

September 19, 2001

Dear Senator:

Public Employees for Environmental Responsibility (PEER) opposes the nomination of H. Craig Manson for the position of Assistant Secretary of Interior for Fish, Wildlife & Parks. PEER is a service organization representing thousands of federal and state employees within land management and wildlife protection agencies, including the U.S. Fish & Wildlife Service and the National Park Service - agencies that Mr. Manson would oversee if confirmed.

As Assistant Secretary of Interior for Fish, Wildlife & Parks, Mr. Manson would be the key decision-maker on an array of natural resource decisions ranging from how to implement the Endangered Species Act to the direction of our National Wildlife Refuge System. The position also oversees more than 30,000 permanent employees and thousands more seasonal and volunteer employees.

Despite the importance of this position, Mr. Manson has spent very little of his career steeped in natural resource or land management issues. The principal relevant qualification for this position is the approximately six years in which he served as Chief Counsel to the California Department of Fish & Game (DFG).

For that reason, more than passing scrutiny of what happened at DFG during his tenure is appropriate. From accounts collected from scores of current and former DFG employees who have served in that agency with Mr. Manson, a disturbing pattern emerges. According to these current and former colleagues, Mr. Manson's principal role within the agency was to aid politically-connected developers and other permittees, to frustrate strict enforcement of resource protection laws and to work, usually behind the scenes, to weaken interpretations of key statutes and policies.

One case epitomizes Mr. Manson's tenure at DFG- that of a whistleblower named Jerry Mensch. Mr. Mensch, a supervising biologist in the DFG Regional Office responsible for the Sacramento River Delta, received a direct order from the DFG Deputy Regional Director, Jim Messersmith, to sign a permit for a Caltrans (state transportation department) project involving construction on a delta island of a pier with creosote-coated pilings. Despite Mr. Mensch's protest that the permit violated specific prohibitions against putting creosote or other coal tar products into state waters - prohibitions contained in both the state Health & Safety and Fish & Game Codes- Mr. Messersmith insisted, intimating that the order emanated from above his level (on the second tier of hierarchy under the DFG Director). Mr. Mensch signed the illegal permit but then filed a criminal complaint with the Solano County District Attorney who in turn filed criminal charges against Mr. Messersmith. Mr. Messersmith pled no contest to two misdemeanors and promptly retired.

Mr. Mensch was removed from his position and transferred to a newly created position that had no discernible duties. Mr. Mensch brought whistleblower complaints against

DFG and top agency officials, including Mr. Manson. The State of California settled the case for an undisclosed sum and Mr. Mensch still works at DFG.

As Chief Counsel for DFG, Mr. Manson -

- *Was involved in the use of tax dollars to hire a private law firm to defend Mr. Messersmith from the criminal charges;
- *Participated in decisions to punitively remove Mr. Mensch from his position;
- *Hid behind his role as Chief Counsel refusing to answer questions put to him either by the State Legislature's investigating committees or Mr. Mensch's attorney, repeatedly invoking the attorney-client privilege to queries about actions within DFG leading up to the illegal permit issuance.

The State of California settled the civil suit brought by Mr. Mensch, paying him an undisclosed sum and ensuring his continued employment by DFG where Mr. Mensch still works.

While this episode involving Mr. Mensch played out in a public arena, numerous other similar incidents did not draw attention of the State Legislature or end up in superior court. Nonetheless, the nature of DFG actions relative to enforcement of resource protection laws and its own employees who tried to enforce these laws was, by virtually all accounts, similarly dismal during Mr. Manson's time there.

It is precisely because Mr. Manson's qualifications for the position of Assistant Secretary of Interior for Fish, Wildlife & Parks are so thin that whatever presumption owed to him as the President's selection is commensurately thin. The troubling questions raised by his tenure at DFG argue strongly against this nomination.

Sincerely, Jeffrey Ruch Executive Director

PS. Enclosed are a short list of questions we respectfully suggest that you ask this nominee to answer before making a decision on his confirmation.