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U.S. SENATOR JOE LIEBERMAN CONNECTICUT

Dan Gerstein; Director of Communications 202.224.9414, 202.966.0131 (H)

Kelly Moore; Press Secretary 202.224.9965, 202.224.6095 (Actualities)

Leslie Phillips; Communications, Governmental Affairs Comm. 202.224.0384, 202.338.3372 (H)

Home Page: <http://www.senate.gov/~lieberman/>

**John D. Graham Nomination
to be Administrator, Office of Information and Regulatory Affairs,
of the Office of Management and Budget
Statement of Senator Joe Lieberman
May 23, 2001**

Thank you, Mr. Chairman. The nomination of John Graham to administer OIRA is an important nomination not just because of OIRA's reach throughout the government but because of OIRA's influence over a particular role our government plays - and that is, the protective role. This is a responsibility which - when applied to the environment or the health and safety of consumers and workers - I believe is worth a vigorous defense. It is a role which the public desires the government to play. And now, it is a role which the Bush administration seems to be pulling away from.

I've weighed the evidence carefully. I've reviewed Dr. Graham's history and his extensive record of advocacy and published materials. And I listened carefully to his testimony before the Committee. I am generally inclined to give the benefit of the doubt to the President's nominees. But in this case, my doubts are so persistent, and the nominee's inclinations are so tilted, that I am not convinced he would be able to appropriately fulfill his responsibilities. In fact, I'm afraid he would contribute to the weakening of government's protective role in matters of environment, health, and safety. That is why I have decided to oppose Dr. Graham's nomination.

Among the most essential protective duties government takes on is shielding citizens from dangers from which they cannot protect themselves, such as threats to our national security and violence and disorder at home. But the protective function also includes protecting people from breathing polluted air, drinking poisoned water, eating contaminated food, working under hazardous conditions, being exposed to unsafe consumer products, and falling prey to consumer fraud. This is not big government, it is protective government, and I think it is one of the most publicly supported roles government plays.

Environmental protection, for example, enjoys broad, bipartisan support in our society, and is an integral part of protective, or regulatory, government, in two principal ways. First, in the sense that government regulation preserves some of the great natural resources that the good Lord has given us. And second, regulation protects people from the adverse consequences of environmental pollution, whether it is the impact of air pollution on an asthmatic child or an older person with respiratory problems, whether it is the dangers associated with polluted drinking water, or the risk of toxic pesticides poisoning our farmworkers and children.

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OIRA is the gatekeeper of government's protective role. In recent years, OIRA has reviewed rules proposed by agencies to assess information on risks, costs and benefits before the regulations can go forward. This nominee would continue this traditional role for OIRA. He has charted a more ambitious and, I believe, more influential role, by declaring that he intends to involve himself in the "front end" of the process. I assume this means he will take part in setting priorities and budgets even before an agency has developed its ideas on how to protect the public. It also means he could call upon the agencies to conduct time-consuming and resource-intensive research and analysis before they start developing protections needed under our environmental statutes.

In the hearing on his nomination, Dr. Graham acknowledged his opposition to the assumptions underlying our landmark environmental laws - that every American has a "right" to drink safe water and breathe clean air. Indeed, he has devoted a good part of his career to arguing that those laws misallocate society's resources, suggesting we should focus more on cost-benefit principles, which take into consideration the bottom line but may sacrifice peoples' right to a clean and healthy environment. He has written generally, for example, that the private sector should not be required to spend as much money as it does on programs to control toxic pollution, that he believes, on average, are less cost-effective than medical or injury-prevention programs.

When it comes to specific measures, Dr. Graham has said society's resources might be better spent on bicycle helmets or violence prevention programs than on reducing children's exposure to pesticide residues or on cutting back toxic pollution from oil refineries. Bicycle helmets save lives. And my record is clear on the damage violence does to our society. But the problem is that Dr. Graham's provocative theorizing fails to answer the question of how to protect the health of, for instance, the family that lives next to the oil refinery. His rational priority setting may be so rational that it becomes, to those who don't make it past the cost-benefit analysis, cruel or inhumane.

At the hearing, Dr. Graham sought to allay concerns by explaining that his provocative views were asserted as a university professor, and that at OIRA he would enforce environmental and other laws as written. I appreciate his assurances, but his long-standing opinion that matters of economy and efficiency supercede the environmental rights of the citizenry makes him an unsettling and unlikely nominee to lead OIRA.

Because of what the nominee has written and said he is that much *more* controversial because of the anxiety created by the early actions of the Bush Administration with regard to protective regulations. It began with the so-called Card memo - written by the President's Chief of Staff, Andrew Card - which delayed a number of protective regulations issued by the Clinton administration. The Card memo was followed by action, such as the administration's decision to reject the new standard for arsenic in drinking water; its proposal to rescind the rule to make mining companies responsible for toxic waste left at mining sites on public lands; its delay of the rule to protect mine workers against toxic underground pollution; and its proposal to weaken the energy-efficiency rule for central air conditioners.

As a senator reviewing a Presidential nominee and exercising our constitutional advice-and-consent responsibility. I do not consider whether I would have chosen this nominee, because it is not my choice to make. However, it is my responsibility to consider whether the nominee would appropriately fulfill the responsibilities of the office. Where we are dealing with the protective role of government, I approach my responsibility with an extra measure of caution, because the consequences of confirming a nominee who lacks sufficient commitment to protecting the public are real and serious to our people and our principles.

Taking all of these factors into account, I have reached the conclusion that I cannot support Dr. Graham's nomination. Thank you.