

**REVIEW OF THE FISCAL YEAR 2012
BUDGET AND PRIORITIES OF THE
ENVIRONMENTAL PROTECTION AGENCY:
IMPACTS ON JOBS, LIBERTY, AND THE ECONOMY**

(112-12)

HEARING
BEFORE THE
SUBCOMMITTEE ON
WATER RESOURCES AND ENVIRONMENT
OF THE
COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES
ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

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U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

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Chairman

Rich J. Rahall, III
Ranking Member

February 25, 2011

James W. Coon II, Chief of Staff

James H. Zola, Democrat Chief of Staff

MEMORANDUM

TO: Members of the Subcommittee on Water Resources and Environment

FR: Bob Gibbs
Subcommittee Chairman

RE: Hearing on a Review of the FY 2012 Budget and Priorities of the Environmental Protection Agency: Impacts on Jobs, Liberty, and the Economy.

PURPOSE OF HEARING

The Water Resources and Environment Subcommittee is scheduled to meet on Wednesday, March 2, 2011 at 10:00 a.m. in 2167 RHOB, to receive testimony from the Environmental Protection Agency (EPA) on their proposed budget and program priorities for FY 2012.

Similar to other budget hearings held by the Subcommittee, this hearing is intended to provide Members with an opportunity to review the President's Fiscal Year (FY) 2012 Budget Request, as well as Administration priorities for consideration in the Subcommittee's legislative and oversight agenda for the 112th Congress.

BACKGROUND

ENVIRONMENTAL PROTECTION AGENCY

The President's budget request for the Environmental Protection Agency is \$8.97 billion, \$1.357 billion less than the FY 2011 enacted level of \$10.33 billion.

Clean Water Act

The Federal Water Pollution Control Act (commonly known as the Clean Water Act), as amended in 1972 by P.L. 92-500, in 1977 by P.L. 95-217, in 1981 by P.L. 97-117, and in 1987 by P.L. 100-4, provides for a major federal/state program to protect, restore, and maintain the

quality of the nation's waters. The EPA has the primary responsibility for carrying out the Act but significant parts of the program may be administered by the states if approved by EPA.

Clean Water State Revolving Loan Funds – The Clean Water State Revolving Loan Fund (SRF) program is a highly successful program administered by states to provide capital, including low interest loans, to local communities around the country to make wastewater infrastructure improvements and to address other water quality needs. To date, Congress has provided \$17 billion in grants to help capitalize 51 Clean Water SRFs. With the 20 percent state match and the fact these funds earn interest, receive loan repayments, and are used to secure state bonds, the return on this Federal investment has been greater than 2 to 1. These federal capitalization grants have resulted in SRFs funding over \$74 billion in loans to date for wastewater infrastructure projects.

For FY 2012, the President's budget is requesting \$1.55 billion to further capitalize these funds. This is \$550 million less than the FY 2011 enacted level of \$2.1 billion.

During preceding Congresses, the Subcommittee has held numerous hearings on financing water infrastructure projects. The hearings examined how our nation can bridge the large funding gap that now exists between water infrastructure needs and current levels of spending, how we should fund water infrastructure projects in the future, and who should pay for it. The Subcommittee looked at various mechanisms for funding wastewater infrastructure projects, including creating a national clean water trust fund, continued support of SRFs and advancing other innovative debt financing techniques, establishing a state clean water fund and an associated fee system, and financing through private activity bonds. In addition, the Subcommittee heard about reducing infrastructure needs and costs through the use of decentralized and nonstructural approaches for managing wastewater.

Special Purpose Infrastructure Grants –Special purpose infrastructure grants are funds made available to address unique clean water regional needs. This total includes \$10 million for US/Mexico Border wastewater infrastructure projects, which is \$7 million less than the FY 2011 enacted level. The total additionally includes \$10 million for Alaska Rural and Native Villages, \$3 million less than the FY 2011 enacted level of \$13 million.

Nonpoint Source Funding –The Administration's budget request proposes \$164.8 million for the Clean Water Act's non-point source grants program (section 319), which is \$36 million less than the FY 2011 enacted level for this program. Section 319 of the Clean Water Act is the primary source of EPA grant funding to states for the control of non-point sources of pollution – which is now the single largest source of impairment to the nation's rivers, lakes, and near-coastal waters.

Regional Programs – The President's Budget requests \$350 million for the Great Lakes Restoration Initiative, which is \$125 million less than the FY 2011 enacted level of \$475 million. Though expired, this includes \$70 million for restoration activities under the Great Lakes Legacy Act.

The Chesapeake Bay Program request is \$67.4 million, \$17.4 million more than the enacted level of \$50 million.

The Long Island Sound program request is \$2.96, \$4.04 million less than the FY 2011 enacted level of \$7 million.

The Lake Champlain request is \$1.4 million, \$2.6 million less than the FY 2011 enacted level of \$4 million.

The San Francisco Bay request is \$4.85 million, \$2.15 million less than the FY2011 enacted level of \$7 million.

The Puget Sound request is \$19.3 million, \$30.7 million less than the FY2011 enacted level of \$50 million.

The South Florida request is \$2 million, \$100,000 less than the FY2011 enacted level of \$2.1 million.

The Mississippi River Basin request is \$6 million, \$6 million more than the FY2011 enacted level of \$0.00.

The Gulf of Mexico request is \$4.5 million, \$1.5 million less than the FY2011 enacted level of \$6 million.

The Lake Pontchartrain request is \$955,000, \$545,000 less than the FY2011 enacted level of \$1.5 million.

Requested funding for the National Estuary Program is \$27.1 million, \$5.5 million less than the FY 2011 enacted level of \$32.6 million.

State Management Programs – The Administration’s budget request proposes \$250.3 million for State and tribal pollution control programs under section 106 of the Clean Water Act. The section 106 program generally supports State and tribal water quality improvement and monitoring programs. The enacted level for this program in FY 2011 is \$229.3 million.

The budget requests \$27.4 million for state wetlands program development, an increase of \$1.5 million over the FY 2011 enacted level of \$25.9 million.

The budget requests \$9.9 million for beaches protection monitoring grants, the same as the FY 2011 enacted level.

Community Challenges – Communities face numerous regulatory requirements related to the Clean Water Act. Although there are a number of federal programs to assist communities in meeting their clean water responsibilities, many struggle to afford the Clean Water Act’s numerous requirements. While schedules for compliance can sometimes be negotiated with the EPA, these are sometimes undone by other enforcement actions or judicial actions initiated by

citizen suits. The result is that often communities are faced with a variety of overlapping clean water requirements and have difficulty affording the competing regulatory requirements and controlling the schedule of when work can be carried out to meet these requirements. Communities would like to have more flexibility to move forward in a cost-effective manner.

Superfund

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, commonly referred to as "Superfund," was enacted to develop a comprehensive program to clean up the nation's worst abandoned or uncontrolled hazardous waste sites. The EPA has the major responsibility for carrying out this Act. The law makes designated responsible parties pay for hazardous waste cleanups wherever possible and provides for a hazardous substances trust fund, the Superfund, to pay for remedial cleanups in cases where responsible parties cannot be found or otherwise be held accountable. Superfund is also available for responding to emergency situations involving hazardous substances. In addition, the law was intended to advance scientific and technological capabilities in all aspects of hazardous waste remediation.

The total Superfund request is \$1.236 billion. This is \$70.4 million less than the FY 2011 enacted level of \$1.307 billion. Under the President's budget request, all of this funding will be derived from a payment from general revenues into the Superfund Trust Fund. Though Superfund is a cost recovery statute, as it did last year, the Administrations' budget request requests the reinstatement of the taxes that historically funded the Superfund Trust Fund, including taxes on oil, gas, and chemical feedstocks, and the corporate environmental tax which funded the Superfund program between 1980 through 1995.

Superfund Response Actions – The President's budget requests the following amounts for Superfund response actions: \$574.5 million for Superfund remedial actions, \$30.9 million less than the FY 2011 enacted level of request of \$605.4 million; and \$194.9 million for Superfund emergency response and removal actions, \$7.4 million less than the FY 2011 enacted level of \$202.3 million.

Superfund Enforcement – The President's budget requests \$169.8 million for Superfund enforcement activities. This is \$2.8 million less than the FY 2011 enacted level of \$172.6 million. The budget also includes \$10.5 million for Superfund enforcement activities at federal facilities, slightly less than the FY 2011 enacted level.

Superfund Public Health Support

The President's budget requests \$76.34 million for the Agency for Toxic Substances and Disease Registry (ATSDR), \$660,000 less than the FY 2011 enacted level of \$77 million. These amounts are not included in the EPA budget request for the Superfund program. Since FY 2002, this program has been funded out of a separate account for the ATSDR.

Brownfields

Brownfields are former industrial sites that contain contaminated soil that must be cleaned before land can be returned to productive use. The Administration's budget request proposes \$148.5 million for the brownfields program, including \$99 million, \$959,000 less than FY 2011 enacted levels, for grants to localities to assess and/or cleanup brownfields, and \$49.5 million, the same as the FY 2011 enacted levels, for States and Tribes to establish or enhance their response programs. In addition, \$26.4 million (\$2 million increase) is requested out of the Environmental Program and Management Account to fund contracts and requisite full-time equivalent Agency employees (FTEs). These programs were funded in FY 2011 at \$100 million, \$49.5 million, and \$28.4 million respectively.

Oil Spill Response

The Oil Spill Response program funds EPA's Clean Water/Oil Pollution responsibilities. The President's budget requests \$19.4 million, \$4.5 million more than the FY 2011 enacted level of \$14.9 million. This revenue is derived from the Oil Spill Response Trust Fund.

ENVIRONMENTAL PROTECTION AGENCY (EPA)

(in millions)

Program	FY2011 CR	FY2012 Authorized	FY2012 President's Budget	Diff. of FY2012 Pres. Budget and FY2011 CR	
				\$	%
Science and Technology	846.0	None	825.6	-20.5	-2.4%
Environmental Programs and Management	2,993.8	None	2,876.6	-117.1	-3.9%
State and Tribal Assistance Grants	4,978.2	None	3,860.4	-1,117.8	-22.5%
Clean Water SRF (<i>non-add</i>)*	2,100.0	None	1,550.0	-550.0	-26.2%
Drinking Water SRF (<i>non- add</i>)*	1,387.0	None	990.0	-397.0	-28.6%
Hazardous Substance Superfund	1,306.5	None	1,236.2	-70.3	-5.4%
Other	213.3	None	224.1	10.8	5.1%
Rescission of Prior Year Funds	-40.0	None	-50.0	-10.0	25.0%
Total	10,297.9	None	8,973.0	-1,324.9	-12.9%

*The sum of these two items does not equal the total for the State and Tribal Assistance Grants program. There are other line items in the State & Tribal Assistance Grants portion of the EPA budget that are not reflected in this table.

Witnesses:

**Ms. Nancy Stoner
Acting Assistant Administrator, Office of Water
United States Environmental Protection Agency**

**Mr. Mathy Stanislaus
Assistant Administrator, Office of Solid Waste and Emergency Response
United States Environmental Protection Agency**

**REVIEW OF THE FISCAL YEAR 2012
BUDGET AND PRIORITIES OF THE
ENVIRONMENTAL PROTECTION AGENCY:
IMPACTS ON JOBS, LIBERTY,
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WEDNESDAY, MARCH 2, 2011

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON WATER RESOURCES
AND ENVIRONMENT,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:05 a.m. in Room 2167, Rayburn House Office Building, Hon. Bob Gibbs (Chairman of the subcommittee) presiding.

Mr. GIBBS. The committee will come to order. This is the subcommittee hearing of Water Resources and Environment of the Transportation and Infrastructure Committee. Today we are having a hearing, "Review of the Fiscal Year 2012 Budget and Priorities of the Environmental Protection Agency: Impacts on Jobs, Liberty, and the Economy."

And before we get started, I would like to just take a minute or two and let the Members kind of introduce themselves. And I guess we can start down there with the Representative from Oklahoma.

Mr. LANKFORD. I'll do that. James Lankford, representative from the central Oklahoma, Oklahoma five, it's Oklahoma City.

Mr. LANDRY. Jeff Landry, Louisiana three, that's the coastal area of Louisiana. A lot of water.

Ms. HERRERA BEUTLER. Jaime Herrera Beutler, Washington State's Third Congressional District. We have the Columbia River, and a lot of water, as well.

Dr. HARRIS. Andy Harris, Maryland's First District, the Chesapeake Bay.

Mr. MILLER OF CALIFORNIA. Well, this is a first, Chairman. Gary Miller from California's 42nd District.

Mr. GIBBS. Thank you. Let me introduce our ranking member, Representative Bishop.

Mr. BISHOP. Tim Bishop, New York one, eastern Long Island, also lots of water.

Mr. RAHALL. Representative Nick Rahall from West Virginia, ranking member of the full committee.

Mr. CARNAHAN. Representative Russ Carnahan from the St. Louis area, along the Mississippi River.

Ms. HIRONO. Mazie Hirono from Hawaii, and we are totally surrounded by water.

[Laughter.]

Mr. GIBBS. Again, I would like to welcome everybody and our two guests from the EPA. But first, I will start off with an opening statement.

I have a number of concerns about the Environmental Protection Agency's ongoing activities and plans in fiscal year 2012. These are issues I want the subcommittee to explore during this Congress, and hold hearings on some of them, when I think it would be helpful to Members.

First and foremost, I am concerned about the proliferation of so-called guidance coming out of EPA, in an attempt to short-circuit the process for changing Agency policy without following a proper transparent rulemaking process. Much of this so-called guidance amounts to being de facto rules instead of advisory guidelines.

In addition, I note the exponential increase in regulations coming out of the EPA in recent months, or planned for the near future, related to the subcommittee's jurisdiction. Many of these regulatory efforts are based on questionable science, at best, and stand to substantially increase the regulatory burden for States, local governments, and businesses, especially small businesses. EPA is making a mockery of the administration's regulatory review initiative to reduce regulatory burdens in our country.

These guidance and rulemaking efforts of concern include, but are not limited to: guidance to expand the scope of jurisdiction of the Clean Water Act; guidance on permitting of sole surface coal mining; EPA's recent veto of an existing permit for an ongoing mining operation; expanded regulation of storm water, including post-construction site run-off; new development and redevelopment and existing development through retrofitting; numerical water quality standards for the State of Florida; numerical water quality standards for the entire Mississippi River basin, including water intake structures.

I am concerned that more regulations means more unfunded mandates to burden our cities and towns at a time when they need relief from these types of injustices.

I am concerned that the EPA seems to have a fondness for guidance, as opposed to regulations, and thus, have found a backdoor way to get de facto rules in place without the transparency that is built into the formal rulemaking process of the Administrative Procedure Act.

I am concerned that the EPA has usurped State authority by effectively taking over the implementation plans for the Chesapeake Bay States, and has expressed its intention to do the same elsewhere.

I am concerned that the requirement for numerical standards for the State of Florida is just the beginning, and other States will soon have costly, job-killing requirements placed on them, as well.

I am concerned that while the President is imposing more regulatory burdens on communities, businesses, and citizens, he, at the same time, is calling for the reduction in spending in many for many other programs that assist communities in their efforts to come to compliance with regulations. While the President is willing

to increase enforcement spending, he is cutting spending for compliance assistance efforts. So, what I have here is a Federal Agency that will add to the burden of rules and regulations, reduced programs to help folks come into compliance, but would also put more boots on the ground to track down those who cannot come into compliance with little or no benefit to the environment.

This is a government at its worst, an Agency cutting facilitators but increasing regulators. I want clean water as much as anyone, but I recognize that we have to have a strong economy so we can afford to invest in new programs that new regulations require. Today is not the day to put more burdens on the American people. We need to make significant progress in creating long-term jobs and a stronger economy before we can tolerate more expensive regulations.

At this time, I will turn it over to Ranking Member Representative Bishop.

Mr. BISHOP. Thank you very much, Mr. Chairman, and thank you for holding this hearing on the President's fiscal year 2012 budget request for the Environmental Protection Agency.

Today marks the first of two planned hearings to review the budgets and priorities of the agencies under the jurisdiction of the Subcommittee on Water Resources and the Environment. These hearings provide a valuable opportunity for our new and returning Members to learn the breadth of this subcommittee's jurisdiction over several executive branch departments and agencies. And I look forward to working with the chairman to hear firsthand from the other agencies within our jurisdiction during these planned hearings.

Mr. Chairman, all of us recognize the gravity of the financial situation facing this Nation and, indeed, the world today. This Nation is just starting to emerge from the worst economic recession since the Great Depression. However, with the national unemployment rate still standing at 9 percent, and the unemployment rate for the construction sector at 22.5 percent, we are far from completing our work.

Thanks, in part, to the foresight of this administration and the courageous actions of the previous Congress, our Nation was able to lessen the potential impact of the last recession on hardworking Americans, and pull our economy back from the brink. Conservative estimates confirm that, but for the infusion of additional infrastructure investment advocated by this committee for inclusion in the Recovery Act, job losses in the construction sector would have been far worse.

As this committee has shown time and time again, investment in our Nation's infrastructure does have a significant impact, and positive impact on the economy, and it does create jobs. This is why I am so concerned that the new Republic Majority has taken aggressive steps to cut funding from many Federal programs with a proven record of providing economic benefits to the Nation, and for creating jobs.

Unfortunately, Republicans have responded to this Nation's economic situation with an axe, when a scalpel would seem more appropriate. Just 2 weeks ago, the Majority pushed through a stop-gap spending bill that decimated several critical infrastructure in-

vestment programs, and threatens increased job loss and economic uncertainty at an extremely delicate time on the Nation's economy.

Today's budget hearing title references impacts to jobs and the economy. According to two separate reports from Wall Street analysts, the Republican Majority's proposal to cut \$61 billion from the current fiscal year budget would decimate broader efforts at job creation throughout the Nation, and would be taking an unnecessary chance with the ongoing economic recovery.

Specifically, these reports highlight how, if enacted as passed by the House, the Republican proposal would result in 400,000 fewer jobs created by the end of fiscal year 2011, 700,000 fewer jobs by the end of 2012. In addition, news analysis of the report suggests that the proposal would reduce the growth in the gross domestic product by up to 2 percent points this year, essentially cutting in half the Nation's projected economic growth for 2011.

Christine Todd Whitman, a Republican EPA administrator under President George W. Bush, estimated that the needs of our Nation's aging water infrastructure topped \$660 billion. Yet, with the budget of the Environmental Protection Agency, within that budget, the most notable reduction is the \$1.4 billion proposed cut to the Clean Water State Revolving Fund, the primary source of Federal investment for our Nation's wastewater infrastructure. Unfortunately, this proposal marks a clear reversal of recent bipartisan efforts to increase investment in our Nation's failing and outdated wastewater infrastructure, and on efforts to improve our Nation's water quality.

In terms of job losses, this cut alone would eliminate over 39,000 direct construction jobs throughout the country, and countless additional jobs in the industries and small business that support the wastewater construction industry at a time when many small businesses and the construction sector are struggling to recover. Furthermore, this cut undermines longstanding Federal efforts to address our Nation's aging infrastructure system.

Mr. Chairman, I ask unanimous consent to include in the record a chart showing the direct State-by-State losses under the Republican Majority's proposal to cut the Clean Water State Revolving Fund.

Mr. GIBBS. So ordered.

[The information follows:]

H.R. 1

State-by-State Cuts to Clean Water State Revolving Fund Investments

Prepared by the Committee on Transportation and Infrastructure Democratic Staff
February 14, 2011

State	FY 2010 Enacted	H.R. 1 Funding Level	FY 2010 Enacted and H.R. 1 Difference	Jobs Lost Under H.R. 1
Alabama	\$23,189,457	\$7,596,357	-\$15,593,100	-434
Alaska	12,411,807	4,019,359	-8,392,448	-234
Arizona	14,007,055	4,548,806	-9,458,249	-263
Arkansas	13,566,774	4,402,681	-9,164,093	-255
California	148,317,097	48,732,760	-99,584,337	-2,773
Colorado	16,587,302	5,405,165	-11,182,137	-311
Connecticut	25,405,193	8,331,738	-17,073,455	-475
Delaware	10,181,736	3,279,220	-6,902,516	-192
Dist. of Columbia	10,181,736	3,279,220	-6,902,516	-192
Florida	70,000,460	23,000,151	-47,000,309	-1,308
Georgia	35,062,688	11,520,598	-23,542,091	-655
Hawaii	16,061,013	5,230,495	-10,830,518	-302
Idaho	10,181,736	3,279,220	-6,902,516	-192
Illinois	93,789,927	30,816,690	-62,973,237	-1,753
Indiana	49,978,973	16,421,663	-33,557,310	-934
Iowa	28,067,352	9,215,283	-18,852,069	-525
Kansas	18,719,077	6,112,681	-12,606,396	-351
Kentucky	26,394,288	8,660,009	-17,734,279	-494
Louisiana	22,796,277	7,465,864	-15,330,413	-427
Maine	16,052,822	5,227,776	-10,825,045	-301
Maryland	50,155,085	16,479,528	-33,675,557	-937
Massachusetts	70,410,023	23,134,722	-47,275,301	-1,316
Michigan	89,168,009	29,298,060	-59,869,949	-1,667
Minnesota	38,115,981	12,523,822	-25,592,158	-712
Mississippi	18,684,264	6,101,127	-12,583,137	-350
Missouri	57,488,310	18,889,016	-38,599,294	-1,075
Montana	10,181,736	3,279,220	-6,902,516	-192
Nebraska	10,607,682	3,420,587	-7,187,095	-200
Nevada	10,181,736	3,279,220	-6,902,516	-192
New Hampshire	20,723,888	6,778,058	-13,945,830	-388
New Jersey	84,744,728	27,844,696	-56,900,032	-1,584
New Mexico	10,181,736	3,279,220	-6,902,516	-192
New York	228,898,617	75,209,546	-153,689,072	-4,279
North Carolina	37,427,915	12,297,743	-25,130,171	-700
North Dakota	10,181,736	3,279,220	-6,902,516	-192
Ohio	116,745,933	38,359,378	-78,386,555	-2,182
Oklahoma	16,755,222	5,460,896	-11,294,326	-314
Oregon	23,427,004	7,675,196	-15,751,808	-439
Pennsylvania	82,146,051	26,990,845	-55,155,206	-1,535
Rhode Island	13,925,142	4,521,620	-9,403,522	-262
South Carolina	21,244,033	6,950,689	-14,293,344	-398
South Dakota	10,181,736	3,279,220	-6,902,516	-192
Tennessee	30,125,406	9,898,331	-20,227,075	-563
Texas	94,785,165	31,143,697	-63,641,468	-1,772
Utah	10,927,141	3,526,612	-7,400,528	-206
Vermont	10,181,736	3,279,220	-6,902,516	-192
Virginia	42,440,966	13,944,889	-28,496,077	-793
Washington	36,064,070	11,849,623	-24,214,447	-674
West Virginia	32,328,855	10,622,338	-21,706,517	-604
Wisconsin	56,063,031	18,420,710	-37,642,321	-1,048
Wyoming	10,181,736	3,279,220	-6,902,516	-192
American Samoa	1,780,267	517,802	-1,262,465	-35
Guam	1,261,073	347,210	-913,863	-25
Northern Marianas	772,907	186,812	-586,095	-10
Puerto Rico	27,047,541	8,876,817	-18,170,723	-506
Indian Tribes	31,500,000	10,350,000	-21,150,000	-589
Total	\$2,100,000,000	\$690,000,000	-\$1,410,000,000	-39,253

Note: This table was prepared by the Committee on Transportation and Infrastructure Democratic Staff based on the statutory allocation formula for the Clean Water State Revolving Fund. The job loss estimates are based on 2007 Federal Highway Administration data on the correlation between highway infrastructure investment and employment and economic activity.

Mr. BISHOP. Thank you. I would like to highlight just a few additional programs where the cuts voted on by the Majority will have significant adverse impacts on the economy, could result in additional job losses throughout the Nation, and place at risk the health of a greater number of families.

First, the Republican Majority has proposed to cut EPA Brownfield site assessment and clean-up grants by 30 percent. This popular bipartisan program provides valuable seed money to cities and towns throughout the country to restore abandoned or underutilized properties, to promote economic development, and to return commercial properties to local tax rolls. Estimates suggest that the Republican proposal will result in 300 fewer properties being assessed during the current fiscal year, 20 fewer sites being cleaned up, and a potential loss of over 1,500 additional jobs, and approximately \$300 million in leveraged redevelopment funds.

The Majority has also proposed to cut EPA's Superfund budget by \$32 million. This program, which was created by this committee to clean up the Nation's most toxic waste dumps, is critical for protecting public health and the environment, and for exposure to hazardous substances. While the exact number is not yet known, EPA expects that the Republican proposal to reduce funding for this program will result in fewer clean-ups being undertaken, will increase the risk that our communities and families remain exposed to toxic chemicals and substances, and could lead to the layoff of countless clean-up workers.

Finally, the Majority has voted to pull back on EPA's compliance and enforcement capabilities, making it far more difficult for the Agency to identify and pursue serious violations impacting public health and the environment in communities across the Nation. According to estimates, the Republicans' continuing resolution could result in the loss of as many as 100 compliance and enforcement personnel, 1,000 fewer inspections across all media—that is to say air, water, waste, and toxins—and the loss of millions of dollars to the U.S. Treasury from foregone fines, penalties, and settlements from the most egregious violations.

In my view, this proposal stands in stark contrast to the Agency's effort to increase compliance in critical areas within a limited budget, and suggests that a weakened compliance and enforcement presence is somehow better for the Nation. These are just a few examples of the potential negative impact of the Republican continuing resolution on our Nation's economy and on jobs.

Mr. Chairman, as I said earlier, I recognize the challenging economic times facing this Nation. In my view, this administration has taken a pragmatic approach to respond to our economic situation at the same time as prioritizing the programs and policies that preserve its core mission of protecting public health and the environment while reducing air and water pollution.

However, in contrast the administration's efforts stand with respect to the Draconian cuts proposed by the Republican Party in the continuing resolution. In my view, as well as a great many respected non-aligned economists, the cuts proposed by the new Majority will result in immediate and significant job losses, will significantly weaken national efforts to emerge from the last recession

stronger than before, and will shift the balance from protection of public health to protection of the polluters.

In short, these cuts take the Nation in the wrong direction at the wrong time. I yield back the balance of my time.

Mr. GIBBS. I thank you, Representative. Any other representatives like to be recognized?

Mr. RAHALL. Thank you, Mr. Chairman. I do thank you, Chairman Gibbs, and Ranking Member Bishop, for holding these hearings, and allowing me to participate today. And I join in welcoming our acting assistant administrator, Nancy Stoner, and assistant administrator Mathy Stanislaus.

This hearing is timely, without a doubt. Given recent action by the House of Representatives during consideration of the fiscal year 2011 CR, the Agency faces the prospect of some challenging times ahead, to make an understatement. I often feel that the Majority's backdoor way to defund EPA is to require so many appearances of the administrator and her staff on Capitol Hill these days, that all the budget will go to gas money at today's increased gas prices.

Those of us who live in southern West Virginia believe that we can have a balance between energy development and environmental preservation, and we have been doing such for decades. But balance cannot be achieved without fairness and equity. And the policies of the EPA at times have been anything but fair and equitable when it comes to coal mining in Appalachia.

When the EPA issued its detailed guidance concerning Clean Water Act permitting in April of this year—in April of 2010, last year—it did so singling out coal mining, and coal mining only in Appalachia. Though the Agency labeled it interim guidance, the regime it spelled out was made effective immediately. And now the EPA is scheduled to finalize the guidance on April 1st, less than a month from today.

A government cannot have one set of rules for one industry in one region of the country, and a separate set of rules for everyone else, and claim to be fair and just. What is more, the EPA is treating this so-called guidance as if it were binding policy. It is limiting State-issued discharge permits based on non-compliance with this guidance, bypassed an existing law, and longstanding regulation, and it is substituting a wholly new, barely studied, entirely confusing criteria for determining water quality, along with new timeframes for review and approval of petitions.

Further, the regime that is set forth in that guidance memo has thrown the permitting process throughout the region into utter turmoil, with rules being determined on a case-by-case basis. The EPA erred in the way it pursued changes in its surface coal-mining permit processes. Now, some changes were warranted, grant you. Certainly, the status quo was not working.

I do not know of anyone who opposes clean air and safe water, or who wants our children's health put at risk due to a degraded environment. And I worry that deep funding cuts will weaken our economy and stifle job creation that we so sorely need. But the message that I hope our witnesses take back with them today is that, in striving to achieve worthy valued goals, the EPA must work with the Congress and with the people who elected us. Or it will, as the framers intended, find its power checked.

So, Mr. Chairman, I commend you again for having these hearings, and I do ask unanimous consent that I may submit written questions for the record, and ask that they be responded to.

Mr. GIBBS. So ordered.

At this time I want to call on the vice chair, Representative Herrera Beutler, for opening comments.

Ms. HERRERA BEUTLER. Thank you, Mr. Chairman. It's a pleasure to have you here today. I know that this is going to be, hopefully, a very productive time of discussing priorities, and priorities as they relate to jobs and job growth. In my region in southwest Washington State we have double-digit unemployment in every county, save the county that has the State capital in it. And we have been languishing there for several years now.

We have a tremendous resource with our rain. I know people complain about Washington State and the west side of the State and the rain and the gray. But, actually, if you grew up there, you kind of love it.

We have the fourth largest river system that abuts my district, and we have tremendous resources when it comes to lakes and streams throughout the region. And because of this, one of our biggest challenges has been not just how those streams are taken care of, but really, the government's willingness to help us do a good job in taking care of those things.

I hear from small employers all over my district, that they can't—they physically cannot hire the people to comply with some of these regulations.

Let me tell you. Two years ago our department of ecology cited the Clean Water Act requirement that we not be allowed to wash our cars in our driveways, because of the run-off. I mean we're to the point where we're beside ourselves with some of these regulations.

And so, it was disheartening—and I know there is a lot of talk about the CR that passed a week ago that's obviously not passing in the Senate, is not—you know, that whole bill is not likely to become law. So we are really dealing—we are not dealing with some of the Draconian job cuts that were discussed. But what we're really dealing with is an administration and a Congress that seem to be going in two different directions.

Last year alone your Agency promulgated over 900 new rules that small businesses in my district are struggling with. It's not just the small businesses, it's the counties and the cities. They are coming under intense challenges and regulations to upgrade systems. And we're talking about small cities with very, very small rate-based—rate payers in the region, and they are having to come up with multimillion-dollar upgrades. All of this, in light of the President's budget, which reduces help with compliance, and increases the number of boots on the ground, when it comes to enforcement.

Now, in my mind, if our common-shared goal is to keep our waterways clean for the next generation, we should be wanting and jumping at helping people comply. In my limited lifetime experience, I have learned that honey goes further than a stick. The willingness to work with people who have a shared goal versus just drop a hammer on them is the way we reach that goal. And it real-

ly seems like—and I'm expressing some frustration that it seems like your Agency has been unwilling to work with us on some of these issues.

So, I am looking forward to working with you. You will likely receive a tremendous amount of correspondence from my office. I had my PUD in from my largest county yesterday, gave me this EPA rulemaking timeline, and I will make a request for unanimous consent to have it put into the record. These colored boxes—I had to deliver to them the news that they are losing ability, or help, with implementing these requirements from your Agency. At this time, in my mind, that is unacceptable.

So, I look forward to finding some solutions with you, as we move forward. Thank you for being here today.

Mr. GIBBS. Representative?

Mr. CARNAHAN. Thank you, Chairman Gibbs and Ranking Member Bishop, for holding this hearing today on the administration's fiscal year 2012 budget and priorities for the EPA.

I am pretty sure we all agree there are important steps we must take to address our deficit. It's critical that we balance this with making important investments in water infrastructure and public safety to ensure sustainable economic growth and job creation.

In my opinion, the President's budget request for the EPA does just that. It balances the need to make investments in our water infrastructure with the need to reduce our deficit. We hear often from my colleagues on the other side of the aisle about the job-killing nature of regulations, but we don't often hear about the problems with killing our health and our environment. I think the key is that we have common sense environmental regulations. That should not be viewed as a burden, it should be viewed as a responsibility of all of us. And tough economic times and serious plans to bring down the debt do not equal a free pass for polluters.

So, I think I would like to see a common sense balanced approach. We all may have different ideas. We obviously are dealing with a divided Congress this year. But there is areas where I think we should focus, look for some common ground.

I was pleased to hear the President, in his State of the Union, talk about the need for additional investments in infrastructure. All of us on this committee, I think, can agree with that. And the very next day we had the head of the U.S. Chamber and the head of the U.S. AFL-CIO come out and make a joint statement, also talking about the need for that, the importance for business creation to grow this economy and to grow jobs.

So, I would like to look at some of those common ground issues. Specifically in the President's budget it proposes \$1.55 billion in Federal capitalization grants for the Clean Water State Revolving Fund. In my home of St. Louis, the metropolitan sewer district has used that Clean Water Revolving Fund to address a serious problem of combined sewer overflows. We still have a lot of work to do there.

While this is a decrease of funding over the fiscal year of 2010, it's far better than the 67 percent decrease included in the Republican CR. The quality of our streams, in fact, the mighty Mississippi, the health of our citizens depend on these programs and us really administering them in a smart way.

So, I look forward to working with you, and working with my colleagues on the other side of the aisle to continue to make progress in a common sense way. Thank you.

Mr. GIBBS. Thank you. Representative Landry, do you have an opening statement?

Mr. LANDRY. I sure do, Mr. Chairman. I appreciate it. I thank you, and I ask unanimous consent to revise and supplement these comments.

I want to thank Chairman Gibbs for calling this hearing, and our witnesses for giving their time to testify.

I want to start off by telling the committee I am an avid hunter and fisherman. In fact, one of my favorite places on earth is hunting at my camp. I hold a bachelor's degree in environmental science and renewable resources. I own several businesses that did environmental work. So I feel like I have a personal understanding of the importance of EPA's congressionally designated mission to provide us with clean water, fresh air, and abundant wildlife.

However, I am concerned that, in practice, EPA's mission bears little resemblance to the congressionally authorized mission, and instead, is more about impeding commerce than protecting the environment. While I could use many examples today, I will specifically address the issue of 404 permits. Before I do, let me provide two clarifications.

First, I certainly understand that, under the Clean Water Act, the Army Corps of Engineers is the lead Federal Agency. However, when I meet with the Corps, they tell me you are to blame. I'm sure that today you will tell me that they are to blame. I'm here to tell you you're all both to blame. Everyone is involved in this 404 permit process.

Secondly, I want the committee to know that I understand the importance of wetlands protection. In my district, wetlands provides invariable protection to human lives against hurricane storm surges. These wetlands are disappearing at an alarming rate. In just almost the half-an-hour that we've been in this committee, Louisiana has lost half a football field already, disappearing into the Gulf of Mexico. If this erosion continues, 2 million people in Louisiana will become subject to more frequent floods, and more susceptible to the effects of hurricanes.

The Clean Water Act was designated to protect these vital wetlands. As used, though, section 404 has caused huge delays to projects with minor impacts to minor wetlands. Let me give you an example.

Recently, a local levee district went to perform a maintenance dredging on a drainage canal. EPA came out, looked at the canal, and declared the canal now a wetland, because the prior owner had not provided proper maintenance. This drainage canal, the canal that was specifically built and specifically designed and specifically used as a drainage canal is now, in your eyes, a federally protected wetland. So, instead of facing a \$200,000 maintenance dredging project, this levee district faces a \$500,000 to \$1.1 million dredging and mitigation project. That does not even include the costs and delays associated with securing the 404 permit.

I want to remind you that the dollars for this project come from local taxes, not the Federal Government. Obviously, the levee dis-

trict cannot afford this amount. As a result of the cost increases, the levee district has not only—has been not only prevented from dredging the canal, but also from installing a new pump station in Lockport, Louisiana. Because this pump station has been delayed, a major shipyard, a major employer in my district, is in danger of flooding.

So, instead of protecting the important coastal protection wetlands, the EPA is using the act to increase the cost, decrease the effectiveness, and delay projects which protect my constituents, create jobs, and further economic activity.

I know I am not the only having this problem. As cited in “Sitting on our Assets,” a report from this committee, the average 404 permit takes 2 years and \$271,000 to complete. Overall, private industry and local governments spend \$1.7 billion every year in preparing and securing 404 permits. I hope today’s witnesses will address how EPA hopes to streamline the 404 permit process in order to protect our important wetlands without interfering with job creation, economic development, and community protection projects.

Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. GIBBS. Thank you. Ms. Hirono?

Ms. HIRONO. Thank you, Chairman Gibbs and Ranking Member Bishop. Today we will hear from the EPA regarding your fiscal year 2012 budget request for water and wastewater management.

No community can thrive or even survive without clean water and efficient wastewater management systems. Likewise, we cannot ensure the health and safety of our population without adequate enforcement of the rules and regulations necessary to enforce the laws that we have passed.

We have heard a lot this morning about the need and desire to work with you. So I was pleased to read in your testimony, Administrator Stoner, that the EPA, for example, is implementing a sustainable water infrastructure policy that focuses on working with States and communities to enhance technical, managerial, and financial capacity.

There is no doubt that every State will be affected by what we do here today and in the coming months. So let me focus a bit on Hawaii. Hawaii is especially sensitive to water issues, as run-off from the mountains in the center of our islands often pours down quickly through our communities and into the ocean. Without adequate wastewater management, we would be putting our already fragile marine environment in jeopardy.

For example, a temperature change of one degree, or sudden flow of mud and water from the land, can kill the corral that helps to attract so many visitors to Hawaii, and also provides a habitat to our unique marine wildlife.

Of course, in addition to insuring the safety and security of our natural environment and communities, water infrastructure projects serve as serious job creators, which is why I was very concerned over the Draconian cuts to the Clean Water State Revolving Fund in H.R. 1, which cuts Hawaii’s fiscal year 2010 portion of these important funds from approximately \$16 million to only \$5 million, and would put approximately 300 people out of jobs. And I know that our ranking member is putting into the record a chart of the impact of these cuts on every other State.

We should be putting programs like the SRF at the top of our priority list, and effectively funding the key responsibilities of agencies like yours. If we underfund the core responsibilities of the EPA, which includes effectively enforcing our environmental laws, we not only undermine job creation, but we are also playing chicken with public health and safety in the future.

Of course, we have a lot of tough decisions ahead of us, and we are sure to disagree about how best to meet these goals. For example, I disagree with the President's decision to terminate the USDA's small watersheds programs which, though it is not an EPA program, is so vital to ensuring access to clean, safe water for the rural communities and farmers in Hawaii.

However, these disagreements cannot end in deadlock. We need to work together to move forward. So I look forward to hearing your testimony. And I yield back the remainder of my time.

Mr. GIBBS. Thank you. Representative from Oklahoma, Lankford?

Mr. LANKFORD. Yes. Thank you. And thank you for being here. I know this is probably the favorite part of your week, when you get a chance to run up and get a chance to testify. And I thank you for doing that.

Let me mention a couple of things. I have no question that Republicans and Democrats are committed to clean water. All of us like to drink water. All of us like to bathe in it. All of us like to be around it. So this is not an issue of suddenly Republicans want dirty water and Democrats want clean water. This is an issue of how we handle that balanced perspective of keeping things in a focused relationship between business and individuals in government regulatory environments.

Let me also say to you region six of the EPA, which Oklahoma is in, has been extremely helpful. They have been very responsive. And I would pass on my great compliments to them, both from local businesses and municipalities, that when they have asked questions, region six has been very responsive. So thank you very much for the continued work there on that.

There are obviously key issues in America, and EPA seems to be the signal point for a lot of those. Jobs are obviously affected. I was in a separate hearing where there was constant conversation about the increasing regulatory environment and the acceleration of regulations. One of my friends from the other side of the aisle said, "The more regulations we create, the more jobs we create, because there is more compliance officers that are hired." The people that were on the panel at that time were not real pleased with the fact that the way we're making more jobs in America is by making more compliance officers in America. They really want to be able to produce products, produce goods and services.

The more compliance officers that we hire to be able to fill out paperwork and be able to submit it back to EPA and other agencies, the slower our economy becomes, because we are dragging down into it. We are dealing with things like energy and not permitting in different areas. We are dealing with the way we're handling hydraulic fracking, and the constant threat over hydraulic fracking at this point.

Transportation infrastructure is slowing, because they're trying to figure out how to deal with storm water runoff around the construction site, and there is this constant acceleration of what has to be done to maintain storm water runoff around a construction site.

Cities and municipalities are dealing with unfunded mandates that are being placed on them dealing with wastewater and their water coming in for drinking water. It is this acceleration that is occurring that is causing them to have to invest dollars they currently don't have. It literally takes police officers and firefighters off the streets and puts them into investing into storm water systems and into compliance people that are filling out paperwork and sending it to Washington and police officers are not going on the street in local municipalities because they have limited dollars. And they have got to be able to make those hard choices. So, the more we accelerate the requirements on local municipalities, the fewer services, actually, municipalities are getting on this.

The issue is we've got to find a balance. And my hope is, in the days to come in our conversations, that we don't come in a combative way, we come in a conversation to say, "This is what we are hearing from our district, from individuals, from city leaders, from businesses, to say we are hearing these things. You may or may not be hearing these things; we are hearing them screamed at us, saying, 'Please get the EPA off of us, we cannot continue to function this way, and can't continue hiring people that are not producing goods and services, but only producing paperwork for the EPA.'"

So, I appreciate you coming. I appreciate the conversation. Hopefully it can be a very warm, friendly conversation to actually come to some solutions. Thank you.

Mr. GIBBS. Thank you. Representative Harris, do you have an opening statement?

Dr. HARRIS. Thank you very much, Mr. Chairman, and Ranking Member Bishop. I would ask unanimous consent to extend and revise my comments.

I look forward to a spirited hearing today, as it should be whenever we're talking about something as important as clean water. As a physician, of course, look, I understand the importance of clean water. I think everyone does. But, you know, we do have a discussion ongoing as to the budget implications. I mean that's what this hearing is about.

And the facts are that, you know, we have had triple-digit growth in the EPA budget since fiscal year 2008, when we are approaching double-digit unemployment. Now, I venture to guess—and I will ask you later about whether or not you had double-digit employment growth in your Department while the Nation went the other direction.

And clearly, the discussion about jobs and the CR is not as clear as some Members on the other side of the aisle would have it. In fact, Mr. Chairman, I ask unanimous consent to enter into the record a letter from 50 leading economists, just to say that H.R. 1 actually will improve the job environment in the United States, not make it worse.

Now, nature was good to the Eastern Shore of Maryland; that's the part I represent. You know, it carved out the Chesapeake Bay, which is beautiful, but it also created some of the best agricultural land in the eastern shore of this country.

And when I go back into my district, I talk to farmers and I talk to poultry growers—we're also one of the leading poultry regions—and I talk to people who live on the water. And I tell you. There is great concern over what the EPA is doing. And not only from those constituencies, because the natural constituencies, the agriculture, the farmers in Maryland and the poultry industry in Maryland—this is Maryland we're talking about—are pretty used to coming under the rather rigid thumb of the environmental controls in Maryland.

But the surprise was from the small municipalities, some as small as 40 houses, and the large municipalities in my district, and the counties in my district, that look at the heavy hand of the TMDL regulations, as they are currently proposed, and say they can't afford it. In fact, my jurisdictions would have property tax increases of 50 percent in order to afford those regulations.

Now, perhaps people in the Department have a different view of what the economy looks like, and what it looks like for the average property owner on the eastern shore of Maryland. But they can't afford a 50 percent increase in their taxes from an unfunded mandate coming from a faceless bureaucrat who, I don't think, understands the real world realities of what's going on in the First District of Maryland.

So, I will tell you. We're going to talk about a lot of these things, because we have to. The economy, as I go out and talk to many of the business owners in my district, and I ask for an example of regulations, there are two they always give me. One is the 1099s, which we will deal with on the floor later today, and eliminate that regulatory boondoggle, and then the second is the EPA.

I don't know what you have done to gain the ire of so many hard-working people in my district, but you have. And I think we're going to have to look very closely and very carefully at how the administration does its business, and why there is this uniform feeling in our district that the EPA is holding back certainly our economic growth with regards to agriculture and the poultry industry, and this worry among our municipalities and counties that there is this huge unfunded mandate coming down on them.

And I will tell you, from the budget situation, they are not going to get help from the Federal Government. I know the Maryland budget situation. They're not going to get help from the Maryland State government. They're going to be left to raise their property taxes on hard-working Americans and our seniors, our retired folks who—that's the biggest tax bite they have in their budget. They're going to get 50 percent property tax increase because of what TMDLs are going to do. And that's just in one of our jurisdictions.

So, I look forward to a very spirited discussion on a wide variety of issues. I thank you, Mr. Chairman, and yield back the balance of my time.

Mr. GIBBS. And, so ordered, your statement will be entered into the record.

Representative Duncan.

Mr. DUNCAN. Thank you very much, Mr. Chairman. And I got here a few minutes late because of other meetings, and I really hadn't intended to say anything, but then I heard Ms. Herrera Beutler's statement, and I thought about how I am hearing the exact same things from small businesses in my district. And I heard the statements of some of these other Members. And I can tell you. This is my 23rd year in the Congress. And in all that time, I have never heard as many complaints or concerns about the EPA as I have just within the last few weeks or months.

In fact, just yesterday, I had consulting engineer in my office who worked for many years for the Knoxville Utilities Board, and now he is a consulting engineer for—I think he said Nashville and Chattanooga and Memphis. He said—he's in his mid-fifties. He said he had never seen so many unnecessary or excessive regulations coming down on these utility boards as he had just in the last few months, and he was talking about the billions in costs that we're talking about.

Yesterday I had the administrator and some other officials from a very small town in my district just outside of Knoxville, and they were talking about the same thing, and how they couldn't afford it. I heard my colleague from Maryland talk about that. I am hearing the exact same thing.

This morning I met with representatives of the coal ash industry, and they were talking about the regulations, potential regulations from the EPA, that could cost billions on the highway construction process in this Nation. And last week we saw on the front page of the USA Today that the gas prices—the top of their front page story says that gas prices were going to go to \$5 a gallon or higher.

Yesterday I had the—I had a meeting with their transport association, and I had representatives of the eight largest airlines. And they told me that each one penny increase in jet fuel costs the aviation industry, as a whole, \$200 million a year.

I think too many people within the EPA don't realize that some little minor change in regulations can cost this Nation billions. And it doesn't hurt the big giants. In fact, in any highly regulated industry, the small guys go out first, and then the medium-sized businesses are run out, and in these highly regulated industries, they end up in the hands of a few big giants. So, when you over-regulate, it helps the big giants, but it sure hurts the small and medium-sized businesses. And what it does, it drives up costs for the poor and the lower income and the working people. That's who is hurt the worst.

And so, I hope that—I saw where the administrator said, well, she is hearing the same doomsday things that were spoken 40 years ago. Well, 40 years ago we hadn't sent millions of jobs to other countries. And 40 years ago we weren't going through the situation that we're going through today. And we have just seen some—we've been seeing a start of a recovery. But if we drive these gas prices back up, and—to even higher levels, and do some of these other things, we're going to back in. We're going to have a double-dip. And the EPA will deserve a lot of credit for that, if we do that. But it's going to hurt a lot of poor and lower income people in the process. Thank you, Mr. Chairman.

Mr. GIBBS. Thank you, Representative. At this time I want to welcome Ms. Nancy Stoner. She is the acting assistant administrator for the office of water in the United States Environmental Protection Agency.

Welcome.

TESTIMONY OF NANCY STONER, ACTING ASSISTANT ADMINISTRATOR, OFFICE OF WATER, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND MATHY STANISLAUS, ASSISTANT ADMINISTRATOR, OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Ms. STONER. Good morning, Chairman and members of the subcommittee. I am Nancy Stoner, the acting assistant administrator for the office of water at the U.S. EPA. Thank you for the opportunity to speak about the President's fiscal year 2012 budget request for EPA's national water program.

Mr. Chairman, clean water is not a partisan issue, and—as several of the Members have recognized today—residents in urban areas, rural areas, young and old, from red States and blue States, all demand clean and safe water in their communities and when they turn on their taps. Protecting public health and the environment is the core mission of the EPA, and this includes our work on clean and safe water.

Our programs not only fund water infrastructure in every part of the country, but also help communities ensure that their drinking water is safe from a litany of threats. Clean water is vital to the U.S. economy. A wide range of businesses depend on clean and adequate water supplies, including manufacturing, energy generation, tourism, farming, development, fishing and shellfishing, food processing and beverage production, and others. The Clean Water Act is precisely designed to provide—to protect those many uses of water by American businesses, which employ millions of Americans and impact virtually all citizens and communities.

While much progress has been made, America's waters remain imperiled. More than 59,000 water bodies in the U.S. do not meet water quality standards, which are based on those uses. The primary sources of impairments are pathogens, nutrients, sediment, PCBs, and mercury.

Consider these facts about the value of clean water to the U.S. economy. About 40 million anglers spend \$45 billion annually to fish all kinds of waters. Manufacturing companies use 9 trillion gallons of fresh water every year. The beverage industry uses more than 12 billion gallons of water annually to produce products valued at \$58 billion. Farms depend on clean water for irrigation. Thirty-one percent of all surface fresh water withdrawals in the U.S. are for irrigation. And, in an example nearby, the Chesapeake Bay is valued at \$1 trillion for its fishing, tourism, property values, and other water-dependent business.

The EPA request for the national water program is for \$3.98 billion, which is a 25 percent reduction from fiscal year 2010 enacted levels. The requested level still allows EPA to maintain its fundamental mission of protecting human health and the environment,

but also reflects the tough choices that Americans are making every day, and which many of you spoke about this morning.

The funding will allow the Agency to drive technology innovation for a stronger economy, spur job creation, and protect the environment cost-effectively. That substantial cut goes beyond eliminating redundancies. We have made difficult, even painful, decisions. We have done so, however, in a thoughtful, careful way that preserves EPA's ability to carry out its core responsibilities to protect the health and well-being of American children and adults.

You have been reviewing the fiscal year 2012 budget request for EPA for more than 2 weeks now, so I will not march through all of its details in this opening statement. However, the largest aspect of the water budget at EPA goes directly to States for water infrastructure. Specifically, the Clean Water State Revolving Fund and Drinking Water Revolving Fund provide affordable loans to local communities to finance public waste water systems and other water quality projects that protect public health and vital water resources.

The fiscal year 2012 President's budget request includes \$1.55 billion for the Clean Water SRF, and \$990 million for the Drinking Water SRF, enabling States and tribes to begin over 600 clean water projects, nationally. This represents a reduction of \$947 million from the fiscal year 2010 enacted level.

The fiscal year 2012 President's budget also provides \$350 million for the Great Lakes restoration initiative, \$67.4 million for the Chesapeake Bay program, and \$6 million for the Mississippi River basin. These funds will target the most significant environmental problems in these critical ecosystems, including Asian carp prevention, reducing harmful nutrient pollution, and working with State partners and local stakeholders.

In conclusion, I would like to thank you, Mr. Chairman, and the members of the subcommittee, for this opportunity to discuss the President's fiscal year 2012 budget request for EPA's national water program. EPA looks forward to continuing our work with this subcommittee to foster protection of America's waterways, and the public's health and well-being. And I would be happy to respond to any questions you may have.

Mr. GIBBS. OK. Our next witness is Mr. Mathy Stanislaus. He is the assistant administrator to the office of solid waste and emergency response of the U.S. EPA.

Welcome.

Mr. STANISLAUS. Good morning, Chairman Gibbs, Ranking Member Bishop, and members of the subcommittee. I am Mathy Stanislaus, Assistant Administrator for the U.S. Environmental Protection Agency's Office of Solid Waste and Emergency Response. Thank you for the opportunity to appear today to discuss EPA's proposed budget for Superfund, Brownfields, and other programs that fall under the Committee's jurisdiction.

In addition to protecting human health and the environment, EPA is responsible for ensuring that our land and our communities are safe, habitable, and prosperous for all Americans. Protecting human health and the environment is a non-partisan issue that affects all of us. EPA has employees throughout the country working

closely with State and local officials to clean up hazardous sites in our communities, many of which have a long history of pollution.

This budget request allows EPA to carry out its core mission and fund the most critical efforts to protect the health of American families, while making tough choices that Americans across the country are making every day. To clean up our communities, the President is proposing investments that clean up contamination and promote economic development and job creation.

The President's 2012 budget proposes \$175 million for the Brownfields program to support State and tribal clean-up programs, and to support planning, clean-up, job training and redevelopment of Brownfield properties, especially in underserved and disadvantaged communities. EPA's Brownfields program uses this funding to successfully leverage economic investment in rural, small town, and urban areas. More than \$17 is leveraged for every dollar expended by Brownfields program funding. And more than 67,000 jobs have been leveraged through Brownfields program funding. And studies show that residential properties adjacent to cleaned-up and redeveloped Brownfields sites have increased in property values.

In fiscal year 2012, Brownfield grantees are expected to assess more than 1,000 properties, clean up 60 properties, leverage at least 5,000 clean-up and redevelopment jobs, and leverage \$900 million in clean-up and redevelopment funding. EPA encourages community revitalization by providing funds to assess and clean up Brownfields and to support greater community involvement.

The President's budget also proposes \$1.23 billion for Superfund clean-up efforts across the country, which represents a reduction from fiscal year 2010 enacted levels, and reflects the hard budget choices that are being made. We will continue to respond to emergencies, clean up the Nation's most contaminated hazardous waste sites, and maximize the participation of liable and viable responsible parties in performing and paying for clean-ups. We are committed to continuing the Superfund program's success in protecting human health and the environment and providing local communities opportunities for economic development by cleaning up our Nation's worst hazardous waste sites.

The Superfund program to date has provided clean drinking water to more than 2.1 million people living near our National Priority List Superfund sites. It has reduced child blood levels at 150 sites where residential yards were contaminated with lead. It has controlled unacceptable exposure from site contamination at close to 1,400 sites, more than 84 percent of the sites listed on the National Priorities List, and facilitated the re-use and re-development of nearly 550 sites, helping to generate more than 34,000 jobs.

For example, the South Side Sanitary Landfill Superfund site, located 5 miles southwest of Indianapolis, Indiana, is a former 300-acre landfill listed on the Superfund National Priorities List in 1989. This site was contaminated with heavy metals, asbestos, paint, waste, and sludges, which contaminated ground water and nearby drinking wells. A slurry wall and leachate collection system was constructed to control contaminated groundwater migration. The clean-up was designed to allow future beneficial uses of this site. Today, a methane gas collection system powers the largest

commercial glass greenhouse in North America, along with the nearby aircraft turbine plant. This site has also provided room for commercial businesses in addition to a golf course. The site now supports more than 50 jobs.

The Superfund program also continues to identify hazardous waste sites that pose the most significant risk to human health and the environment. In fiscal year 2010, the Agency listed 16 new sites on the National Priorities List, and proposed an additional 8 new sites. EPA has continued its efforts to efficiently utilize every dollar and resource available to clean up contaminated sites and to protect human health and the environment.

In fiscal year 2010, EPA obligated nearly \$443 million, including funding from Superfund program appropriation, State cost share funding, and PRP, or potential responsible party, settlement funding, for Superfund construction and post-construction projects. EPA used \$106 million of its obligated funding to fund 18 new construction projects on 17 National Priorities List sites.

Finally—I will just continue and finish up—EPA's oil response program is designed to protect inland waterways through oil spill prevention, preparedness and enforcement activities associated with more than 600,000 non-transportation-related oil storage facilities that EPA regulates. A budget increase in fiscal year 2012 will allow EPA to broaden and expand prevention and preparedness activities, particularly inspection of high-risk facilities, including implementation of a third-party audit program.

EPA and the Coast Guard evaluate thousands of spills annually to determine if assistance is required. On average, EPA manages the oil spill response or oversees response efforts of private parties at approximately 250 to 300 sites per year. The fiscal year 2012 budget requests an increase of \$4.5 million, totaling \$19.5 million for OSWER's oil spill program to focus on high-risk sites.

Mr. Chairman, that concludes my statement. Thank you for inviting me to testify.

Mr. GIBBS. Thank you. I will start with the first question to Ms. Stoner.

You know, budgets are about setting priorities. And as for the President's budget that has been submitted to us there is lots of cuts. I think it's bringing EPA down to levels closer to where they were a couple of years ago. We all know we've got to cut the budget.

One concern I have I would like you to respond. There is one area of the budget that you are increasing, in the compliance assistance. But there is three sub-categories: incentives, monitoring/enforcement, and assistance. And my understanding is you are zeroing out the incentives and the assistance, and increasing the funding to the enforcement, the compliance part. And I would like you to respond to how you justify that. Because I think we need to work with businesses and entities out there.

Ms. STONER. Thank you, Mr. Chairman, for that question. Unfortunately, the first question is one I can't answer. It's about the enforcement and compliance budget, which is not within the office of water.

So we actually do a lot of compliance-related activities in the office of water, including providing funding to local communities to

help them meet Clean Water Act obligations, to build waste water treatment plants, to address sewer overflows. We also provide technical assistance to States and to local entities in developing water quality standards and in figuring out how to comply with—but I believe you are asking me about the budget for the office of enforcement and compliance—

Mr. GIBBS. Let's go on, then.

Ms. STONER. And I don't know, I'm sorry.

Mr. GIBBS. Would you please submit that for the record, if you can, from the other sections?

Ms. STONER. We would be delighted to do so.

Mr. GIBBS. Another major concern I have is on the permitting process, you know, when an entity goes through all the hoops and requirements, the environmental impact studies and everything. And, as you know, we had the one operation in West Virginia that went far beyond the process and did the environmental EIS study and all that, and got their permit and got up running, spent millions of dollars putting rail in, and about 3 years later this administration revoked their permit.

And, I think that's setting a huge precedent across all sectors of the economy, because what's going to happen when people—they're not going to be incentivized to take that risk and work to get the permit, so you're going to stifle economic activity and growth. And would you please respond on the rationale for revoking that permit in West Virginia?

Ms. STONER. Yes, sir. Thank you for that question. I believe you are asking about the Spruce Mine permit.

Mr. GIBBS. Yes.

Ms. STONER. Which the Agency vetoed that permit under 404 of the Clean Water Act. And we did take that action, which was a very unusual action for us. There have only been 13 404 vetoes in the whole history of the Clean Water Act, back to 1972. We felt that it was necessary to do so in this case, because of the filling of more than 6 miles of streams in—direct filling in the project's proposal, as well as downstream impacts on wildlife. So we did take that step in that case.

Mr. GIBBS. Let me be clear. Please tell me if I'm wrong. But I believe the 13 that you mentioned was all pre-issue of the program, or through the application process. This revocation of this permit was after the permit was issued, and 3 years after the fact.

Ms. STONER. Yes, sir. You are correct, that it is even more infrequent that we would take an action to eliminate or veto the specification for a particular permit after it was issued. And 13 is the total number of 404 vetoes that we have done. Again, very much a last resort, in our view. We would very much prefer to be able to work out the issues.

Mr. GIBBS. Well, I think we should let the record show that this was the first time the EPA revoked a permit after it was approved, and they were up and running and operating. I think that's clear. I think the permits that you're talking about were during the process before they were finally—final approval. I think we will show that for the record. Will you concur with that?

Ms. STONER. I think there may have been one other permit that was revoked in a landfill. But at most, it was the second.

Mr. GIBBS. The guidance that is going to OMB on the—that would—regarding the jurisdiction on the Clean Water Act, when do you expect that to be formal from the OMB?

Ms. STONER. We don't know the answer to that question. It did go over there late December. And usually OMB makes decisions within 90 days. We will expect it to go out for public comment. It will not be immediately effective. We look forward to talking with you and your staff about that when it's out.

Mr. GIBBS. And, why are you using guidance, instead of just coming out in the rulemaking process and have the official hearings and the testimony, versus doing the guidance?

Ms. STONER. We are moving forward with the guidance as a first step. We are considering additional steps, including rulemaking. Be happy to discuss that with you and your staff, as well.

Mr. GIBBS. OK. I thank you, and I will turn it over to the ranking member, Congressman Bishop.

Mr. BISHOP. Thank you very much, Mr. Chairman, and I want to start with the first question that the chairman asked. And, Ms. Stoner, I would appreciate it if you would submit a response for the record, to make sure that we all have the same information.

But my information, with respect to the—or my understanding, with respect to the compliance assistance budget is that it has been combined with the enforcement budget, and the net increase requested for the two combined is \$27.5 million. But if—so that there is not a cut to compliance. It appears as if it's a cut, given how the budgets are presented, but the category has been folded into another category. If you could please confirm that so that we all have the same information, I would appreciate it.

Ms. STONER. We would be happy to do that.

Mr. BISHOP. Thank you. For both of you—and thank you very much for your testimony—you both indicated that the budget requests reflect the fiscal realities that the Nation is currently grappling with, and that these budgets are—you didn't use the word, but essentially Spartan budgets, but that they still allow the EPA to pursue its core function of protecting human health and protecting the environment. And the budget that the President has requested, in total, for the EPA is about \$1.4 billion below current—or, pardon me, fiscal year 2010 enacted.

The budget that would be the budget for fiscal year 2011 for the EPA would be another \$1.4 billion below that if H.R. 1 were to ever take on the force of law. I am one that hopes that it does not. But that budget would spend \$7.5 billion on the EPA, as opposed to the \$10.3 billion that is in fiscal year 2010 enacted. Does that budget, if it were to ever take on the force of law, does that allow the EPA to continue to perform its core functions, or would we be veering out of the category of difficult and painful cuts, and into the category of destructive cuts? I will ask that of either of you.

Mr. STANISLAUS. Sure. Well, again, I can talk more specifically about the 2012 budget. And, as you mentioned, Congressman Bishop, there were tough choices and we are able to maintain our core responsibility to protect public health and the environment. But it is tough, and we are going to be challenged on the 2012 budget. And we understand that the Congress and the administration are going to be working on the fiscal year 2011 budget.

So, we've not done the specific analysis, in terms of the cut. But what I can tell you is in terms of the hard choices at the fiscal year 2012 budget, we were able to, with the cut, enable the core mission to move forward while—with those cut-backs. So it is going to have some challenges, but we were able to maintain that core mission.

Ms. STONER. Let me just add on the Clean Water and the Safe Drinking Water SRFs, which is a large part of the budget of the office of water, that we do anticipate that there would be more than 700 projects that wouldn't be able to go forward, and 21,000 jobs that wouldn't be created under the budget for H.R. 1.

That is—lots of people have been speaking this morning, Members have been speaking this morning about the need for local communities to get assistance in complying with the Clean Water Act. That's what those funds are for, complying with the Clean Water Act and the Safe Drinking Water Act, and those would be cut, and jobs would be lost, as a result.

Mr. BISHOP. Thank you. Let me move to that, because I listen to Mr. Duncan, my friend, talk about how he has heard more from business leaders over the last several months about the EPA, and hearing characterizations of the EPA that are not terribly complimentary or favorable.

What I hear from my business leaders, more than anything else—and I represent a coastal resort area district—is the necessity for additional Federal involvement in the area of wastewater infrastructure. I represent a district that is approximately 80 percent septic systems, and, at most, 20 percent sewers. And my business leaders all over my district view the absence of sewage treatment systems as an impediment to economic growth, given our environment and given the fact that we are surrounded by water.

So, I am particularly concerned about both the President's request for a significant cut in the SRF budget, and even more concerned about H.R. 1, which cuts it even more drastically. Could you comment on that, please?

Ms. STONER. Yes, Congressman. Thank you for that question. Yes, those funds are very valuable. There is also the 319 Program, which is the nonpoint source program, and helps address problems associated with septic systems and other nonpoint sources of pollution. All of those are very helpful to local communities in protecting beach water, tourism, fishing, and other very economically valuable activities.

Mr. BISHOP. Thank you. Thank you for indulging my time. I yield back.

Mr. GIBBS. OK, thank you. Representative Herrera Beutler?

Ms. HERRERA BEUTLER. Thank you, Mr. Chairman. And it was so great to sit in your seat for, like, 30 seconds.

[Laughter.]

Ms. HERRERA BEUTLER. A question for Ms. Stoner. And forgive me, I'm going to read a little bit of it, because to try and get it all out—I just want to get the particulars out.

For longer than I have walked this earth, the EPA has defined in its regulations that forestry operations are nonpoint sources, and therefore, not subject to Clean Water Act permits. Specifically, the NPDES permits. The forest products industry has a documented

record of compliance. And that industry enjoys a warm welcome in my district, and is a significant source of jobs.

A recent decision by the Federal ninth circuit court of appeals in Seattle suggests this regulation is invalid, and that forest roads, private forest roads, State and Federal forest roads are, in fact, point sources and will require Clean Water Act NPDES permits. EPA is not, as you know, a party in the case. And it's still winding its way through the process, through the judicial process.

We do understand the Agency is currently working on guidance that would be applicable to all EPA regions, not just regions 9 and 10. This guidance would provide a framework for those wanting to obtain permit coverage, and to be able to do so. And I understand that the Federal appeals court in Seattle has questioned the authority of EPA to establish, by rule, nonpoint source status of forest roads.

I have thousands and thousands of these forest roads on private lands in my region. So this is very, very significant to our—I mean immediate impact—to our economy. And most of those roads are really indistinguishable from thousands of miles of farming and country roads in our region.

So, my question is this. Does the EPA plan to stand behind its own longstanding regulation, and avoid imposing this enormous regulatory burden on forest owners, farmers, and governments throughout this country?

Ms. STONER. Thank you for that question, Congresswoman. The—we intend to follow the law, and the court has determined that in the situation in which logging roads collect and discharge directly into the waters of the U.S., that those are point sources.

So, to assist those entities that will need permitting, we are planning to make a permit that we have already on the books available, called the multisector general permit, available to those entities so that they can obtain coverage and be able to continue to discharge. But we will do so in compliance with the law, as determined by the Federal courts.

Ms. HERRERA BEUTLER. And to follow up on that, I understand that, you know, of course I'm not asking you to go against the law of the land. That is winding its way through the courts. It is not currently law. And your standing practice has been not to—has been, interpretation of the Clean Water Act, that you don't have jurisdiction over those private lands, and making them—or requiring permits from them.

Should the courts—so take that piece out of this. Does the EPA want to continue to follow its longstanding practice, or are you telling me that this is a direction you would like to go, irrespective of the court?

Ms. STONER. We haven't made that policy decision, Congresswoman, because right now what we are doing is planning to implement the law, as articulated by the courts. If, of course, that decision is changed, if the supreme court were to accept—we would take another look at that question at that time.

Ms. HERRERA BEUTLER. And with that, it's likely that I will be looking at legislation to provide a protection for our forest owners, or small forest owners on our private lands, as we move through.

So you may also be receiving, it would be my hope, a law to follow in this case. Thank you.

Mr. GIBBS. Thank you. Mr. Miller, or Representative Miller.

Mr. MILLER OF CALIFORNIA. Mr. Chairman, thank you. You're referred to as the EPA. I think of ourselves as the citizens protection agency, because our job is to represent the citizens who elect us. And some unusual things are starting to happen with EPA that I am kind of surprised at.

Within the last month, we were representing a constituent to the EPA, and we received an email sent to us with an attachment containing an internal memo restricting communication with Members of Congress. Basically, it said, "EPA guidelines, Member of Congress inquiring on behalf of the constituents are treated the same as media." That's a joke.

I remember about 8 years ago I had a dairy that was being fined by EPA, and I went out and looked at a date of discharge. And when I went to the site, the EPA gal had a little Earth First tee shirt, it was kind of cute, but the dairy man didn't really appreciate it. And I looked at the road coming into the dairy, and it had 18-inch curbs, which meant that it was a flood control channel that dumped right into the dairy property, and the dairy man's property was flooded. And when an executive came out from EPA they said, "It's not the dairy guy's fault."

But my problem is when an agency internally—that's part of the Federal Government—has a guideline that says you cannot communicate with a Member of Congress representing their constituents, something is severely wrong and arrogant with the agency. Now, hopefully, something can be done internally so we don't have to legislatively override a stupid regulation. But when people have problems with a Federal agency, you're the only Agency out there that restricts access to Members of Congress.

Give me one reason why you would not have dialogue with a Member of Congress concerning a situation that one of their constituents is going through.

Mr. STANISLAUS. Well, Congressman, I am not familiar with the memo. But I can tell you personally—

Mr. MILLER OF CALIFORNIA. You need to go back and look at your internal communications. Because your guidelines says, "Members of Congress inquiring on behalf of their constituents are treated the same as members of the media." I received the guidelines in an email. And communication with us was immediately terminated, on behalf of the EPA.

Mr. STANISLAUS. OK. Well, I can't speak to that. All I can tell you, in terms of—I personally respond to congressional Members' inquiries with respect to their constituents' requests on a daily and regular basis, and I will continue to do so.

Mr. MILLER OF CALIFORNIA. So we need to go to the top levels when we have a problem, rather than just dealing with EPA?

But to be honest with you, if one of our constituents has a problem with EPA, they're not even going to receive a response. They're going to make a phone call, they're going to be put through this legislative bureaucratic process, it's not—I'm not chastising you, but that's what they go through. At least when they come to us, we can usually go to the agency, regardless if it's FHA, VA, what-

ever it is, and—even the FBI, we get a reasonable response back, and they will have dialogue with us. But when EPA sends my office an email terminating all communications with my office, something is severely wrong with the Agency.

Mr. STANISLAUS. Well, I can tell you that, our infrastructure, we have a separate office to coordinate and interact with congressional Members. And, clearly, there are some rules when things are an enforcement posture which restricts our ability to communicate with anyone. But beyond that, you know, we are committed to—we have a separate staff to communicate with congressional Members.

Mr. MILLER OF CALIFORNIA. So if we have a question regarding EPA policies, and there is an enforcement going on with somebody else, you can't respond to us about your enforcement policies?

Mr. STANISLAUS. We clearly can, and I have talked about the policies.

Mr. MILLER OF CALIFORNIA. I would like you to find out internally, and notify the committee, that that procedure is available to Members of Congress, and tell me what guidelines that you have implemented that would restrict our access.

Now, if we are trying to get involved in litigation, trying to influence you in some way, we are not—that's not the goal. But if we question a policy and a procedure that you're implementing, and we look at it and say, "This is just unreasonable," you know, would you give us guidelines in which you apply these standards?

I mean it just—I have never—we have dealt with EPA over the years. I have always had a favorable—even when they had imposed fines. On this one dairy I told you about, they had imposed a fine. They had given a 30-day period to either pay the fine or they would proceed from there. And when I contacted them and I said I would like to have somebody at a senior level come out and just look at the situation. When they came out, they looked and said the enforcement is unreasonable, it was not the dairy's problem. It was basically the flood control agency had not put a diversion channel upstream from the property. Thereby, the property was focused on to this man's land.

But when we're questioning an internal policy and the way you enforce the policy, and we think that the guidelines for that policy are unreasonable, to receive an email terminating all communications just is an unreasonable approach. I mean we are elected to represent—we're the House of Representatives. And when we cannot call a government agency on behalf of our constituents, something is severely wrong with the structure of government. And either it needs to be corrected internally, or Congress will correct it, one way or the other.

Because many of us are not happy with the EPA as it is, with what they're doing in many areas. It's not your problem, that's our problem. But when it comes to communication, when we are cut off, there is a serious problem, and that—I guess my time has elapsed. So if you would like to—

Mr. STANISLAUS. Sure, I will provide clarification on the record. But I can tell you, on a regular basis, I do, as well as the regional offices, interact with the congressional Members—

Mr. MILLER OF CALIFORNIA. And this is the first time it's happened, as I said. But I received the memo.

Mr. STANISLAUS. OK.

Mr. MILLER OF CALIFORNIA. Thank you. I yield back.

Mr. GIBBS. Let's move on. Representative Landry, do you have a question?

Mr. LANDRY. Sure. I was getting ready to have to go into my next committee. Yes. My question is, do you believe that there are certain projects that are important enough to this Nation to require waivers or exemption from the 404 permit process?

Ms. STONER. Thank you for that question, Congressman. There actually are some exemptions in the 404 process for certain kinds of activities. Often farming activities of various kinds are exempt from the 404 process. So I would say Congress has made that decision in a number of instances. And I think there are good reasons to encourage farming activities. We like to have farmers on the land, farming. We know that's a good land use, from a water quality standpoint.

Mr. LANDRY. OK. Would you consider maybe some exemptions that would lower the cost of—for levee protection and flood control back in Louisiana, equal to the same level as those farming activities, as well?

Ms. STONER. Quite honestly, I am not that knowledgeable about levee protection and flood protection, which isn't within the jurisdiction of the office of water. The Corps of Engineers would have more information about that, about whether those exemptions should be granted.

Mr. LANDRY. OK. On Monday, Administrator Jackson was in New Orleans to take part in the Gulf Coast eco-restoration task force meeting. And at this meeting, the task force asked the participants, "What is the greatest Federal impediment to your recovery," and the response most often given—which, again, many of my constituents—was the cost and delays associated with compiling and submitting 404 permits.

Do you all have anything in the plans or protocols to try streamlining this process?

Ms. STONER. We have a number of agreements, MOUs, with the Corps of Engineers which are designed to make sure that that process goes smoothly and as rapidly as possible. I know that it is a high priority for the Army Corps to get those decisions made promptly. And we try to work as quickly as we can with them to—in our joint roles in the permitting process.

Mr. LANDRY. What was your fiscal year 2008 budget?

Ms. STONER. I'm sorry, we might have to get back to you on that.

Mr. LANDRY. OK.

Ms. STONER. I just have the fiscal year 2010—

Mr. LANDRY. Do you know the increase between fiscal year 2008 to fiscal year 2009, and then—because I know that you all mentioned—I had it here in my notes—that your current budget is a decrease from the—by 25 percent from fiscal year 2010, and I am—but I'm trying to figure out how much did it increase between fiscal year 2008 and fiscal year 2010.

Ms. STONER. We would be happy to submit that information for the record, Congressman.

Mr. LANDRY. OK, thank you. I yield back the balance of my time.
 Ms. HERRERA BEUTLER. [presiding.] Mr. Lankford, do you have a question?

Mr. LANKFORD. I do. Thank you. Shift subjects a little bit. Let's talk a little bit about energy production and transportation, obviously two major issues in our American economy on that.

The EPA has obviously been very engaged in energy production, and how much oil and natural gas that we will have in America in the future days, based on current conversations that are happening right now. It is a unique responsibility from our Department of Energy now, that actually EPA is the one driving how much energy we will have in America, rather than the Department of Energy and the other sectors, based on some future decisions.

My understanding is science advisory board has a draft plan that's coming out this next week. Is that something that the members of this committee could see, in advance of when that comes out? I understand it's coming out the 7th and 8th. I would assume it's already done and is ready to go to release out to everybody. We would like to be able to see that in advance, so we can get a chance to read and review it and see it before the rest of the group gets to it, on the hydraulic fracking issue, specifically.

Ms. STONER. I can check with the office of research and development on that. That—it is their plan, hydraulic fracturing research plan, that you are referring to.

Mr. LANKFORD. Correct. Yes, it is the hydraulic fracking plan, and it deals with water, specifically. That—my understanding, my research, is that is coming out, like I said, Monday. So I would like to be able to see it in advance so I can have time over the weekend to be able to review that and prepared for that. Can that be provided?

Ms. STONER. I can check with ORD on that today.

Mr. LANKFORD. Thank you very much. This is a major issue to us in America, on how we're going to deal with hydraulic fracking. The majority of natural gas in America that heats our homes and that has so much production in so many ways for chemical plants and such and fertilizer is done through hydraulic fracking now. If this plan continues to move forward in a way that is not consistent with science, the actions of the EPA could dramatically increase the cost of every product in America, based on a single decision. So we cannot get this wrong.

We are also at a very tenuous point that energy producers are a little tenuous on being able to invest into future plans and to future fields because of the overhang of a threat of the EPA that they may do something at this point to hydraulic fracking. Is there any conversation at this point on what will happen with hydraulic fracking, and what EPA's thoughts are on how to be able to enforce, or what thoughts may be on that? I know the reports are not out. Tell me where the discussion is at this point.

Ms. STONER. Absolutely we are in discussions about it. The ORD study plan that you referenced is about gathering the science, gathering the data, so we understand what is happening out there, in terms of hydraulic fracturing. There is a lot of public interest and concern, frankly, about the impacts of hydraulic fracturing on surface water and drinking water resources.

We had a series of listening sessions last year about them that were very well attended, gathering public input on it. So we are definitely in discussions now, within the Agency, about what—how well we are addressing the issues that are being brought to our attention under the Clean Water Act and the Safe Drinking Water Act, as well as other authorities that are outside the scope of the office of water.

Mr. LANKFORD. Several years ago—very similar done with this, with coal methane, and on the fracking issue. Do you recall what the finding was on that, as far as what was done, and the final result of how the fracking was going to be handled, dealing with coal methane?

Ms. STONER. I'm sorry, I'm not sure what you're referring to right now.

Mr. LANKFORD. Well, just the conclusion. Were there additional regulations that were placed on coal, based on the study that was done for fracking for coal methane and such?

Ms. STONER. I am—

Mr. LANKFORD. That's all right. I'm just trying to track—coal has already had this study, and it's much more shallow than what gas and oil are. And so we've done studies like this very similar. We have already been through this. Now we are redoing it again for a different industry, and trying to re-evaluate it. And I am trying to figure out the path and the pattern.

I understand that Congress did request this, so a previous Congress came to you and said, "We want you to do this study." I get that. The concern is that it has put an entire industry and prices and everything else into quite a bother, because it's slow to respond, and we are unsure of what EPA is going to do.

Ms. STONER. Yes. And we will certainly be looking at the existing information we have about coal bed methane. There are certainly some similarities in the industries, and in that we have done a lot of information, including evaluating technologies there.

Mr. LANKFORD. Sure.

Ms. STONER. And we will be looking for commonalities, as you suggest, Congressman.

Mr. LANKFORD. One quick question on it. Is there a State that you can identify that says, "This State is incompetent to oversee its own water area, so the EPA has to be able to step in on it? If we don't step in, the people in that State are going to get bad water?"

Ms. STONER. We have not withdrawn the authority of any State to run the water program, to my knowledge.

Mr. LANKFORD. OK, terrific. That is one of those areas I know EPA has partnered with multiple States to be able to continue to have the States handle local enforcement on that.

I would just recommend the more that we can hand back to the States, and the fewer things that we're trying to do from DC, and the more things that an individual State—being from Oklahoma, the department of environmental quality, the water resources board in Oklahoma are some fantastic people, and they work very hard for our land and water, to make sure it's clean. And the more moments that they have, of having to worry about what EPA is doing over their shoulder, it gives them the assumption that they

are being treated as incompetent, they are not thinking about our land and water, when they are.

And so, the more that we can get a chance to evaluate and say a State is already handling that, rather than the Federal having to take that over, the better.

Ms. STONER. Yes. Yes, sir. We coordinate closely with the States. We work with them as partners. And we try to do work-sharing, to do the kind of thing you're talking about, ensuring that we're not engaged in the same endeavors that they are.

Mr. LANKFORD. I appreciate that. Let's accelerate that. Thank you.

Mr. GIBBS. Thank you. Representative Harris.

Dr. HARRIS. Thank you very much. And thank you, Mr. Chairman. Thank you, Ms. Stoner, Mr. Stanislaus, for coming before the committee.

First, one question I have is just kind of a quick question. Ms. Stoner, are you familiar with the Goodlatte amendment offered to H.R. 1 on the floor that removes funding—and it's very simple, I will read it. "None of the funds made available by this act shall be used to develop, promulgate, evaluate, implement, provide oversight to, or backstop TMDLs, or watershed implementation plans for the Chesapeake Bay watershed." Are you familiar with that amendment?

Ms. STONER. Yes, sir.

Dr. HARRIS. OK. Now, the interpretation of some has been that this will remove all the on-the-ground activity for this fiscal year, with regards to cleaning up the Chesapeake Bay. Do you concur with that?

Ms. STONER. I am not sure of the interpretation of the lawyers, but I do know that the Agency is engaged in a lot of activities with the States in the Chesapeake Bay and the district.

Dr. HARRIS. I understand that. My question is very specific. Fiscal year 2011, this says that this has to do with watershed implementation plans. Now, is it my understanding that those watershed implementation plans aren't—the final plans aren't even due until fiscal year 2012, the final local implementation plans? They are not due until fiscal year 2012, is that right?

Ms. STONER. Well, there are implementation plans that have been submitted already, and we are moving forward now with the State partners and the local entities to clean up the Chesapeake Bay.

Dr. HARRIS. They are not due until fiscal year 2012, is that correct?

Ms. STONER. I don't—

Dr. HARRIS. The deadline is December of this year, which is fiscal year 2012.

Ms. STONER. I don't know the answer to that question.

Dr. HARRIS. Well, if you could provide in writing why you believe that any on-the-ground funds would be—so your interpretation is that on-the-ground activities to clean up the Chesapeake Bay are negatively impacted for this fiscal year by the Goodlatte amendment?

Ms. STONER. No, sir. What I said was that we are providing funding to the State and local governments to help implement clean-up for the Chesapeake Bay this year.

Dr. HARRIS. Sure.

Ms. STONER. We did so last year, and we have increased the funding this year—

Dr. HARRIS. Right, but they're not under approved watershed implementation plans, because those aren't due until next fiscal year. Is that right?

Ms. STONER. We—the TMDL is finalized, and we are working with the States to implement it now.

Dr. HARRIS. But you have—the first step is you have to get the watershed implementation plans approved. And they're not due until December.

Ms. STONER. I would be happy to get back to you on that.

Dr. HARRIS. Thank you. Could you? Second of all, you probably read this in the Wall Street Journal. You all are responsible for that dairy farm exemption issue with the oil spills. Is that your bailiwick? It is EPA, is that right?

Mr. STANISLAUS. Yes.

Dr. HARRIS. So, my understanding is the EPA suggested a rule in January of 2009 to exempt dairy farms from creating oil spill disaster response plans, literally for spills of milk on a dairy farm. What in the world has taken 2 years for the EPA to finalize that rule?

Mr. STANISLAUS. Well, we are planning to finalize the rule as we speak. It's been submitted to OMB last week. And so, the—

Dr. HARRIS. What took 2 years to implement a rule that milk spills on a dairy farm should not come under oil disaster response plans? Because, I've got to tell you, five kids at home, I hope I don't have to do an oil spill plan for the EPA. Although I suspect, the way the EPA is going, it's getting there. Well, let's move on. Thank you very much. You can get back to me in writing on that.

If we institute—Ms. Stoner, if we institute the TMDLs under the watershed implementation plans, and no Federal or State funds flow—now, I have 12 counties that are subject to this TMDL. One county alone, Anne Arundel County, has estimated it will cost \$1.87 billion—with a “B”—for that county, that that county is responsible for, to implement that plan. That's one of my 12 counties, Anne Arundel County, \$1.87 billion, if there are no Federal funds available. And, let's face it, you've got \$67 billion in this fiscal year budget. Anne Arundel County alone would have to spend \$200 million in this—that's just one of my counties, and there are seven States and the District of Columbia under the jurisdiction.

If there is no Federal money, and there is no State money, because our State, like other States, are running short of money, would it—would the county really be responsible for that money, in order to come under—to come into compliance with the TMDLs? I mean if there is no money, do they have to pay, or do you—will they be taken into court to pay?

And this is a 50 percent increase in the property taxes. That's what it would take in that county to pay for that TMDL. Is that true, that if there is no Federal money, no State money—doesn't

make a difference—that local jurisdiction has to do what that watershed implementation plan says?

Ms. STONER. Compliance with the Clean Water Act is generally not dependent upon the existence of Federal funds for that compliance. But, as we've been saying, we provide a lot of funding to help communities.

Dr. HARRIS. If there is no funding. If there is no Federal funding, that community has to come up with the dough? That's about right. That's what I thought.

Last question. There are estimates that 10 percent of cropland would have to be removed from production—10 percent—in order to come up under the TMDL compliance, at least in the State of Maryland. And I have looked at the figures on nitrogen loading, and that's probably true.

Will the EPA promise that they will not order farmers to give up crop production—we're an exporter. Fortunately, the United States is a net exporter of grains. We have a lot of grain on the Eastern Shore. Is there a promise from the EPA that they will not force those crop lands out of production, in order to comply?

Ms. STONER. I am not aware of the EPA ever forcing any crop lands out of production. We are working closely with the USDA in making sure that there is funding available to help communities in the Chesapeake Bay comply.

Dr. HARRIS. Is that a yes, or—I guess the EPA will not. That's not their intention. My farmers will feel much better. Thank you very much, Mr. Chairman.

Mr. GIBBS. Thank you. Representative Reed, do you have a question?

Mr. REED. Thank you, Mr. Chairman. A lot of my questions have been addressed with the TMDL and the hydrofracking that come from western New York, and that is a priority—those are two priority issues that we are dealing with in our office. So any information you can send or reply to my colleagues, I would greatly appreciate being CC'd on that information.

I have a question to Mrs. Stoner—or Ms. Stoner, I am sorry. I noticed in the President's budget it zeroed out the compliance assistance program and it increases the enforcement budget. Is that an indication from the administration that we are going to focus more on enforcement rather than to encourage compliance?

Ms. STONER. Congressman, I was asked earlier about the difference between the two budget categories. And that is actually in the budget for the Office of Enforcement and Compliance Assurance. So I don't know the answer to that.

But I do know that compliance assistance is a very important part of the work that EPA does. We don't do enforcement activity in the Office of Water, but we do a lot of different kinds of compliance assistance activities—technical assistance activities, funding, as we have been discussing. We provide a lot of assistance to individuals in how to comply with the Clean Water Act.

Mr. BISHOP. Mr. Reed, may I ask you to yield for a second?

Mr. REED. Sure, Mr. Bishop.

Mr. BISHOP. Thank you. We talked about this before you came in.

Mr. REED. OK.

Mr. BISHOP. And we have asked Ms. Stoner to provide documentation for the record to make sure that we all have the same information. But my understanding of the budget request is that the compliance function and the enforcement function are joined as one, and the total increase for the two combined is now \$27 million in the President's request.

It looks as if compliance is zeroed out and enforcement is increased dramatically, but it is a combination of the two functions together for efficiencies, and with the total increase of expenditure for the two categories combined of \$27 million. But I have asked that that information be submitted for the record so that we all have the same information. I want to make sure my interpretation is correct.

I'll yield back.

Mr. REED. Thank you for the clarification.

Mr. GIBBS. Mr. Reed, would you yield?

Mr. REED. Yes, I will yield.

Mr. GIBBS. I am looking at a document here—I guess I will address Ms. Stoner. It looks like the \$27.5 million increase is all for enforcement. It is in monitoring programs, increase the number of inspections, and new enforcement paradigm. So the increase is all enforcement. Is that correct?

Ms. STONER. I don't know, Mr. Chairman. But we will get back to the committee on that.

Mr. GIBBS. Submit it to the record. Thank you.

Mr. REED. OK. Thank you for that clarification because where the money is and the increases in the money, I mean, obviously is an indication of what the policy of the EPA and the Office of Water will be on it.

I just want to hear from you, as the director. Do you feel that compliance is still a primary role or a secondary role? What role in the Agency do you see it?

Ms. STONER. Obviously, compliance is very important. And we are working very hard to try to make sure that we are getting information out, including through the States that run most of the Clean Water Act programs; that we are working with local governments.

We understand that times are tough and that people are trying to figure out the most cost-effective ways to meet their obligations under the Clean Water Act and to make sure their waterways are safe for the public. We view that as one of our principal missions, to work with communities to do that.

Mr. REED. OK. And in regards to its relationship to enforcement, do you see it as the same level of importance, or do you see it as a priority over enforcement? What comes first, compliance or enforcement, from your perspective?

Ms. STONER. Well, temporally, often, compliance assistance comes first. For new requirements, often we are in a position of compliance assistance early on, outreach compliance assistance, and so forth. The enforcement tool is used for different kinds of situations than compliance assistance in a lot of cases. So we view them as two complimentary tools used for different circumstances.

Mr. REED. And then—I have got about a minute left here—the Executive order that was issued on January 18, 2011, talked about

using the least burdensome tools for achieving regulatory ends. I don't know if this was asked previously. Was it asked previously? No?

OK. How do you intend to accomplish that? And I will start with you, Ms. Stoner, and then we will go to—

Ms. STONER. Yes. We are working Agency-wide to gather information from the public about what we should do. We are planning listening sessions in every office and across the Agency. And we are in the process of reviewing our regulations to identify regulations that meet the criteria of the memo that you referred to.

Mr. REED. The least burdensome standard?

Ms. STONER. There are actually lots of different things in there about different ways. But it is all about streamlining, regulation, making it more cost-effective, and so forth. And those are the kinds of opportunities we are looking for.

Mr. STANISLAUS. We are doing the same.

Mr. REED. You are doing the same?

Mr. STANISLAUS. Yes.

Mr. REED. All right. I guess I am out of time, so I will yield back to the chairman. Thank you.

Mr. GIBBS. Thank you.

Representative Cravaack, you have a question?

Mr. CRAVAACK. Thank you, Mr. Chairman. Thank you for being here today.

I live in Minnesota, the land of 10,000 lakes, and I hear a lot from our constituents. And I have a question to ask you. Who do you work for? I know what Agency you work for, but who is your overall—who do you work for—

Ms. STONER. Well, my salary is paid—

Mr. CRAVAACK. No, no, no. Who does the EPA work for?

Ms. STONER. I was going to say the public. The American taxpayer pays my salary, sir.

Mr. CRAVAACK. OK. And I agree with you. I work for the American public, too, and this is what the American public is telling me. The American public is telling me that the EPA is overreaching. It is regulating—it is legislating by regulating.

I have a question for you. We have a very large lake in the middle of Minnesota; it is called Mille Lacs. Who owns that? Who owns that lake? Who is the ultimate authority of that fresh body of water?

Ms. STONER. I am not—I don't know the answer to that question. I don't know who owns that lake.

Mr. CRAVAACK. Sir, do you?

Ms. STONER. But I am confident the public uses the lake, but I don't know who owns it.

Mr. CRAVAACK. Sir, who do you believe owns that lake?

Mr. STANISLAUS. Again, I don't know that—I am assuming it is probably a home rule issue and—

Mr. CRAVAACK. The 10th Amendment says that the State of Minnesota owns that lake. Federal overreach by the EPA on a body of water that has absolutely no regulation for commerce, as we just saw most recently with the America's Commitment to Clean Water Act, endorsed by the EPA.

Now, there are two very significant legislations—or court cases, the Swank Agreement and also the Ropanus Agreement. Again, Federal overreach by the EPA. From the migratory bird theory, where a migratory bird would be able to light upon a body of water, it was considered a Federal piece of property.

This is an extreme overreach by the EPA. And I am challenging the EPA to step back and reassess who their boss is. Their boss is the American to people, just as who my boss is as well.

I would like to see a statement from you stating how the EPA is partnering with the people of the United States of America—instead of legislating by over-regulating, how they are partnering with them to assist in that we all want clean water. And I can tell you what: The independent Minnesotans in the Eighth District of Minnesota are more interested in clean water than anybody here in this room.

So my question to you is, how are you partnering with the people of America to ensure that you are not overreaching, to ensure you are not putting in guidelines that are just absolutely ridiculous, like our colleague here in regarding milk? Why does it take 7 years and \$27 million to push projects through the EPA—we have open pit mining in our area, and mining in general, and it's the EPA watershed. Could you tell me that?

If you can't do it in 1 minute and 57 seconds, I understand. But I would like to have your comments on record on saying how the EPA is working with the American people instead of against the American people.

Ms. STONER. I appreciate that. And we actually take very seriously our obligation and responsibility to hear from the public on these issues. We do, as I mentioned, have a lot of different forums in which we obtain information from the public. We also work through our regional offices, where we have additional ability to reach out to people.

We view that as a very significant part of our work, is to ensure that what we are doing is benefitting the public, benefitting the public's use of the waterways, and hearing their concerns not only about clean water but how we achieve it.

Mr. CRAVAACK. Well, I ask you, then, ma'am, in issuing guidance instead of the rule, for the Administrative Procedure Act requirements regarding this, it actually almost violates what President Obama has come out for open and transparency. And yet here we go. You are legislating again through regulating. You don't have open comment for the American people.

Ms. STONER. On the particular guidance I think you are referring to, which is currently pending at the OMB, that guidance will go out for public comment. It will not be immediately effective, and we will be looking for input from the American public. We would be delighted to talk with you and your staff about it as well.

Mr. CRAVAACK. Thank you very much, ma'am. I appreciate that. And I will yield back my 22 seconds.

Mr. GIBBS. Thank you.

Representative Bucshon, do you have a question?

Dr. BUCSHON. Just for your information, your budget for 2008 was around \$7.6 billion. And in 2010 it was \$10.3 billion, which is an increase of almost \$3 billion in a 2-year period; in addition to

the fact that in that same timeframe, the EPA acquired \$7.2 billion in stimulus dollars.

So that is kind of where you are funding-wise. And so your current request of \$8.973 billion is actually a significant increase from 2 years ago. And I think, anyway, that is where the numbers lie.

Being from southwestern Indiana and the State of Indiana, our electrical energy depends on the coal industry. And I know Chairman Gibbs has touched, before I came to the meeting, on the permitting process for mining operations and the one that was recently retracted.

And the question I have is, as you probably know, the company that was responsible for that mine is losing \$250 million because of that move. And I would like to know that if the EPA is going to retroactively pull permits and cause problems for American business, what are we planning on doing to reimburse businesses when this is, again, another indication of retroactive, I think, policy-making through regulation, based on the fact that people have, and the President has said, a negative view on the coal industry, including a statement made by the President, and I am paraphrasing, that you can build another coal-powered plant, but we will bankrupt you.

So I would like to know how the EPA is planning to put regulations in place—how are we going to reimburse private industry out there if the agenda that we have here in Washington, DC, is to create jobs and not to stop them? Because the State of Indiana, if you decide suddenly in my district to retroactively pull back permits, we want our money back.

Ms. STONER. Thank you for that question, Congressman. Both of my parents are Hoosiers, so it is always nice to see someone from the great State of Indiana.

Dr. BUCSHON. Probably not me, but someone.

[Laughter.]

Ms. STONER. My mother actually has a farm in southwestern Indiana.

But I appreciate your question about the coal mining. Let me just say that from the standpoint of the Office of Water, we have no opposition to coal mining or any particular kind of coal mining. Our role is solely to protect waterways.

And that is what we were looking at in that permit veto that you referenced, the Spruce Mine veto, is merely our obligations under the Clean Water Act to protect those waterways. We felt like that we needed to take that action to protect those waterways, and that's the action that we took.

Dr. BUCSHON. Can I say that how come in the original permitting process that the EPA didn't identify the waterway issue up front before the company investing \$250 million in the business?

Ms. STONER. EPA and the Fish and Wildlife Service were involved in commenting on that permit in the initial commenting process as well, and expressed concerns at that time as well.

Dr. BUCSHON. Then how come the permit was issued? That is my question. You know, you have to understand that in my district, with all the coal mines and other things, with farming—the Clean Water Act comes into play there also, as you know—that I have not heard from one constituent, not one, that what EPA is currently

doing with the Clean Water Act is helping create jobs, getting people back to work, and spurring the economy.

In fact, people have grave concerns in my district about what it is going to do for jobs going forward. And if EPA has initially commented, then grants a permit, and then a company loses millions of dollars and you can just pull that at any time, I have got serious concerns about that.

And I want to know how, if the EPA is going to do that, out of the \$7.2 billion in stimulus money you had, you would think that you would have enough money, maybe, to reimburse the industry that lost that money.

The other thing is, as a general question, what did the EPA do with \$7.2 billion in stimulus money?

Ms. STONER. We used those funds to assist local communities in addressing clean water problems, drinking water problems, and in creating jobs.

Dr. BUCSHON. Excuse me. I don't mean to interrupt. But can you submit to the committee an itemization of the uses, specific uses, of \$7.2 billion in stimulus money? I would like to see an itemized statement on exactly what that was used for, whether that was used to expand the size and scope of the EPA or whether that was actually used for what you said, for job creating. Because I would like to see—I would really like to see that in money, what the money was used for.

I mean, you have to recognize that that amount of money was almost as much as the entire budget for 2008.

Ms. STONER. We would be happy to submit information on the uses of the ARRA. It was not used for the Agency's budget, but rather, to give funding to other entities to meet—

Dr. BUCSHON. I understand. I just want to see it myself.

Ms. STONER. We would be happy to do that.

Dr. BUCSHON. Thank you.

Mr. GIBBS. Thank you.

Back my series of questions for Ms. Stoner. Dealing with the sewage sludge incineration and, of course, this comes under our purview a little bit because of the sewage sludge, but last week the EPA issued new regulations outlining a definition of nonhazardous solid waste. The new definition would result in significant restrictions on the ability of publicly owned treatment works to generate electricity from those biosolids.

Biosolids generated by the public works have the potential to generate as much as 10 percent of our electricity consumption for our country, and is a renewable source of electricity. Did the EPA examine this issue as part of its rulemaking process? And why would the EPA allow the burning of tires to be considered as an allowable fuel stock and not the burning of biosolids?

Mr. STANISLAUS. Well, I can talk about my office's aspect of the rule. The Clean Air Act rule is under the Office of Air and Radiation.

In our rule, we did take a look at the use of biosolids as far as fuel use, and we identified the circumstance under which it can be used. And there are a few facilities in this country that currently use that, but we didn't lay out a criteria for the use of manure, for its use as a fuel.

Mr. GIBBS. My next question—would you care to answer, Ms. Stoner, on that?

Ms. STONER. No, sir. I don't have anything to add to that.

Mr. GIBBS. OK. Thank you.

Also on the clean water intake structures, Ms. Stoner, there was individual permits—States have standards for individual permits on specific cost-based analysis studies that were upheld by the United States Supreme Court. And it is my understanding the Agency will propose to issue new rules that will severely limit the site-specific analysis. This will likely increase the cost to customers and diminish the reliability of service.

Why does the EPA believe the current program to be inadequate?

Ms. STONER. Mr. Chairman, we will be issuing a proposed rule in March on the cooling waters, and we will be tailoring that proposal to take into account site-specific information, as you suggest.

Mr. GIBBS. What kind of improvements should we expect in that rulemaking?

Ms. STONER. It hasn't yet been cleared to be released. But I am anticipating that we will allow consideration of different factors in different places of the country.

Mr. GIBBS. It is also my understanding that there was some litigation on this issue. Is that correct?

Ms. STONER. Yes, sir.

Mr. GIBBS. Was there a settlement with the litigants?

Ms. STONER. Yes, sir. It is being promulgated under a schedule pursuant to a settlement with the litigants. Yes, sir.

Mr. GIBBS. As part of the agreement, did the EPA help pay for the costs to the litigants?

Ms. STONER. I don't know the answer in this specific case. But they are entitled to costs under the law if they prevail.

Mr. GIBBS. That is interesting. But there wasn't—was there a judicial order requiring this?

Ms. STONER. I think that the current schedule is due to a settlement. But there certainly have been cases, including all the way up to the Supreme Court, about this issue. And so the Agency has been working to promulgate rules for many years, and has had, I think, all of them challenged and subject to litigation.

Mr. GIBBS. What about this specific matter, though?

Ms. STONER. I think it is on remand right now.

Mr. GIBBS. Pardon me? I couldn't hear you.

Ms. STONER. I believe it is on remand. We are doing this rulemaking pursuant to a remand, I believe.

Mr. GIBBS. I guess, to follow up a little bit more, was there anything driven for the EPA to have to pay for those litigants' cost? How was that determined for the EPA to pay for those costs?

Ms. STONER. There is a provision of the Clean Water Act that entitles litigants to obtain attorney's fees and costs in matters in which they sue the Agency and prevail.

Mr. GIBBS. I guess my concern is you settled it, but there wasn't a judicial order requiring it. And I think, under the law, there has to be a judicial order. I don't think the EPA has the authority to move forward on their own on that. Is that correct?

Ms. STONER. Settlements often have attorney's fees and costs in it. If you would like me to get specific information about this par-

ticular matter and how the attorney's fees issues were handled, I could do that. I don't know that answer.

Mr. GIBBS. Yes. I would like to have a written response on that. Thank you.

Is there any other questions? Yes, go ahead, Mr. Bishop.

Mr. BISHOP. Thank you, Mr. Chairman. Two things. One, I see that Mr. Bucshon has just left. And I appreciated his request to Ms. Stoner for a breakout of the \$7.4 billion that went to the Environmental Protection Agency as a result of the Recovery Act.

I would point out that the vast majority of that money went to the States for the State Revolving Funds. I would also point out that that information, a specific delineation of where every dollar went, what projects were undertaken, and how many jobs were created as a result of those projects was a component of the T&I Committee website until such time as the majority changed hands, and then that information came down.

It is several hundred pages worth of information. It is available. And I think it is important for all of us to look at it again so that we all have the same information available to us as we evaluate.

I want to go to an area—you know, as I said before, I represent a coastal district. The principal industries of our district are travel and tourism, everything associated with the second home industry, farming, and fishing—in other words, a district that is dependent on clean air and clean water for its economic vitality.

And I perhaps have the luxury of representing a district where everyone in the district recognizes that the environment is the economy and the economy is the environment. And Republicans and Democrats, liberals and conservatives, all agree that an imperative we have is to see to it that our actions are consistent with protecting our environment.

And so I know it is now I guess I would say fashionable, if not required, to not use the term "regulation" inside the Beltway unless it is preceded by the phrase "job-killing." But in my district, regulations, frankly, are welcomed by Republicans, Democrats, liberals, conservatives, because they recognize that regulations are moving us forward in terms of our ability to have an economy that sustains our location.

So my question to either of you is: Is my district unique? Is there any other district in the United States that recognizes the importance of environmental regulation, and recognizes that, in fact, to be pro-environment is to be decidedly pro-business?

Mr. STANISLAUS. Well, I will give it a shot. We believe we laid out rules and regulations that do, in fact, integrate environmental protection and economic development. And I have noted a number of them in my opening statements.

For example, Brownfields resources do in fact lead to cleanup, protection of public health, and redevelopment and job creation. Our experience in the Superfund program is similar in terms of the protection of the public. We believe that it can and must link environmental protection and economic development. We believe we are moving forward with that balanced approach.

Mr. BISHOP. Thank you.

Ms. STONER. Let me just give one example from Cleveland, where Cleveland is addressing a problem of 5 billion gallons of untreated sewage that has been discharged into Lake Erie every year.

And EPA recently reached an agreement with the city to invest in a combined sewer overflow control, including a green infrastructure, and the sewer district in Cleveland estimates that the total investment will lead to more than 30,000 jobs in the Cleveland area and return \$2.63 for every dollar invested there. So I think that is an example of what you are looking for.

Mr. BISHOP. Thank you. And I want to be clear. I am not suggesting that every regulation is one that we ought to embrace or that every regulation is well-thought-out. I think, as Chairman Rahall said—or, pardon me, Ranking Member Rahall—said in his opening statement, that the challenge before us is to find the appropriate balance. And I believe we have found that balance in my district, and I hope that we can find it in districts across the country.

I yield back.

Mr. GIBBS. I just want to comment and maybe lead into a question. In the President's proposed budget on this, the areas he is cutting are areas that help incentivize and assist entities and public entities to make environmental improvements, and the areas where you are increasing your spending is in the compliance and the enforcement. So I think that is a clear delineation, you know, difference.

And it has always been my thought—I have been self-employed since 1978 in a farming operation. In the years that we were making money, we could think about things to improve waterways and buffer strips and all that on the farm. But the years when the hog prices went south, we were totally focused on staying in business and paying the bills.

And what I am hearing from my business people, and even public entities, too, is that the overlap of regulations and the burdensome compliance costs are hindering them. So we are not getting it done for the goal that we all want, to improve the environment.

And so I guess, simply put, what I would like to see happen is where we would have either a public entity or a private entity, when they are doing their day-to-day work, and they have to comply with regulatory—whatever they are doing, to say, hey, this makes sense, we ought to be doing this, versus, why the heck are we doing this?

And I think that is what I am hearing from a lot of businesses. There is no cost/benefit analysis, and they are just getting slapped higher and higher on costs, and they will actually go backwards. Because most people want to do the right thing.

And do you concur that most people do want to do the right thing?

Ms. STONER. Absolutely. People respond to incentives. And if you have the right incentives, most people want to do the right thing. And everybody loves clean water. That is true.

Mr. GIBBS. But would you also concur that the budget that has been sent to us from the President and your administration, it is increasing enforcement actions and it is cutting the incentive ac-

tion, and, you know, that just goes counter to what we are discussing.

Ms. STONER. I completely agree that you need a variety of tools to reach people. Outreach and education can reach a lot of people, and that is the preferred tool to reach people, if possible. Enforcement is a different tool for different people, and for some people it is necessary.

Mr. GIBBS. I am going to move on to ask if there are any more questions.

Representative Cravaack?

Mr. CRAVAACK. Thank you again, Mr. Chairman. In Minnesota it is timber, taconite, and tourism. Now, I can understand, with some of the statements that you spoke of, but I can also guarantee you that people in Minnesota are most interested in clean water, because they live there. That is truly the important thing to bring back here.

And once again, the Federal overreach of telling us how to conduct our business within the State on non-navigable waters is something I am very concerned about. Could you give me what your definition is of "navigable"?

Now, I would like to know what, in the Clean Water Act—by the way, do we have a copy of the Clean Water Act jurisdiction guidance?

Ms. STONER. It is currently pending at OMB. It will be out for public review, including congressional review, once it's—

Mr. CRAVAACK. I would like to have a copy of that, if you don't mind.

Ms. STONER. I can make that request of the OMB.

Mr. CRAVAACK. OK, I would—I demand a copy of it. So if you would, please.

The reason why I ask that question is this. Because of guidance in our forest industry, there has been pressure upon agencies within the government to comply with certain—even though they are guidances, comply with certain restrictions and regulations that are putting small loggers out of business, because they simply don't have the money to do it.

So, be very careful when you say "guidance." Because I would like to know, is this guidance, therefore, going to become mandatory?

Ms. STONER. A guidance is an interpretation of the statutes and the regulations. It is never mandatory. It is actually always subject to—it's just advice, so we can—and it—

Mr. CRAVAACK. So the EPA will not pressure anyone into following this guidance. Do I have your word on that?

Ms. STONER. It's our—

Mr. CRAVAACK. Is that on the record?

Ms. STONER. It's our interpretation of the statutes and the regulations. The statutes and the regulations are what is binding. So it provides information and advice about how we interpret the statutes and the regulations. The statutes and the regulations control.

Mr. CRAVAACK. Well, I can tell you how all that guidance has affected timber industry in the State of Minnesota, not positively.

Second thing is I would like to know what the—since I have not had access to the Clean Water Act jurisdiction guidance, I would like to know what the definition is of “navigable.”

Ms. STONER. “Waters of the U.S.” is the term that’s in the Clean Water Act to define navigable waters. There are regulations that specify how that has been defined. Those regulations have been in place for several decades.

Mr. CRAVAACK. OK. So are we just talking about navigable waters that conduct commerce? Or are we talking about all waters of the United States?

Ms. STONER. The definition includes navigable, in fact, waters and other waters that have a relationship to traditionally navigable waters.

Mr. CRAVAACK. So are you talking about sloughs? Are you talking about wetlands? What are you talking about here?

Ms. STONER. A lot of those elements are reflected in the regulations, sir.

Mr. CRAVAACK. So, again, we go back to the overreach of the Federal Government, interfering with States and their waters that are considered non-navigable.

I would contest to you that a wetland is not a navigable water. And I would also contest that you are—once again, the EPA is overreaching. We are going back to Swank. We are going back to the Rapanus Agreement, that—already struck down twice by the Supreme Court. You are overreaching. The EPA is overreaching and interfering with states’ rights, states’ waters. And I am very concerned about this guidance that you are putting out. If this is the direction that the EPA is going in, you are going to have a hard fight from people from Minnesota. So that is my statement to you.

And I would like to see a copy of the Clean Water Act jurisdiction guidance. I think this is an overreach, and I will—I look forward to that information, and I yield back.

Mr. GIBBS. OK. Thank you. I think—do you have—go ahead, Representative Harris.

Dr. HARRIS. Thank you very much. Ms. Stoner, I just want to follow up with, I think, the questioning that we ended with last time.

In the supposition that we pass the—that these TMDLs get promulgated and the watershed improvement plans get approved and all, and the local jurisdiction doesn’t comply, they can’t comply, they just don’t have the money, what happens? What’s the back-stop to that? They just can’t do it, it’s just too expensive.

Ms. STONER. We are working very hard with State and local entities to ensure that they are able to meet the—

Dr. HARRIS. Ms. Stoner—

Ms. STONER. But the—

Dr. HARRIS. Ms. Stoner, the supposition they can’t, the local jurisdiction can’t afford that mandate. Anne Arundel County can’t afford the \$1.87 billion mandate. There are no Federal funds, or a very small amount of Federal funds, very small amount of State funds.

Very specific question. What’s the EPA’s plan from that point? Do they go in and try to enforce a court order to force a local jurisdiction to raise the taxes to provide—to implement the plans?

What's the EPA's plans in the not-unlikely circumstance that the local jurisdiction simply can't afford to comply?

Ms. STONER. Congressman, the watershed implementation plans actually came from the States. They figured out what they could do in order to meet the obligations of the TMDL.

Dr. HARRIS. Ms. Stoner—

Ms. STONER. And that's what we would be looking for them to do.

Dr. HARRIS. I—so the EPA will take no action. Is that your answer? The EPA will take no action, because you said the States are in charge. Is it your testimony the EPA will take no action against a local jurisdiction or a State, if the local jurisdiction can't afford to comply?

Ms. STONER. We will look at the facts and circumstances at that time to determine what's appropriate.

Dr. HARRIS. Ms. Stoner, the facts are simple. The local jurisdiction doesn't have the money to comply, and ask me—another set of suppositions. It's a very simple statement. I have met with my local jurisdictions. They tell me, "We can't afford to comply." There is not enough Federal money, there is not enough State money.

It's a very simple question. What's the EPA's plans? Are they going to take the local jurisdictions to court in order to force an increase in property taxes? Because we can't create money. Only in Washington we create money. My local towns and counties can't do it. They don't have the same ability we have here in Washington. What's the EPA's plans? Will the EPA—is it your testimony today that they will not take action against the local jurisdiction?

Ms. STONER. It's my testimony that we will look at the facts and circumstances at that time.

Dr. HARRIS. So you cannot tell me what will happen if a local—see, Ms. Stoner, this is why these local jurisdictions are so afraid of the EPA. This is why they get emotional about it. Because they're faced with bureaucrats from the EPA who won't even tell them what they're going to do in the very real-world circumstance that they can't afford to do what the EPA is forcing them to do.

And, Ms. Stoner, your testimony reinforces that impression. Because this is a very simple question. I want to go back to my local jurisdiction and tell them why they shouldn't be afraid of the EPA, and your answer is, "Well, we won't promise that we won't take them to court and force them to raise property taxes," or, "We won't promise that we're going to go in there and force them to do something."

Is that your testimony, that you can't say whether you're going to—what you're going to do?

Ms. STONER. We can't decide in advance what we are going to do for a particular situation. But we will be involved in discussing it with those local jurisdictions if—in the event that they have difficulty meeting those obligations. There are a number of mechanisms of flexibility within the Clean Water Act. There are opportunities to discuss those. And we will work with communities to ensure that they are able to meet their obligations, and to clean up the Chesapeake.

Dr. HARRIS. Ms. Stoner, are you going to send them money to—when you say, "We're going to help them make sure they can meet

those obligations,” Ms. Stoner, it takes money. It’s a huge unfunded mandate. The local jurisdictions don’t have the money. You are not going to have the money. We’re broke.

Ms. Stoner, the Federal Government is broke. Where is the money going to come from to pay for those things?

Ms. STONER. The President has sought, in an increase in funding for the Chesapeake Bay in his fiscal year 2012 budget to help communities like the ones you’re talking about.

Dr. HARRIS. \$17 million, Ms. Stoner. That’s the President’s increase. Anne Arundel County alone has a fiscal year 2012 share—that’s one of my 12 counties, I am only one part of the State of Maryland, that’s only one part of the six States plus DC—their share alone is \$200 million. I love that kind of generosity out of the Federal Government, but I’m afraid my local jurisdiction is going, “Oh, my God, this is coming our way.”

So, Ms. Stoner, if you think \$17 million is all it’s going to take to help the fiscal year 2012 State and local governments to fulfill their watershed improvement plans or implementation plans—WIPs, whatever they are—I’m afraid you don’t get it.

Ms. STONER. We are also working—

Dr. HARRIS. Thank you.

Ms. STONER [continuing]. With other Federal partners to help them, as well.

Mr. GIBBS. Well, you know, I think I’m going to follow up just a little bit on Representative Harris. You know, obviously, since the Clean Water Act has been in effect in the 1970s, we have made great strides in this country on point source pollution, even nonpoint source pollution.

And you know, I think he is making a good point here. I have seen it. You come in, EPA comes in to a local public entity, and they want to do the right thing, but the EPA doesn’t seem to want to work with that public entity, and what they will do, they will actually file a lawsuit against them, and actually add cost and put fines on them, and you just get into a—you know, a litigation that doesn’t solve anything.

So I guess my question is, you know, what—has the EPA given any thought to, when you’re looking at the regulations and where that—a municipality might be at, and what they’re trying to do, and what maybe they can do in the short run without charging the rate payers so much money that nobody can afford it, and they can’t afford it, and set up a plan to how they can get there in a reasonable time period, and work with them, but instead, it seems like the EPA just wants to go in and start fining them, or litigation.

So, is there any flexibility, any show of flexibility to work with the public entity to develop a plan that’s reasonable that they can agree on?

Mr. STANISLAUS. Well, what I will promise to do is get information from the Office of Enforcement and Compliance Assurance.

There is a longstanding practice where ability to pay is considered, where the circumstances are looked at, in terms of a compliance schedule. And we have done that for years. So, in terms of how that is considered, I am not the expert in that. But we do, in fact, look at those kind of issues. And we are currently in conversa-

tion with local government—I know in respect to my shop—with ability to pay in a certain circumstance.

Mr. GIBBS. Do you want to respond, Ms.——

Ms. STONER. We have the same thing, in terms of ability-to-pay polices that we look at, in terms of what communities can afford to do.

The other point about the Chesapeake Bay is that the watershed implementation plans that were submitted by the States are for implementation through 2025. So there is a period of time to spread out those investments that need to be made to clean up the bay.

Mr. GIBBS. Yes.

Mr. BISHOP. Mr. Chairman, would you yield?

Mr. GIBBS. Yes, go ahead.

Mr. BISHOP. Thank you. I don't pretend to be as familiar with the issue as Mr. Harris is, but it seems to me—my understanding is that a significant component of the TMDL compliance issue will be met by improving and/or expanding waste water treatment capability. And so, if I understand the issue correctly, it seems to me that the issue that's being described is an open and shut argument for not cutting the SRF.

And, as I said before, I am opposed to the President's cuts to the SRF, and I am opposed to the cuts that were included in H.R. 1. I think that there are few things we can do to improve water quality more important than seeing to it that our communities dispose of their waste in a fashion that is environmentally responsible and, as I said before, in a fashion that enhances economic growth.

And so, again, I will defer to your knowledge, sir, of the specific situation. But it seems to me that we are at cross purposes. We are saying that we need more money to handle an issue with respect to TMDL and, at the same time, we are cutting the source of the funding that would help localities handle that issue. I yield back.

Mr. GIBBS. Mr. Reed, do you have a quick question? We're going to wrap this up here, soon.

Mr. REED. Yes, thank you. I just have a quick question. Ms. Stoner, you're familiar with the recent article in the New York Times? I think it was on February 26, 2011, about hydro-fracturing, and that article that was prepared. Are you familiar with that article?

Ms. STONER. Yes.

Mr. REED. In that article, it cites that thousands of documents were provided to the New York Times from the EPA. Was that something you're aware of?

Ms. STONER. My understanding is there were documents provided under the Freedom of Information Act, that's correct.

Mr. REED. OK. So all those documents that were provided were in response to a Freedom of Information request.

Ms. STONER. I actually am not sure that that's the case. I know that there was a Freedom of Information Act request, and documents were provided pursuant to that. I'm not sure whether other documents were also provided.

Mr. REED. OK. So you're not aware of any other documents that were released from the EPA outside of the Freedom of Information

request protocols in regards to this article or any articles related to it.

Ms. STONER. I'm just not sure.

Mr. REED. OK. Mr. Stanislaus, are you aware of that report or this article?

Mr. STANISLAUS. I am.

Mr. REED. You are? And are you aware of any reports or documents that were released from the EPA to the New York Times, outside of any Freedom of Information Request?

Mr. STANISLAUS. I am not.

Mr. REED. OK, OK. Can you check on that, Ms. Stoner? If you are not aware of it, can you—I would like to make sure that any requests that are going—or any information that is going out of the EPA is following the procedures of the Freedom of Information request, and that there is not internal documents that are being leaked to—it's a concern of mine, and you promise me you will follow up that—

Ms. STONER. We certainly will check on that. I will tell you that it is a concern of mine, that—making sure that documents are not leaked from the EPA and the office of water. We need to have internal deliberative processes, and not have our documents published in the press. So I absolutely agree with the concern that you are expressing.

Mr. REED. OK. I appreciate that. And then, on the article itself, do you have any concerns about any of the comments that were expressed in the article about any of the concerns that were highlighted there?

Ms. STONER. As I mentioned earlier, we have heard a lot from the public about concerns with drinking water, with discharges into surface waters associated with hydro-fracking. The article was focused on radiation—or nuclear—

Mr. REED. Yes, radiation.

Ms. STONER. Yes, right. And that's one area. There is one area. There is others that we have heard from the public about. We are evaluating all of those. We are gathering science through the office of research and development, and evaluating those concerns to make sure we are protecting public health and the environment from any potential impacts from hydro-fracking.

Mr. REED. OK. So you are following up on those concerns. How about the waste impact, from your point of view?

Mr. STANISLAUS. Well, it's something that we are following. See, we've gotten similar requests, in terms of how the way this is handled.

I mean currently, as the article notes, it's been handled through State programs that have requested for EPA to take a look. And we're kind of looking at that.

Mr. REED. And in regards to looking at it, what are you looking at, in regards to that?

Mr. STANISLAUS. Well, we have gotten requests as to whether there is any jurisdictional role. Right now, per congressional mandate, there is not a jurisdictional role in that right now.

Mr. REED. OK. Are you exploring trying to expand that jurisdictional role?

Mr. STANISLAUS. We are not. We are responding to a petition to look at what role we have, and whether we need to continue. I should note that we cannot act without congressional action.

Mr. REED. Sure, absolutely. So there is no priority, from your perspective, to expand that in your department?

Mr. STANISLAUS. No. We are evaluating that. And the particular provision in the Resource Conservation and Recovery Act requires congressional action for that to change.

Mr. REED. OK, good. So you recognize that—

Mr. STANISLAUS. Yes.

Mr. REED [continuing]. And you will abide by that.

Mr. STANISLAUS. Yes, yes.

Mr. REED. OK. Thank you. Nothing further.

Mr. GIBBS. Mr. Harris, do you have a question?

Dr. HARRIS. Thank you. Just a very brief question. And I appreciate the comments of my colleague, the ranking member. But, pardon the pun, I suspect that the amount of Federal funding is a proverbial drop in the bucket.

Ms. Stoner, is the—did the Agency—and you will probably have to get back to me on this—estimate the total cost of compliance in the entire watershed, Chesapeake watershed region, of compliance with the TMDL regulations.

Again, and I would like—appreciate it broken down by public and private sources, because again, you know, we have two counties that did pilot plans—Anne Arundel County, \$1.87 billion, that's just for one county, and that's only for the public, that's only what the county is responsible for, not—and some counties have municipalities, of course, and of course the private cost to landowners for compliance.

So, if you could just get back to me. Do you think—well, has the Agency done that? Has the Agency come up with a total cost?

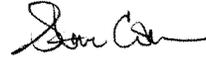
Ms. STONER. There may be such a cost.

Dr. HARRIS. If you could do that, I would appreciate that. Because then we can put in perspective what that, you know, \$17 million increase that the President put in the budget, you know, where that compares with the total cost of what we're talking about to not only our local governments, but also to our private industries.

So, thank you very much. And thank you, again, for coming to testify.

Mr. GIBBS. Thank you. That's going to conclude the first hearing of the Water Resources and Environment Subcommittee. We will be meeting next week, and we will be looking at the budgets of the Army Corps of Engineers. We are concluded.

[Whereupon, at 12:23 p.m., the subcommittee was adjourned.]



OPENING STATEMENT OF REP. STEVE COHEN

The Subcommittee on Water Resources and Environment

“Hearing on the Administration’s FY 2012 Budget and Priorities for the
Environmental Protection Agency”

March 2, 2011

I am pleased to be here today to receive testimony from Acting Assistant Administrator Nancy Stoner and Assistant Administrator Mathy Stanislaus about the President’s FY 2012 budget for the Environmental Protection Agency (EPA).

The Environmental Protection Agency serves the critically important role of protecting the health of the American people and the American economy. Every American deserves clean air to breathe, clean water to drink, and safe food to eat, and the EPA works day in and day out to ensure that every American receives such. In doing so, the EPA has prevented thousands of Americans from contracting devastating health problems like cancer, lead poisoning, and asthma.

EPA’s work to safeguard our air, water, and food is requisite for our nation’s economic success. By keeping Americans out of hospitals and at work and school, the EPA diminishes the burdensome costs of healthcare and boosts our national productivity. Additionally, without clean water the American agriculture system would crumble, and we would be incapable of feeding ourselves since American farmers must have access to clean water for irrigation. Without clean water, manufacturing would grind to a halt as companies use trillions of gallons a year to run their factories. And without clean water, the tourism industry in many states would collapse.

We only have one nation and one planet to live and prosper on, so we need to provide the Environmental Protection Agency the necessary funding to sustain and preserve our air, water, and food for ourselves, our children, and our grandchildren.

**TESTIMONY OF
MATHY STANISLAUS
ASSISTANT ADMINISTRATOR
OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE
U.S. ENVIRONMENTAL PROTECTION AGENCY**

**BEFORE THE
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
U.S. HOUSE OF REPRESENTATIVES**

March 2, 2011

Good morning Chairman Gibbs, Ranking Member Bishop, and Members of the Subcommittee. I am Mathy Stanislaus, Assistant Administrator for the U.S. Environmental Protection Agency's (EPA) Office of Solid Waste and Emergency Response (OSWER). Thank you for the opportunity to appear today to discuss EPA's proposed budget for programs falling under the Committee's jurisdiction.

In the State of the Union, as President Obama laid out a plan to win the future, he made clear that we "will not hesitate to create or enforce common-sense safeguards to protect the American people," and explained that these safeguards are "why our food is safe to eat, our water is safe to drink, and our air is safe to breathe."

These are the services EPA provides. EPA's activities prevent thousands of illnesses from asthma, cancer and other diseases. They help keep students and workers healthy so they can be more productive.

However, as millions of American families are cutting back and making sacrifices, they expect the same level of good fiscal sense out of their government. This budget reflects the tough choices that Americans are making every day.

While this budget request will still allow EPA to carry out its mission and fund the most critical efforts to protect the health of American families, it makes tough choices by reducing funding for important programs, reflecting the need for fiscal constraints.

The choices in this budget reflect EPA's commitment to its core regulatory work and preserving the hard-won progress made over the last 40 years in safeguarding human health and the environment by protecting and restoring the quality of our air, water, and land; ensuring the safety of our chemicals; and providing strong enforcement of environmental laws and regulations.

To clean up our communities, the President is proposing investments that clean up contamination and promote economic development and job creation. The President's 2012 Budget proposes \$175 million for EPA's Brownfields Program to support State and Tribal cleanup programs and to support planning, cleanup, job training and redevelopment of brownfields properties, especially in underserved and disadvantaged communities. Included within the \$175 million request are the following categories: (1) \$49.5 million in categorical grants awarded directly to the states to support their own brownfields programs; (2) \$99 million for the Brownfields projects account supporting competitive grant competitions, revolving loan

funds, and job training grants; and (3) \$26.4 million in technical assistance and sustainable development through EPA's EPM account.

EPA's Brownfields Program uses its funding to successfully leverage economic investment. On average, more than \$17 is leveraged for every dollar expended, and more than 67,000 jobs have been created through brownfields projects funding since the inception of the Brownfields Program. In FY 2012, Brownfields Program grantees are projected to assess more than 1,000 properties, clean up more than 60 properties, help create at least 5,000 cleanup and redevelopment jobs, and leverage more than \$900 million in cleanup and redevelopment funding. The assessment and clean up of brownfields properties is essential to community revitalization in economically disadvantaged areas.

Area wide planning incorporates the surrounding areas associated with brownfields sites to encourage community based involvement and provide for broader revitalization of neighborhoods. By focusing on economically disadvantaged communities suffering from economic disinvestment, brownfields properties can be redeveloped to help meet the needs for jobs, housing, and infrastructure investments that would help rebuild and revitalize these communities, as well as identify opportunities to leverage additional public and private investment. EPA identified area wide planning as one of its Priority Goals for FY 2010 to FY 2012. In FY 2012, EPA will continue to support the 23 communities who already received brownfields area wide planning awards, and, as part of the Agency's on-going efforts to assist economically disadvantaged communities, plans to award an additional 20 area wide planning projects.

An example of EPA's area wide planning effort is the pilot awarded to Ranson, West Virginia. The area wide pilot is providing funding to support site assessment and cleanup of properties in the Ranson to Charles Town Commerce Corridor to help attract high tech commercial office development. The EPA funding will help leverage HUD and DOT sustainable community development funding awarded in the area.

EPA will continue to ensure that the Nation's wide-ranging rural areas benefit from brownfields funding and technical assistance. EPA will also provide funding for assessment and cleanup of underground storage tanks and other types of petroleum contamination on brownfields sites.

This budget requests \$1.23 billion for Superfund cleanup efforts across the country, which represents a reduction from FY 2010 enacted levels and reflects the hard budget choices that are being made. We will continue to respond to environmental emergencies, clean up the nation's most contaminated hazardous waste sites, and maximize the participation of liable and viable responsible parties in performing and paying for cleanups. We are committed to continuing the Superfund Program's success in protecting human health and the environment and providing local communities opportunities for economic development by cleaning up our Nation's worst hazardous waste sites.

For example, the Southside Sanitary Landfill Superfund Site, located 5 miles southwest of Indianapolis, Indiana, is a former 300 acre landfill that was listed on the Superfund National Priority List (NPL) in 1989. The site was contaminated with heavy metals, asbestos, paint

wastes and sludges which contaminated groundwater and nearby drinking water wells. A slurry wall and leachate collection system was constructed to control contaminated groundwater migration. The cleanup was designed to allow future beneficial uses of the site. Today, a methane gas collection system powers the largest commercial greenhouse in North America, along with a nearby aircraft turbine engine plant. The site also has provided room for commercial businesses, in addition to a golf course. This once unusable site now supports more than 50 jobs.

EPA has initiated a multi-year effort to integrate and leverage our land cleanup authorities to address a greater number of contaminated sites, accelerate cleanups, and put sites back into productive use while protecting human health and the environment. EPA's Integrated Cleanup Initiative (ICI) represents EPA's commitment to bring more accountability, transparency and progress to contaminated site cleanups. As a first step, EPA has developed a publicly reported performance measure starting in FY 2011 which will track the number of Superfund Remedial Action Project completions. EPA has committed to 103 project completions in FY 2011 and 113 project completions in FY 2012. This new measure will augment EPA's site wide construction completion measure and help improve project management and provide communities with additional and important site progress information.

One of the principal elements of the ICI is to increase the project management focus and manage projects to completion. In FY 2010, EPA controlled unacceptable human exposures from site contamination at an additional 18 sites, exceeding the goal of 10, controlled ground water migration from site contamination at an additional 18 sites exceeding the goal of 15, made

ready for site-wide anticipated use an additional 66 sites exceeding the goal of 65, and completed remedy construction at 18 sites throughout the country. The FY 2012 goal for construction completions is 22. Through the end of FY 2010, cleanup construction has been completed at 1,098 NPL sites, which represents 67 percent of sites listed on the NPL.

The Superfund Program also continues to prepare for future cleanup efforts and in FY 2010 the Agency listed 17 new sites on the NPL and proposed an additional 8 new sites. Finally, EPA has continued its effort to efficiently utilize every dollar and resource available to clean up contaminated sites and to protect human health and the environment. In FY 2010, EPA obligated nearly \$443 million, including funding from the Superfund program appropriation, state cost-share funding, and potentially responsible party settlement funding for Superfund construction and post-construction projects. EPA used \$106 million of this obligated funding to fund 18 new construction projects at 17 NPL sites.

EPA has been particularly successful in leveraging appropriated funding through the use of responsible party settlements to establish site-specific special accounts. Through the end of FY 2010, EPA had collected more than \$3.7 billion (including interest) in more than 1,000 site-specific special accounts. Of this amount, EPA has obligated \$1.9 billion for site response actions and developed multi-year plans for nearly 100% of the remaining \$1.8 billion in special accounts that remains available to fund response actions. In total, through FY 2010, EPA has secured more than \$32 billion in responsible party commitments to fund Superfund cleanup work.

In addition, the Superfund removal and emergency response program conducted, or provided oversight for, nearly 400 EPA-lead and responsible party removal cleanup actions in FY 2010. The FY 2012 target for EPA-lead removal actions is 170, as is the target for responsible party removal actions. EPA's emergency response program will continue to maintain capability to respond to incidents of national significance, emphasizing incidents involving Weapons of Mass Destruction (WMD). EPA is the lead federal agency under the National Response Framework for Emergency Support Function (ESF) 10, which addresses oil and hazardous materials.

EPA's chemical accident and oil spill prevention programs play an important role in assessing and reducing risks of chemical accidents and oil spills. EPA's Risk Management program works with State and local prevention and preparedness programs to help protect communities from catastrophic releases of hazardous substances from facilities which are required to submit Risk Management Plans (RMPs). More than 13,000 facilities with Risk Management Plans have been entered into EPA's RMP database. The FY 2012 budget requests an additional \$1.3 million to increase inspections at high risk RMP facilities.

EPA's oil spill program is designed to protect inland waterways through oil spill prevention, preparedness, and enforcement activities associated with the more than 600,000 non-transportation related oil storage facilities that EPA regulates. Recognizing the need to prioritize these activities, the FY 2012 Budget requests a \$4.5 million increase for this program which will allow EPA to broaden and expand prevention and preparedness activities, particularly with respect to the inspection of high risk facilities and the development and implementation of a third

party audit program. Approximately 20,000 oil spills are reported each year to the federal government. While the severity of these spill reports varies, EPA evaluates as many as 13,000 spills to determine if its assistance is required. On average, EPA either manages the oil spill response or oversees response efforts of private parties at approximately 250 to 300 sites per year. The total FY 2012 Budget request for the oil spill program is \$19.5 million.

The President's 2012 EPA budget request maintains the commitment to protect human health and the environment, protects our communities while promoting economic development and job creation, and reflects tough choices in recognizing the fiscal constraints facing our Nation. Thank you again for inviting me to testify before the committee. I would be pleased to answer your questions.

TESTIMONY OF
NANCY STONER
ACTING ASSISTANT ADMINISTRATOR
OFFICE OF WATER
U.S. ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
UNITED STATES HOUSE OF REPRESENTATIVES

March 2, 2011

Good morning, Chairman and members of the Subcommittee. I am Nancy Stoner, Acting Assistant Administrator for the Office of Water at the United States Environmental Protection Agency (EPA). Thank you for the opportunity to speak about the President's Fiscal Year 2012 budget request for EPA's National Water Program. Protecting public health and the environment are central to the mission of the EPA Water Program. Clean and adequate water is also vital to the U.S. economy. A wide range of businesses depend on clean and adequate water supply including manufacturing, energy generation, tourism, farming, development, fishing and shell-fishing, food processing and beverage production. The Clean Water Act is designed to protect these many uses of water by American businesses, which employ millions of Americans and impact virtually all citizens and communities.

Consider these facts about the value of clean water to the U.S. economy: About 40 million anglers spend \$45 billion annually to fish all kinds of waters.¹ Manufacturing companies use nine trillion gallons of fresh water every year.² The beverage industry uses more than 12 billion gallons of water annually to produce products valued at \$58 billion.³ Farms depend on clean water for irrigation – 31 percent of all surface freshwater withdrawals in the U.S. are for

¹ American Sportfishing Association: http://www.asafishing.org/newsroom/newspr_092607.html

² Liquid Assets 2000: America's Water Resources at a Turning Point:
<http://water.epa.gov/lawsregs/lawguidance/cwa/economics/liquidassets/>

³ Ibid

irrigation.⁴ And in an example nearby, the Chesapeake Bay is valued at \$1 trillion for its fishing, tourism, property values, and other water dependent business.⁵

The EPA request for the National Water Program is for \$3.98 billion, a 25 percent reduction from FY 2010 enacted levels, and reflects tough choices needed for our nation's fiscal health. The requested level still allows EPA to maintain its fundamental mission of protecting human health and the environment, while ensuring effective and efficient use of tax payer dollars. The funding will allow the Agency to drive technology innovation for a stronger economy, spur job creation, and protect the environment cost-effectively.

While much progress has been made, America's waters remain imperiled. More than 59,000 waterbodies do not meet water quality standards. The primary sources of impairment are pathogens, nutrients, sediment, PCBs and mercury. Despite cleanup efforts, new waterbodies are identified as impaired each reporting cycle. To continue to make progress towards clean and safe water throughout the country, the Agency will build and maintain effective partnerships with the states, tribes and communities, particularly those disadvantaged communities facing disproportionate impacts or that have been historically underserved. Also, through this budget, EPA's National Water Program remains committed to helping businesses, Federal facilities, local governments and tribes meet their environmental requirements by providing tools, training, and technical assistance.

Water and Wastewater Infrastructure Investments

The Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) provide capitalization grants to states, which, when combined with state

⁴ Estimated use of water in the United States in 2005: U.S. Geological Survey Circular 1344, 52 p. <http://pubs.usgs.gov/circ/1344/pdf/c1344.pdf>.

⁵ Chesapeake Bay Blue Ribbon Finance Panel Report page 9: http://www.chesapeakebay.net/content/publications/cbp_12881.pdf

resources, use the funds to make affordable loans to local communities to finance public wastewater systems and other water quality projects that protect public health and vital water resources. The FY 2012 President's budget request includes \$1.55 billion for the CWSRF and \$990 million for the DWSRF, enabling states and tribes to begin over 600 clean water and over 400 drinking water projects nationally. The request includes a tribal set-aside of 2 percent and a territories set-aside of 1.5 percent.

As part of the Administration's long-term strategy, EPA is implementing a Sustainable Water Infrastructure Policy that focuses on working with States and Communities to enhance technical, managerial, and financial capacity. Important to the technical capacity will be enhancing alternatives analysis to expand "green infrastructure" options and their multiple benefits. Future year budgets for the SRFs gradually adjust, taking into account repayments, through 2016 with the goal of providing, on average, about 5 percent of water infrastructure spending annually. When coupled with increasing repayments from loans made in past years by States, the annual funding will allow the SRFs to finance a significant percentage in clean water and drinking water infrastructure. Federal dollars provided through the SRFs will act as a catalyst for efficient system-wide planning and ongoing management of sustainable water infrastructure.

Protecting the Great Lakes

The FY 2012 President's budget request provides \$350 million for the Great Lakes Restoration Initiative to implement both federal projects and projects with states, tribes, municipalities, universities, and other organizations. The initiative will target the most significant environmental problems in the Great Lakes ecosystem, by supporting the Asian Carp prevention framework, restoring beneficial uses in Areas of Concern, and funding other

priority Great Lakes restoration projects. Working with USDA, Army Corps of Engineers, National Park Service, USGS, and other federal agencies, and in close collaboration with state programs, EPA will address high priority watersheds to strategically target where on-the-ground actions can be most effective; provide supplemental funding to enhance existing conservation programs; and implement actions to control nonpoint source runoff, erosion and sedimentation.

Restoring Chesapeake Bay

This budget request includes \$67.4 million for the Chesapeake Bay Program. EPA continues to collaborate with other federal agencies to implement the President's Executive Order on the Chesapeake Bay. This increase of \$17 million over 2010 levels will primarily be used to provide States grants to implement the Bay's Total Maximum Daily Load (TMDL), which is a pollution diet for nutrient and sediment pollution in the Bay. Overload of nutrients rob the Bay of oxygen needed to support blue crabs, rockfish, and other fish and wildlife. Developing the TMDL was a highly collaborative and transparent process, based on implementation actions proposed by the Bay jurisdictions. EPA will use its technical and scientific capabilities to support the states, local governments, sewage treatment plants, farmers, and others to put practices in place to reduce water pollution.

Mississippi River Basin

The FY 2012 budget request includes \$6 million for the Mississippi River Basin program to address nitrogen and phosphorus pollution that contribute to water quality impairments in the basin and, ultimately, the dead zone in the Gulf of Mexico. EPA will build on our strong coordination with USDA, investing in priority watersheds in the Mississippi Basin to implement nutrient reduction strategies and reduce nonpoint source pollution.

Strengthening State Programs

The FY 2012 EPA request includes \$250.3 million for Water Pollution Control grants. The \$21 million increase will strengthen the base state, interstate and tribal programs; address emerging water quality issues; and support expanded water monitoring and strengthened permitting, compliance, and enforcement efforts. States and authorized tribes will continue to review and update their water quality standards as required by the Clean Water Act.

Strengthening Urban Waterways

The President's budget requests \$5.0 million to support the Urban Waters program, which is part of the Healthy Communities Initiative and part of the President's America's Great Outdoors (AGO) Initiative. EPA will assist communities in restoring urban waterways and revitalizing urban areas through partnership with governmental and non-governmental organizations.

Conclusion

In conclusion, I would like to thank you, Mister Chairman, and the Members of the Subcommittee for this opportunity to discuss the President's FY 2012 budget request for EPA's National Water Program. Despite the difficult economic climate, EPA's Office of Water remains committed to protecting and improving the nation's waters, while promoting innovative strategies that cost-effectively achieve public health priorities.

EPA looks forward to continuing our work with this Subcommittee to foster protection of America's waterways and the public's health and well-being.

I will be happy to respond to any questions you may have.