 (or more than 18%) were referred to State Affairs. We acted on every bill assigned to the Committee, and reported out 176. We built a strong record of listening to all interested parties, working with fellow committee members and reporting back to the Assembly in a timely fashion. It is a record I intend to continue.

The Transportation and Energy Committee on which I served, was assigned primary responsibility for most of the bills formulating the State's response to the requirements of the Clean Air Act.

The Legal Services Committee, on which I served first as a member and later as Chairman, exercised the statutory responsibility for developing the budget and policies of the legislative staff, which provided all drafting, statutory publication and revision, rule and regulation review, and legal advice to the General Assembly. Additionally, Legal Services Committee was the focal point for

implementing the Colorado initiative in regulatory reform. This staff consisted of a team of 45 (16 attorneys, 2 paralegals, 2 computer specialists, and 20-25 clerical staff members).

I was one of the primary advocates of a bill which established the regulatory review process. Rules promulgated by the 20 departments in the Colorado State government fill a twelve volume code, which, according to the legislation, is to be reviewed every four years for consistency with statutory authority and legislative intent. In the two years in which I served on the committee, more than half of the codes--by volume--were reviewed, a full third during my chairmanship. In addition, more than 600 new rule submittals were reviewed in 1979 and 1980. It may be relevant to note that this additional work was absorbed without adding any attorneys or staff.

As the prime House sponsor of the Air-Pollution-Control Inspection and Maintenance Legislation of 1980, it was necessary to bring three vastly divergent factions behind a compromise bill that does meet the requirements of the federal law and, as estimated by EPA will reduce CO emissions sufficiently to allow even Denver with its peculiar high altitude problems, to meet the ambient air quality standards by 1987. Having labored on Superfund, I am certain you gentlemen understand how fragile such coalitions can be. Difficult decisions and compromises must be made. EPA's decision to reconsider the adequacy of Colorado's Inspection and Maintenance proposal of 1979, occurring as it did after the Legislature was out of session and after contrary prior representations, did not improve state/federal relations, nor did it provide the healthiest atmosphere for unimpairment decision making. Nevertheless, there is a positive

lesson to be learned from it. The Agency must be cooperative and consistent in its dealings with the states if state cooperation is to be forthcoming.

As a member of the Majority Party Caucus, I took a very active role in evaluating, on a line-by-line basis, appropriations for the budgets of all departments of state government. The decision making process was especially challenging in the final three years of my legislative experience, when total expenditures were limited, by legislation we enacted, to no more than 7% above the previous year's budget.

The Interim Committee on Hazardous Waste (which I chaired), heard testimony from the Health Department, local government officials, interested individuals and industry representatives, and determined that no existing or immediately foreseeable situation warranted continuing the state's authority to override local siting decisions. We also determined that it would not be in the best interest of the State of Colorado to assume primary responsibility for implementing the Federal hazardous waste program (the Resource Conservation and Recovery Act); the disadvantages simply outweighed the advantages. I fully expect that a familiarity with the major and minor elements which make assumption of a federal program undesirable will be a major asset in the job of Administrator. X

Unquestionably, the policy-making communication, management, and budgetary skills honed in legislative service, and the respect for and understanding of the legislative process will be exceedingly valuable in meeting the challenges inherent in the administration of the EPA. These experiences likewise have given me a rich insight

the substance of some of the major environmental issues of our time, and equally importantly, the role of the states and their relationship to EPA.

As a corporate attorney for Mountain Bell, I served as an advocate and a mediator, listening to and coordinating the sometimes divergent views and objectives of various departments, ascertaining policy which best served the interests of the corporation as a whole, and often persuading the various departments to concur. Mountain Bell is the largest employer in an eight-state region, so it was a continuing challenge to mesh the diverse interests on any one issue into a program acceptable to concerned departments in all eight states.

As directly applicable and important as these experiences are, I would not have been able to absorb so many of the necessary management skills, had I not had the experience of being a working mother. Juggling the roles and responsibilities of being a full-time mother and part-time attorney, legislator and politician is among the ultimate in management challenges.

As Administrator-Designate, I recognize three responsibilities of paramount importance: the protection of public health and welfare through restoration, preservation, and enhancement of the quality of our environment; faithful implementation of the intent of Congress as expressed in our environmental protection statutes; and the development of policies that accommodate the national objectives articulated by the President. It is my expectation, if confirmed, to play an active personal role in the development of these policies as they affect EPA and the laws it administers. I have been assured

personally by President Reagan that this will be the case. If confirmed, these will be my primary objectives, and I would expect the American people to judge my performance accordingly.

My implementation of these objectives will include emphasis in the following initiatives.

We must recognize that EPA is affected today by economic, energy and environmental considerations largely unknown when many of the laws were passed. The public is no less committed to environmental protection, but increasingly aware of the need to balance all of these interests. EPA's programs must reflect this public awareness, *thus delegating*

We can and we shall build upon the substantial accomplishments of the last 10 years. [We must continue to improve the quality of our air and water, and avoid any major backlash by selecting the options that provide the best return for the enormous investment involved.]

Our approach to standards and regulations must be result-oriented to achieve the full objectives of national policy. We must focus our thinking on positive approaches that provide the flexibility to encourage innovative alternatives that can achieve the desired results in an equally or more efficient manner.

Permit regulations should be streamlined to eliminate unnecessary steps thereby reducing delays and costs of compliance, without sacrificing either due process or environmental protection. The public does not object to the basic laws in place, but it does, with good reason, object to paralyzing delay.

I believe that rules and regulations issued by the Agency can and must reflect better understanding and consideration of intermedia relationships.

We can and we must improve the scientific and technical basis for the standards and regulations developed. A policy change to require peer review earlier and more frequently in the process could make a tremendous difference. I feel fortunate to have an individual like Dr. John Hernandez designated to be Deputy Administrator. He has the scientific and technical expertise to identify other improvements that can be made.

We shall restore the states to their rightful place as partners with the federal government in policymaking as well as policy implementation. Rather than asking states to effectively enforce programs in which they have had little meaningful input, we will open clear lines of communication to the Governors, Legislatures and state environmental agencies, so that their concerns can be considered early in the regulatory process. My experience has given me great faith in the ability of the states to function as true partners, and I believe that far better environmental protection can be achieved if we will allow the level of government closest to the point of control enough flexibility to implement the protection program best suited to the area and the people who must live in it.

In developing and implementing our national environmental program, we must understand that its success requires the commitment and investment of the private sector, and that ultimately the cost is paid by each individual citizen. Companies do not pay for these costs. You and I, as consumers, do.

We can and must simplify and streamline the regulatory process. Rules too complex to be understood serve only to alienate the public

from the mission of EPA, and that mission is too important to be left solely to the regulated and the regulators.

We have made considerable progress in improving the quality of our environment. Before leaving office, my predecessor reported that, at this point in time, large industrial facilities have a very high compliance rate with water pollution standards. Factories, power plants, and other major industries affected have a very high compliance rate with Clean Air Act requirements. 1981 model cars emit greatly reduced levels of hydrocarbons, carbon monoxide and nitrogen oxides as compared with the uncontrolled cars of the 1960s. We have made good progress in controlling drinking water contaminants, regulating toxic and solid waste disposal, preserving natural ecosystems, and controlling pests while protecting the environment.

Much remains to be done and can be done. The public is fully committed to environmental protection, while simultaneously aware of the need to improve our economy and develop affordable domestic energy resources. A delicate balance must emerge.

I believe EPA must take the lead in developing that balance, cognizant of its opportunities and constraints, its potential and limitations, its historic mission and our changing times. EPA must be non-confrontational in its approach, leading by action and encouragement. I assure you that, if confirmed, this will be my guiding credo.

I am confident that President Reagan did not ask me to serve because of any advocacy position I have taken. I have not made my living fighting for or against environmental laws and regulations.

I am convinced that he has asked me to serve because he believes that my education and experience have trained me to take the broad overview necessary; that my record in the Colorado State Legislature indicated a strong commitment to hearing all points of view and forging workable compromises; that the nature of my public service has made me particularly sensitive to the elements which make Federal programs so annoying and sometimes even unacceptable to the American people; and that—above all else—my total efforts and talents will be committed to restoring, preserving and protecting the environmental heritage that is a critical, integral part of the legacy our children and grandchildren must inherit if they are to know the same freedoms, and enjoy the same choices, that we have known.

Mr. Chairman and members of the Committee, I would like to thank you and your distinguished colleagues for the many courtesies you have extended, and for this opportunity to appear before you.

As I stated before, the challenge of the position is enormous and intricate, and one which, with your advice and consent, I am eager to undertake.

I will be happy to respond to any questions which the members of the Committee may have.

Anne Gorsuch, "Statement of Anne McGill Gorsuch before the U.S. Senate Committee on Environment and Public Works," May 1, 1981, National Service Center for Environmental Publications.

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