Congress of the United States
House of Representatives
Washington, DC 20515

April 16, 2003

The Honorable Gale Norton
Secretary of the Interior
Department of the Interior
1849 C Street NW
Washington, D.C. 20240

Dear Secretary Norton:

We are writing to urge you to guard against possible abuses of new Interior Department regulations establishing procedures for issuing "recordable disclaimers of interest" that would have the effect of relinquishing any Federal ownership interest in affected lands.

We recognize that the Federal Land Policy and Management Act of 1976 (FLPMA) authorizes issuance of such disclaimers, and that they can be a useful means of resolving clouded titles without litigation. However, we are very concerned that the new regulations could open the door to undermining protection for some National Parks, National Wildlife Refuges, National Monuments, National Conservation Areas, and other sensitive parts of the Federal lands, including designated wilderness areas and areas being managed to protect wilderness values pending their designation.

This concern arises from the evident willingness of your Department to consider requests for issuance of disclaimers with respect to claims that non-federal parties should be recognized as owning rights-of-way based on the provisions of the Mining Law of 1866 later included in Section 2477 of the Revised Statute (RS 2477) prior to its repeal by FLPMA or with respect to a State's claims that submerged lands passed to the State upon its admission to the Union because they underlay navigable waters.

We think interpreting these regulations as applicable to claims under RS 2477 would be directly contrary to law – specifically Section 108 of Public Law 104-208, which prohibits the issuance of any final regulations pertaining to RS2477 claims without specific authorization of Congress.

Further, we find it troubling that the new regulations are devoid of any standards or criteria to be applied in assessing the validity of asserted claims to Federal lands or to lands that the United States has transferred to another owner. And it is equally troubling that the regulations do not include provisions under which the American public – the ultimate owners of our Federal lands and waters – would have an adequate opportunity to be heard. While the public may comment on a decision to disclaim interest in lands, the process of determining whether a valid right-of-way exists would not be open to the public. This is of even greater concern because the new regulations seem to inappropriately delegate to the Bureau of Land Management final decision-making authority for disclaimers involving national park land and national wildlife refuge lands, apparently despite express statutory provisions of national park and wildlife refuge law.

The response to the new disclaimer regulations has done nothing to allay our concerns. We understand from news reports that State and local governments across the west and in Alaska have indicated they may ask for disclaimers with regard to thousands of claims for rights-of-way under RS 2477. And experience has shown that claims under RS 2477 are seem by some as the vehicle of choice for those who would bulldoze thousands of miles of new roads across some of this country's most sensitive Federal lands.

In Utah, for example, we understand that the State previously told the Interior Department that it intends to assert over 15,000 R.S. 2477 claims that would carve through undeveloped lands and important wildlife habitat in such places as Zion and Canyonlands National Parks, the Dark Canyon Wilderness Area and the San Rafael Swell. We have also seen reports that Moffat County, Colorado is moving toward filing RS 2477 claims that would affect Dinosaur National Monument, Browns Park National Wildlife Refuge, 80,000 acres of BLM Wilderness Study Areas, and other lands in that county. In California, local counties reportedly are asserting RS 2477 claims to more than 2,500 miles of rights-of-way across Mojave National Preserve and Death Valley National Park. And we understand the State of Alaska has signaled its intention to assert sweeping demands for disclaimers involving almost 2,000 R.S. 2477 claims, 900,000 miles of section line claims, as well as claims for title to the beds of 22,000 navigable

lakes, rivers and streams. In fact, reports we have seen suggest that not a single national park, national wildlife refuge or wilderness area designated under the Alaska National Interest Lands Conservation Act (ANILCA) would be spared such claims.

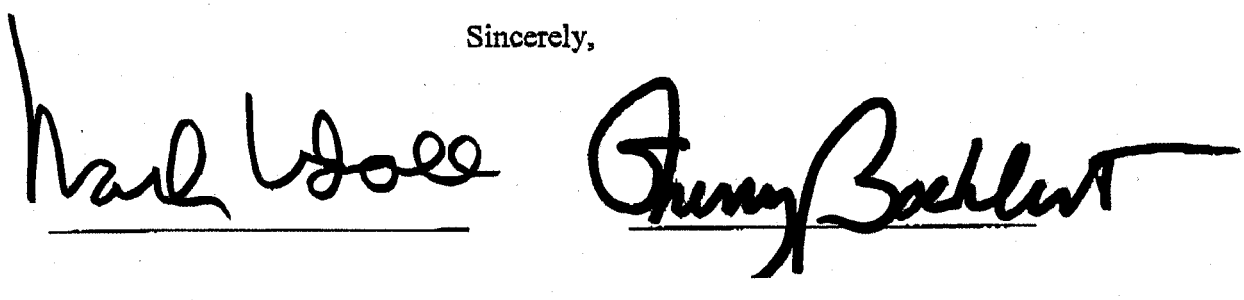
The potential effects in Alaska were well expressed in a document compiled in 1995 by the National Park Service: "The impact of R.S. 2477 rights-of-way on Alaska national park units could be devastating.... The possible R.S. 2477 rights-of-way identified by the state in Alaska national park units cross approximately 3,000 miles of undeveloped fish and wildlife habitat, historical and archeological resources, and sensitive coastlines and wetlands. Eleven of the 16 national park units are completely bisected by these possible rights-of-way.... Validation of the 163 possible RS 2477 rights-of-way identified by the State would derogate resource values and impair the legislative purpose of Alaska national park units."

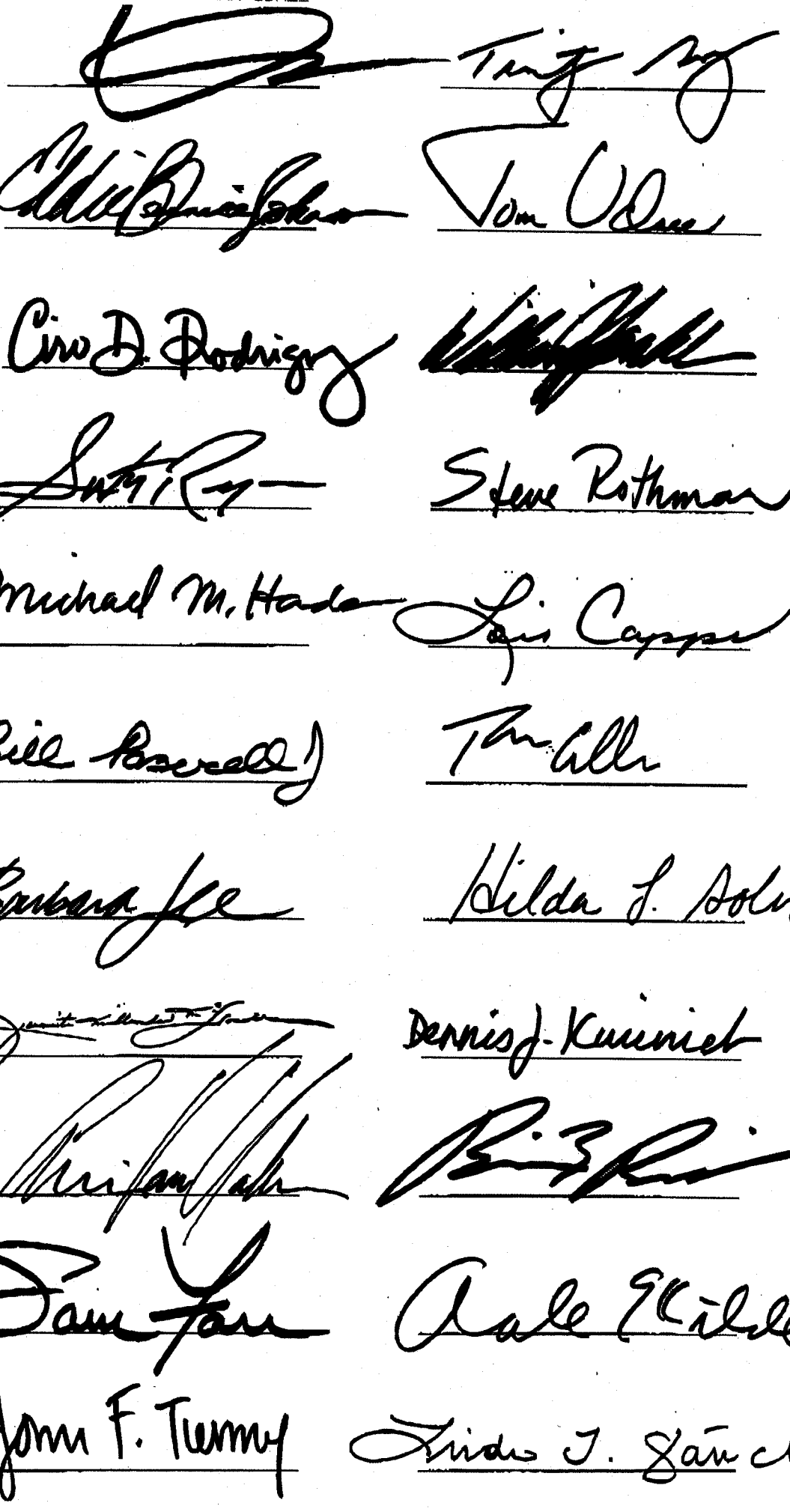
In short, whether intentionally or not, issuance of the Department's new disclaimer regulations has prompted an accelerating wave of road-building expectations in many States. And this in turn threatens to lead to a management crisis of epic proportions for the Federal land managers.

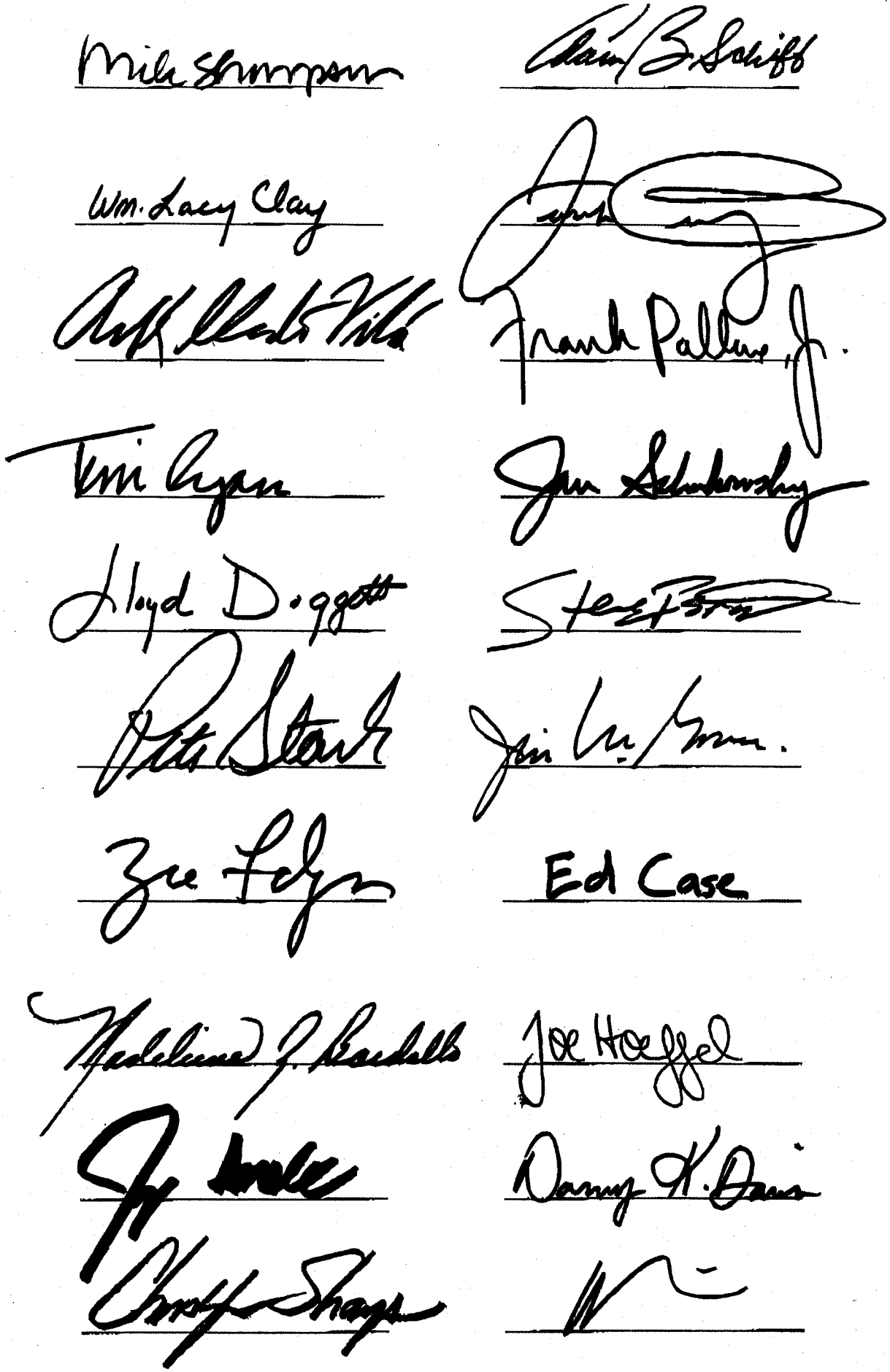
For these reasons, we urge you to suspend the processing of any R.S. 2477 or navigability claims under the new disclaimer provisions, in order to allow Congress an opportunity to address the issue. To do otherwise would be contrary to sound policy and would risk undermining proper stewardship of the Federal lands.

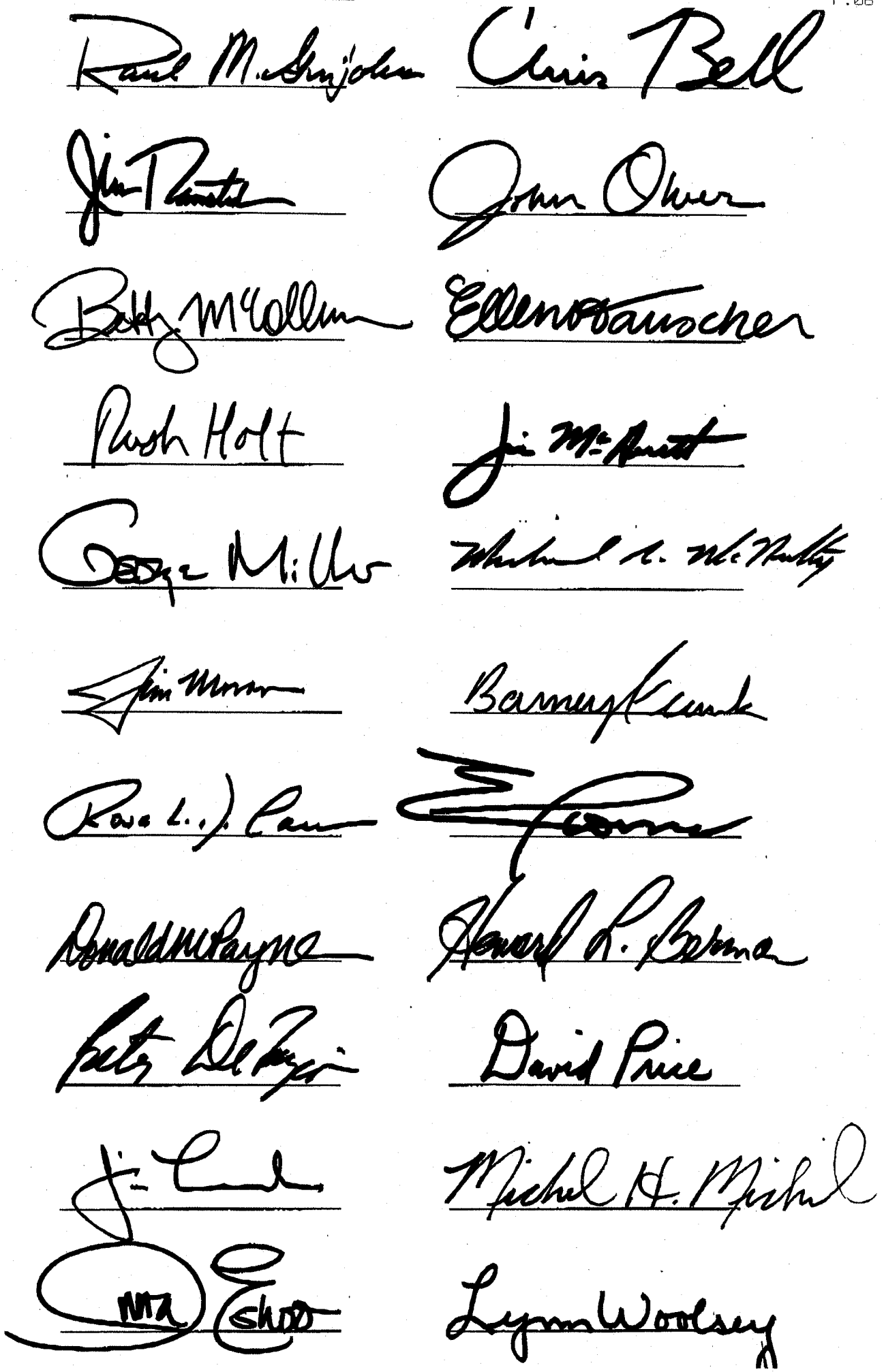
We look forward to your response to this request.

Sincerely,









Jane Harman

Bob Filner

Barbara Boxer

Earl Blumenauer

Louise M. Slaughter

Sander Levin

Peter DeFazio

Debbie Wasserman Schultz

Carolyn B. Maloney

Sherrod Brown

Pete Stark

Jerrold Nadler

Corrine Brown

Martin O. Sabo

Tom Lantos

Richard Neal

Bobby L. Rush

Eliot L. Engel

Grace F. Napolitano

LIST OF SIGNERS ON RS 2477 LETTER TO SECRETARY NORTON

Mark Udall
Acevedo-Vila
Allen (ME)
Baird
Bell (TX)
Berman
Tim Bishop (NY)
Blumenauer
Boehlert
Bordallo
Brown, Corrine (Fla.)
Brown, Sherrod (Ohio)
Capps
Case
Clay, Wm. Lacy
Crowley
Davis, Danny (Ill)
DeFazio
DeLauro
Doggett
Engel
Eshoo
Farr
Fattah
Frank
Filner
Grijalva
Green, Gene (TX)
Harman
Hinchey
Hoeffel
Holt
Honda
Inslee
Israel
Janklow
Johnson, Eddie Bernice (TX)
Kildee
Kucinich
Lantos
Leach
Lee (CA)
Levin
Lofgren
Maloney (NY)
Markey
McCollum
McDermott
McGovern
McNulty
Michaud
Millender-McDonald
Miller, George (CA-7th)
Moran (VA)
Nadler
Napolitano
Olver
Pallone
Pascrell
Payne
Price (NC)
Rahall
Ramstad
Reyes
Rodriguez
Rothman
Ryan (Ohio)
Rush (Ill.)
Sabo
Sanchez, Linda
Schakowsky
Schiff
Shays
Slaughter
Solis
Stark
Tauscher
Thompson, Mike (CA)
Tierney
Towns (NY)
Udall, Tom (NM)l
Van Hollen
Visclosky
Waxman
Weiner
Woolsey
Wu