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ENVIRONMENTAL PROTECTION AGENCY'S FISCAL YEAR 2002 BUDGET

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

MAY 15, 2001

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ONE HUNDRED SEVENTH CONGRESS
FIRST SESSION

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ENVIRONMENTAL PROTECTION AGENCY'S FISCAL YEAR 2002 BUDGET

TUESDAY, MAY 15, 2001

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 2:40 p.m. in room SD–628, Senate Dirksen Building, Hon. Bob Smith (chairman of the committee) presiding.

Present: Senators Smith, Warner, Inhofe, Voinovich, Reid, Boxer, Clinton, and Corzine.

OPENING STATEMENT OF HON. BOB SMITH, U.S. SENATOR FROM THE STATE OF NEW HAMPSHIRE

Senator SMITH. The hearing will come to order.

Let me first of all say to Governor Whitman, now Administrator Whitman, welcome again to the committee.

I want to thank you for joining me in Winchester, New Hampshire a few days ago to build support for the brownfields bills. It certainly was helpful in that regard to do just that.

Today's hearing is on the EPA fiscal year 2002 budget. I am very pleased that this budget moved along in the direction that I believe is necessary if we are to achieve long-term success. It is about partnership with the States and achieving results through cooperation and smart management.

It reflects many of the priorities that you, Governor Whitman, instituted at the State level as the Governor of New Jersey. You can certainly see that Governor's hand on this budget as you present it.

The end result was that virtually all measurable indicators show that you left New Jersey with a much-improved environment than you found it.

I recall in your confirmation hearing praise from both sides of the aisle for that environmental record. Much of that praise has to do with how you prioritize that spending based on the end result of what is best for the environment.

This budget increases spending where it is necessary. It institutes a smart management approach so that dollars are spent more wisely. While there will be those who will criticize it, the Bush budget actually represents a $56 million increase over the fiscal year 2001 President's budget request.

It is environmentally protective. It is fiscally disciplined. Certainly, I am pleased about the brownfields funding, which is increased to $98 million. Those dollars will be leveraged into $300

million worth of cleanup and then hopefully even more than that if we can get our brownfields legislation passed.

The beaches bill that was authorized by this committee last year will get seed money in this budget to get that program started.

I want to emphasize that this committee did authorize that program and we would hope that those programs that are authorized would get adequate resources.

With regard to clean water as a package, clean water infrastructure funding is substantially higher than any previous Administration that I am aware of since I have been here. I want to work with you on how it is divided.

I am encouraged that the President's budget, unlike in the past, recognizes the vital importance of clean water infrastructure to this Nation. I have seen so many examples in New Hampshire communities, as I am sure my colleagues have all over the country of antiquated water systems and CSO problems and SSO problems.

Some of these water systems in our region of the country were built in the later 1890's or early 1900's and are long in need of help.

I have a long-standing commitment to the State revolving loan fund because it represents the best approach for helping States to meet those environmental needs. I also want the States to have the flexibility to address their environmental structure, their priorities and their needs as they see them.

I am very pleased that President Bush's environmental protection budget recognizes the capabilities of the States and begins the necessary shift to increasing partnerships with them. This is a basic philosophical shift. I am pleased to see that process beginning.

Over 95 percent of inspections and 90 percent of enforcement actions are carried out by the States, not the Federal Government. I think this budget recognizes that with another $25 million in State enforcement grants.

This is interesting because it brought a very positive response from the States. I would quote one letter from the environmental council of the States:

> We appreciate the recognition that a vast majority of the enforcement and compliance activity of the Nation occurs within the States and we welcome the much-needed infusion of $25 million in State enforcement grants to assist in that effort.

The President's budget also supports information gathering and sharing and will better equip the States.

There is $21 million to increase the availability of quality environmental and health information. EPA also launches a new $25 million program to provide States and tribes with assistance in developing environmental information exchange and so forth.

Finally, I would say this budget is about smarter management. Beyond funding programs to protect the environment, the budget priorities focus on quality information, a credible deterrent to pollution with greater compliance and effective management.

In conclusion, I would say that when I became chairman I stated that one of my goals was to see a Environmental Protection Agency that promotes partnership with States, encourages cooperation over confrontation, compliance over lawsuits. It offers a carrot, yet car-

ries a stick in the pocket, if necessary, an agency that focuses on efforts that will result in a cleaner and healthier environment.

Governor Whitman, I believe that you are headed in that direction, in the right direction, with this budget, even though there will be some differences and criticisms, I am sure.

Before yielding to Senator Boxer and my colleagues, I would ask that we go with 5 minutes in the first round and limit the questions to two rounds because of a commitment by the Administrator at 4:30. So, hopefully, we will respect that.

Senator Boxer, I yield to you.

OPENING STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator BOXER. Thank you so much.

Administrator Whitman, Senator Reid said he would be here as soon as he could. He was managing something on the Senate floor, so he asked if I would fill in for him.

Mr. Chairman, thank you very much. This is an important hearing, because I always believe that a budget is really the guideline for what you believe in and what you think is important.

When I look at this budget, it is down 6 percent, it is off $500 million in real dollar terms. I think that is a message from this Administration and a message that is not good for the people of this country who overall really strongly believe in a clean and healthy environment and support all the key landmark legislative pieces that we fund.

We are looking at this as a matter of priorities. I think that the EPA's mission to protect human health and the environment is of great importance.

I am very concerned with the budget, and more than that, with some of the policies that are coming out of this Administration.

We need to ensure the people clean air, safe drinking water and healthy communities in general. We know that for example children are very vulnerable when we weaken our environmental laws. That is what this Administration is set to do. I am not going to list the laundry list that we have already seen coming out of this Administration.

I am going to focus on one thing today, but let us be clear: This budget is cut 6 percent. When you asked the Administrator in the past, I have heard her say, "Well, these are just earmarks, just earmarks."

That is things that this Congress, representing the people, thought were important. So, I have to question why this proposed budget doesn't have the level of resources that we provided in 2001.

Many key programs like Federal enforcement are cut. Other key programs like the safe drinking water revolving account are flat. I am very concerned that the people are not getting what they deserve.

One item I am particularly troubled about is our drinking water. I am very troubled about that whole issue, especially in light of the recent suspension of the new arsenic standard for drinking water, a standard that is supported by years and years of study and extensive cost analysis.

After a comprehensive review, we still do not today have a standard for arsenic in our drinking water that is safe.

As we know, this Administration delayed the new arsenic standard. It is going to be back to that 50 parts per billion or is back to that 50 parts per billion.

We are allowing people to drink enough arsenic in their water to cause cancer in 1 of every 100 people. That is why the State of New Jersey, Governor Whitman, moved the standard back to 10. You know that. We congratulated you on that.

The question is: If it is good enough for New Jersey, why isn't it good enough for the American people? I think even 1 day losing time like we are losing on this is not good.

Now, I want to talk with you briefly in this opening statement about three new studies, because I don't know whether you have had the chance to be briefed by your staff and we have brought them with you.

First let me show you a chart which shows the different countries and their standards. Australia has gone to seven parts per billion. We see the European Union at 10 parts, Japan at 10 parts. The World Health Organization should be 10. Joining us at 50 parts per million are Bangladesh, Bolivia, China, India and Indonesia. That is where we line up.

I think most Americans don't want us to line up that way.

Now, EPA found in January of this year that we could establish a new standard now of 10 parts per billion. Not only did the weight of science support that standard, but also the cost analysis supported that standard. EPA found the benefits justified the cost. Years of study supported the 10 parts per billion standard and recent studies provided even more support.

Now, the new studies that have come out, I am going to make sure that you get those new studies. The first one, the new Dartmouth study, published in Environmental Health Perspectives, finds that arsenic disrupts hormone function.

This finding means that there may be an increase in diabetes, cardiovascular disease and cancer. Arsenic is more toxic in more ways than we thought. We can see here from this new perspective, the Dartmouth Study, March of 2001, it means increased risk of diabetes, cardiovascular disease and risk of cancer.

Another chart I want to show you is published in Chemical Research and Toxicology. It finds a link between arsenic and DNA damage. This is April 2001, EPA. It finds an increased risk of cancer and basically that no level of arsenic is clearly safe.

So, clearly we know the lowest possible standard is needed and that is very important.

Finally, there is a new study from Taiwan. I understand this study is published in the premier journal in this field, the American Journal of Epidemiology. This study finds that there is an increase and actual doubling of cancer risk when arsenic is consumed in drinking water between 10.1 and 50 parts per billion. So, word on the street that you are going to look at 20 parts per billion is very upsetting because it is not safe at 20.

This new study says to me that we ought to just keep that 10 in place and not fool around with the health of the people in this country.

We have a standard in place as a result of the action of this Administration that was set in 1942.

Now, here is the point I want to make. When you ask people in your Administration, and you have said this yourself, the cost to small communities across the country has to be considered. Of course it does. That is why I wonder why you have the funding for drinking water infrastructure at a flat level, no increase.

On the one hand you are complaining that you have to do all these things. On the other hand, you make this part of the budget flat. It seems to me if we really care about the local people, and of course, we all do, I was one once and you were one once, the fact is we need to help them clean up the water.

You know, we have a debate over these tax cuts. The people who earn $1 million a year are going to get back hundreds of thousands a year.

You know, if I asked them in my State, and I have a lot of them in my State, they think it is nuts when we have arsenic in the water, when we don't even have a standard for Chromium Six and anyone who saw the movie, Erin Brockavich, that was real. Those are real people who died of cancer because Chromium Six was in the water and we don't even have a standard.

So, it is all intertwined. I know you have been dealt a certain hand in this budget. But I said to you when I happily voted for you, and I am glad that I did, that I hoped when you sat around the table you were going to make a strong case and not back down, a strong case for the children, for the quality of the air and the water.

Frankly, looking at this budget, this gets one of the biggest hits in the entire Administration. So, I am very distressed about this. I think that what you could do to really help everyone is to convince this President that backing off of the arsenic standard is not a good idea.

I think it is illegal. I have sent you a letter. I cited chapter and verse the law that is in place that says in fact you have to have a new standard in place. Instead of even answering that letter, as far as I know I have not even gotten an answer, I think this Administration has broken the law on that point.

Congress didn't say "You may have a standard in place by this date."

They said "You have to have one."

And there isn't going to be one. So, I am concerned about the level of this budget. I am concerned about the action on arsenic. I have given you three new studies. I hope you can go back to the table and make the case for keeping that arsenic standard at 10.

I will help you in every way that I can to work on a bill. Senator Smith, Senator Reid and I am supporting their bill to increase the funds to help our local communities clean up the water.

Thank you very much.

Senator SMITH. Thank you, Senator Boxer.

Senator Inhofe.

OPENING STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator INHOFE. Thank you, Mr. Chairman. I will be brief, but I will submit my opening statement for the record.

Madam Administrator, I think you have done a real good job in putting this budget together. In addition to some of the things that our Chairman mentioned, I would single out the Information Exchange Network. I think this would be a great help to the States.

In this information age, it is not reasonable that we continue to do things the way we have been doing them in the past.

The Superfund, moving forward with that, I have a concern here. I do chair the Readiness Subcommittee that has jurisdiction over the BRAC process and the fact that we need to have our Federal partners cleaning up the Federal facilities. I would particularly be concerned with some of our BRAC sites.

The water infrastructure funding, I think, is very significant. I say that not just for my State of Oklahoma, but to many other States. The same with total maximum daily loads.

I would single out your commitment to sound science. It is something that we have been working on for a long time. As I told you many times when you and I visited about this, it is very important. In the language that you used, and I am quoting now,

> Science and public policy proceed along fundamentally different lines, different time lines. We will continue to use the best available science and scientific analysis to aid in the development of environmental policy.

I can remember when we virtually ignored the recommendations of CASAC, the Clean Air Scientific Advisory Committee. Some 21 scientists, gathered together by EPA, issued a report with recommendations during the ambient air fight.

Last, on New Source Review, this has been something that Senator Voinovich and I have been very much concerned with over a long time. I know this is not your doing. It was a surprise to me, maybe it should have been more of a surprise than it was, but these notices of violations of the 114, how many of them were dated January 19, 2001.

Many of the requests came in in the form of photocopied documents where one refinery is scratched out and another one put in. In these areas, I hope we will be able to see activity in addressing this New Source Review expanded.

Thank you, Mr. Chairman.

Senator SMITH. Thank you, Senator Inhofe.

Senator Clinton.

OPENING STATEMENT OF HON. HILLARY RODHAM CLINTON, U.S. SENATOR FROM THE STATE OF NEW YORK

Senator CLINTON. Thank you, Mr. Chairman.

I want to focus on a couple of issues that concern me. I certainly second the comments of my colleague, Senator Boxer, and hope that despite what we heard the arsenic standard will be issued in a timely and legally appropriate manner by the date that the Congress set.

I want to talk, though, about the intersection between our environment and energy. I don't think it will surprise anyone in this

hearing that we have the threat of power outages in our country, and that is not just in California. It includes New York.

According to a new Energy Information Administration report, the probability of rolling blackouts is increased as reserve margins decline. Supplies of electricity are expected to be tight in the New York City and Long Island areas this summer.

While unlikely, blackouts could occur in the event of a long period of extremely hot weather.

I raise this issue because I am very concerned about what the threat of blackouts or brownouts means for New Yorkers and Americans this summer. It appears that President Bush's energy plan, to be released this week, will not address our short-term energy needs. In fact, he has said that his tax cut is the response that his Administration has to the current energy challenges that we face.

I just could not disagree more, especially because the budget cuts we see in this budget and the budgets of other agencies in our government are being made primarily to accommodate these fiscally irresponsible tax cuts.

Unfortunately, the tax cut requires that there be cuts in the energy efficiency and energy conservation programs that we need in order to help us solve our Nation's power problems.

The President's budget cuts research in renewable energy by an astounding 37 percent and slashes energy efficiency programs in half. I think these are drastic cuts that lead our country in the wrong direction. They seem to overlook an important fact, that energy efficiency, as we heard in testimony before this committee in the past, represents the second largest source of energy in the United States.

Now, more than ever, we need a balanced energy policy that embraces energy efficiency and conservation measures in combination with new environmental responsible generation of power, including renewable energy sources.

Now, the EPA's Energy Star Program, which, I think, is perhaps one of the best examples of what government and industry can achieve when they work together in partnership, has been a tremendous success. Everyday this program has made it easier for businesses and schools and consumers to save money and protect the environment.

It is my understanding that over the past 8 years, through simple energy efficient improvements, the Energy Star Program has helped us avoid the need for over 30 new 300-megawatt power plants. As technology continues to advance, the program has the potential to do even more.

Now, given the current energy crunch we find ourselves in, I believe we should be expanding, not flat funding or cutting back important programs like the EPA's Energy Star Program.

I am also concerned that the President's plan makes the EPA's budget and important environmental programs a secondary priority. In total, the President's budget request for EPA is approximately $500 million less than the enacted level for fiscal year 2001, or a 6-percent cut.

Now, if the EPA budget accounted for the 4-percent growth rate that President Bush said is a reasonable rate of growth, his request for EPA would represent a 10-percent cut.

The President's request represents significant funding shortfalls for important programs like the Clean Water State Revolving Fund, Enforcement, Sound Science, and Pesticide programs.

I am particularly concerned that these cuts are coming at a time when we are trying to determine the links between our environment and our health. For example, many people, not just in New York, but around our country, believe that the environment plays some role in the incidence of breast cancer in women. They have not yet determined what that role is. But we cannot give up our efforts to control those factors that we think possibly cause or influence cancer.

We still don't know, for example, what caused the childhood cancer cluster in Fallon, NV, where I went with Senator Reid for a hearing, or the high rate of testicular cancer in the students who attended a high school in Elmira, NY. But we should not give up on the commitment to determine whether it is pesticides and other chemicals that get into our water or our air, whether it is the increasing levels of nitrogen oxides and other pollutants, whether it is the cumulative effect of environmental contamination that has been built up over the years.

We don't know but we are certainly not going to find answers by cutting funding for EPA's science and technology programs, including research on air pollution and safe drinking water.

We are certainly not going to protect our children better if we fail to increase or even cut investments in programs that will make our air and water cleaner.

So, I hope that as we look at this budget request, we do what we on this committee, in a bipartisan manner, believe is in the best interests of the health of our children, our environment's improvement, and our energy efficiency.

I find in those three areas this budget proposal just doesn't meet the challenges that we have.

Senator SMITH. Thank you, Senator.

Senator Voinovich.

OPENING STATEMENT OF HON. GEORGE V. VOINOVICH, U.S. SENATOR FROM THE STATE OF OHIO

Senator VOINOVICH. I know that last year we held an EPA budget hearing each year. I am pleased that we are doing it, Mr. Chairman. It is very important. I think at that time it is very important for us to have this oversight over the appropriations process.

I would like to commend the Administrator for the President's budget submittal. I know one thing, that you didn't have a whole lot of time to put this budget together, nor did the President. It is interesting to me to hear that we need to spend more money in your budget. I suspect that I agree with that, but at the same time, we are talking about increasing the budget for education. If you look at the numbers, it is 25 percent.

Administrator, you know from being a Governor that when you have large increases in other parts of the budget, they squeeze out

other priorities that you have in the area of responsibility that you have.

Unfortunately, this Congress, in my observation, has not been willing to make the hard choices and the priorities to look at the big picture in the 13 appropriations areas and that is one of the reasons why we are in trouble today. We just don't do that.

I really feel sorry for you in a way because of the way this thing works here. Hopefully, it is not too much of a shock to you.

I know you have gotten some criticism for transferring part of the enforcement budget to the States through a $25 million grant program. But I think that is exactly what you should be doing.

As the former Governor of Ohio, I realize that the States are and should be taking the lead on environmental enforcement. I think many people are not aware of the fact that the States already conduct 95 percent of all inspections. I think it is time for the Federal EPA budget to acknowledge that fact.

By proposing these State enforcement grants, we as a Nation will get a better environmental enforcement program.

Now, there are a few issues I would like addressed today by you. I have held two meetings in Ohio over the last several months on Ohio's wastewater infrastructure needs. Most recently, at the end of April, Senator Crapo conducted a field hearing in Columbus, OH on the State's wastewater needs.

Mr. Chairman, we are facing a rumbling of a rebellion across the Nation as communities struggle to deal with aging water infrastructure growth, increasing Federal water quality requirements.

In Ohio alone, the estimated need for safe drinking water and wastewater total $12.4 billion. That is $5 billion for drinking water and $7.4 billion for wastewater.

I know that you have to defend the budget request of $850 million for the Clean Water State Revolving Loan Fund as an increase. It would, in fact, be a $500 million cut from the $1.35 billion Congress has appropriated in recent years.

At the same time, the request ignores Congress' goal of funding the Clean Water SRF Program at $1.35 billion, before putting any money toward the wastewater grants program, which is authorized at $750 million for fiscal year 2002.

Now, there is not enough. I have a bill in to increase the State Revolving Loan Fund to $3 billion a year. That is modest in terms of the needs. We know that the States need grants. Last year when we did the authorization, this Congress, as a sense of the Congress, said we need to at least get the $1.35 billion for the SRF and we needed another $750 million a year for the grant program.

You know, we have a very serious problem there. I think you ought to go back and look at that and see if there is not something that you can do to respond. It is not a whole lot of money, but it will make a great deal of difference to the communities throughout our country.

Another issue is human capital. All of our Federal agencies are confronted with a human capital crisis. I would like to know from you what is the situation in the EPA and what percent of your work force is eligible for retirement and early retirement.

Most importantly, what category are you going to have problems in? For example, scientists, are you going to be able to have the sci-

entists that you need? You probably have more Masters degree and PhD. people working in your agency than in any other agency. I know it is not easy to keep them or to attract them.

I am interested to know, does this budget provide you the wherewithal so that you can keep your folks and attract people to the agency?

Last year the National Research Council prepared a study entitled "Strengthening Science at the U.S. EPA." That report included several recommendations on how to improve the research management and peer review practices at the agency. While some of these recommendations require congressional authorization, many do not.

Is the Administration's budget request sufficient to accomplish the recommendation necessary to strengthen EPA's scientific practices.

I look forward to your testimony. You don't have an easy job. We are hopeful that we can work with you the rest of this year and next year. Maybe the budget presentation next year will be easier.

Senator SMITH. Thank you, Senator Voinovich.

Senator Corzine.

OPENING STATEMENT OF HON. JON S. CORZINE, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator CORZINE. Thank you, Mr. Chairman.

It is good to see you, Governor. I want to echo much of what my Democratic colleagues have said. Also, I want to identify strongly with Senator Voinovich's comments on the Clean Water Revolving Fund. I have serious concerns there and also about arsenic standards, which I think are clear.

The whole level of discretionary spending cuts that are imbedded in this budget, these budget numbers, really are reflective of the priorities that are flowing from, I think, an outsize tax cut as opposed to reflecting our priority needs.

I frankly think the EPA budget request this year is inadequate to address the environmental needs of the Nation. The request for the next year is not the exception. Actually, we are more troubled about the outyears at least as we have seen it in the proposals. It makes real dollar reductions in EPA every year for the next 5 years, if I am reading the numbers right.

We tried to fix this problem during the budget debate. Every Democrat on this committee voted for an amendment that I offered to increase environmental funding, including EPA's budget, by $50 billion over the next 10 years.

I know throwing money at things is not the answer for all problems, but there are certain levels of funding that are necessary, I think, to deal with a lot of these issues in our environmental areas.

So, I think there are real problems with EPA's request. I have concerns somewhat with some of the policy choices that the budget makes. It cuts Clean Air, reduces the number of Superfund cleanup sites, which, you know, in New Jersey is more than a small problem. It cuts funding for challenge global warming. I believe it shuffles some accounting columns with regard to funding for pesticide assessments.

Maybe more importantly, and we talked about this at the confirmation hearing, I find your enforcement cuts especially dis-

turbing. I am all for compassionate enforcement, but I think we need to be real with regard to credible deterrence. It is hard to believe that this budget, which cuts 269 enforcement positions, will make the prospect of enforcement more credible to polluters.

I understand that most of the resources freed by these cuts are going to the States. I want to help States, Mr. Chairman, but not at the expense of Federal enforcement. It is too important. I believe the people of New Jersey depend on it, reflect on it, think that EPA has done a good job.

They depend on Federal enforcement of the Clean Air Act to address pollution coming in from other States, which contributes to New Jersey's ozone problems. We certainly depend on Federal enforcement to clean up our 114 Superfund sites. They depend on Federal enforcement backstops to strengthen compliance with the rest of our environmental laws.

These changes in enforcement policy and cuts to others areas, I believe, will hurt New Jersey and send a wrong message to the polluters across the Nation. I will be getting back with more detail, but I hope that we can all work together to maybe increase these numbers somewhat so that we can take this and really apply strong environmental standards for our kids and for communities.

Senator SMITH. Thank you, Senator Corzine.

Senator Warner, do you have any opening remarks?

OPENING STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINIA

Senator WARNER. Thank you. I will be very brief.

Madam Secretary, we welcome you. We read a lot about how much fun you are having in this job. Sheer joy, isn't it?

Ms. WHITMAN. Absolutely.

Senator WARNER. But if it weren't, it wouldn't have attracted you, those challenges. I have been a member of this committee, I guess, many years now. I don't count any more. But we are going to hope to be very supportive and hopefully in a very bipartisan way.

We reach across this aisle on this committee quite well. Senator Reid and I have cut through a lot of problems through the years, haven't we, Harry? Are you listening to what I am saying?

Senator REID. Every word of it. I knew you weren't talking about Jack.

Senator WARNER. Anyway, each of us has our own project or two. But I am looking forward to the President's energy message that is forthcoming here on Thursday.

Over the many years that I have been here, we have worked on clean coal-burning technology and other means to preserve the environment in the face of the use of coal and other sources of our energy.

I understand that the President is going to rely, as this Nation must rely, on coal. It is our largest source of fossil fuel energy. It is basically unlimited. I mean we spend so much time with grave concern over the increased export of petroleum, when beneath this wonderful land we have is an inexhaustible supply of coal. It is well distributed across the United States.

So, as we move in that direction, I would hope that we could all work with you to continue to have the high environmental standards and at the same time enable the free enterprise system to utilize coal to meet this energy crisis that is coming.

Do you have any views on that or are you just going to listen for a minute and then when you get a chance to talk you will touch on that.

The other issue is the Chesapeake Bay. I was here with Senator Mathias, a wonderful Senator. We pioneered that agreement. There are three States that signed this report, and you are on this, to forge ahead. It is 20 years old now. We have authorized about $30 million a year. The appropriators have seen fit for $20 million a year. Now we have dropped down possibly to $18 million.

But this benefits many States. There are six States that directly benefit from the watershed. That includes northern parts of New York. Of course, my States of Virginia and Maryland are principal beneficiaries.

We are constantly facing a destabilizing environmental situation now that the Blue Crab is beginning to disappear in large amounts. We are taking initiatives to reseed the Blue Crab.

So, I hope this merits some of your attention. I sat here last year and watched the Everglades bill go through, an enormous amount of money, benefiting primarily one State, although the Everglades is a national treasure.

But this is a national treasure also. We have been plugging away for 20 years on this and there is much more to be done. So, I hope that you will lend an ear to that program.

I thank you again for your public service.

Senator SMITH. Thank you, Senator Warner.

Senator Reid.

OPENING STATEMENT OF HON. HARRY REID, U.S. SENATOR FROM THE STATE OF NEVADA

Senator REID. I figured out Senator Smith's goal here. We use all of our time in statements and then there is no time for questions.

I understand the Administrator wants to leave at 4:30, so we will have questions either orally or in writing.

Mr. Chairman, thank you very much for scheduling this hearing. I am always very concerned about saying nice things about Administrator Whitman. I am afraid it might hurt her more than help her. Maybe I would be better off saying bad things about her. It might help more.

Madam Administrator, President Bush has said that a reasonable rate of growth for the budget was 4 percent. At the State of the Union he said that. Yet, for EPA, which is what I care so much about, the budget overall reflects a cut of 6 percent, $500 million.

If we added in President Bush's 4 percent increase that he said we should get, the budget would have a cut of 10 percent. Many of the programs we have old funding levels. With new, complex environmental problems to be faced we still have these old funding levels.

For example, this Administration has criticized the regulatory actions taken by EPA in the past for not being careful enough or as not being supported by science. Yet, the budget fails to increase

funding for the offices responsible for issuing these regulations and fails to increase funding for sound science, which would seem to me logically to compound the complaints the President has had.

So, really what does this budget mean? What sort of programs would be affected? Now, I know you didn't write the budget. It is something you have to live with. I think it is important that we direct your attention to what you do have to live with.

The Environmental Protection Agency would be funded at $7.3 billion for fiscal year 2002, a cut, as I said, of $500 million. This translates to cuts in programs to protect water quality, infrastructure, clean air, enforcement of all environmental laws, and of course, scientific analysis.

Let's talk about the enforcement cuts. One issue that I would like to highlight is the very serious reductions in the EPA enforcement efforts. Programs that deter polluters from ignoring the law in the first place, that is compliance monitoring and civil enforcement, I believe are the backbone of Federal environmental protection.

Enforcement both ensures that the companies know their responsibilities and that companies who comply are rewarded for their behavior, rather than being put at a competitive disadvantage with those who fail to follow laws.

Madam Secretary, let me just give you one simple example of why we have to have enforcement available and we have to use it. We had a problem in Nevada. I have invited you out there to take a look at government at its best. We had a big gravel pit. It was causing all kinds of problems.

The State was trying their best, but they were under-equipped to deal with eight oil companies. The oil companies had much, much larger departments in any area, including legal, than the State of Nevada had.

We brought in the EPA. An emergency Superfund site was declared. That place was cleaned up quickly. It was dangerous. We now have a beautiful marina on a lake there. It is so beautiful. That is why we need money for enforcement, to have not only the muscle, but companies need to know that the muscle can be used.

These cuts that I have talked about affect all programs. They will hurt Clean Air, Clean Water, Safe Food, Right to Know and other programs. The Administration even cut the budget for recovering money spent by the Federal Government. One of the activities that the Government Accounting Office has repeatedly suggested, EPA needs to beef up, not only because it does a lot of good, but also we make money doing that.

The President's budget contains a provision that would shift $25 million for EPA's enforcement of our environmental laws to State programs. This translates to a cut of Federal enforcement personnel of 270, about 10 percent of the work force across the country. These employees are truly the environmental cops on the beat. Over 80 percent of these cuts will come from field employees, those closest to the problems, those working on the cases that ensure environmental laws are effective.

I fully support assisting the States in their enforcement efforts, but this should not be funded by undercutting EPA's ability to enforce environmental laws.

The enforcement budget is one of the most fiscally efficient ways to improve the environment. For example, under the Superfund Program, every one dollar spent in enforcement results in $7 worth of environmental cleanup.

I think the State of New Jersey has had more experience than any other State with Superfund. So, I am sure you know that. There are many instances when it makes more sense for the Federal Government to be involved, such as when there are companies involved in several states, an example I have already given; cases where the pollution crosses State boundaries, the example that I gave, are very large and complex cases which would over-burden a single State, an example that I already gave.

Let us talk about budget cuts that deal with clean water in estuaries. The budget cuts EPA's Clean Water State Revolving Fund Wastewater Loan Program used to provide loans to communities for upgrading their water treatment infrastructure is cut by $450 million. This is terrible. It ignores the Nation's water infrastructure crisis.

On a bipartisan basis, Senator Ensign and I have introduced legislation to increase this. The National Estuaries Program would be cut by 50 percent.

In addition, despite the fact that there are more than 40 percent of the Nation's waterways unsafe for fishing and swimming, the program monitoring water quality on swimming beaches will be cut from $30 million in fiscal year 2001 to $2 million in fiscal year 2002. That is a significant cut.

The budget cuts funding for sound science. Sound science reaches across all aspects of the EPA's programs, from regulating arsenic to Yucca Mountain. Quality, objective science gives the EPA the credibility it needs to be an effective guardian of the health and safety of the public and the environment.

The EPA has said it would like to make sound science the basis for policy decisions. The budget fails to support that claim. The request is $27 million less than last year's enacted level and $21 million less than last year's request.

Clean Air, the agency's budget request for Clean Air Programs is inadequate to keep up with the public health challenges we face every day.

Madam Secretary, asthma has become very, very serious all over the country. Every day we learn more about the health impacts of fine particles, air toxins and global warming. We really don't understand all of them. Yet, the Air budget is going down, not up.

The Clean Air Program would be cut by 6 percent, even though more than 100 million people still breath dirty air that does not meet Clean Air standards. Programs that help States meet quality standards will be cut by 4 percent. Additional cuts will be made to ozone reduction, air toxins and acid rain programs. It is hard for me to believe this, but that is what I am reading, that is what the budget says.

There are also cuts in scientific research in Clean Air. During the Presidential campaign, President Bush said that "Efforts to improve our environment must be based on sound science, not social fads."

Yet, when it comes to funding, sound science, research and air pollution at EPA, the budget is sliced by over $6 million in research in key air pollutants and cuts more than $1.257 million from EPA programs regulating hazardous air pollutants.

The Administration is proposing to delegate ever more enforcement authority to States. Air pollution enforcement requires a strong Federal presence, as we have already established.

EPA's enforcement actions on New Source Review in 2000 and a recent GAO report on inadequate funding by large facilities suggests EPA can and must do the job of overseer when the States simply don't keep up with the political and resource demands that are there.

The Bush budget proposes a cut of over half a million dollars from EPA's climate programs, despite broad recognition that it is a serious problem.

Brownfields legislation we just passed. The Administration budget provides only $5 million in additional funding for brownfields, a shortfall of at least $152 million in funding for S. 350.

We have already established, Madam Administrator, that brownfields will create 600,000 jobs, will add revenues to State and local governments of about $2.5 billion. So, we need to do this. The budget goals aim for 20 fewer Superfund cleanups a year. I think it should be at least 20 more Superfund cleanups a year.

Pesticides and children's health. I was hopeful that protecting children from dangerous pesticides would be an area where we could make progress FE not so. In the face of rollbacks in protections for air and water, we understand that a consent decree was signed to put EPA on a schedule to provide critical pesticide protection for children.

The Administration did the right thing, Governor Whitman. Time and time again since then, President Bush has reminded us, highlighting the pesticide settlement as evidence of a positive settlement achievement.

But the budget reveals that all this talk was just that—talk. EPA has made sure it has a right, under the consent decree, to change its obligation to protect children from dangerous pesticides if it experiences substantial cuts to its budget. You can't do that.

Therefore, the budget actually breaks the promise for pesticide protections for children by giving EPA an excuse to get out of the pesticide settlement it has lauded as a major achievement for this Administration.

This budget would cut 50 percent from last year's level, resulting in the loss of 200 employees from relevant EPA programs. When we find that cut the Administration tells us really it isn't a cut because it plans to finalize the proposed Clinton administration rule to raise the fees charged pesticide companies due to its work.

We know that this will never come to be in this Congress. Lucky next Congress, every time we try to do that we are tied up in courts for years. What happens if the rule is blocked, as it has been, additionally not only by court action, but by riders as it has been for at least one Congress?

In summary, I am disappointed that the Administration budget fails to provide adequate funding for virtually every critical pro-

gram that protects environment. I think this is a sad day for our country.

[Tables and illustrations submitted by Senator Reid for the record follow:]

Environmental Protection Agency, Summary of Agency Resources by Goal

[Dollars in thousands]

	FY 2001 enacted	FY 2002 President's Budget	Delta FY 2002 vs. FY 2001	Percent change
Clear air	$590,082.0	$564,628.0	$(25,454.0)	−4
Clean & safe water	3,675,947.8	3,213,402.5	(462,545.3)	−13
Safe food	109,303.9	108,245.0	(1,058.9)	−1
Preventing pollution	301,113.7	297,572.3	(3,541.4)	−1
Better waste management	1,517,539.9	1,510,758.2	(6,781.7)	−0.4
Global & cross border	284,410.8	282,698.9	(1,711.9)	−1
Quality environmental information	178,253.4	189,128.1	10,874.7	6
Sound science	334,326.0	307,247.7	(27,078.3)	−8
Credible deterrent	397,274.6	411,215.7	(13,941.1)	*4
Effective management	423,375.5	431,703.8	(8,328.3)	−2
Offsetting receipts	0.0	(4,000.0)	(4,000.0)	.....
Grand total budget authority	$7,811,627.6	$7,312,600.2	($499,027.4)	−6

*''Credible Deterrent'' reflects EPA's budget to enforce Federal environmental laws. Federal enforcement under this goal actually suffers an $11.059 million cut because the Administration proposes sending $25 million of its Federal enforcement budget to the States in a block grant. That $25 million grant consumes the entire $13.941 million enforcement ''increase'' reflected in the chart and results in a deficit of $11.059 million.

Source: EPA Summary of 2002 Budget at 142.

Environmental Protection Agency, Summary of Agency Resources by Goal (Four Percent Growth Rate)

[Dollars in thousands]

	FY 2001 enacted	Four percent growth	FY 2002 President's Budget	Delta 4% growth vs. FY2002	Percent change
Clear air	$590,082.0	$613,685.3	$564,628.0	$(49,057.3)	−8
Clean & safe water	3,675,947.8	3,822,985.7	3,213,402.5	(609,583.2)	−16
Safe food	109,303.9	113,676.1	108,245.0	(5,431.1)	−5
Preventing pollution	301,113.7	313,158.2	297,572.3	(15,585.9)	−5
Better waste management	1,517,539.9	1,578,241.5	1,510,758.2	(67,483.3)	−4
Global & cross border	284,410.8	295,787.2	282,698.9	(13,088.3)	−4
Quality environmental information	178,253.4	185,383.5	189,128.1	3,744.6	2
Sound science	334,326.0	347,699.0	307,247.7	(40,451.3)	−12
Credible deterrent	397,274.6	413,165.6	411,215.7	(1,949.9)	*−0.5
Effective management	423,375.5	440,310.5	431,703.8	(8,606.7)	−2
Offsetting receipts	0.0	.....	(4,000.0)	($4,000.0)	.....
Grand total budget authority	$7,811,627.6	$8,124,092.7	$7,312,600.2	($811,492.5)	−10

*''Credible Deterrent'' reflects EPA's budget to enforce Federal environmental laws. Federal enforcement under this goal actually suffers a $26.95 million cut because the Administration proposes sending $25 million of its Federal enforcement budget to the States in a block grant. That $25 million grant actually increases the federal enforcement deficit from $1.95 million to $26.95 million.

Source: EPA Summary of 2002 Budget at 142.

Budget Plays Shell Game with Pesticide Protections for Children

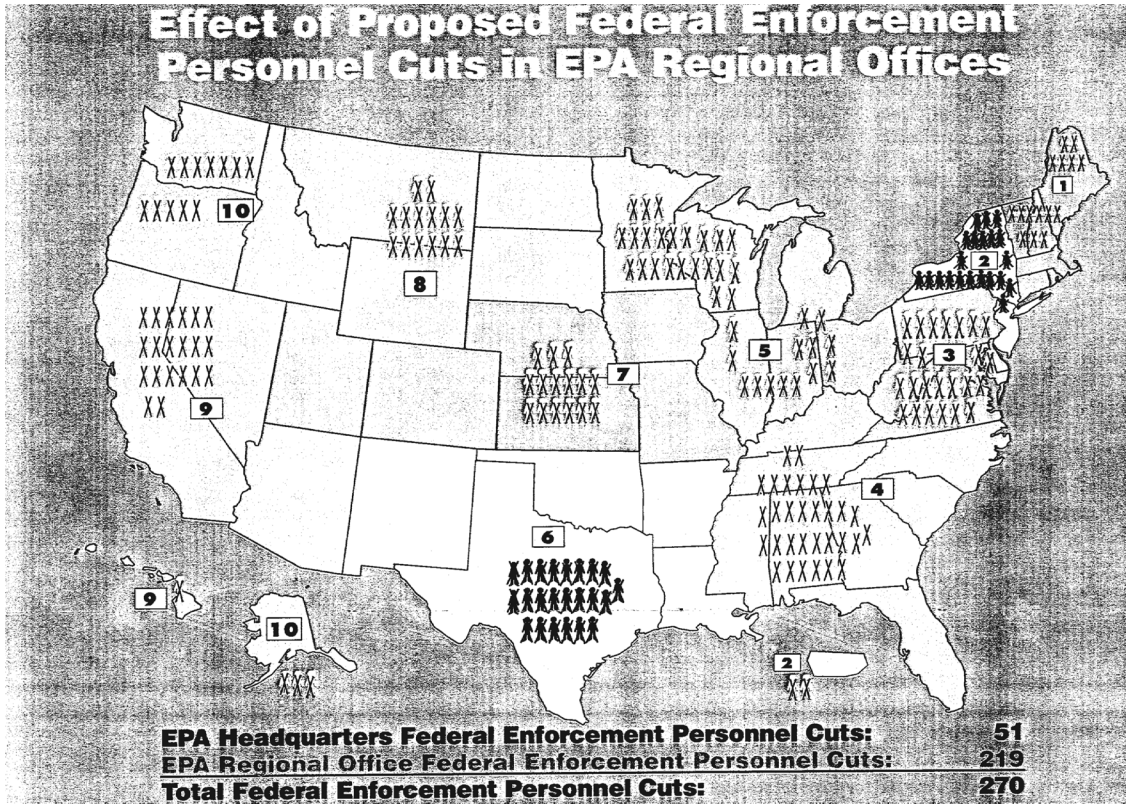
The Administration's budget proposes a 50% cut in EPA's Tolerance Reassessment Program, from a FY2001 enacted level of $1,234.5 million to $649,900. This funding shortfall would result in the loss of 200 EPA employees. *EPA Budget at III-7 and III-11.**

Children's Health Protections Affected by 50% Proposed Cut

- Consent Decree in *NRDC v. Whitman* placing EPA on a schedule to comply with FQPA pesticide protections for children.** (March 22, 2001).
- Reassessing an additional 9,721 pesticide standards to ensure protections for children. *EPA Budget at III-7.*
- Priority reassessment for high risk pesticides used on 20 foods commonly eaten by children. *EPA Budget at III-7.*
- Health effects research to develop methods to measure effects of pesticide exposure on children. *EPA Budget at III-9, III-13.*
- Exposure research to identify highest potential exposure pathways of pesticides to children. *EPA Budget at III-9, III-13.*
- Research to assess the cumulative risks of pesticides with a common mechanism of toxicity on children. *EPA Budget at III-9, III-13.*

* The Administration claims there will be no cut based on the speculative assumption that it will be successful in finalizing and implementing a rule to raise fees charged to pesticide companies for such work. *EPA Budget at III- 7.* The Clinton Administration's proposed rule to raise such fees (*see* 64 Fed. Reg. 31040 (June 9, 1999)), however, was blocked by legislative rider in FY2000 and FY2001. Even assuming that the rule is finalized, it is reasonable to anticipate that litigation may stop or slow its enforcement.

** The March 19, 2001 Consent Decree provides that it may be modified due to "changes in the law or substantial cuts to EPA's budget." *Consent Decree* at 19. Elsewhere it explicitly cites "failure of Congress to renew ... fees ... without the provision of comparable replacement funding" as an excuse for non-compliance. *Consent Decree* at 21.


Effect of Proposed Federal Enforcement Personnel Cuts in EPA Regional Offices
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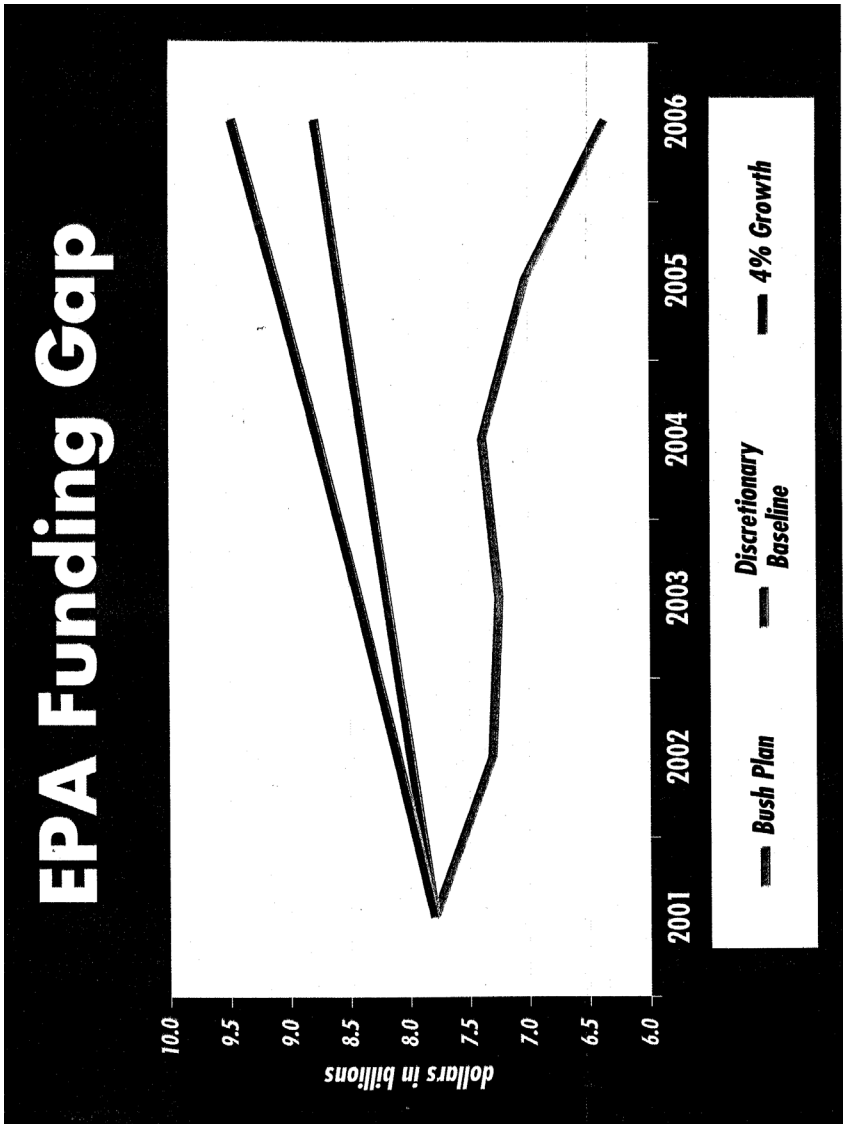
10
2
EPA Headquarters Federal Enforcement Personnel Cuts: 51
EPA Regional Office Federal Enforcement Personnel Cuts: 219
Total Federal Enforcement Personnel Cuts: 270



Senator SMITH. Administrator Whitman, you must feel a little bit like the tomcat when he kissed the skunk. He said, "I have enjoyed all this I can stand."

I am going to give you the opportunity to take as much time as you need to respond. Of course, as you know, your statement will be put in the record. So, you are up.

STATEMENT OF CHRISTINE TODD WHITMAN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

Ms. WHITMAN. Thank you, Mr. Chairman. I appreciate the opportunity to talk about the budget before the committee here. I will

submit a longer statement for the record, if that is all right with you.

Senator SMITH. Certainly.

Ms. WHITMAN. I want to start by thanking the chairman for having invited me to New Hampshire. We had a very good trip and were able to visit one of those brownfield sites that is really going to be able to take advantage of that legislation when we get the new program through.

I want to congratulate the committee and, of course, the Senate on their speedy action on S. 350. I look forward to seeing legislation come out of the House that will enable us to get something on the President's desk.

Mr. Chairman, I am pleased to report that the President's budget provides the funding necessary for the Environmental Protection Agency to carry out its mission effectively, efficiently and thoroughly for the next fiscal year.

The fiscal year 2002 budget of $7.3 billion is $56 million more than last year's request. The President's budget request for EPA reflects a commitment to building and strengthening partnerships across America, partnerships we need to achieve our goal of making America's air cleaner, our water pure and our land better protected.

The budget encourages the development of innovative environmental programs and embraces the expertise and experience of State, local and tribal governments, while providing them with greater flexibility with which to pursue our shared goals.

America's States and tribes receive $3.3 billion in this proposed budget, almost $500 million more than was requested by the previous Administration. Included in these funds is a $25 million grant for State enforcement programs. Each year, as you have pointed out and Senator Voinovich pointed out, the States perform about 95 percent of the Nation's environmental compliance inspections and take about 90 percent of the enforcement actions.

Together, the States perform more than 20 times as many annual inspections as the Environmental Protection Agency. This program will allow the States to enhance their enforcement efforts in ways that will increase accountability for the results and will provide flexibility to reach their unique needs.

The President's proposed budget also includes $25 million to improve States' environmental information systems. By helping States and EPA exchange information electronically, we will improve accuracy and provide for better decisionmaking.

With the continued clean up of toxic waste sites, the President's budget requests $1.3 billion for Superfund. This will allow us to continue to work to address the cleanup of 1200 sites that remain on the Federal national priority list, while also supporting the Department of Defense efforts to clean up sites that were part of the Base Realignment and Closure process.

I am also pleased to report that the proposed budget increases funding for the brownfields program by $5 million above last year's enacted budget to $98 million. This program will provide additional support for the State voluntary cleanup program and brownfields assessment demonstration pilot program.

It is an excellent illustration of successful partnership between the Federal Government and the States. When the brownfields reform legislation becomes law, as I hope it will, we will be able to make these partnerships even more effective. With respect to America's water infrastructure, the President's budget proposal includes $2.1 billion in grants to States to ensure that every American community enjoys safe and clean water.

The Administration's proposal of $1.3 billion in Wastewater Infrastructure Grants to the States includes $450 million in a new program to help communities address the combined sewer overflows and sanitary sewer overflows.

Also included is $850 million for continued capitalization of the clean water revolving fund. Overall, the President's request for water infrastructure is $500 million more than last year's request.

In this budget proposal, we have sought to strike the appropriate balance between the need for infrastructure funding, both for the clean water SRF and the new grant program, and the exercise of judicious fiscal restraint. Our proposal of $850 million for the Clean Water SRF and $450 million for the Wet Weather Act achieves these important goals, which the Administration certainly shares with the Congress.

I understand that this proposal does not meet Congress' goal of funding the Clean Water SRF at $1.35 billion before initiating this new grant program. However, the Administration believes it is important to begin providing funds for combined sewer and sanitary sewer overflow grants now, even though the need for fiscal restraint does not allow us to bring the Clean Water SRF to the $1.35 billion in the next fiscal year.

We are, of course, ready to work with you and your colleagues in the Congress to achieve consensus around this issue.

The President's budget also fully maintains support for EPA's core water quality programs, programs that help the States manage water quality programs and addresses nonpoint source pollution. We will be working with the States to develop TMDLs for their most impaired waters, as well as to provide technical assistance in the adoption and implementation of new drinking water standards.

The President's budget also maintains support for the development of beach monitoring and notification programs by State and local governments.

With respect to drinking water, the President's budget proposes to maintain capitalization of the Drinking Water State Revolving Fund at the current level of $823 million. The President's budget will continue to provide States with the flexibility to transfer funds between their Clean Water and Drinking Water State Revolving Funds, helping them address their most critical needs.

On another drinking water issue, I want to assure members of this committee that EPA is moving forward with its review of issues associated with arsenic in drinking water. We will set a new standard that is safe, attainable, and consistent with our commitment to protect the public health.

I am also pleased that the President's budget request maintains current funding for the EPA Clean Air Program. This will allow us

to build on the progress we have made since the passage of the Clean Air Act Amendments in 1990.

It will also allow us to strengthen our relationships with our State, tribal and local partners by providing $220 million to help them carry out their clean air responsibilities.

Despite the progress that has been made, much remains to be done. One hundred and fifty tons of air pollutants were released into the air of the United States in 1999. More than 62 million of our fellow Americans lived in counties where monitored data showed unhealthy air for one or more of the six common pollutants.

By using EPA's authority to set standards that will clean the air and protect public health, authority recently reaffirmed by the Supreme Court, we will continue to work with the States to reduce transported emissions of smog producing pollutants and we will seek to expand the existing nine-State market-based allowance trading system to additional States.

With respect to global climate change, the Administration is requesting $145 million in fiscal year 2002 to strengthen our partnerships with businesses, organizations and consumers to achieve voluntary reductions in greenhouse gas emissions. These efforts are expected to result in an annual reduction of more than 73 million metric tons of carbon equivalent, reduce energy consumption by more than 85 billion kilowatt hours, which will save consumers more than $10 billion in energy costs and help develop a new generation of efficient, cleaner cars and trucks.

As businesses and individuals purchase new vehicles and equipment over the coming decade, we want to do all we can to ensure that these purchasers have smarter, cleaner and more efficient options available to them.

Therefore this budget supports our voluntary efforts to promote the development of such equipment and vehicles.

As important as the air we breathe is the safety of the food we eat. The President's proposed budget supports the important work of using the strongest science to ensure that industrial chemicals and pesticides meet today's food safety standards. Both our pesticides and chemical programs seek to work with all the stakeholders to ensure that the products use to protect against insect and other threats to crops are safe, not just for the food we eat, but to the environment as well.

In all the work we do at EPA, I am committed to ensuring that the policies we set are based on the best scientific information available. To help ensure the availability of solid scientific analysis, the President's budget supports a strong and rigorous research program, including a proposed $535 million for the Office of Research and Development, a $5 million increase over last year's budget request.

In addition, the President's budget proposal includes $110 million for the Science To Achieve Results or STAR Program, as it is known. This program gives EPA access to the best environmental scientists and engineers from outside the agency so that we can be assured we are relying on the strongest science available.

Finally, Mr. Chairman, I want to discuss an internal matter at EPA, protecting the civil rights of every EPA employee. Those who serve the people of our country as Federal workers have the right

to a workplace free of discrimination. I am determined to ensure that right for every employee at the Environmental Protection Agency.

I am pleased to advise you that the President's budget includes a $3 million increase for civil rights activities at the agency. These additional funds will allow us to address the backlog of pending discrimination complaints, as well as to provide training for all the agency's 1600 supervisors.

We have contracted with the Equal Employment Opportunity Commission to provide this mandatory 2-day training and I will be one of the first EPA employees to take that.

Taken together, the President's budget helps communities across America address their most pressing environmental priorities. It provides the funds and sets the priorities my agency needs to meet its mission of protecting our environment and safeguarding the public health.

It is this Administration's first installment on our pledge to leave America's air cleaner, our water purer, and our land better protected than we found it.

Thank you, Mr. Chairman. I will be happy to take questions.

Senator SMITH. Thank you very much, Administrator Whitman, for being here. Thank you for your testimony.

Let me just remind members that because Administrator Whitman has to leave at 4:30, I am going to start with a 6-minute round. I am going to hold everybody to it, including myself, so that we can get through at least one round of questions.

I want to just clarify because of those who may not follow the debate that took place between what Governor Whitman said and what some have said about the cuts. The truth is that the initial request of the previous Administration for the EPA budget was $7.3 billion. That request was increased by this Administration by $56 million.

The enacted amount by Congress was more. That is true. However, if you are going to criticize you have to look in the mirror as well because that is what the previous Administration did.

So, I would also point out that this has been a bit of a shell game in the sense that most of that money, that $500 million had come to the SRF fund, as you talked about, Senator Voinovich, or CSO/SSO, figuring that Congress would likely put it back and then the budget could be able to address other matters.

But I think in fairness this budget is, as presented, $56 million more than the previous budget that was presented to Congress last year.

Second, on the issue of arsenic, there was some criticism there and I know the Administrator didn't get into it in her testimony, but the Bush rule will take effect in the exact same time period as the previous Administration's rule, in 5 years. There is no walkback from 20 parts per billion. They are looking at it, just as the previous Administration was doing.

So, I think we have to be very careful about saying that somehow this Administration wants to put more arsenic in the water and is somehow changing the standard. The standard was good enough for 8 years. I didn't see any of those charts during the 8 years of

the previous Administration. Now, we see them within the first 4 or 5 months of this one.

So, I think it is important to get this out there for the record.

Let me just ask one question, Governor Whitman. When you became Governor of New Jersey I remember reading about some of the initiatives that you proposed. They are very similar to the philosophy that you present here today to us in this budget. There were Armageddon predictions about what might happen, environmental disasters in New Jersey. Could you just give us an indication of what those predictions were and how the results were based upon the budget that you presented as Governor of New Jersey with similar proposals in terms of more State flexibility and responsibility, et cetera.

Ms. WHITMAN. Certainly, Senator. Well, the situation that I faced was slightly different in that when I came into office I discovered a $2 billion deficit that we hadn't known was there. So, I did cut. I had to cut. I cut across the board. I cut the Department of Environmental Protection within our State. I was told that everything would come to a screeching halt and that the environment would be battered and unable to recover from the kinds of cuts that we made. But we made them along the lines of what we thought was appropriate.

I shifted the focus of the agency from one that was driven by an accounting system that just racked up fines and penalties, but rather to one that looked at what were the environmental enhancements that occurred. Was the air cleaner and water purer?

I am pleased to say that in every one of those measurable areas we saw marked increases. The number of beach closings is down significantly. We are the leading State in the opening of shellfish beds, which is a prime indicator for the clarity of the water in our estuaries and streams and rivers.

We have had far fewer non-attainment days in our ozone. So, we were doing better in air and we were preserving land at a record pace. So, in spite of the fact, this budget gives increases to the Environmental Protection Agency. I had to decrease. I had to cut my Department of Environmental Protection when I first came in.

But, depending on how you do those things, and because we did it with the same kind of priorities that were outlined here, we were able to ensure that we did a better job with what we had. In this budget, we actually have more resources from what had been requested before to carry out our base commitment.

We believe that we will be able to meet all the priorities that have been set for this Administration.

Senator SMITH. I am going to yield to Senator Boxer at this point.

Senator BOXER. Thank you very much.

Administrator Whitman, I know you really did improve New Jersey, but it is still the No. 1 site for Superfunds and brownfields. I know Senator Corzine is very concerned. That is the reason I join him in criticizing this budget. New Jersey has a lot more cleanup to do, as do, unfortunately, many of our States.

So, it is not good enough, it seems to me, to rest on whatever laurels we can all rest on because happily all of us have worked hard and we have made some progress. There is a lot more to do. It is

not time to cut this budget. This budget is cut. This environmental budget is not a priority of the Bush administration, simply put.

Your kids know when something is a priority. You raise it to a high level. It doesn't always mean funding. It means importance, priority.

Let me just say, on the arsenic, because I am very distressed about this situation, I want to talk about this because I was joined by Senators Reid, Corzine, Clinton, Schumer and Lieberman in writing this letter.

Would you put up the green chart? This is the law of the land. It was passed by Congress and signed by the President: "The Administrator shall promulgate a national primary drinking water regulation for arsenic not later than June 22, 2001."

Now, you suspended the new standard.

Ms. WHITMAN. No, we just put a hold. We indicated an intention to review the science and the costs of compliance. But it still stands.

Senator BOXER. What is the standard for arsenic right now?

Ms. WHITMAN. The enforceable standard is 50 parts per billion.

Senator BOXER. And what will it be on June 22, 2001?

Ms. WHITMAN. There are those who argue that it would be in fact 10 parts per billion because the standard has not been withdrawn.

Senator BOXER. It will be?

Ms. WHITMAN. No. I am saying there are those who would argue that.

Senator BOXER. Well, what do you say? What will the standard be on June 22, 2001, the date the Administrator was supposed to enact a new regulation? What, in your opinion, will the standard be in the country?

Ms. WHITMAN. The enforceable standard will be just what it was going to be under the Clinton administration proposal at 50 parts per billion because it was not going to be enforceable until the year 2006.

Senator BOXER. I am not asking you that. I am asking you what is the standard, the new standard. What is the new arsenic standard going to be on June 22?

Ms. WHITMAN. It will be an appropriate one.

Senator BOXER. You are going to have a new standard on June 22, next month. Is that what you said?

Ms. WHITMAN. I said we are going to have an appropriate standard.

Senator BOXER. On June 22?

Ms. WHITMAN. There are those who will argue legally that we have a standard in place. I am sure this will become a legal discussion, just as I am sure when the previous Administration missed the lead rule by——

Senator BOXER. Well, I am not asking you about the previous Administration.

Ms. WHITMAN. There are a number of times, unfortunately, where the Environmental Protection Agency will miss deadlines. But if we do it in a way to ensure the best public safety, then we are doing the right thing.

Senator BOXER. This is not a question about a choice. You have a date here. This is the law of the land. You are going to be sued

mightily and I am going to go along with an amicus brief, because this is the law of the land.

You know when Congress passes a law and the President signs it, it is the law of the land. So, you can't say it will be appropriate and we may or we may not hide behind legalese.

Ms. WHITMAN. I appreciate that, Senator. I am sure it was the same as well on other deadlines under the Safe Drinking Water Act. I would trust that you would do that because the previous Administration had a proposed rule that was due in August 1999, which still hasn't been done yet.

Senator BOXER. Administrator Whitman, I have a brief amount of time and I am asking the questions, OK? So, we can have a private meeting about another issue. I am delighted. My door is open any time.

But I have a brief amount of time. You received a letter from several Members of Congress and it dealt with another aspect of the rule that you delayed. That has to do with the community right to know.

Let us put up the other chart that shows the levels of arsenic are unsafe between 10.1 and 50, that latest study that we sent over.

The Clinton administration put in place a very important rule as part of the arsenic rule. It said that by a date certain everyone in this country is going to have the right to know if there are more than five parts per billion arsenic in their water, which is what your State does, it lets people know.

What are you doing on that part of the rule because you delayed the entire rule? What is your stand? Do you think people ought to know, as the Clinton administration decided, based on studies, that people ought to know if there are more than five parts per billion in their water so that if there is someone pregnant, someone ill with cancer, a child, they can take steps to protect their families?

Ms. WHITMAN. Any water company, and they are all required to test, any water company that finds any arsenic in the water is required to notify consumers in their Annual Consumer Confidence Report. That is the way it works now and I support that.

Senator BOXER. No, not at five parts per billion, Administrator. It is 25 parts. It was five parts, that is my understanding, that the Clinton administration had made as part of their rule.

Ms. WHITMAN. I certainly wouldn't change that.

Senator BOXER. So, you are going to keep the community right-to-know at five parts per billion?

Ms. WHITMAN. Under consumer confidence reports you have to report any detection to consumers. I certainly wouldn't change that notification requirement.

Senator BOXER. So, will you, in fact, keep that part of the Clinton Rule in place? That would be big news and I would be very happy.

Ms. WHITMAN. We will be happy to do that.

Senator BOXER. You will? That is the policy of this Administration to advise people when they have five parts per billion arsenic in their water? You will keep that part of the Clinton Rule regardless.

Ms. WHITMAN. It is my intention to do that.

Senator BOXER. Well, then I suggest you don't delay that part of the rule because right now you have delayed it. What you ought

to do, since you seem very clear that you are going to keep the Clinton Rule on community righ-to-know, you should in fact clarify that because that has been suspended. Right now, it is the right to know only if it is 25 parts per billion.

Let me just say to you that I am concerned about the way this Administration wants to get around the rules. The other example is the pesticides that Harry Reid touched upon.

I was pleased when you signed that consent decree to put EPA on a schedule to comply with critical pesticide protections for children. Time and time again President Bush has reminded us of it and he has highlighted the pesticide settlement as a great environmental achievement. So, all that is wonderful. But it is a kind of "now you see it; now you don't."

You have a 50 percent cut in that part of this budget, a 50 percent cut. You are saying you're going to pass the cost on to the pesticide manufacturers in order to come up with the 50 percent. Twice now, Congress has attached riders that have blocked that because President Clinton tried to do that.

What is your contingency plan if you do not get that funding from your pesticide tax that you have proposed? What is your contingency plan to fund those programs? Because look at what is going to happen, Administrator Whitman, if you get a 50 percent cut, that consent decree which deals with pesticides and children is going to be a problem. Reassessing an additional 9,700 pesticides is going to be a problem. And it goes on.

The health effects research, exposure research to identify highest potential exposure pathways of pesticides to children. Children are really in trouble in this country with cancers and the like because we don't have any studies, unfortunately, that tell us what is safe for them.

Children are not little adults.

Senator SMITH. Senator Boxer, we have to move along.

Senator BOXER. I am a little adult and I am being told I am over time. But the fact is that I worry. So, I will stop here. I would love to have another hearing if we don't have time for a second round.

Senator SMITH. We will try.

Ms. WHITMAN. Well, Senator, if I just might on that one, please understand that we are absolutely committed to continuing to move forward with that program. I would hope that Congress would approve the pesticide fee. If they don't we will have to work with Congress to figure out a way around it.

But we are committed to ensuring the health and safety of the children. If we have to make other priorities in the budget of the agency, we will do that in order to ensure that we are protecting our children.

Senator BOXER. So, you are going to make sure that you fully fund this program if Congress blocks the tax.

Ms. WHITMAN. We are going to make sure that we are looking at those pesticides fees and we are ensuring that we will preserve the safety and integrity of the food given to our children and that we protect our children.

Senator BOXER. And implement the consent decree, I assume?

Ms. WHITMAN. Yes, that is what our intention is. We didn't enter into it without ensuring that we were going to move forward in appropriate ways.

Senator SMITH. Senator Inhofe.

Senator INHOFE. Well, Mr. Chairman, we have now gone to 9-minute rounds.

Senator BOXER. I am sorry. I apologize.

Senator INHOFE. I wonder though, as I was listening to that, and I have a great deal of respect for the Senior Senator from California, where all this outrage was over the last 8 years when legal deadline after legal deadline was passed and no one seemed to care that much.

One was the ozone PM standard and many others that ended up in lawsuits and consent decrees.

Anyway, I am going to make a request that your agency give me a list of all of the legal deadlines that were missed during the past 8 years, between 1992 and on, during the Browner administration.

I think everyone up here, Democrats and Republicans alike, have expressed a concern in their opening statements for the balancing of our Nation's environment with the energy needs. I think effective partnerships are probably the best way to do this.

The one I have in mind is the Integrated Petroleum Environmental Consortium, or IPEC. IPEC's mission is to increase the competitiveness of the domestic petroleum industry through a reduction in the cost of compliance with environmental regulations.

You know, we hear in bits and pieces and a kind of a proliferation of statements on what different things are out there that are like New Source Review and other things like reformulated gas, sulfur in gasoline. How many of those things really increase the cost of energy? I think that IPEC has done a very good job of determining and quantifying a lot of these.

It was a very small amount of money, $1.6 million, but I know that another $2.4 million were added by industry and by the two States of Arkansas and Oklahoma. So, I think this is a good example of the public-private partnership which we all know is very effective. I would like to ask for your commitment for this program which, I think, is a model program of the public-private partnership.

Ms. WHITMAN. I will be happy to look into that further because public-private partnerships, as you point out, are exactly what we think is an effective way to maximize and leverage the resources that are available to us to achieve our shared goals.

Senator INHOFE. In this case the money was more than doubled because of that partnership and outside efforts joining in.

Senator Boxer talked about the more Superfund sites in your State. But I would suggest that in my State the worst Superfund site is there. It is Tar Creek site. Unfortunately, that is in my home State of Oklahoma.

There isn't really a solution right now to this. I know that our Governor came up with a task force and they came up with a recommendation that we buy all that land and turn it into a wetlands. This would be really kind of difficult to do in that there are three major cities in that area.

I didn't know whether you have had time to get into this at all or not. First of all, have you had a chance to get into this Superfund site, the Tar Creek site?

Ms. WHITMAN. I have had briefings on it, yes.

Senator INHOFE. I know you have not had a lot of time to do that. But I might be requesting at some point that we talk about this, maybe even make a field trip out there, since this is the one that is the worst of all the sites.

So, as you move along, any idea you have about resolving this problem, I would appreciate working with you on this.

Ms. WHITMAN. Certainly. I can give you a bit of an update, if you don't already have it.

Senator INHOFE. Please do.

Ms. WHITMAN. The EPA has initiated a new contract at the site to better meet both EPA and community concerns. The remaining work involves the cleanup of about 650 residential properties and chad piles, taking ponds, tilling ponds and other industrial process areas.

The work is supposed to resume later this summer on those areas. So we have been, as you point out, actively working with the Governor and with the residents of the site. I will be happy to talk about it with you further.

Senator INHOFE. All right. I will plan to do that and work with you on it. It is a huge thing. No one has the ultimate solution in sight.

I mentioned in my opening remarks that I chair the Senate Armed Services Committee on Readiness, which does have the jurisdiction over the environmental sites. I appreciate the comments you have made on how you are planning to approach these and the budget does include resources to support continuing cleanup, oversight, technical assistance and property transfer at various BRAC sites.

I would be interested in knowing if there is any more detail on that that you would like to share with us. You didn't have time to do it in your opening statement. If not, maybe do that for the record.

Ms. WHITMAN. I would be happy to do that for the record.

[The information referred to follows:]

BASE REALIGNMENT AND BASE CLOSURE

EPA's Superfund Base Realignment and Base Closure (BRAC) program has worked with the Department of Defense (DOD) and the State's environmental programs since its inception in 1994 to acheive the Agency's goal of protecting human health and the environment at realigning or closing military installations. Of the 497 BRAC installations slated for realignment or closure, 205 require environmental restoration. One hundred and eight (108) of the installations have been designated as Fast-Track installations.

The Fast-Track program strives to make parcels available for reuse quickly by transfer of uncontaminated or remediated parcels, lease of contaminated parcels where cleanup is underway or "early transfer" of contaminated property. The Fast-Track program has successfully used base cleanup teams at the Fast-Track designated installations. The teams, which include Environmental Protection Agency (EPA), DOD, and State environmental experts, are empowered to make decisions to expedite the process of accelerating cleanup while integrating base reuse priorities. EPA also engages in public participation by working with DOD to establish restoration advisory boards at military installations which foster teamwork by bringing members of the community together with military officials and government regulators to discuss cleanup issues.

DOD, EPA, and the States have saved the program an estimated 348 project years and more than $337 million in potential costs. The 205 BRAC installations undergoing environmental restoration have collectively transferred 403,593 acres of property from DOD to non-military entities. There are 389,741 acres in BRAC Fast Track program and more than 133,000 acres have already been leased or transferred.

Senator INHOFE. OK. Well, the last area that I was interested in was New Source Review. When we made the request for information, I was shocked to see how many of the notices of violations that I mentioned in my opening statement, 114 violations were dated January 19.

It was also called to our attention in some of the responses that we found that the 114 requests came in the form of photocopied documents with the name of one facility scratched out and the name of another facility penciled in.

Now, I wouldn't want to name which ones these are, but I did not see these 114 requests included in the EPA's response. So, I would like to expand and get as many of these examples as possible that you might have. I would make that as a request.

Ms. WHITMAN. We will provide them to you. In that one instance where you indicated that it was a faxed form with the names crossed out, as soon as the agency became aware of it, we took action to correct it and to correct the employee who was involved in that.

Senator INHOFE. Well, that particular one wasn't in the response that we got. Let me make sure that you understand, I am not blaming you for this. This is something that was there but it is one that needs to be corrected, needs to be addressed.

We had a hearing on New Source Review in Ohio. Governor Voinovich at that time was Governor Voinovich. There are so many examples of abuses. This is something we want to get to. This, of course, has a direct relationship to the cost of energy and it is something we are all very much concerned about right now.

Ms. WHITMAN. Well, as you know, the Vice President indicated last week, the Environmental Protection Agency will be leading the inquiry into the New Source Review. We will be looking at that to make sure it is achieving its goals and see what kind of impact it may or may not be having on energy resources and price and what kind of steps we can take to streamline and ensure that it is meeting the goals that were set out for it.

Senator INHOFE. I appreciate that very much. My time has expired.

Thank you, Mr. Chairman.

Senator SMITH. Thank you, Senator Inhofe.

Senator Clinton.

Senator CLINTON. Thank you, Mr. Chairman.

I have to confess, I am a little confused by the testimony. I appreciate the fact that I have not gone through this before so maybe I can get my confusion clarified, but I look at this chart, this EPA funding gap. The top line is a 4-percent growth line. The second line is a discretionary base line and the bottom line is the proposed Bush plan from 2001 to 2006.

Now, we have had a little back and forth about budget requests and appropriated levels, but even if one were to take the original

budget request, it doesn't come anywhere near to a 4-percent increase over the existing budget.

Now, my understanding is that when President Bush said he was going to have a 4-percent increase for discretionary spending that was not based on what the last Clinton administration budget request was, but that was based on what actually had been appropriated.

So, we are very far from where we would be were we to have a 4-percent increase. What concerns me about that is that there are many priorities on this committee that I think reflect the priorities of our country. Senator Voinovich spoke of one, namely the wastewater and drinking water infrastructure needs, which really probably are at about $2 trillion shortfall when it comes to water infrastructure.

I will certainly support increasing the dollars that we put into this because I think it is in the best interests of the safety of our people. But where is that money going to come from? I mean there isn't any money in this budget for the kind of increases that Senator Voinovich talked about with his wastewater bill that he has worked on.

They are not the kinds of increases that need to be in this budget in order to keep pace with what we have set as national environmental priorities. I know that in the give and take of the budget and appropriation process, people end up in different places. Certainly, I hope that we are going to be able to increase some of these levels.

Before I get to specific questions, I just want to point out that this chart is chilling because it doesn't provide the dollars to do any of the work that needs to be done. I am very concerned that it certainly doesn't reflect any kind of 4 percent growth, whether it is a 4-percent growth on a requested budgetary level or what I think is what the President meant when he said 4 percent was 4 percent on top of what had actually been enacted.

But let me just turn to a couple of questions. I would also like to submit others I don't have time for to the record to get responses from Administrator Whitman. The first is my concern about the enforcement and continued pursuit of Clean Air lawsuits.

The press has reported that there is an internal White House debate over these Clean Air lawsuits. I am very interested in your views on whether the Administration is, No. 1, considering dropping the lawsuits that the Environmental Protection Agency joined, whether such a dropping of the lawsuits will be part of the President's energy announcement later this week, and whether in light of the significant cuts to the EPA's enforcement budget, even if these lawsuits are not dropped, whether you will have the resources you need to continue working with the Justice Department on these cases.

Ms. WHITMAN. Well, Senator, let me start out by saying that yes, we certainly believe that we will have the resources in enforcement within the enforcement budget because that overall enforcement budget is up slightly, but there are changes within it. There is a decrease in personnel. But we believe we have the personnel and the ability and the resources to do the work that we need to do.

Senator CLINTON. Well does that mean, Administrator, that these lawsuits will not be dropped?

Ms. WHITMAN. I don't know of any proposal to drop the lawsuits, to review the lawsuits, perhaps, but not to drop. There is no policy determination made to drop the lawsuits.

Senator CLINTON. That is very good news for our air.

Let me ask you about a reduction in the budget for State Acid Rain Grants. The reduction has been proposed because more resources are supposed to be available by law through the collection of fees. As you know, the Clean Air Act gives States authority to collect permitting fees from industries, but I know that varies from State to State.

Do we know how much money is being collected in fees by the States and perhaps equally important, is the money actually being spent on permitting and enforcement activities that will reduce acid rain?

Ms. WHITMAN. What we are seeing in this budget is a shift of emphasis in the State air grants to high priority areas such as the air toxics and National Ambient Air Quality Standards. The air grants for the program in fiscal year 2001 enacted was $219 million.

The fiscal year 2002 request is to continue at $219 million.

The grant resources targeted for acid rain activities will shift in 2002 from program implementation to other programs such as ecological assessment programs, with the States able to now use the fees they collect from sources to run their State Acid Rain Programs. We think that in fact you are going to see an enhancement of the Acid Rain Program overall.

Senator CLINTON. Could we at some point get specifics on that if the EPA has it State-by-State, how much the collection is and whether it is being used for the purposes intended.

Now, let me also ask, you mention in your testimony that you are assuming no impediment to promulgating the final pesticide tolerance fee rule. As you know, this has been tied up in appropriations riders in previous years.

Would you oppose a rider on the pesticide tolerance fee if one was attempted?

Ms. WHITMAN. Well, in general, Senator, we try to avoid riders. We would like to have the issue dealt with. It is something that has been a problem from the beginning. If you would like to hear it, I could give you the whole history. I could ask Mike Ryan who is here to go into that a little bit on the stand-offs that we have had in the past on various fees.

We believe that the fees that are being proposed in this budget on the tolerance fee is a user fee and is an appropriate one and hope that, in fact, it will be viewed as such and dealt with as such.

Senator CLINTON. I appreciate that very much.

Another issue that has repeatedly been subjected to appropriation riders is the clean up of the PCB contaminated sediments in the Hudson River. As we all know, the comment period on EPA's proposed clean up plan recently closed. I know from first-hand experience you have received thousands of comments.

Can you update us on the status of the final decision? Is that final decision still expected in August and does your general atti-

tude that would object to riders include objecting to any riders to prevent the clean up going forward up the Hudson?

Ms. WHITMAN. Well, I would certainly hope that we wouldn't have a rider that would prevent us from doing something that would protect public health and safety such as a cleanup. I have had no indication. Everything is on track to meet that August deadline.

The region is in the position now of reviewing public comments. As you said, we have gotten literally thousands of responses and comments on EPA's proposal. They are going through those responses and comments to see whether or not there are any in them that would indicate a change in policy or a change in recommendation. Then they will be briefing me on that and we will have the discussion. But right now we are on track for that August timeframe.

Senator CLINTON. Thank you very much.

Senator SMITH. Thank you, Senator Clinton.

Senator Voinovich.

Senator VOINOVICH. Administrator, the people in Ohio are very upset about the high cost of gasoline. We went through this last year and had expectations that we wouldn't be going through it this year, although we do know that we are very reliant upon foreign oil for our source of oil in this country.

There has been an examination made of some of the reasons why the costs are spiking here moving toward the summer months. One of them is that I understand there are 25 or 26 different varieties of gasoline, reformulated gasoline.

I would be interested in having, and I know you can't answer it now, of having someone look at those 25 varieties of gasoline that are being asked to be provided to see what impact that has on the actual cost of gasoline.

I have been told by some people that you can go to three classes of gasoline and do a better job with the environment than the 25 boutique things that they are providing now. How many that is going to add to the cost, I don't know, but I think all of us are interested in seeing just what is it that is contributing beyond the shortage to this high cost of gasoline.

Second of all, in order to do your job, you have to have the right people. Have you done yet an analysis of your entire agency to determine whether or not you have the people on board to get the job done that you have been asked to do? Have you done an analysis of those people who are eligible to retire and those that might be eligible to take early retirement?

Ms. WHITMAN. Senator, I took your charge very seriously in the confirmation hearings. We have taken a look at that. By the end of 2005, almost 50 percent of EPA's Senior Executive Service Corps, will be eligible for optional retirement. We would lose 19 percent in 2001, 27 in 2002, up to 49 percent by 2005.

We are very aware of those workplace challenges that are facing us. We have under an umbrella the agency's human capital strategy. We are assessing future program needs to identify the skills as you have pointed out, the skills and talents that we are going to have to replace in determining the gap between what we have now and what we are going to need in the future.

We are developing programs aimed at the agency's next generation of executives and managers. We are looking at ways of providing additional opportunity and training for people who are already at the agency so that they will be able to move up in the ranks.

We are developing approaches on recruitment that will contribute to a diverse——

Senator VOINOVICH. In your budget, how much of your budget has been allocated for training?

Ms. WHITMAN. I will have to get you that for the record.

Senator VOINOVICH. Well, one of the things that I would like to see, and I am going to really work with Sean O'Keefe and with Mitch Daniels is that I believe that we ought to have a specific item designated for training in each of your budgets.

Any organization that doesn't have allocation for training money is not a competitive organization.

The other thing is, have your people analyzed the incentives that are available to attract people and whether or not you have provided money in your budget to take advantage of these? For example, you want to go out and get a good engineer, something out of school. We do have a program where we can pay part of the loans that they have. Has there been money allocated in the budget to put you in a position where you can compete with these people, funding the incentives?

Ms. WHITMAN. That is part of the program we have in place, looking at that and making sure we are maximizing those opportunities. So, we are doing that right now.

Senator VOINOVICH. I would like to stay on top of this because it is kind of a pet project of mine. Maybe if you would find some things as you go along that you would need, it would be helpful.

We are trying to get an idea of what other additional tools our agency is going to need in order to be competitive, including some broader ability to hire people, perhaps not running it through the Office of Personnel Management.

The last thing, since I have a little more time, I did have these hearings in Ohio on the issue of the infrastructure needs that we have in our State. They are pretty much across the country. We have an aging infrastructure. But we also discovered that there are additional things being required as a result of regulations. And they are very, very costly.

The issue that I think needs to be addressed is whether or not these new requirements coming out of the EPA, for example, the Mayor of Mansfield, OH, who has to put in a new system to treat water that is in a holding tank after a storm, treat it at a much higher quality than she is now treating it to put it in a stream whose water is much less than the water that she is putting into it.

You have to ask yourself; in this particular case the rates are going to go up 100 percent for her people. The issue is: Are we asking people to do things out there that really are not necessary in terms of dealing with clean water and the environment?

The reason I bring this up is that I was very much involved and you may have been, in the amendments to the Safe Drinking Water Act.

If you will recall, they were requiring a lot of these small communities to have the highest and best technologies, some of them 10,000 or less, and every 3 years to test for 25 new pesticides, whether they were in the water or not in the water.

It seems to me that, yes, we are going to need more water or need more money for the revolving loan fund. We are going to need a grant program. In fact, this WIN organization says we are going to have to have $57 billion in the next 5 years to deal with the problem.

But the issue is, are we asking some of these folks to do things that really aren't necessary? I don't think we concentrate enough on that. Again, I would like to have your folks look at some of these new regs to find out whether or not they make sense.

Ms. WHITMAN. Well, Senator, one of the things I have done is I have directed one of the offices within 45 days, and they should be coming back to me with the initial results by the end of this month and I should have a final report in the middle of June, to take a look at how we promulgate regulations in a science, policy and cost of compliance factored in at the very beginning of the rulemaking process.

Senator VOINOVICH. Well, I want to tell you this: I hope that you do it a lot differently than what we had in New Source Review. Because we had industries out there for years that were relying and told that what they were doing wasn't a problem. Then somebody in the EPA came up with a new guidance, not a reg, but a guidance, and said, it is new.

Then we had all of these lawsuits filed all over the country. Now, definitely there were some people that should have got permits for some of the things that they did. But this was the big broad scoop that went out there. Those are the kinds of things that we need to look at because they defy common sense and they really don't do very much to clean up the air or help public health.

Ms. WHITMAN. That is exactly what we are looking at in how we do this.

Mr. Chairman, if I might correct something for the record on what Senator Boxer said, Senator, I just wanted to clarify that right now the right-to-know requirements of the Safe Drinking Water Act do require that any detection, even below five parts per billion of arsenic, must be reported to the public. It is additional health statements or warnings that are provided now above that 25 parts per billion. Those statements would be provided at the five parts per billion level under the rule published by the previous Administration.

It is not arsenic. It is the other ones that would be, if the January rule, that change would be delayed by a stay in the effective date.

Senator BOXER. Well, you are sticking with the Clinton Rule on right-to-know; is that what you are saying?

Ms. WHITMAN. On the arsenic, we were talking about the arsenic.

Senator BOXER. Yeah, on the arsenic, you are sticking with the right-to-know.

Ms. WHITMAN. On the arsenic we are sticking with the right-to-know which is any detection, even below five parts per billion, must be reported on arsenic.

I think where the confusion comes in is the additional health statements. That would be affected by a stay and be part of the overall review.

Senator BOXER. So you are backing off what you said. When I asked you about the Clinton Rules.

Ms. WHITMAN. Arsenic standards. We were talking about arsenic standards.

Senator BOXER. Administrator, I can read you back what you said. I asked you if you were going to keep that part of the Clinton Rule that set up a new notification at five parts per billion. You said you would.

I pressed you on it. We can have the person read it back. That is fine. Now you are saying you are not. I just want to make sure I understand what you are saying.

Ms. WHITMAN. Senator, I was responding to the question of reporting with respect to detection of arsenic. I was taking your word for it that in fact five parts per billion of arsenic was a new reporting requirement, that it was at 25 parts per billion now. Maybe I misunderstood you. I misunderstood you, perhaps, and thought that you were saying that right now it was only at 25 parts per billion that you had to report arsenic.

In that instance, I believe it was absolutely appropriate to go to five parts per billion. In fact, we were right in saying initially five parts per billion or any detection for that matter, any trace amount of arsenic in the water needs to be reported now.

It is the other additional health statement warnings. I need to look at those along with the rest of them to see what it is we are looking at and whether that five parts is the right figure. Those are at 25 parts per billion now.

Senator BOXER. That is what I was talking about. My understanding was that you were going to keep the Clinton Rule as it pertained to the community's right-to-know. That is what you said.

Now you are saying you misunderstood me. You are not keeping that part of the Clinton Rule.

Ms. WHITMAN. Right.

Senator BOXER. Well, that is distressing. Let us continue this. I will wait for my time. I hope you can extend a little because now I have more questions on arsenic. I am sorry.

Senator SMITH. You also have a colleague that hasn't had any.

Senator BOXER. I am going to wait. I will stay as long as it takes.

Senator SMITH. Senator Corzine.

Senator CORZINE. Thank you, Mr. Chairman.

Let me begin with a compliment. I am particularly pleased with your efforts on environmental justice and civil rights. We talked about it at the confirmation hearing. I am glad to see there is additional funding there.

The programs you are putting in place, I think, are absolutely appropriate. I will be anxiously watching your backlog, which I think is an important thing to get cleaned up if we are going to have confidence in how the system works.

Let me turn to this wonderful chart up here. Am I reading the President's budget correctly that $6,672,000,000 is the number of dollars allocated for pollution control and abatement in 2006 really reflecting a high percentage of the EPA budget? Do you understand

these numbers to be rough justice of where we are going, the expected budget of the Environmental Protection Agency?

Ms. WHITMAN. Well, we are working off the funding request by the previous Administration. This year's request is $56 million more than what was requested by the previous Administration.

Senator CORZINE. That is about a 6/10 of 1 percent.

Ms. WHITMAN. Oh, it is not a 4-percent increase. There is no question about that. I would also say that when the President spoke about a 4-percent increase he didn't necessarily mean it was going to be a uniform 4 percent across the board.

In fact, as you know, there is a great deal bigger increase for education. There is a great deal bigger increase for that in some of the Defense budget numbers. So, it is not an even 4 percent. It is an overall control of growth.

Senator CORZINE. I think that all of us accept that that is what the reality is. It is not do we agree with it on policy. Let me ask, I am particularly concerned in seeing the Superfund site clean up targets going from, I think it is 85 last year to 65 this year. The target was 75 and I guess there were 85 cleanups last year. Excuse me. The target this year is 65.

I am seeing the number spent on hazardous substance Superfund clean up sites in 2000 is $1.4 billion. By these same budget proposals, there is only $1.385 billion in 2006. It never gets back to the same level it was in 2000.

As you know from the New Jersey area, we have a real interest in seeing these sites cleaned up. I don't understand this prioritization frankly. I find it hard to fully comprehend. I would add to that, I don't understand also why the Superfund costs recovery activities are presumed to be generating less revenues than they have been in the past when I was under the impression that "polluters pay" is the principle of the Superfund cleanup activities.

Ms.WHITMAN. Certainly. First of all, Senator, on the second part, the numbers on the cost recoveries, those are always assumptions and the agency's assumptions have traditionally been way below what has actually been recovered. Those are not hard and fast numbers.

If you go back and look at fiscal year 2000 and 1999, there was 102 percent recovery in 2000 and 182.71 recovery in 1999, above what was expected. So, that is just a number. We still believe in "polluter pays." It is absolutely true. That is just a projected number.

Senator CORZINE. My concern about that relates back to these enforcement issues and the numbers.

Ms. WHITMAN. Let me go back to the enforcement issues for you. There is a drop of 20 sites in projected cleanups. Part of that is reflective of the fact that starting back in fiscal year 2000 there were reductions in appropriations and funding for those clean ups. That started a couple of fiscal year cycles before this Administration.

Also, those sites are now getting more complicated and they are more difficult to clean up. So, even with the money that is there, with the technical expertise, we are just not expecting to be able to clean as many because they are tougher to clean. They are more complicated. They require more attention and time.

Senator CORZINE. It strikes me as maybe a good rationale for additional funding if we are going to deal with this. I have some of the same concerns. Under the truly bipartisan leadership of the chairman, we passed a brownfields package this year with an authorization. I am just learning about authorization, and appropriations. They are two different worlds. I am learning requests and enactments I guess are also.

I am concerned that 98 million versus the $250 million authorization sounds to me rather thin or what is it, 450,000 brownfields sites estimated across the country? New Jersey, I think, has estimated something north of 8,000.

These are really important issues. How do we work with the Administration to get those numbers higher?

Ms. WHITMAN. Well, if we get the legislation through, then we are committed to working with the Congress on the brownfields.

Senator CORZINE. It went through 99 to 1.

Ms. WHITMAN. Oh, it did. I meant that unfortunately it doesn't get to the President's desk until it goes through the other house as well.

We look forward to working with the Congress on ensuring that we have those additional dollars anticipated in the legislation to address the area.

Senator CORZINE. One other area that I am concerned about which you mentioned in your testimony, and that is the Beaches Act. The authorization, again, was $30 million. I think the budget has $2 million in it, if I am not mistaken.

Ms. WHITMAN. No. You are correct.

Senator CORZINE. That also seems rather thin on how we are going to be able to test the waters across all of our shorelines.

Ms. WHITMAN. Well, that is stable funding from last year, Senator. The difference is that the authorizers often authorize much more than the appropriators appropriate. This is more of a reflection of what we have seen in the past being appropriated.

Senator CORZINE. Do you think that is adequate to do the job?

Ms. WHITMAN. It is flat funding. We believe that we can do the job that we need to do. The States have been doing a lot of the work on that. So, we are very comfortable that those are good numbers.

Senator CORZINE. I would just close by saying these are examples of places where I would hope that you would use those of us here on the Hill to help get additional focus on some of the most important issues, I think, that face the environmental questions in our society.

Ms. WHITMAN. I would also just add that let us not forget that the wet weather program, if it goes through as proposed in this budget also gets to that because a lot of the problems that we have in those estuaries and the beaches and the waterways come from storm sewer overflows.

Senator BOXER. Mr. Chairman, I know we are out of time. May I have——

Ms. WHITMAN. I will certainly stay for another round of questions with you, Senator.

Senator SMITH. Well, I want to be responsive to the request of the Administrator here. We have spent a lot of time on a rule, which really is not the subject of this hearing.

I believe that I have been more than fair on time. But if the Administrator wants to give another couple of minutes, I will be happy to do it, to take Senator Boxer out of turn. Does that meet with your time constraints? I am going to cut it off in 3 minutes.

Senator BOXER. OK, then let me just sum up what I think you said, because it is very confusing. We have the tape and I have made a request for it.

I asked you if you were supporting the "community right-to-know" part of the Clinton Rule. You said "yes." I asked you a couple of times and you said "yes."

When you clarified, you said you misunderstood me. That is fine. So, now I want to make sure you understand me. The Clinton Rule had two parts. It said arsenic, from 50 parts per billion to 10, and it said, rather than receiving a health warning at 25, you would receive a health warning at 5.

I asked you if you would do that. You said, I thought, "yes."

Now, you don't support a health warning at five; is that correct?

Ms. WHITMAN. Senator, you are really good and I admire——

Senator BOXER. I'm not good. I am trying to find out what the heck you meant.

Ms. WHITMAN. I understand that you are concerned. I appreciate that. I am trying to be as clear as I can. I may even approve a standard lower than 10 parts per billion. I am reserving the right to take another look at other related elements of the rule.

Senator BOXER. Why is that? Why are you taking another look? After all these studies and after the GAO said the cost-benefit study, and the GAO is a Republican GAO, they said to us that absolutely the studies were clear on the cost-benefit. You are taking another look, even on the five parts per billion when your State notifies people when they have five parts per billion and tells them it could be a health hazard.

Ms. WHITMAN. Everybody is notified today. All arsenic detections are reported to the public every year in consumer confidence reports.

Senator BOXER. That is not the question.

Ms. WHITMAN. That is already there.

Senator BOXER. The question is a health warning. That is what President Clinton said was important.

Let me just close by saying this: You look at this gap. By the year 2006 you are going to be able to do 67 percent of what you are doing today in the EPA.

Just because I know my chairman was critical that I talked mostly about arsenic, but you know, I haven't got answers, with all due respect to my letters on arsenic. So, I had this opportunity and I wanted to grab it.

But truly, this is a frightening chart for anyone who cares about the environment and that is 34 million people in California who I happen to have the honor, the deep honor, to represent along with Senator Feinstein.

This does not bode well for their air, for their water, for their Superfund cleanup, for their pesticide enforcement, cutting 270 en-

forcement officers and sending the money to the States, how are we going to hold those States accountable to us when you could hold those folks accountable every day in your offices.

I voted for you because I think you are a very skilled administrator. Now, we are cutting all these people and creating new bureaucracies in the States. It seems to me a backward way to do things. It is not right. I am very worried about this budget, Mr. Chairman.

I am sorry that I took so much time. I also have a meeting waiting for me, but I thought it was that important when it comes to health and safety. I think we all agree it is important.

I thank you, Administrator, for staying a little longer.

Ms. WHITMAN. Well, Senator, if I could, just to allay your fears slightly, if I can, if that is possible on the enforcement, 144 of those positions are funded vacancies. We are not seeing a reduction in actual personnel of that number.

Really, when you look at what the States are doing now in enforcement, this is not going to be an across-the-board same number to every program for the States. This is going to be based on what States have sophisticated programs that with a little extra money they can really do the entire job or if not the entire job because we are still going to be a strong role for the Federal Government on enforcement.

But this is going to be something that is going to be used to maximize the dollars we have, recognizing that they already do better than 90 percent of the enforcement.

So, we still do have a very active, over 3,600 employees in the Office of Enforcement Compliance at the agency, which is a large number of employees. It is the largest one of the divisions that we have.

We really are not backing off from enforcement. That is an important part of our mission.

[The following statement from Administrator Whitman was submitted for the record concerning questions from Senator Boxer on arsenic standards:]

With regard to the exchange between Senator Boxer and Administrator Whitman, the Agency respectfully submits this clarification on the Consumer Confidence Report (CCR) rule requirements as they relate to the arsenic in drinking water standard.

Affecting approximately 54,000 community water systems (CWSs) nationwide, the CCR rule is designed to provide consumers with a snapshot of the quality of their drinking water for the previous calendar year. A basic requirement of the CCR rule is that CWSs must provide consumers with a list of all contaminants detected in the system's drinking water supply even if that contaminant is found at levels that do not violate any drinking water standard. For example, if a CWS detected arsenic in its drinking water supply below the current maximum contaminant level. (MCL) of 50 ppb, the system must include that information in its CCR. This requirement of the CCR rule is a constant provision and is not affected by the establishment of or revision to any MCL promulgated under the authority of the Safe Drinking Water Act by the Environmental Protection Agency (EPA).

Another provision in the CCR rule is the publication of additional educational information within the systems' annual CCR for certain contaminants due to concerns about special risks for children or carcinogenicity. The CCR rule now in effect requires water systems to include additional education information about arsenic where it is detected above 25 ppb or μg/l (50 percent of the MCL of 50). The regulation provides suggested language but also allows CWSs to develop their own language in consultation with the primacy agency. This provision is still in effect.

The arsenic rule of January 2001 revised the CCR requirements in two ways. First, systems with arsenic above 10 ppb or 10 μg/l (the revised MCL in the January rule) would be required to include the health effects statement for arsenic in their CCR, even though such systems would not be in violation of the MCL before 2006. Second, systems with arsenic greater than 5 but less than 10 ppb or μg/l (the revised MCL in the January rule) would be required to include educational information about arsenic in the CCR. As previously, the rule provides suggested language, but systems may develop their own language in consultation with the primacy agency.

Senator BOXER. Good. Well, I am sure that we will oversee this and make sure that nobody suffers as a result of these cuts.

Thank you.

Senator SMITH. Let me just make a final comment on this issue. I think it is important for everyone to understand that if the Clinton Rule were still to be in effect, the enforceable level on June 22, 2001, is 50 parts per billion; not 5, not 10, not 20, but 50.

You have 5 years under the Clinton Rule to lower that to whatever, 10 parts per billion.

I think that what the Administrator is saying is that there is a rule here that has three parts: the maximum contaminant level of 10 parts per billion; the notification requirement which you talked about of half of that contaminant level; and the effective date of 5 years.

I think the Administrator is saying when she looks at the rule and they make the decision on the rule, then the proper notification will be made. I don't see any reason to question what was said in the testimony. I think that is what was meant.

Anyway, Administrator Whitman, thank you for being here. We will be working on that issue at some subcommittee hearing in the near future on the Safe Drinking Water Act.

If Members have questions that they wish to submit for the record, I will leave the record open until 5 o'clock on Friday for that purpose.

[Whereupon, at 4:40 p.m. the committee was adjourned, to reconvene at the call of the chair.]

[Additional statements submitted for the record follow:]

STATEMENT OF GOVERNOR CHRISTINE TODD WHITMAN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

Mr. Chairman and Members of the Committee, I am pleased to be here to discuss President Bush's request for EPA. The President's budget provides the necessary funds for the Agency to carry out our mission efficiently and effectively—to protect human health and safeguard the environment. The fiscal year 2002 request is $7.3 billion, a $56 million increase compared to last year's request.

The President's FY 2002 budget request for EPA reflects a commitment to increase partnerships across America to develop innovative environmental programs that ensure stewardship of our land, air, and water for generations to come. This request provides the resources and vision necessary to fulfill our nation's environmental mission to protect the environment and human health.

Each day, America's communities are developing environmental experience and expertise. Sharing this expertise with the Agency will help us reach our goals. The states and tribes receive about half of EPA's budget, because they are the innovators and energizers and are on the front line in implementing and enforcing our environmental statutes. The fiscal year 2002 request for states, tribes and EPA partners is $3.3 billion, almost $500 million more than was requested by the previous Administration.

The President's request for EPA reflects a commitment to provide more flexibility to states and local communities to craft solutions to meet their unique environmental needs.

NEW ENFORCEMENT GRANT PROGRAM

The President's budget for fiscal year 2002 includes $25 million for grants to State enforcement programs. Each year, the states conduct about 95 percent of the nation's environmental compliance inspections and take about 90 percent of the enforcement actions. In 1999, the States conducted 471,000 inspections while EPA conducted 21,800 inspections nationwide. This grant program will benefit the national environmental enforcement program by providing states much-needed funds to enhance their enforcement efforts in delegated environmental programs. EPA envisions a program which includes three ingredients: a program for which there is accountability for results, flexibility to use the dollars to address State environmental priorities, and a program that is simple and efficient to administer. Over the next several months, EPA plans to work with the states to develop specific guidelines for the grant program. As we proceed through this process, we will keep the Committee informed of our progress.

The President's budget includes $475 million for enforcement activities nationwide. This request represents a $10 million increase compared to enacted FY2001 level. EPA will continue to have a vital role in shaping and carrying out the nation's environmental compliance and enforcement program. EPA will continue to take actions where there are significant violations at companies with facilities in more than one state, where states do not yet have delegated programs, and where the Federal Government is the statutory lead. We will continue to assist states when requested and when they cannot get the job done.

INFORMATION EXCHANGE NETWORK

The budget request also includes a $25 million program intended to improve the states' environmental information systems. This program will help states and EPA create the necessary infrastructure to efficiently exchange information electronically, which will reduce burden, improve accuracy and inform decisionmaking. This request reflects 2 years of collaboration with the states, with whom EPA has created a Network blueprint to improve the nationwide exchange of environmental information. As an example of our ongoing efforts with the states in this area, in June 2001, all states will have the opportunity to begin submitting their Air Emissions Inventory data using the Information Exchange Network, demonstrating the progress made so far.

SUPERFUND

This budget continues a commitment to clean up toxic waste sites with $1.3 billion for the Superfund program. The Agency's Superfund program responds to the needs of states, communities and the public to address contamination from uncontrolled releases of toxic wastes that threaten human health, the environment and local economies. The Superfund program not only protects human health and the environment through the cleanup of toxic waste sites, but works with both public and private partners to promote redevelopment of Superfund sites. The President's budget proposes funding Superfund at the fiscal year 2001 appropriated level.

Cleanup construction is under way or completed at 92 percent of the 1,458 sites on the Federal National Priority List (NPL). In fiscal year 2002, the Superfund program and its partners will complete construction at 65 private and Federal sites. This target reflects funding reductions in prior fiscal years and the number of large, complex sites now entering the construction phase of the Superfund pipeline. By the end of fiscal year 2002, EPA will have undertaken more than 6,800 removals at hazardous waste sites to immediately reduce the threat to human health and the environment.

Working with our Federal partners to clean up Federal Facilities, the fiscal year 2002 budget includes resources to support continuing cleanup oversight, technical assistance and property transfer at Federal NPL and Base Realignment and Closure (BRAC) sites. Efforts to support the Department of Defense's (DOD's) BRAC property transfer program have created jobs and accelerated the availability of more than 350,000 acres for reuse.

BROWNFIELDS

In the President's fiscal year 2002 budget, the brownfields program request is increased by $5 million above last year's enacted level, for a total of $98 million. These resources will be used to provide additional support for State Voluntary Cleanup Programs and the Brownfields Assessment Demonstration Pilot program. The fiscal year 2002 funding request provides the resources necessary to award 38 communities new Brownfields Assessment Demonstration Pilots, 29 new Brownfields

Cleanup Revolving Loan Fund pilots, and ten new job training pilots. The request includes supplemental funding for all three existing pilot programs, the existing 28 Showcase communities, and for state/tribal voluntary cleanup programs.

President Bush has made the clean up and redevelopment of brownfields and the enactment of brownfields legislation a priority. The brownfields program is an important urban redevelopment tool that provides an alternative to the development of greenfields, and plays a key role in the Administration's goal of building strong and healthy communities for the 21st century. The Agency estimates that the brownfields program has leveraged more than an estimated $2.9 billion in cleanup and redevelopment funds. Through the EPA program, states, tribes and local communities have assessed more than 2,500 sites.

I was pleased to see the Senate pass S. 350 on April 25 by a vote of 99 to 0. As many of you know, since you were original sponsors of the bill, this was good news for the nation. The bill encourages brownfields redevelopment by clarifying Superfund liability and funding brownfields cleanups that will make our communities safer and cleaner. This bill reflects the Bush Administration's belief that environmental protection and economic prosperity do go hand in hand. The vote is an overwhelming endorsement of brownfields programs that: strengthen partnerships among states and local community groups and developers; improve public health; boost local property tax rolls and provide jobs. I look forward to working with the House to earn its bipartisan endorsement of brownfields legislation and encourage quick congressional enactment of brownfields legislation.

I also hope you will support the Administration's efforts to make the brownfields tax incentive permanent. As you know, the brownfields tax incentive will expire at the end of 2003. Making this provision permanent will remove any doubt among taxpayers as to the future deductibility of remediation costs and would promote the goal of encouraging cleanup and redevelopment at brownfields sites.

WATER INFRASTRUCTURE FUNDING

The President's budget includes $2.1 billion in grants to states for water infrastructure to ensure that safe and clean water is supplied in every American community. With respect to wastewater infrastructure, the Administration proposes $1.3 billion for grants to states in FY 2002, $500 million more than the previous Administration's fiscal year 2001 request. Included in the wastewater infrastructure request is a new $450 million grant program to assist local communities in addressing infrastructure needs related to Combined Sewer Overflows (CSOs) and Sanitary Sewer Overflows (SSOs) to address the largest remaining municipal wastewater problem, and $850 million for continued capitalization of State Clean Water State Revolving Loan Funds (CWSRF). The CWSRF investment keeps EPA on track with our commitment to meet the goal for the CWSRF to provide $2 billion average in annual financial assistance over the long-term even after Federal assistance ends.

SUPPORTING CORE WATER QUALITY PROGRAMS

The President's request fully maintains support for EPA's core water quality programs, including $170 million in grants to states under Clean Water Act Section 106 to manage water quality programs and $237 million for grants under the Section 319 nonpoint source program to address polluted runoff. We recommend the elimination of the cap on Section 319 grants to Indian Tribes. This budget includes $2 million for "Beaches" grants to support the development of beach monitoring and notification programs at the State and local level.

In addition, the budget maintains support for EPA's most critical core programs including efforts to:

- Work cooperatively with states to develop Total Maximum Daily Loads (TMDLs) for the states most impaired waters;
- Train and provide technical assistance to states to aid in the adoption and implementation of new drinking water standards;
- Reduce the backlog of expired wastewater discharge permits under the National Pollutant Discharge Elimination System (NPDES); and
- Work to ensure that states have protective, up-to-date water quality standards in place.

The budget also maintains funding of $75 million to address priority water and wastewater infrastructure needs along the U.S.-Mexico border, and $35 million to support much needed water and wastewater projects in Alaska rural and Native Villages. Also, in recognition of the lack of basic wastewater infrastructure that exists in much of Indian Country, the President is proposing to extend authority granted by the Congress for the current fiscal year that allows the Agency to reserve up to

one-and-a-half percent of funds appropriated for the Clean Water SRFs for wastewater grants to tribes.

DRINKING WATER SRF

With regard to drinking water, the Administration proposes to maintain capitalization of the drinking water SRF at current levels in fiscal year 2002, $823 million. By the end of fiscal year 2002, State drinking water SRFs will have awarded 2,400 loans, with about 850 SRF funded projects having initiated operations by that date.

In addition, the Safe Drinking Water Act Amendments of 1996 included a provision that allows states flexibility to transfer funds between their clean water and drinking water SRFs in order to address their most compelling infrastructure needs. Under the President's budget, the Administration is proposing to allow states to continue to exercise this important flexibility.

ARSENIC

With respect to arsenic, on April 23rd we proposed extending the effective date for 9 months, until February 22, 2002, in order to review the science pertaining to health risks and to better assess compliance costs and benefits associated with a new standard. Our plan during this review period is to propose a new rule and take comments on various possible regulatory options and the associated issues. We have asked the National Academy of Sciences to review the health issues and a subgroup of the National Drinking Water Advisory Council to examine compliance cost issues. We are also developing a process to review the benefits estimates. We plan to publish a Notice of Data Availability (NODA) with the findings of that review process and then finalize the rule based upon the comments on the proposed rule and on the NODA.

ENSURING CLEAN AIR

The President's fiscal year 2002 budget request maintains current funding for EPA's clean air program, $565 million, allowing us to continue the progress of past years. Almost $220 million or 40 percent of the budget request is designated for our state, tribal, and local partners to help carry out their responsibilities under the Clean Air Act.

In 1990, Congress passed the Clean Air Act Amendments with overwhelming support, setting ambitious air pollution reduction goals. Since then, the Nation has achieved unprecedented success in cleaning our air and protecting public health. Working with state, tribal, and local partners, we have achieved these successes through rulemakings, voluntary measures, market mechanisms, and stakeholder consultation.

The Clean Air Act has succeeded in improving the air quality in our cities. Since 1970, air emissions have decreased nationally for five of the six common pollutants subject to air quality standards. Moreover, in FY2002 we expect increases in the number of areas with clean air and more areas that will come into compliance with national clean air health standards .

Our cars and fuels are cleaner. The average new car is over 90 percent cleaner (in terms of emissions) than in 1970. More than 30 percent of the nation's gasoline is now cleaner-burning, reformulated gasoline. We will continue to implement gasoline sulfur reductions and the cleanest ever emissions standards for cars, sport utility vehicles (SUVs), pick-up trucks and minivans. In addition, the Administration is moving forward to implement new diesel truck and fuel standards that by 2007 will achieve emission reductions of 95 percent for hydrocarbons, and 90 percent reductions for particulate matter and NO_X, resulting in substantial public health benefits.

We have issued technology-based air toxics rules, or maximum achievable control technology (or "MACT") standards, that by 2002, will reduce industrial air toxics by an estimated cumulative 40 percent from 1993 levels, or 1.5 million tons per year. Through FY 2000, emissions of air toxics have declined 30 percent since the 1993 implementation of the MACT program and the auto emission standards. The fiscal year 2002 budget request includes the resources needed to complete the last round of MACT standards.

The Acid Rain Program has succeeded in reducing sulfur dioxide (SO_2) emissions from electric utilities by approximately 28 percent, or 5 million tons. In addition, rainfall acidity in the East has been reduced by 25 percent. When Title IV is fully implemented in 2010 there will be a reduction in annual cases of premature mortality, due to reductions in SO_2 and nitrogen oxide levels. Acid rain control will also produce significant benefits in terms of improved visibility, lowered surface water acidity, and less damage to high elevation forests and materials. However, more

work remains. Recent ecological studies have found that the problem of acid rain persists. To further reduce emissions of SO_2 and NO_X emissions from power plants, we look forward to working with the Congress on a multi-pollutant strategy.

Although substantial progress has been made, it is important not to lose sight of the magnitude of the air pollution problem that still remains. In 1999, more than 150 million tons of air pollution were released into the air in the United States, and approximately 62 million people lived in counties where monitored data showed unhealthy air for one or more of the six common pollutants.

In fiscal year 2002, we will continue our work with states to reduce transported emissions of nitrogen oxides that contribute significantly to urban smog in downwind areas. Currently, 15 of the 19 states subject to the NO_X SIP Call have plans that EPA has approved or expects to approve. When fully implemented, the NO_X SIP Call will achieve nearly a million ton reduction in NO_X emissions. During fiscal year 2002 we will be re-engineering the information technology support structure for the allowance and emissions tracking systems to provide for improved public access and timely exchange of data with State partners.

ADDRESSING GLOBAL WARMING

To address the challenge of global warning, the fiscal year 2002 budget request is $145 million for voluntary and climate change science programs. This request allows EPA to continue its partnership efforts with businesses, organizations, and consumers to achieve greenhouse gas reductions by taking advantage of the many voluntary opportunities to reduce pollution and energy bills by fostering energy efficient programs, products, technologies, and cost-effective renewable energy.

EPA's fiscal year 2002 budget request will help us meet the following goals:

• Reduce greenhouse gas emissions annually by more than 73 million metric tons of carbon equivalent, offsetting about 20 percent of the growth in U.S. greenhouse gas emissions above 1990 levels;

• Reduce other forms of pollution, including reducing NO_X emissions by about 180,000 tons;

• Reduce U.S. energy consumption by more than 85 billion kilowatt hours, contributing to at least $6 billion in energy savings to consumers and businesses that use energy efficient products; and

• Contribute to developing a new generation of fuel efficient and low-polluting cars and trucks.

We have a tremendous opportunity to save on our nation's $600 billion annual energy bill over the next decade and reduce greenhouse gas emissions and other forms of air pollution. EPA's voluntary energy efficiency programs will help capitalize on this tremendous opportunity for consumers, businesses, and organizations to make smarter equipment purchasing and investment decisions leading to a significant reduction of U.S. greenhouse gas emissions and air pollutants. Voluntary initiatives to reduce vehicle miles traveled have enormous potential to provide near-term reductions in energy consumption, air pollution and greenhouse gas emissions.

ENSURING SAFE FOOD AND PROTECTING THE PUBLIC FROM HARMFUL CHEMICALS

The President's 2002 budget request supports the important work of applying the latest science to ensure industrial chemicals and pesticides meet today's safety standards. The budget also supports the complementary protections brought through pollution prevention and voluntary partnerships.

For our pesticides programs, we have carried forward earlier increases, maintaining the registration program at $41 million to keep a steady flow of new pesticides coming onto the market, many of which are based on innovative and safer chemistry. Likewise we maintain our commitment to reviewing older pesticides, ensuring they meet Food Quality Protection Act (FQPA) standards while at the same time working with growers and the agricultural industry to help make a smooth transition to safer pesticides. In August 2002 we expect to meet our second statutory deadline for tolerance reassessments, completing an additional 2,527 and meeting the 66 percent of the 9,721 reassessments required in the law.

This budget request includes $46 million for our new and existing chemicals programs. Chemicals are in all the products and services we enjoy in our daily lives. The $14 billion High Production Volume Chemical Challenge program aims to gather health and safety information for the public to make better informed choices. As part of the HPV voluntary program, 469 companies committed to provide basic information about 2,155 chemicals. The budget request of $20 million will support partnerships with states and private industry on pollution prevention projects, reducing use or exposure to chemicals to reduce potential risks most especially those

chemicals that persist in our environment, collect or bioaccumulate in our bodies, and have adverse or toxic effects in the environment and on human health.

In both the pesticide and the chemical programs we continue to place special emphasis on reducing potential risks to children and other vulnerable populations. Emerging science is focusing our attention on chemicals that may harm animal or human endocrine systems, and we are working with the scientific community to find ways to identify those chemicals as part of our endocrine disruptor program.

Let me mention here that the budget assumes no impediment to promulgating the final pesticide tolerance fee rule in 2002, and you will see that the request levels for the reregistration and the tolerance reassessment programs reflect that change, namely from a reregistration maintenance fee to a tolerance fee. These two critical programs are fully supported with $52 million in appropriated funds if a new fee is in place in 2002 and we will be working with you on this issue over the coming months.

SOUND SCIENCE

Environmental policy should always be based on the soundest information available. The role of environmental science has become more critical than ever in making policy decisions, thereby, improving our ability to sustain natural resources while maintaining public trust and the integrity of our world's ecosystem. Science has played a vital role in improving America's environment—from targeting priority chemicals concerns, better characterizing sources of pollution and designing control strategies. While we must also realize that science and public policy proceed along fundamentally different time lines, we will continue to use the best available science and scientific analyses to aid in the development of environmental policy.

EPA's fiscal year 2002 President's budget supports a strong and rigorous research program. The fiscal year 2002 request includes $535 million for the Office of Research and Development (ORD), reflecting an increase of $5 million compared to the fiscal year 2001 request. This request will allow the Agency to support a research program focused on addressing key environmental concerns such as the health effects of small particles in order to assure promulgation of standards that protect human health, and heightened interest in better addressing in Agency decisions the unique susceptibilities of children to potential environmental health threats. The Agency's request will also continue to support the Global Change research program focusing efforts on assessment activities examining the potential consequences of global change and climate variability on human health, air quality, water quality and ecosystem health.

In addition to supporting a strong intramural science program at the Agency, the fiscal year 2002 request provides $110 million for the Science to Achieve Results (STAR) program which includes competitively awarded grants and fellowships. The STAR program continues to successfully engage the best environmental scientists and engineers from academia through a variety of competitive, peer reviewed grants. In addition, the Agency will continue its highly successful Postdoctoral program to hire scientists and engineers who provide a dynamic infusion of intellectual energy and state-of-the-science expertise, as well as assist the Agency in addressing long range research workforce planning needs.

CIVIL RIGHTS

The President's budget includes a $3 million increase for civil rights activities at the agency. The increase is expected to address the backlog of pending discrimination complaints for both Title VI and VII complaints. I expect to announce by June 1 a comprehensive strategy for fully eliminating the Title VI (those complaints that concern possible acts of discrimination by recipients of Federal funding), backlog within 2 years. In addition, Title VII complaints (complaints that concern possible acts of discrimination against individuals within the Agency) will be reviewed by a special case closure team. Our goal for Title VII complaints is to issue a final Agency determination on all backlogged cases by no later than the end of the year. Furthermore, this summer all 1,600 EPA supervisors and managers will attend a national civil rights training program. The Agency has contracted with the Equal Employment Opportunity Commission to provide this mandatory, 2-day course. I expect to be among the first to take the course. I pledge to personally monitor the progress in the civil rights arena.

SUMMARY

Mr. Chairman and Members of the Committee, the President's fiscal year 2002 budget for EPA provides the resources and vision necessary to reach our Nation's environmental mission to protect the environment and human health. This budget

represents this Administration's commitment to work with our environmental partners to develop innovative environmental programs that ensure stewardship of our land, air, and water for generations to come. This concludes my prepared statement. I would be pleased to answer any questions that you may have.

RESPONSES BY CHRISTINE TODD WHITMAN TO ADDITIONAL QUESTIONS FROM SENATOR SMITH

Question 1. This budget creates two new state grant programs. One will provide $25 million for multimedia state enforcement activities. The other will provide $25 million for improving public access to environmental information. How do you envision these two programs working together to improve environmental protection?

Response. Both of these grant programs facilitate local decisionmaking involving environmental concerns by providing resources to the people closest to the issues thereby enhancing their ability to tailor solutions to their circumstances. The enforcement grants provide funds to state and tribal officials to address environmental risks and noncompliance patterns through the use of compliance assistance, incentives for facility self-auditing, inspections and investigations, and enforcement actions. The information grants provide funds to officials to develop integrated environmental information systems that will improve access to such information by the public. Further, EPA and the States will be better able to share information about facilities and permits if they are based on a common data architecture.

Question 2a. I am pleased to see that President Bush recognized the importance of water infrastructure and provided for a substantial increase over the previous Administration's request. However, I would like to work with you on how those funds are to be allocated in making sure that States are given flexibility in deciding their priorities. Both increasing the SRF and providing funds to fix the many CSOs and SSOs around the country are important goals. I look forward to working on legislation this year to better achieve these goals. However, in the meantime we need to focus on this years budget. Every year we provide for grants for CSOs and SSOs in the appropriations request.

Would you envision this CSO/SSO grant program taking the place of those earmarks?

Response. The CSO/SSO grant program proposed by the President provides a flexible tool for States to address their highest priority projects in their neediest communities. We would envision that the highest priority CSO/SSO projects targeted by the states would be funded through this program.

Question 2b. Do you feel the proposed level for the SRF is sufficient?

Response. The Administration believes its request for wastewater infrastructure funding will provide a substantial source of funding for states to address their communities' highest priority needs. The proposed level for the CWSRF is $50 million more than the amount requested by the prior Administration and is $500 million more in total wastewater infrastructure spending when combined with the new sewer overflow grants. The $850 million request for the Clean Water SRF supports the Agency's goal for the State SRFs to provide a long-term average of $2 billion a year in financial assistance.

Question 2c. In looking at the infrastructure question, is the Federal Government allowing enough flexibility for the States?

Response. Both the SRF programs represent an innovative approach to financing a wide range of wastewater and drinking water projects. The SRF programs are implemented through a State-EPA partnership which EPA believes allows states a great deal of flexibility. Together with its state partners, EPA has continually sought ways to improve the program so that its resources will effectively address the highest priority water quality and public health problems.

Since each SRF program is managed by the state, project eligibility varies according to each state's program and priorities. Each state has developed its own priority system to rank individual projects for funding. In the Clean Water (CW) SRF program, eligible loan recipients may include communities, individuals, citizens' groups, and non-profit organizations. The CWSRF allows for the funding of point source, nonpoint source and estuary activities. To date, CWSRF funds have primarily been used to fund point source projects such as the construction and upgrade of wastewater treatment facilities to secondary treatment, rehabilitation of sewer collection systems, and combined sewer overflow measures. However, over the past few years, there has been a dramatic increase in the CWSRF funding of nonpoint source and estuary activities. Such activities include projects to control agricultural runoff, correct or replace onsite septic systems, and develop streambank buffer zones. Many

states are developing integrated priority systems that consider wastewater and nonpoint sources of pollution together in addressing impacted waters.

Eligible loan recipients in the Drinking Water (DW) SRF program may include community water systems (both privately- and publicly-owned), and nonprofit non-community water systems. The state identifies the projects that are funded using a priority system based on public health, compliance with the Safe Drinking Water Act and affordability and must offer assistance to the highest priority projects. The DWSRF program also gives each state the flexibility to use a portion of its grant funds for programs and activities that address the non-infrastructure needs of water systems promoting effective state drinking water programs, source water protection and the technical, financial and managerial capacity of water systems. Such programs can reduce the need for more costly infrastructure projects and are critical in ensuring public health protection.

Question 2d. What areas do you see that need reform?

Response. The Administration is looking forward to a constructive dialog with the Congress and other shareholders on the full range of SRF implementation issues, e.g., project eligibilities, loan terms, privatization, ensuring that Federal mandates are not needlessly costly and burdensome, and other issues. One area where we have made a specific proposal in the fiscal year 2002 request concerns the States' ability to transfer funds between their clean water and drinking water SRFs.

The 1996 Safe Drinking Water Act (SDWA) Amendments, which authorized the DWSRF program, included a provision allowing states to transfer an amount equal to up to 33 percent of their DWSRF grant to their CWSRF program, or an equivalent amount from their CWSRF program to their DWSRF program. The goal of the provision was to give states flexibility to address the most critical demands in either program at a given time. The provision allowed states to make transfers through September 30, 2001.

The President requests in his fiscal year 2002 budget that Congress continue the authorization of transfers between the two SRF programs, in order to give states flexibility to address their most pressing water infrastructure needs. This can be accomplished by rescinding the sunset date of September 30, 2001, from the SDWA provision.

Question 3a. I was pleased to see you recognized the importance of the beaches bill we passed last year. We were successful in not only passing the beaches bill but also a comprehensive estuaries bill called the "Estuaries and Clean Waters Act of 2000". I hope you will recognize the efforts by this Committee over the coming years, as we pass authorizing language, and respect the priorities we see as important to protect the environment. I would ask that you work with use in preparing next years budget and increase funding for these programs, as EPA issues guidance and they mature.

For the beaches grants, is the $2 million request part of the 106 grant program or separate?

Response. The $2 million request for the Beaches grants is separate from the request for the Section 106 grants.

Question 3b. How will these funds be allocated?

Response. The President's budget allocates $57,000 to each coastal state and territory.

Question 4a. States and the EPA in nondelegated states, such as New Hampshire, are going to quickly be faced with implementing a revised TMDL rule and a revised Concentrated Animal Feeding Operations (CAFO) rule. Both of these rules will substantially increase the number of NPDES permits that need to be issued.

How does the EPA plan to issue the additional NPDES permits and catch up on the backlog of permits?

Response. EPA began an aggressive effort to reduce the existing backlog of expired NPDES permits in late 1998. In 1999, the Office of Wastewater Management formed a work group to assess the problem and to develop a national strategy in cooperation with its NPDES State partners. This strategy was published in July 1999, and is posted on the NPDES program web site (http://www.epa.gov/npdes/pubs/strategy.pdf). In addition to the national strategy, former Deputy Administrator Mike McCabe, in March 2000, directed each EPA Regional Administrator to develop State-specific plans to describe how each State in the Region would meet the backlog reduction targets. These strategies have been submitted and are now used to track State and Regional progress.

Since the Agency began its backlog reduction effort, our Regional offices have taken a variety of concrete steps to reduce the backlog of permits for which they are directly responsible. For example, EPA Region 1, which had the most "non-au-

thorized" states, reorganized its NPDES staff to form permit issuance/backlog reduction teams. Based on these efforts, the number of expired permits for "major" NPDES dischargers administered by EPA has dropped from 292 (46 percent) to 157 (30 percent).

The Agency will continue to actively track and manage permit issuance efforts, and will work closely with our State partners to implement the national and State-specific backlog reduction strategies. The additional permits that may need to be issued due to the TMDL and CAFO rules pose additional challenges. We hope that States will use General Permits and electronic tools that are being developed to make the process simpler and more efficient.

Question 4b. Will the States be able to handle all of these new regulatory requirements under the current budget?

Response. The Agency is confident that adequate resources can be allocated to address the requirement of the permitting programs. As new rules are finalized, the Agency will evaluate the adequacy of state grant programs during its annual budget review.

Question 5. We substantially increased the 319 program for nonpoint sources last year and the President recognized the importance of the 319 program and requested the same level of funding. Has the agency done any type of needs analysis for the nonpoint source program? What role do you see yourself playing with USDA in trying to solve the problem of nonpoint source pollution.

Response. EPA develops and publishes a Clean Watersheds Needs Survey Report to Congress every 4 years. This survey originally addressed only municipal point sources. After Congress amended the Clean Water Act by adding Section 319 to address nonpoint source pollution and began funding that program in 1990, EPA began with the 1992 report to include nonpoint source needs estimates. Given the lack of availability of data on the million of specific sources of nonpoint pollution, the estimates have been based upon the application of appropriate models to estimate national needs. Assumptions used to develop the models are explained in the Needs Survey document.

In the most recently published survey (the 1996 Clean Water Needs Survey), EPA estimated a portion of the Nonpoint Source Needs, focusing upon agriculture and silvicultural sources of nonpoint pollution. Those estimates were $5.9 billion and $3.5 billion, or a total of $9.4 billion.

EPA is currently preparing an analysis of nonpoint source needs that would revise and expand upon the 1996 Needs Survey. As part of the 2000 Clean Watersheds Needs Survey, EPA is both refining its agricultural and silvicultural needs estimates and adding estimates of other significant sources of nonpoint pollution, including septic tanks; abandoned coal mines; small residential construction sites (larger ones are addressed by the point source permit program under Section 402 of the Clean Water Act); dams; and marinas.

EPA considers USDA to be a critical partner in our efforts to control nonpoint source pollution from agricultural sources. USDA's Environmental Quality Incentives Program is a significant source of funding to address water quality issues at animal feeding operations, grazing and pasture land, and both irrigated and non-irrigated cropping operations. In addition, the Conservation Reserve Program, and especially the Conservation Reserve Enhancement Program, have been critical tools to protect highly eroding areas as well as critical riparian areas. EPA and USDA have worked very closely together on such efforts as implementing a unified national strategy for animal feeding operations, and we jointly fund many projects throughout the United States using our respective funding mechanisms. Given our complementary areas of expertise, we look forward to continuing to work together effectively in this manner.

Question 6a. During the hearing much was said about the arsenic standard. I would like you to clarify a few issues:

If the arsenic rule under the Clinton administration was in effect on June 22, 2001, what would the enforceable MCL be on that date and for the following 4 years?

Response. Under the SDWA, the effective date for compliance with national primary drinking water regulations (NPDWRs) is 3 years from the date of promulgation unless EPA determines that an earlier date is practicable. EPA also may provide drinking water systems with an additional 2 years to make any capital improvements necessary to come into compliance with an NPDWR. Under the arsenic drinking water standard proposed by the previous administration, the revised standard of 10 ppb would not have gone into effect until January 2006, a full 5 years after the date of promulgation. Therefore, the *enforceable* MCL as of June 22,

2001 and for the following 4½ years (June 2001 through January 2006), would have remained at 50 ppb.

Question 6b. Do states have the flexibility to set MCLs below what EPA requires and have States chosen to do so in the area of arsenic? Is it common for States to set levels different than those required by EPA?

Response. Under Section 1414(e) of the SDWA, States may set standards that are *more* stringent than those established by EPA. Both New Hampshire and New Jersey, for example, have proposed to establish MCLs for arsenic that are lower than the current Federal standard of 50 ppb. It is uncommon, however, for states to set MCLs lower than the Federal standard.

Question 6c. As a part of the arsenic rule under the Clinton administration, the information required under the Consumer Confidence Report for arsenic would have been changed to require additional health information. Presumably this information was linked to data the Clinton administration used in finalizing the rule. If you decide to change the rule, would you review all of the new data and studies to make a determination on what additional health information is necessary, if any, to provide the public in the consumer confidence reports? How are the detection levels of arsenic, the MCL, and the consumer confidence reports linked? What arsenic information do water utilities currently supply consumers in the consumer confidence reports?

Response. Affecting approximately 54,000 community water systems (CWSs) nationwide, the Consumer Confidence Report (CCR) rule is designed to provide consumers with a snapshot of the quality of their drinking water for the previous calendar year. A basic requirement of the CCR rule is that CWSs must provide consumers with a list of all contaminants detected in the system's drinking water supply even if that contaminant is found at levels that do not violate any drinking water standard. For example, if a CWS detects arsenic in its drinking water supply below the current maximum contaminant level (MCL) of 50 ppb, the system still must include that information in its CCR. This requirement of the CCR rule is a constant provision and is not affected by the establishment of or revision to any MCL promulgated under the authority of the Safe Drinking Water Act by the Environmental Protection Agency (EPA). This provision, therefore, would not have been changed under the arsenic regulation proposed by the previous administration.

Another provision in the CCR rule is the publication of additional educational information within the systems' annual CCR for certain contaminants due to concerns about special risks for children or carcinogenicity. The CCR rule now in effect requires water systems to include additional education information about arsenic where it is detected above 25 ppb or µg/l (50 percent of the MCL of 50). The regulation provides suggested language but also allows CWSs to develop their own language in consultation with the primacy agency. This provision also remains in effect.

The arsenic rule of January 2001 revised the CCR requirements in two ways. First, systems with arsenic above 10 ppb or 10 µg/l (the revised MCL in the January rule) would be required to include the health effects statement for arsenic in their CCR, even though such systems would not be in violation of the MCL before 2006. Second, systems with arsenic greater than 5 but less than 10 ppb or µg/l (the revised MCL in the January rule) would be required to include educational information about arsenic in the CCR. As previously, the rule provides suggested language, but systems may develop their own language in consultation with the primacy agency.

The revised arsenic CCR requirements were to go into effect March 23, 2001 and would apply to the CCR covering calendar year 2001 that is distributed to customers no later than July 2002. The change in the effective date of a final arsenic in drinking water rule to February 22, 2002 would result in the revised arsenic CCR requirements applying to CCRs covering calendar year 2002. For CCRs covering calendar year 2001, systems are required to follow original arsenic CCR provisions, namely: (1) indicate any level of arsenic detected, and (2) provide additional arsenic educational information when arsenic is detected above 25 ppb or µg/l.

In the event we decide to revise the rule, we would also review all of the new health effects data and studies to determine what bearing they may have on public information requirements. We believe that the strength of the health effects information and its relationship to the arsenic MCL that is ultimately promulgated have a direct bearing on the consumer confidence report requirements. We will be carefully considering these issues as we move toward final decisions on the rule.

Question 7a. I sent a letter (6/28/00) to Administrator Browner last year raising concerns with the application of the Clean Air Act and Comprehensive Environmental Response, Compensation and Liability Act to air emissions from animal

feeding operations. It was my understanding that the EPA recognized the science and data for air emissions from animal feeding operations was lacking. Thus, I was informed industry and the EPA were working together to have the National Academy of Sciences look at this issues. However, it has come to my attention that the enforcement office at EPA is proceeding with legal actions against animal feeding operations under the above mentioned statutes. I would hope that the enforcement office would respect the need for further science and wait for the policy offices to work through that process. The budget document in the section on the air office briefly mentioned this issue.

Could you update me on EPA's current position on this issue?

Response. EPA initiated a comprehensive literature review of industry emissions and best management practice information. We have also begun discussions with the National Academy of Sciences (NAS) regarding a study to review the scientific issues and to make recommendations related to measuring and estimating agricultural emissions. The study should also address best management practices, including costs. A Memorandum of Understanding (MOU) was formed in February, 1998 with the U.S. Department of Agriculture (USDA) to confer on agriculture and air quality issues. In the spirit of this agreement, we plan to work closely with USDA, their Agricultural Air Quality Task Force (AAQTF), and other stakeholders, in the course of the study. We will use this study to develop scientifically valid emission estimates that can be used to inform our regulatory policy decisions.

The USDA's AAQTF, has recommended that EPA defer implementation of Title V of the Clean Air Act (CAA) and Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) until there is a better understanding of the scientific issues associated with emissions from agricultural production sources. We are currently reviewing this recommendation and will work with the USDA on these issues.

Governor Whitman also recently created the position of Counselor to the Administrator on Agriculture Policy and asked Jean-Mari Peltier of California to fill the post. By establishing this position, EPA will be better able to integrate the concerns of the agricultural community when making important decisions about how best to protect our natural resources.

Question 7b. Is the enforcement office aware of the need for further science and data on this issue?

Response. Yes, EPA's enforcement office is aware of the need for further study on this issue. EPA agrees that we do not currently have sound emission estimates sufficient to support regulatory determinations for animal agriculture. At the same time, the Agency has received complaints from citizens living nearby several very large combined animal feeding operations (CAFOs) alleging that air emissions are affecting their health and quality of life. Although we recognize the need for better air emissions data from CAFOs, EPA must respond to these concerns by investigating such operations. As described above, EPA is developing a cross-Agency approach for addressing air emissions from animal production operations.

Question 8. In the budget request, State air quality grants are level-funded at $208.5 million from last year's enacted amount. According to the State and Territorial Air Pollution Program Administrator's (STAPPA), State agencies are underfunded by nearly $100 million. Does the Administration have a plan to address this resource need over the long term?

Response. STAPPA, ALAPCO, and EOA conducted a collaborative effort several years ago to assess funding needs. Collectively it was found that Federal grants to State and local air pollution control agencies and tribes under Section 105 of the Clean Air Act fell short of State and local air funding needs. EPA continues to support fine particulate matter monitoring through section 103 grants that require no cost sharing by States. EPA has continued to work with STAPPA/ALAPCO to identify State and local priorities and to integrate those priorities at EPA in a transparent as possible planning and budgeting process.

Grants support a variety of activities. For example, there is still considerable work to be done to address hazardous air pollution. States/locals must assess the extent of the problem through monitoring and data analysis implement technology-bases (or "MACT") standards, develop strategies for addressing State/local problems. They also issue permits to many minor sources (which can be an expensive undertaking that is not covered by permit fees under Title V of the Clean Air Act. In addition to toxic air pollution, States/locals must continue to address criteria pollutant, such as ozone and particulate matter, regional haze, and visibility. The list of State responsibilities for which funding may be directed includes, the following: transportation-related projects; land use and air quality programs; development, replacement and/or upgrading of monitors (apart from fine particulate matter monitoring);

collection of essential emission and pollutant data; minor source inspections and permits; training; implementation of ozone strategies; multi-State approaches to regional air quality problems; and public education and outreach.

EPA is actively supporting efforts that will overtime, reduce States burden for reporting to EPA. Air Emissions Inventory submission under the Clean Air Act were received through Central Data Exchange from 34 States and several county air boards. In addition, EPA is requesting $25 million in grant support for the National Environmental Information Exchange Network, which, when fully implemented will make it easier to collect essential data, to coordinate permit inspections and to reduce State reporting costs.

Question 9. You may be familiar with the Army Corps of Engineer's authority to study the water resource needs or river basins and regions. Section 729 of the Water Resources Development Act of 1986 granted the original authority and the provision was amended in the Water Resources Development Act of 2000. A study conducted under this authority is done in cooperation with the Administrator of the EPA, as well as the secretaries of other relevant Federal agencies. Under this authority, the Army Corps may assess the water resources' needs of river basins and watersheds, including needs relating to ecosystem protection and restoration; flood damage reduction; navigation and ports; watershed protection; water supply; and drought preparedness. In the fiscal year 2001 Energy and Water Development Appropriations Act, $500,000 was granted to conduct such a comprehensive study along the Merrimack River watershed. As you may be aware, five communities along this river—Nashua and Manchester, NH; Lawrence, Lowell, and Methuen, MA—are attempting to coordinate and manage their water resource needs. These communities are eager to get started with this study and hope that it will shed light on measures they can take as a region to reduce CSOs and restore the Merrimack River basin. However, considering the consent orders that have been levied upon them, there is a reluctance to contribute the required 50 percent match toward the Corps study unless credit is going to be granted by EPA for this comprehensive assessment.

This study provides a unique opportunity for communities to band together and take a holistic approach to their problems. My question to you is this: would EPA recognize the Comprehensive Merrimack River Study as a positive step forward for these communities and grant them credit toward the consent decrees if they commit the required local match to undertake this study?

Response. It is unclear what is meant by "grant them credit toward consent decrees." There is no question that wet weather is creating significant water quality problems for the Merrimack River. It is well known that combined sewer overflows are a major source of the bacteria polluting the river. Manchester and Nashua are in the process of implementing measures to reduce CSOs, and the Massachusetts communities along the Merrimack are in the final stages of developing CSO abatement plans. The EPA believes that more information about other pollution sources could be helpful in understanding all of the impacts along the river and therefore would support a comprehensive study.

The EPA would examine which projects would provide the greatest environmental benefits as the results of such a study became available and make adjustments to future phases of abatement plans as appropriate. The Agency does believe that a significant amount of CSO work will be necessary regardless of the outcome of any study. CSO projects already committed to should proceed as planned. EPA is willing to credit funds spent on the study toward future CSO work. This means that in future negotiations, EPA will take into account the communities' investment in this water quality study when considering their ability to finance CSO controls. This should not impact the communities' ability to complete necessary ongoing work.

RESPONSES BY CHRISTINE TODD WHITMAN TO ADDITIONAL QUESTIONS FROM SENATOR CORZINE

Question 1. Two hundred and seventy of the five hundred personnel that your budget cuts are enforcement positions. I understand from your testimony that $25 million of the resources freed up by these cuts are going to states in the form of enforcement grants. I'm concerned that many of New Jersey's most pressing environmental problems can be addressed only by strong Federal enforcement. Can you explain how the State grant program will address the complex interstate NO_X pollution problems that New Jersey faces or help to clean up New Jersey's Superfund sites? Can you guarantee that this grant program will not slow cleanup of Superfund sites in New Jersey and elsewhere in the country?

Response. The reduction of 270 personnel from EPA's enforcement and compliance assurance program represents a 7.5 percent reduction from the current workyear

ceiling. The fiscal year 2002 budget maintains sufficient resources to sustain a vigorous Federal environmental monitoring and enforcement program, and EPA expects to meet its fiscal year 2002 goals for Superfund cleanup with the resources proposed in the President's budget.

Question 2. New Jersey has more Superfund sites than any other State in the nation. Eighty-four of New Jersey's one hundred and eleven NPL sites are not yet cleaned up to the "construction complete" stage. So I am concerned to see that your budget request reduces the fiscal year 1902 target for cleanups to 65. This is well below the 85 cleanups per year that have been accomplished in the last 4 years; it is also below last year's target of 75. Yet the overall Superfund request is relatively flat. When I asked you about this at the hearing, you said that the reduced target is due to increased cleanup costs at remaining sites. Can you please provide any additional information about the Superfund pipeline or other matters that are relevant to your decision to lower the target for construction completes.

Response. The President's budget establishes an appropriate balance in the distribution of scarce resources among competing environmental priorities. In addition to historical budget reductions in the Superfund program, an important reason for the decline in construction completions that you describe is the increasing complexity of NPL sites that have yet to be addressed, including an increase in the number of operable units at the remaining sites, and an increase in the percentage of Federal facilities included in the list of remaining sites. These factors increase the time needed to achieve construction completion at a site.

Question 3. Your budget cuts Superfund cost recovery activities by 5 percent over last year's enacted levels, and nearly 15 percent versus last year's request. Superfund cost recovery enforces the "polluter pays" principle, and replenishes the Superfund Trust Fund. Why did you cut this important activity, particularly in light of the fact that the Trust Fund is dwindling?

Response. The reduction to cost recovery FTE reflects a pro-rata share of Ageney-wide reductions to meet the congressionally-directed ceiling of 17,500 FTE for fiscal year 2002. Despite these reductions, the President's request provides the funding necessary for EPA to address all pending cases at sites with total unaddressed response cost greater than $200,000, prior to expiration of the statute of limitations. By maintaining this goal, EPA confirms its well-established commitment to the "polluter pays" principle and ensures that there will be no loss of revenue to the U.S. Treasury Department due to budgetary constraints.

Question 4. The Supreme Court decided in EPA's favor earlier this year on the NO_X SIP call. Not all of the states have submitted revisions for their State Implementation Plans, and the deadline is approaching. Are you committed to preparing and implementing a Federal Implementation Plan for states that fail to submit their own plans?

Response. EPA remains committed to implementing on time rules to combat the regional smog problem in the eastern United States. The NO_X reductions from this action are needed to help many cities in the eastern half of the United States meet the 1-hour ozone air quality standard.

So far, 15 states and the District of Columbia have adopted or are in the process of adopting NO_X SIP call rules that we have approved or expect to be able to approve as achieving the required reductions on time. We are continuing to work with the states to maximize chances of getting approvable rules from all states in time for sources to comply by May 2004. Alternatively, we are positioned to issue a final FIP rule in a timely manner, if necessary. The FIP rule was proposed in October 1998 and the NOx trading program-a key part of the proposed FIP rule-was issued as a final rule under section 126 in January 2000.

Question 5. EPA has taken New Source Review enforcement actions against 32 power plants last year. How much does your budget request allocate to support this litigation? And does your budget allocate resources to support additional New Source Review enforcement actions?

Response. EPA does not specifically track resources dedicated to NSR enforcement cases. In addition, EPA has not developed a specific budget line item for NSR enforcement at this time. In fiscal year 2002, the Agency is requesting 866 workyears and $92 million for the civil enforcement program in the Environmental Program and Management appropriation. Support for NSR litigation comes from the civil enforcement budget.

Question 6. Last year, Congress unanimously passed the BEACH Act of 2000. The law established a beach water monitoring grant program for coastal states and territories to improve and implement beach water monitoring and public notification ac-

tivities. Congress authorized $30 million for these grants to help states better protect the public's health and identify polluted beach waters. Your agency has only requested $2 million. How can EPA fulfill its responsibilities and provide assistance for coastal states with less than 7 percent of the funding authorized for these activities just 8 months ago?

Response. EPA believes the budget request of $2 million to support BEACH Act grants will provide an adequate level of funding in Fiscal Year 2002 consistent with a phased approach to implementation. During the first phase, states will be eligible to apply for beach monitoring and public notification program development grants. These grants will enable the states to establish programs that are consistent with the performance criteria to be published by EPA. During the second phase, states can apply for program implementation grants.

Beach Act implementation grants may only be awarded to states that have demonstrated that their programs are consistent with EPA's performance criteria. In order to do this, states have to develop detailed implementation plans for monitoring and notification. These plans must provide information such as: (1) lists of coastal recreation waters covered by the program, (2) processes by which states may delegate program responsibilities to local governments, (3) the frequency and location of all monitoring and assessment activities, (4) sampling and laboratory methods to be used for detecting levels of pathogens and pathogen indicators that are harmful to human health; and the assessment procedures for identifying short-term increases in pathogens and pathogen indicators, (5) measures for prompt communication of the exceedence of applicable water quality standards to EPA and local jurisdictions, (6) measures for the posting of signs at beaches or similar points of access, or functionally equivalent communication measures that are sufficient to give notice to the public that the coastal recreation waters are not meeting or are not expected to meet applicable water quality standards for pathogens and pathogen indicators, and (7) measures that inform the public of the potential risks associated with water contact activities in the coastal recreation waters that do not meet applicable water quality standards.

Because the above program requirements must be met before states may receive grants for full program implementation, we believe that funding requested in the Fiscal Year 2002 budget is appropriately focused on program development.

Question 7. In your testimony, you congratulate the Senate for passing a brownfields bill. Yet your budget requests only $98 million of the $250 million that the bill would authorize. If the bill becomes law prior to enactment of EPA's fiscal year 2002 appropriation, will you ask Congress to appropriate more than the $98 million in the budget?

Response. This Administration has testified in support of Senate brownfields legislation which authorized a level of funding more than the $97.7 million requested in the fiscal year 2002 President's budget. EPA is pleased that legislation has been passed by the Senate and looks forward to working with the House of Representatives toward enacting a brownfields law. Should brownfields legislation be enacted, the Administration will work with Congress to determine an appropriate level of funding that is consistent with the President's budget priorities.

Question 8. The Intergovernmental Panel on Climate Change recently released its Third Assessment Report. As you know, the report concluded that global warming is happening, and that most of the warming in the last 50 years is attributable to human emissions of greenhouse gases. As you point out in your testimony, EPA's voluntary climate change programs have been highly successful in reducing greenhouse gases and other pollutants. Your request of $145 million for these programs is similar to last year's funding levels. But it is well short of the $227 million requested last year. Can you explain the rationale for your request in light of the IPCC report?

Response. The Administration is now conducting a cabinet-level review to develop an effective and science-based approach to address the important issues of global climate change. It will encourage research breakthroughs that lead to technological innovation and take advante of the power of markets. It will encourage global participation and pursue actions that will help ensure continued economic growth and prosperity for our citizens and for citizens throughout the world.

EPA's voluntary climate protection programs continue to be highly successful in cost-effectively reducing emissions of greenhouse gases while reducing air pollution and saving businesses, organizations, and consumers billions of dollars on their energy bills. At the level that Congress appropriated in fiscal year 2001, EPA's voluntary climate protection programs will accomplish the following:

• *Less greenhouse gas pollution.*—EPA's climate protection programs are projected to reduce greenhouse gas emissions by more than 73 MMTCE in 2002, reducing the growth in greenhouse gas emissions above 1990 levels by about 20 percent.

• *Less local air pollution.*—Through energy efficiency investments, these programs prevent other forms of pollution, including air pollutants such as nitrogen oxides, particulate matter, and mercury. Nitrogen oxides emissions are projected to be reduced by more than 180,000 tons in 2002, helping to reduce local smog and improve air quality.

• *Lower energy bills for families schools, local governments, and small businesses*: American families, large and small businesses, schools, and industry that use energy efficient products will spend up to $6 billion less on energy bills in the next year.

• *National platform to leverage utility/state resources.*—Energy Star provides a national platform with more than 40 percent consumer awareness that helps utilities and State energy efficiency organizations leverage their resources.

• *Energy efficiency is key to a balanced approach to the energy crises.*—Energy efficiency is low cost to deliver (2–3 cents/kWh) and enhances system reliability. EPA's Energy Star program helped reduce peak summer demand by almost 10,000 MW in 2000.

The Administration's National Energy Policy (NEP) provides many recommendations for enhancing these voluntary programs. For example, the NEP calls for increasing energy efficiency, including expanding the Energy Star program to new building types, as well as adding more products, appliances and services. The NEP also provides recommendations for EPA to promote cleaner energy supply, such as Combined Heat and Power. These types of programs will continue to play a strong role in limiting our national emissions while allowing our economy to grow. We are currently evaluating how to implement the NEP recommendations.

Question 9. I understand that you are a member of President Bush's task force on climate change, and that the task force will be making recommendations in June. If the task force decides that EPA climate change programs need additional funding, will you modify your request for this year?

Response. The Administration is now conducting a cabinet-level review to develop a climate change policy that protects the environment, consumers, and the economy. The cabinet-level group is working on an effective and science-based approach to address the important issue of global climate change. The President has said that he is optimistic that, by working constructively with our friends and allies through international processes, we can develop technologies, market incentives, and other innovative approaches to address global climate change.

EPA's Office of Air and Radiation has a great deal of expertise in several areas important to developing policy responses to the issue of climate change, including: use of voluntary programs to achieve energy efficiency gains and the reduction of various greenhouse gases; development and demonstration of more energy efficient vehicle technologies; and management of emissions trading programs that help lower the costs of achieving environmental protection goals. Once the cabinet-level review is complete, we will assess whether there are any additional funding needs for fiscal year 2002 and later years.

Question 10. As you know, the recent Supreme Court decision in the Sandoval case, if broadly interpreted, would make your agency the only recourse for people who suffer from environmental discrimination. Therefore, I applaud your commitment to reduce the backlog of Title VI cases within 2 years. How will you accomplish this goal, even with the increase in funding that you have requested?

Response. A Task Force has been established under the leadership of the Office of Enforcement and Compliance Assurance to resolve the backlog of Title VI complaints. The Task Force will focus exclusively on addressing the backlog of Title VI complaints. The Task Force will be responsible for investigating and resolving the backlog in accordance with Title VI of the Civil Rights Act of 1964, EPA's implementing regulations, case law, and the Agency's experience in evaluating complaints. I am preparing to channel additional resources toward the formation of this Task Force which will include talented, experienced personnel from EPA's civil rights, enforcement, legal, and program offices, as well as additional revenue dollars to ensure that the goal of eliminating the backlog within 2 years is achieved.

Question 11. I notice that in your testimony, sometimes you use the fiscal year 2001 enacted level as the measure of your fiscal year 2001 request. Other times, you use the fiscal year 2001 requested level as the baseline. The choice of the baseline makes a big difference in how the comparison looks, and using a variety of baselines causes unnecessary confusion in the debate. What rule or set of principles

was used to determine which baseline was appropriate? If there were no consistent principles that guided your choices, will you commit to developing, articulating and applying such principles in future requests?

Response. It is useful to compare the President's budget request for fiscal year 2002 with both the fiscal year 2001 budget request and the fiscal year 2001 enacted budget. A look at both these amounts provides a more complete context for understanding the Agency's current budget request. A comparison of budget requests from two different years is a comparison of two similar items which highlights where priorities may change or stay the same from one year to another. One way in which enacted budgets differ from budget requests is in their composition. They include Congressional earmarks, which are considered one-time projects and not part of the Agency's baseline budget. When each Administration formulates a budget request, the usual practice is to back out these earmarks from the previous year's enacted budget. In EPA's case, the fiscal year 2001 enacted budget includes nearly $500 million in Congressional earmarks, so our starting point for the fiscal year 2002 budget request excludes that amount.

In describing our fiscal year 2002 budget request, the Administrator compared it with the Agency's budget request for fiscal year 2001-thus illustrating an emphasis on EPA's strong base programs that protect the environment and public health, as well as some new priorities that EPA would like to pursue in the coming year.

RESPONSES BY CHRISTINE TODD WHITMAN TO ADDITIONAL QUESTIONS FROM SENATOR REID

Question 1. For what part of the last 10 years has EPA had a hiring freeze in place? Please include in your answer information for EPA as a whole, the regions and for the Office of [Enforcement and] Compliance Assurance (OECA) or its predecessor offices.

Response. The information requested is reflected in the tables, below:

EPA as a Whole

Freeze Timeframes (specific months are approximate)	Explanatory Notes
January 2001 thru March 2001	Hiring freeze for the entire Agency imposed by President Bush on January 20, 2001
May 1999 thru December 1999	Hiring freeze for entire Agency due to budget uncertainties for all of the Federal Government; Federal shutdown
July 1995 thru March 1996	Hiring freeze due to EPA budget uncertainties

Office of Enforcement and Compliance Assurance

Freeze Timeframes	Explanatory Notes
December 1999 thru October 2000	This was an extension of the May–December Agency wide identified above. This freeze was due to spending caps imposed by Congress
Current Status	All of OECA remains under a freeze with the exception of two organizational components, the Office of Compliance; and the Office of Criminal Enforcement, Forensics and Training

Question 2. What are the "FTE" ceilings and actual on board number of employees in: Headquarters, the regions, and the Office of [Enforcement and] Compliance Assurance (OECA). I would like to know how this has changed, if at all, over time. Please provide the same information for the last 10 years, in 6 month increments.

Response. The table which follows, reflects the full-time equivalent (FTE) and actual on board counts going back to FY1990. Please note that "on board counts" include all Agency employees, irrespective of whether or not they are working on full time, part-time, or intermittent appointments and includes experts and consultants. The on board count for this year reflects information in our human resource information system [EPAYS] as of June 14th of this year. The on board counts for fiscal year 1990 through 2000 reflect employees on Agency rolls as of the last full pay period of that fiscal year, rather than in 6 month increments, as had been requested.

FTE and Actual On Board Count Data for EPA

Fiscal Year	Regions		Headquarters		OECA	
	FTE	On Board	FTE	On Board	FTE	On Board
1990	7661.0	8356	8253.4	9073	384.7	407
1991	8131.2	8906	8624.1	9641	411.7	448
1992	8504.9	8988	8989.0	9508	447.7	487
1993	8671.3	9280	9246.0	9325	480.2	546
1994	8514.1	9059	9074.7	8876	627.6	886
1995	9029.5	8743	9827.1	8969	912.5	914
1996	8351.1	8460	9065.2	8445	887.4	870
1997	8560.0	8743	9377.3	8962	915.5	960
1998	8836.1	9189	9447.4	9337	927.4	972
1999	8729.2	9020	9637.0	9433	942.4	957
2000	8585.1	8716	9514.9	9226	904.9	900
2001	8522.4	8804	9477.6	9305	895.5	868

Question 3. In light of the "National Energy Policy" released by the Administration May 17, 2001, do you plan on making any changes to the EPA budget? If so, for what programs would you increase funding? For which programs will you decrease funding? Do you plan to increase EPA's overall budget to address the recommendations contained in the report? If so, how?

Response. We are still in the process of reviewing the policy package and have not determined whether and additional resources will be required in fiscal year 2002 to carry out the National Energy Policy. Once we have a full understanding of the policy, we will lay out a plan that will detail resource and program requirements for fiscal year 2002. The Administration will not be submitting a budget amendment to Congress for any changes to the EPA budget related to the National Energy Policy recommendations.

ENFORCEMENT

Question 1. Administrator Whitman, you said in your confirmation hearing that companies did not like to be seen as polluters, and so would take steps to avoid enforcement actions. You said "I believe that enforcement is a critical tool. We must not abandon it, nor walk away from it." I agree with this, yet your budget cuts 270 EPA enforcement personnel. You have emphasized the importance of the role of the states, yet clearly this doesn't replace a Federal role in ensuring compliance with Federal environmental laws. Have you changed your mind on the importance of Federal enforcement?

Response. The fiscal year 2002 budget maintains sufficient resources to sustain a vigorous Federal environmental monitoring and enforcement program. The shift places resources directly in the hands of states, who are closer to the environmental problems in their states, to carry out delegated enforcement and monitoring activities, allowing the Federal program to focus on those aspects of environmental enforcement which states cannot do, or in which they need assistance.

EPA will continue to have a vital role in shaping and carrying out the nation's environmental compliance and enforcement program. EPA will continue to take actions where there are significant violations at companies with facilities in more than one state, where states are not yet delegated programs, and where the Federal Government is the statutory lead. We will also continue to backup states where they cannot get the job done.

Question 2. Do you plan on requiring the states to use the money for strictly enforcement actions?

Response. States will have flexibility to use a range of compliance assurance tools to address environmental risks and noncompliance patterns. These tools include enforcement actions, inspections and investigations, incentives for facility self-auditing, and compliance assistance. The tools will be used individually or in combinations appropriate to the environmental risk or noncompliance pattern being addressed by the State or tribe.

Question 3. Can you ensure that the states can replace all the Federal actions which would have been taken but for the funding shift? How do you plan to ensure this?

Response. States will use the grant funds to address important environmental risks and noncompliance patterns through strategies that utilize enforcement actions, inspections and investigations, incentives for facility self-auditing, and compli-

ance assistance in appropriate combinations. This integrated approach has been used by EPA to address noncompliance for several years. The fiscal year 2002 budget provides EPA's enforcement and compliance assurance program sufficient resources to continue focusing on Federal cases involving multi-state or multi-facility corporations, environmental programs which cannot be delegated to states due to statutory prohibition, or issues for which EPA can provide specialized expertise.

Question 4. How do you plan to measure the success of the State enforcement programs? Will this be a continuing process?

Response. States will be approved for grant funding only if their grant proposal includes specific plans to measure and report on their performance in achieving results. For example, states will need to define performance measures for determining whether they are having an impact on the environmental risk or noncompliance pattern they are addressing with the grant funds. EPA will establish required reporting intervals for states to provide performance information which can be reviewed on a regular basis.

Question 5. In light of the cuts in positions in your Office of Enforcement and Compliance Assurance (OECA) at EPA, what activities do you think might be affected? Are there certain programs or initiatives that you are planing on protecting from these cuts? What will you do if there is a case in, for example, a small State with a small legal office, that the State does not have the resources to address?

Response. The enforcement programs affected by the workyear reduction will be identified as we work with the regional offices and states during development of the fiscal year 2002 work plans. EPA will continue to have a vital role in shaping and carrying out the nation's environmental compliance and enforcement program. The Agency will continue to take actions where there are significant violators at companies with facilities in more than one state, where states are not yet delegated programs, and there the Federal Government is the statutory lead. EPA will also backup states where they cannot get the job done.

Question 6. Can you ensure us that there will be sufficient resources to bring all the enforcement cases which need to be brought?

Response. The fiscal year 2002 President's budget has sufficient resources to sustain a vigorous Federal environmental monitoring and enforcement program. EPA will continue to take actions where there are significant violations at companies with facilities in more than one state, where states are not yet delegated programs, and where the Federal Government is the statutory lead. We will also continue to backup states where they cannot get the job done. Additionally, the new $25M State enforcement grant program will allow states to assume a larger enforcement portfolio.

Question 7. Administrator Whitman, EPA's Inspector General has criticized EPA for not being aggressive enough in recovering money from responsible parties under the Superfund program. Despite this, your budget has a cut of personnel in OECA working on this very function. Why would you cut funding for this activity? Do you disagree with the IG's recommendations?

Response. In order to address the Inspector General concerns, in May of 2000, EPA revised its methodology for calculating its indirect costs to ensure full cost accounting, in accordance with the Statement of Federal Financial Accounting Standards No. 4 (SFFAS No. 4). This will allow for a full accounting of the Superfund indirect costs and will increase the percentage of EPA's indirect costs that can be recovered. Because the revised rates are applied in a similar manner to the previous rates, there are no additional resources needed to implement the revised rates. In addition, the Office of Site Remediation Enforcement has been working with the IG's office, EPA Regions and the Department of Justice to address overdue Superfund accounts receivable in a timely manner and maximize the collection of dollars owed to the Trust Fund.

The reduction to cost recovery FTE reflects a pro-rata share of Agency-wide reductions to meet the congressionally directed ceiling of 17,500 FTE for fiscal year 2002. EPA plans to address 100 percent of its cost recovery cases with unpaid response costs greater than $200,000 prior to the expiration of the statute of limitations. EPA fully expects to achieve all these activities within the requested resource levels.

Question 8. Administrator Whitman, as you know, I am very much in favor of funding for the brownfields program, and appreciate even the small increase in this budget. However, I was puzzled as to why your budget proposal has the funding for brownfields coming out of the budget for the enforcement office, since the vast majority of brownfields activities are not enforcement actions. Can you explain this?

Response. The brownfields program is a priority in the President's budget. The funding from all available sources was considered in developing the budget proposed for EPA's brownfields program.

Question 9. What types of positions do you plan on eliminating in the 270 personnel ceiling reduction?

Response. Most of the reductions will be coming from the civil enforcement and compliance monitoring programs. EPA has not identified the positions that will be eliminated at this time. The Agency will be working on implementation issues later this summer which will include identifying the positions that will be eliminated. However, the positions may include a mix of technical and legal enforcement and administrative support positions. In addition, some positions are encumbered and will be moved to other Agency programs while other positions are vacant and will not be back filled.

Question 10. How many cases does the average EPA regional attorney handle per workyear? The average attorney at EPA Headquarters? How many inspections does the average inspector conduct annually? How many cases, on average, does a program employee supporting the enforcement program work on?

Response. The fiscal year 2002 President's budget requests 920 workyears and $101 million for the civil enforcement program and 436 workyears and $50 million for the compliance monitoring program. These resources support both technical, legal, and administrative support for enforcement cases and inspections. Also, guidance development and inspector training is included in these numbers.

Enforcement cases and inspections may vary in length and complexity depending on the statute, the number of facilities involved, the degree of noncompliance, and the cooperation of the violator. As a result, some EPA staff may devote an entire year to one particular matter while others will be handling dozens of different matters. However, to respond to your question, we have compiled the following estimates of the average workload of EPA:

- On average, EPA attorneys and case development personnel manage between five and ten active enforcement actions in a given year.
- Across all EPA programs, EPA's full time inspectors average between 35 and 45 inspections per year.

SOUND SCIENCE AND BUDGET

Question 1. During your nomination hearing, you stated, "I will commit to working to make science the foundation for EPA's policymaking." Given this statement, why is the EPA recommending a $27 million cut to the Sound Science program? How will this cut affect your ability to achieve this goal?

Response. The majority ($26.3 million) of the reduction to Goal 08: Sound Science is due to Congressional earmarks received during the fiscal year 2001 appropriations process which are not included in the fiscal year 2002 President's Request. We are maintaining the practice of treating the previous fiscal year's congressional additions as one-time commitments rather than including them in the succeeding year's budget request. The remainder represents a redirection of funds from Goal 08: Sound Science to Goal 05: Waste Management in order to better align laboratory resources that support the Superfund program.

Question 2. Are these cuts targeted to specific policy programs? If so, what programs?

Response. No specific policy programs are targeted by these cuts.

Question 3. Do you believe the EPA has sufficient budget resources to address all the needed scientific reviews and analysis needed to support rulemakings or other policy decisions? If not, what programs need more resources to address scientific uncertainties?

Response. The President's fiscal year 2002 budget request provides sufficient budget resources to address all the needed scientific reviews and analysis needed to support upcoming rulemakings and policy decisions.

Question 4. The EPA budget will provide a small increase to the Science Advisory Board. Do you see the board as crucial to achieving the sound science goal?

Response. The independent scientific and technical advice that the Science Advisory Board (SAB) gives to Congress and the Administrator on scientific, engineering, and economic issues remains crucial to achieving the goal of sound science. The SAB review process provides a public forum in which noted outside experts conduct the rigorous peer review of Agency science. The Board's concerns go further than simply the generation of good science, per se, since it seeks to insure that credible science is used in credible ways to reach environmental decisions. The SAB is also a source

of important scientific and technical advice to Agency managers and scientists through the insights that the SAB shares on a variety of topics, including new developments in the greater scientific community that the Agency should be aware of. Finally, SAB's Research Strategies Advisory Committee (RSAC) reviews EPA's Science and Technology (S&T) budget and provides its views regarding the Agency's science priorities.

Question 5. How much of the science used by the EPA in making policy decisions is generated by EPA researchers? How much comes from other Federal agencies? How much from university or industry research?

Response. EPA relies on all sources of sound science to assist in decisionmaking. We review and integrate research results from our own EPA (ORD) research laboratories, other Federal agencies, universities, and other R&D sources in preparing risk assessments to inform decisionmakers. Our goal is to use the best pertinent science available.

Sources of the science used in making policy decisions vary from rule to rule and are evaluated and used on a case-by-case basis. Peer review of major scientific and technical work products is an integral part of the Agency decisionmaking processes. The main principle underlying the peer review policy is that all major scientific and technical work products used in decision making should be peer reviewed. Therefore, all major work products important to EPA decisionmaking that are generated by other organizations, (e.g. other Federal agencies, industry, academic institutions, etc.) are considered as candidates for peer review, just as major peer-reviewed work products by EPA are considered. However, currently there is no automated system in place that captures data as you requested. Rather, extensive literature retrieval efforts, using many different Internet websites and/or other computerized reference services are used by EPA experts or contractors to identify and retrieve pertinent published studies for any given assessment used to support Agency decisionmaking. Contacts between EPA scientists and their peers in other Federal Agencies and the general scientific community (including academia, industry, etc.) also occur.

One example of how scientific information from a variety of sources is used in Agency rulemaking is EPA's "Identification of Dangerous Levels of Lead". This rule (in response to Title 10, Section 403 of the 1992 Lead Hazard Reduction Act) established hazard standards for residential lead-based paint, and residential dust and soil lead. EPA established standards in this rule based in part on: (a) analyses by EPA contained in its 1986 Air Quality Criteria Document for Lead and its 1989 Supplement, and (b) the 1992 Pediatric Iead Advisory issued by the Centers for Disease Control and Prevention (CDC) which established a blood-lead level of concern of 10 micrograms per deciliter of blood. A 1993 National Research Council (NRC,) report on *Measuring Lead Exposure in Infants, Young Children and Other Sensitive Populations* also discussed the extensive literature substantiating unacceptable health risks being associated with blood lead levels. EPA then evaluated the amount of exposure to lead that may cause a child to exhibit a blood lead level exceeding this level of concern.

In evaluating exposure, EPA considered the National Survey of Lead-Based Paint in Housing conducted from 1989–90 by the U.S. Department of Housing and Urban Development (HUD) and on HUD's Rochester Lead-in-Dust Study. EPA then applied its Integrated Exposure, Uptake and Biokinetic (IEUBK) model for Lead to evaluate the relationship between lead in dust and soil and blood lead level. Research studies from EPA, National Institute of Environmental Health Sciences (NIEHS), academia, and industry were used to derive key parameters that were incorporated into the IEUBK Model and/or to test its predictive capabilities across various ranges of exposures and blood lead levels.

Question 6. Do you think the current budget will allow the EPA to maintain its own research programs or will the EPA rely increasingly on external sources? Do you think this will make the research more or less objective? Will this move EPA closer to the goal of using sound science?

Response. The current budget maintains our programs and reflects the Administration's commitment to sound science at EPA. The combination of EPA in-house research and external research should make the research more objective. All of ORD's research undergoes either internal or external peer review in an effort to ensure that sound and credible science underlies all Agency decisions and actions.

Question 7. In developing the Yucca Mountain radiation standard, the EPA has been criticized for using "outdated science." Does the EPA currently have a program in place to update elements of that standard with the most recent science? If not, why not. If so, will the program maintain its funding in light of a proposed $27 million cut to EPA's sound science goal?

Response. EPA's standards for the proposed Yucca Mountain repository are technically sound and protective of human health and the environment. The concerns about "outdated science" have been about the dosimetry used to develop EPA's drinking water standards for radionuclides which have been incorporated in the standard to provide separate ground water protection in the Yucca Mountain standard. Last year EPA reviewed the radionuclide standards developed under the Safe Drinking Water Act using the most recent science and concluded that the risk levels mostly fall within EPA's lifetime risk range goal for fatal cancer of 10^{-4} to 10^{-6} (1 in 10,000 to 1 in 1,000,000 chance of contracting cancer). Therefore, EPA has applied those same levels in its approach to ground water protection at Yucca Mountain. EPA has the authority to update rules. Should it be warranted by new science, the Agency will amend its Yucca Mountain standard.

Question 8. The EPA has received criticism of its Yucca Mountain radiation standard from the [NRC] and DOE. In discussions you have had with these agencies, do they offer their own independent scientific analysis of these standards? If so, does the EPA have the budget resources to independently analyze those results?

Response. Most of the criticism of the Yucca Mountain standards from NRC and DOE are about our ground water policy. EPA and most states, including Nevada, have a policy to protect current and future drinking water resources, as we did with the separate ground water standard for Yucca Mountain. DOE and NRC are responsible for determining whether the repository can meet EPA's standards. DOE recently released analyses of the performance of the repository system that indicate the current design could meet EPA's standard. The Agency does not have the finds to independently verify DOE's results.

WATER INFRASTRUCTURE

Question 1a. Administrator Whitman, when you testified before us during your January 17 nomination hearing, you listed the lack of funding for water infrastructure as one of the most pressing environmental problems facing our nation. You referred to this lack of funding related to wastewater and drinking water treatment as an "enormous problem," an area in which the Federal Government could provide additional funds. And in response to questions from Senator Voinovich related to the shortfall in water infrastructure funding, you repeatedly stated that President Bush "recognized this need." In your budget, however, I see no evidence whatsoever that either you or the President recognize the need. In fact, I see just the opposite, I see this "enormous need" being ignored. Further, in contrast to the specific instructions of Congress, you have cut $500 million from the fiscal year 2001 appropriated levels for Clean Water State Revolving Loan Fund (CWSRF) program to pay for grants for combined sewer and sanitary overflow projects.

Is it the case that the President's budget request for the CWSRF is roughly $50 million less than the levels appropriated in fiscal year 2001 (roughly $1.35 billion)?

Response. In making our request for wastewater infrastructure, we have balanced the need for a substantial continued investment in the Clean Water SRF program with the need to provide meaningful funding for the newly authorized wet weather grants program—all in the context of budget targets that are designed to restore fiscal discipline to the Federal budget process.

Under the President's request, states can continue to manage their Clean Water SRFs, with the added advantage of grant funding to address their most compelling sewer overflow related needs.

Question 1b. Did not Congress specifically direct you to provide grants to the new CSO/SSO program only after the CWSRF program was fully funded at $1.35 billion?

Response. The Agency is requesting $850 million in fiscal year 2002 for the CWSRF, $50 million more than the amount requested by the prior Administration and $500 million more in total wastewater infrastructure spending when combined with the new sewer overflow control grants. The $850 million level supports the Agency's goal to have the States SRFs provide a long-term average of $2 billion a year in financial assistance.

Question 1c. Do you plan to ignore the constraint that Congress placed on funding the new CSO/SSO program? If no, how do you intend to address it?

Response. The Agency acknowledges that the Congress specified in the Omnibus Appropriations bill that funding for the new sewer overflow grants would only be available when the CWSRF program was funded at $1.35 billion or higher. The Agency has asked for an exemption from this provision in order to begin this important grants program while maintaining a substantial investment in the CWSRF program.

Question 1d. How much *less* money would go to the State of Nevada through the CWSRF in fiscal year 2002, if the President's $500 million cut in this budget is sustained?

Response. The State of Nevada would receive $4,162,300 if the CWSRF were funded at $850 million, $2,433,800 less than it would receive if the CWSRF were funded at the fiscal year 2001 level of $1.35 billion.

Question 1e. How much money would be directed to the State of Nevada through the new CSO/SSO program, if the $450 million funding proposal for the program is sustained?

Response. The State of Nevada would receive $2,181,600 through the new CSO/SSO program, if the President's $450 million funding request is sustained.

Question 1f. Please provide your best estimate of the CSO/SSO dollar needs in Nevada and the basis of this estimate.

Response. There are no known CSOs in Nevada. SSO needs are being evaluated and will be quantified for the first time in the 2000 Clean Water Needs Survey Report to Congress, which will be delivered to Congress in Fall, 2002. Preliminary results are not available.

Question 1g. Please provide your best estimate of how Nevada's CSO/SSO needs compare to other estimated dollar needs that could be funded through the CWSRF, such as secondary wastewater treatment. Please provide the basis used for this comparison.

Response. Since there are no known CSOs in Nevada, and SSO needs are now being evaluated and quantified for the first time, EPA has at present no data for CSOs or SSOs to compare to secondary wastewater treatment needs for Nevada.

Question 2. EPA estimates put the total capital need for water infrastructure over the next 20 years in the neighborhood of $300 billion. A coalition of industry and environmental groups (Water Infrastructure Network) puts the 20-year need closer to $2 trillion, with a "gap" between needs and funding of close to $23 billion annually. How does the President's budget—which cuts the CWSRF funding by $500 million and flat-funds the Drinking Water State Revolving Fund—"recognize the need" related to this "enormous problem"?

Response. The Administration believes its request for water and wastewater infrastructure funding provides a substantial source of funding for states to address their communities' highest priority needs. The proposed level for the CWSRF is $50 million more than the amount requested by the prior Administration and is $500 million more in total wastewater infrastructure spending when combined with the new sewer overflow grants.

Since 1989, EPA has invested more than $18 billion in grants to help capitalize the 51 SRFs, over twice the original Clean Water Act authorized level of $8.4 billion.

A continued investment in the DWSRF has resulted in significant progress in financing drinking water infrastructure projects. At the end of fiscal year 2000, more than 1,400 loans for $2.8 billion had been made to water systems for eligible projects and $1.4 billion remains available for loans. Of these 1,400 loans, 74 percent went to small water systems that serve 10,000 persons or fewer.

The Administration is very interested in working with the Congress to find the right solutions to address water and wastewater infrastructure needs. EPA would like to discuss with the Congress and other stakeholders the appropriate roles of Federal, State, local governments, and the private sector in meeting these infrastructure needs. In addition to discussing the appropriate Federal role, we believe the dialog should also include other non-financial mechanisms to improve the efficiency of the water infrastructure sector.

Question 3a–h. You mentioned in testimony that funding the CWSRF at the requested $850 million level will keep the Agency on track to meet a goal of "revolving" the Fund at $2 billion.

(a) By what year will this goal be met?

(b) By what year will the goal for the DWSRF be met?

(c) What is the impact of cutting the CWSRF from $1.35 billion to $850 million in terms of meeting the $2 billion goal, i.e., how many years will the attainment of that goal be delayed if the President's proposed $500 million cut in CWSRF funding (as compared to fiscal year 2001 appropriation) is sustained?

(d) What is the basis of the $2 billion goal for the CWSRF and the goal for the DWSRF?

(e) Are these goals for revolving the CWSRF tied in any way to the estimated $150 billion to almost $1 trillion funding need that has been identified for clean water projects?

(f) Is it true that the CWSRF and DWSRF revolving goals were established before the "enormous problem" facing the nation's water infrastructure was fully recognized?

(g) Do you believe that the $2 billion goal for the CWSRF and the goal for the DWSRF are adequate goals for revolving these funds?

(h) Do you have any plans to reassess the adequacy of these goals?

Response. The fiscal year 2001 Appropriation of $1.35 billion enables the CWSRF to revolve at $2 billion per year over the long-term. EPA set this goal to maintain approximately the level of assistance provided annually under the Clean Water Act during the last 10 years of the construction grants program, as well as the average level of EPA funding provided to the States over the beginning years of the CWSRF.

EPA estimates that another 4 to 5 years of additional capitalization at approximately $825 million/year will be needed to allow the DWSRF program to reach the revolving goal of $500 million. The goal was set at a level consistent with drinking water compliance needs identified in the 1993 report to the Congress, "Technical and Economic Capacity of States and Public Water Systems to Implement Drinking Water Regulations."

The Administration is very interested in working with the Congress to find the right solutions to address water and wastewater infrastructure needs. EPA would like to discuss with the Congress and other stakeholders the appropriate roles of Federal, state, local governments, and the private sector in meeting these infrastructure needs. In addition to discussing the appropriate Federal role, we believe the dialog should also include other non-financial mechanisms to improve the efficiency of the water infrastructure sector.

Questions 4a–c. The Congressional Budget Office, General Accounting Office, and EPA are all examining elements of the funding needs associated with water infrastructure.

(a) Given the budget agreement and the huge tax cut that [is] being pushed through Congress—a tax cut that really doesn't bite into the budget until the out years—where would the Administration find the money needed to significantly increase Federal funding for water infrastructure, especially over the next 2 to 6 years?

(b) You have mentioned in the past that the President recognizes the "enormous problem" facing our nation's communities as it relates to water infrastructure. In the context of the constraints that the budget agreement and tax cut will put on Federal discretionary funding over the next several years, have you discussed the need with [the] President to provide additional Federal assistance to communities with water infrastructure?

(c) Has the President made any commitments to you related to providing additional funding to address the "enormous problem" in the future?

Response. The Administration is confident that the President's budget proposal is consistent with appropriate levels of Federal investment in water infrastructure. The Administration is continuing its review and analysis of water infrastructure needs and looks forward to a constructive dialog with Congress and other stakeholders on the future role of the Federal Government in funding water infrastructure.

Question 4e. Has the President ruled out offsetting future EPA funding for water infrastructure with cuts elsewhere in EPA's budget?

Response. The Agency is continuing its internal review and analysis of the work done by outside organizations concerning the needed investment in water infrastructure. Until these analyses of the future investment for water and wastewater needs are complete, it is premature to comment. The Administration looks forward to working with Congress on this issue.

OTHER WATER ISSUES

Question 1a. Watershed Planning. In your January testimony before this Committee, you spoke at length about the need for EPA to be "aggressive" about watershed planning. You point out that it was important for EPA to help people understand that "Mother Nature does a much better job for a lot less cost of cleaning our water than do filtration plants." You noted that you were able to get increased funding for watershed management as Governor of New Jersey. In response to my written questions, you also said you'd like to see the Federal Government increase funding for watersheds.

Do you continue to believe that "Mother Nature does a much better job for a lot less cost of cleaning our water than do filtration plants."?

Response. Natural ecosystems, such as wetlands, help improve water quality, including that of drinking water sources, by intercepting surface runoff and removing or retaining its nutrients, processing organic wastes, and reducing sediment before it reaches open water. Wetlands often function like natural tubs or sponges, storing water (flood water, or surface water that collects in isolated depressions) and slowly releasing it. Trees and other wetland vegetation help slow flood waters. This combined action, storage and slowing, can lower flood heights and reduce the water's erosive potential, and reduce the likelihood of flood damage to crops in agricultural areas, help control runoff in urban areas, and buffer shorelines against erosion. A comprehensive approach to watershed management will include reliance on both natural systems and man-made controls such as treatment and filtration plants.

Question 1b. In the President's budget, there is only "flat funding" for Section 106 grants and nonpoint source pollution management programs. It also appears that funding for watershed research has been cut by 25 percent. Given all you've told us about the importance of watersheds, and your statement to this Committee that you would like to see additional Federal funding for watershed activities, please explain the absence of a proposal for additional funding for these activities in the EPA budget?

Response. The increased funding provided in Section 106 grants and nonpoint source pollution management in recent years has greatly aided State efforts to aggressively address their watershed activities. States have achieved some fairly dramatic reductions in nitrogen and phosphorous loadings in key areas which have been instrumental in restoring habitats and aquatic life. In addition, increased Section 319 funding has helped leverage significant State funding to help implement nonpoint source programs. In the latter case, I would mention very ambitious funding efforts in California, New York and Pennsylvania. I'm pleased to note that the President's budget maintains funding for these important programs at the level provided by Congress this fiscal year.

Questions 1c–d. Given that you have been unsuccessful in achieving increased Federal funding for watershed activities, what "aggressive" steps do you plan to pursue in this regard? How will these steps be funded?

Response. There is a very wide umbrella under which the many activities that could improve watershed health and water quality fall. EPA is working diligently within the Agency, with other Federal agencies, as well as with State and local governments and other partners to focus the resources that it currently has on the highest priorities and best approaches. There are three basic areas of watershed activities: the monitoring and assessment of water quality conditions; the development of watershed protection or "watershed recovery" plans, of which TMDLs can be a critical tool; and the implementation of on-the-ground actions, such as BMPs for nonpoint sources of pollution and permit requirements included in the NPDES water permits. EPA is seeking streamlining in each of these areas, for example, efficiencies from clustering pollution control decisions on a watershed basis, in order to leverage our resources to the maximum extent. Section 106 funding that may be used for monitoring and assessment activities was increased by 50 percent in FY 2001 and funding for nonpoint source control activities has been increased from $100 million to $238 million within the past 5 years. In addition, there are many incentive-based, cost-share programs available from USDA and within many states to fund the installation of best management practices.

Question 1e. Does EPA have any data or information that would suggest that States are in a better position to sustain watershed protection, planning, and other related activities than New Jersey was at the time you began to provide additional funding for watershed programs? If so, please provide such data or information.

Response. As the primary implementors of water quality programs, States are well positioned to continue their critical role in watershed planning and protection. We are in the process of examining some of the State watershed programs to determine the current status of their watershed activities and their future needs. As I discussed in a previous response for the record, we are aware that the needs are significant, and we are working to effectively target our resources.

Question 1f. Please describe, in detail, the research programs or projects being eliminated through the 25 percent cut described above in 1b.

Response. This reduction to the watershed research program is due to a Congressional earmark received during the fiscal year 2001 appropriations process which is not included in the fiscal year 2002 President's Request.

Question 2a. Total Maximum Daily Loads (TMDL's). In your January testimony before this Committee, you identified nonpoint source pollution as one of the most pressing environmental problems. Clearly, one way to address this pollution, and

ensure that watershed plans are effective, is through establishing TMDLs. In a response to my questions from that hearing, you responded that TMDLs are important tools for achieving water quality goals.

In promulgating the new TMDL rule last summer, EPA identified costs to States associated with complying with existing TMDL requirements (i.e., those not associated with the "new" TMDL rule). What were the costs?

Response. EPA identified only the costs associated with the revisions of the current requirements for the TMDL program contained in the July 13, 2000 final rule. Those incremental costs over the current TMDL program requirements were estimated at $23 million per year, and account for costs accrued by an expedited pace for developing the TMDLs and the requirement to incorporate an implementation plan in the TMDL.

Question 2b. Do you expect that EPA's restudy of the costs of the TMDL regulations finalized last year will suggest additional funding for State compliance is needed?

Response. EPA is still in the process of analyzing these costs. We expect to issue a draft cost study in the near future and will be discussing the estimates with Members of Congress and their staff.

Question 2c. Do you expect that the current National Academy of Sciences review of TMDLs will identify additional research or monitoring needs that will require additional funding?

Response. The NAS study was released on June 15. While it did find that the TMDL program should proceed, it recognized that current water quality monitoring efforts and other aspects of the TMDL process (including State water quality standards) could be strengthened, which would have resource implications.

Question 2d. The President's budget flat-funds both the Section 106 grant and the nonpoint source pollution programs—the two sources of funding available to states to fund TMDLs. By failing to recognize the need in your budget, aren't you simply setting the new TMDL rule up to fail? If EPA doesn't provide any increased assistance to States, won't you be creating a situation which will give a justification to decide the new TMDL rules are too costly, and therefore, need to be withdrawn or drastically modified?

Response. We recognize that the States face significant financial challenges in their efforts to address environmental problems. However, the President's budget maintains significant increases of recent years in both the Section 106 and the Section 319 programs, providing a significant pool of Federal funds from which States may support TMDL development. As stated above, we estimate the incremental cost of the new rule to be approximately $23 million; we believe that this incremental need can be accommodated within available Federal and State budgets.

Question 2e–f. If you do not believe that you are setting up the new TMDL rule to fail, please describe how you expect States to fund requirements associated with existing TMDLs requirement, as well as those associated with the new rule, in light of the flat-funding proposed in your budget for Section 106 grant and nonpoint source pollution programs? Please describe whether you expect, absent additional Federal assistance for the purpose, States to "rob Peter to pay Paul" within their own budgets to comply with existing TMDLs requirements and those of the new rule?

Response. We recognize the challenges States face in trying to address the full range of environmental issues. However, we believe that the FY2001 increases for Sections 106 and 319 ($57 million and $38 million, respectively, both of which are continued in our 2002 request), along with State funding, can support States' needs in 2002.

OTHER QUESTIONS

Question 1a–b. Senate Relations.—In testimony for your nomination hearing before this Committee, you stated that among President Bush's principles for environmental protection was launching a new era of cooperation among all stakeholders. While you didn't mention Congress in your testimony, I would think that we would be included as important stakeholders. Despite this, it is my impression that my staff and I have not received either timely or complete responses to request made of EPA under your leadership. Last week, I provided you with a detailed list of the many letters or hearing follow-up questions to which have received no response. Many of these requests were outstanding for long periods of time, or for which we have yet to receive replies. And, it often seems, even when we do receive a response, it does not address many of the questions or issues raised in the request. (For example, we have still not been provided with a list of what regulations you are planning

to review, and when, despite written and oral requests for this basic information). I believe that such information is critical to building a good working relationship with the Committee, and to enabling us to perform our oversight function.

(a) Do you recognize that your responses to my requests and those of my staff have, to date, been excessively delayed and incomplete in many cases?

(b) What assurances are you willing to make that, in the future, your Agency will provide me and my staff with timely and complete responses to our requests?

Response. In the interest of cooperating with your oversight interests, I want to assure you that my goal is to supply full and complete information to you and your staff on Agency activities. For example, your May 10, 2001 correspondence on this subject highlighted nine recent information requests. The Agency response dated May 14, provided a status summary illustrating an average response time of 2 to 3 weeks in the majority of cases. For those few cases that may take much longer, they typically include some of the following situations: the subject involves an ongoing activity where decisions are in the process of being made; the response requires interagency consultation; and/or the request involves the identification and organization of a large volume of documents from several offices and regions. In summary, it is my goal to respond to all written requests for information from Congress within 2 weeks of their receipt. If a response is not possible within that timeframe, you will be notified as to the circumstances of the delay and given an anticipated schedule for meeting the request.

Question 1c. In an April 12 letter to you and Ms. Claudia Tornblum of the U.S. Army Corps of Engineers on the rule clarifying the definition of "discharge of dredged material", I raised the important issue of EPA, as the lead agency in implementing this rule, in enforcing the rule and issuing guidance to ensure that the rule closes the regulatory gaps in wetlands protection for which it was designed. I also raised the issue of EPA, the Corps, and the Administration undertaking a vigorous defense of the rule. Your response to this letter, received on May 8, failed to respond to these issues. What actions, if any, is EPA taking, or planning to take, to enforce the new rule clarifying the definition of discharge of dredged material?

Response. EPA will act to fairly and effectively implement our existing statutory authorities to further wetlands protection, including taking appropriate enforcement action. We will work closely with our partner agency, the U.S. Army Corps of Engineers, to ensure effective implementation and enforcement of the new "discharge of dredged material" rule. Because the court's invalidation of the predecessor "Tulloch" rule rested on its interpretation of the Clean Water Act as not allowing for the regulation of "incidental fallback," the new rule cannot completely fill the resulting gap in wetlands protection. As explained in the rule's preamble, the new rule sets forth the agencies' view that the use of mechanized earth-moving equipment in waters of the U.S. results in a discharge of dredged material, unless there is evidence that only incidental fallback results. Under the new rule, we will carefully evaluate situations involving the use of mechanized earth moving equipment in waters of the U.S., and will take appropriate enforcement action when unpermitted discharges result.

Question 1d. Will EPA be issuing guidance on the new rule? If so, when? If not, why not?

Response. We drafted the preamble for the proposed and final rule to discuss the effect of the rule, relevant case law, and factors we would consider in determining if a regulable discharge occurs. At present, we believe those preamble discussions provide an appropriate level of guidance on the new rule. As experience with the new rule evolves and questions or issues axise in its implementation, we would then consider, in coordination with the Corps, the need for further guidance.

Question 1e. What actions, if any, is EPA taking to defend this rule in current litigation aimed at overturning the regulation?

Response. There currently are two industry challenges to the new rule, one brought by the National Association of Homebuilders, and the other by the National Stone, Sand, and Gravel Association, which was recently joined by the American Road and Transportation Builders Association. The plaintiffs claim the rule exceeds our Clean Water Act authority by regulating activities that remove, rather than add, pollutants, and also assert notice and comment claims under the Administrative Procedure Act as well as claims of violation of the Constitution's 10th amendment. We are working with attorneys from the Department of Justice and the Corps of Engineers on defense of this suit, and have participated with them in one meeting with plaintiffs to better understand plaintiffs' concerns and determine if there is the potential for settlement that would be consistent with effective wetlands protection.

Question 1f. When will we be provided with the list of regulations your administration is reviewing, and the schedule for such a review? I reiterate my request for

this information, and the other requests in my letters of January 30, 2001, February 21, 2001, including periodic updates on the status of the various regulations under consideration.

Response. I am committed to fostering a cooperative relationship between the Agency and the Congress. I realize that providing information in a timely manner to the Congress helps to build a good relationship between our two organizations.

The latest response the Agency provided to you was on May 14. This response provided you with an updated status of rules, pending settlements, and other legal matters that are within the Agency's purview. The May 14 response addressed all follow-up questions that you have raised in your letters. We have attempted to provide you with timely and complete responses to all your requests; however, some of your information requests have required additional time on our part to collect and organize. In an effort to be responsive to your requests, we have sometimes provided you with a partial response followed at a later time by the remaining answers that have required additional time for us to collect. I hope this approach is more acceptable than delaying the submission of all information to you until all responses are complete. This approach is the Agency's standard procedure for replying to all information requests.

Question 2a. Sound Science.—On a number of occasions, you have been quoted as stating that one of the major reasons the final arsenic standard was withdrawn was concern that there was not "enough" science to support it. I disagree with your assessment of the science of arsenic. But I'm also concerned that, while you seemed to have raised the Agency's bar as to what is "enough" science, this budget clearly does not provide additional funding for science. In fact, your budget decreases research into safe drinking water by $4 million. And, overall, the budget decreases funding to "Sound Science" by over $27 million. I am concerned that you may be setting up all new environmental regulations to fail by, one, expecting an unrealistic level of scientific certainty and, two, failing to provide the funding needed to produce science to support them.

Please itemize each cut, contributing to the overall $27 million cut, that the President's budget makes to "Sound Science," including each specific research program or project cut, their authorized or previously appropriated funding level, and their purpose.

Response. The majority ($26 million) of the reduction to Goal 08: Sound Science is due to Congressional earmarks, which we did not carry forward into the fiscal year 2002 President's Request. These earmarks are outlined in Conference Report 106–988, pages 119–121 and pages 123–128. The remaining $1 million represents a redirection of funds from Goal 08: Sound Science to Goal 05: Waste Management in order to better align laboratory resources that support the Superfund program. No specific Agency research programs have been cut.

Question 2b. Please describe how you expect to generate the additional science you indicate is needed for making "sound science" decisions on environmental regulations, if you cut funding to generate this science?

Response. The President's FY 2002 budget request for Goal 8: Sound Science is level to the FY 2001 enacted level, when controlled for Congressional earmarks. Twenty-six million dollars of the total $27 million reduction is due to earmarks which are not included in the FY 2002 President's Request. The remaining $1 million represents a redirection of funds from Goal 08 Sound Science to Goal 05: Waste Management in order to better align laboratory resources that support the Superfund program. Because we have not cut funding for the Agency's science programs, we believe that the FY 2002 budget request provides sufficient budget resources to address the sound science support for environmental regulations.

Question 3a. Arsenic.—In response to a question asked by Senator Voinovich about decisionmaking environmental standards during your nomination hearing, you stated that cost-benefit analyses need to be considered, but you said "the final decision has to rest on the health of the environment and the population. That is the responsibility of the Agency." You have told us that you will be reviewing the economics of the arsenic drinking water standard. The Safe Drinking Water Act Amendments of 1996 provide for consideration of such costs. However, these amendments don't specify what decisions must be reached based on cost-benefit analyses; Congress clearly provided EPA with discretion in that decisionmaking.

Do you intend to put what you stated to Senator Voinovich into practice with respect to finalizing the arsenic drinking water standard? In other words, will your "final decision" on what standard to adopt "rest on the health of the environment and the population?"

Response. Under the 1996 SDWA Amendments, when setting standards and developing regulations the Agency must use the best available data on human health

effects and risks. At the same time, the Agency also must determine whether the health benefits of a proposed regulation justify the costs of meeting the standard. Toward that end, we have asked the National Academy of Sciences/National Research Council's review panel to review the latest science on arsenic. We also have the unique opportunity to obtain the advice of nationally recognized, technical experts convened under the National Drinking Water Advisory Council to analyze different compliance cost estimates. I am fully confident that as a result of the ongoing review of both the latest science and the cost estimates, and the regulatory decisions made on the basis of that information, the final arsenic in drinking water standard will be fully protective of all Americans served by both large and small drinking water systems.

Question 3b. Did you or any of your staff have communications, in any form, with anyone associated with the National Academy of Sciences on any specific person or persons under consideration by the Academy for membership on the scientific review panel for the arsenic in drinking water standard? If yes, please identify the EPA employee or employees, and the person or persons associated with the Academy, who participated in these communications, describe the substance of these communications (including what prospective panel member or members were discussed), and provide a copy of any related correspondence.

Response. To the best of our knowledge, only two EPA employees and two National Academy of Sciences (NAS) employees had any communications regarding potential members of the scientific panel to review the arsenic in drinking water standard. Further, and also to the best of our knowledge, these communications were entirely verbal; there was no written correspondence regarding potential members of the scientific panel. Parties to the EPA-NAS discussions were as follows:

• *EPA.*—Ephraim King, Director, Standards and Risk Management Division, OGWDW and Jeanette Wiltse, Director, Health and Ecological Criteria Division, Office of Science and Technology.

• *NAS.*—Dr. James Reisa, Director, Board on Environmental Studies and Toxicology (BEST), NAS and Dr. Michelle Catlin, Staff Officer, BEST, NAS.

These conversations concerned candidate selection, areas of scientific expertise, and possible individuals, including: Dr. Kenneth P. Cantor, Dr. David L. Eaton, Dr. Robert A. Goyer, Dr. Rogene F. Henderson, Dr. Michael J. Kosnett, Dr. Louise M. Ryan, Dr. Kimberly M. Thompson, and Dr. Marie E. Vahter.

Two other individuals who were *not* selected to be members of the final review panel, but who were the subject of discussion between NAS and EPA, were Dr. Harvey Clewell and Dr. Mel Anderson.

Other EPA staff engaged in phone conversations, fax transmittals or E-mail exchanges with NAS staff. To the best of our knowledge, however, these communications concerned only the agenda of a public meeting held on May 21, 2001, clarification of the estimated costs in conducting the review, or other strictly administrative matters. Only those EPA and NAS senior staff and managers listed above participated in the discussion of candidates for membership on the scientific review panel.

Question 3c. Please explain why you rejected my request, made in an April 26 letter, for my staff and I to receive advance notice of the persons proposed to be empaneled for the economic review and to be given an opportunity to discuss the membership of the panels with you before the panel was finalized.

Response. In your letter of April 26, you stated that, in conducting scientific and economic reviews of the arsenic standard, EPA must ensure that the reviews are "conducted fully 'in the open', and that panels are sufficiently balanced. . ." Let me summarize for you the steps we have taken to convene the Working Group. These steps ensured both a full opportunity for a detailed and open public discussion of cost issues, and a cost review panel that consist of high-quality, independent and objective members.

• We published a Federal Register notice soliciting Working Group nominations.

• We contacted and requested names from all major drinking water stakeholders, including the Western Coalition of Arid States (WESCAS), the Western Governors Association, the Association of State Drinking Water Administrators, the American Water Works Association, the National Rural Water Association, and the Association of Metropolitan Water Agencies.

• To ensure balance and independent analysis, both NDWAC and EPA believe that it was not appropriate to select members from states or localities involved in legal suits with EPA on the arsenic in drinking water regulation. In addition, all authors/researchers, who were directly involved in the cost studies performed by American Water Works Association Research Foundation or EPA, were not eligible for participation on the Working Group. However, I want to emphasize that, as out-

lined in the charge to the Working Group, both EPA and NDWAC have invited and welcome technical input from these groups as well as other interested stakeholders.

• We hired two consultants as primary staff to the Arsenic Working Group, both of whom participated in the development of cost estimates in the southwest, including for the city of Albuquerque. They and EPA staff jointly presented the major findings and analysis of both EPA's and AWWARF's studies supporting these cost estimates to the Working Group on May 29–30, 2001.

In addition to these steps, the Working Group will accept for its consideration any information from the public that could be useful in conducting its review of cost studies.

As explained in our May 14, 2001 of response, we did not feel it was appropriate to establish a separate vetting process for establishing the Working Group with Members of Congress or the public beyond that described above. We feel that the process we followed provided ample opportunity for input on the part of interested members of the public. We are confident that, as a result of the steps we have taken, the members of the working group are experts in their respective fields, represent diverse backgrounds and perspectives, and are objective. If you would like further information, we would be pleased to update you and your staff on the specific composition of the Working Group, its mandate, and its progress to date.

BROWNFIELDS

Question 1. Administrator Whitman, I was very pleased that we were able to pass a bi-partisan brownfields bill out of the Senate, and was also very pleased that you and the Administration came out strongly in favor of that bill. However, this budget only provides for $5 million in additional funding for brownfields. If the bill is signed into law, would the Administration be in favor of additional funding to cover the provisions of that bill? How would you fund it given your current budget? From what program would you take money?

Response. This Administration has testified in support of Senate brownfields legislation which authorized a level of funding more than the $97.7 million requested in the fiscal year 2002 President's budget. EPA is pleased that legislation has been passed by the Senate and looks forward to working with the House of Representatives toward enacting a brownfields law. Should brownfields legislation be enacted, the Administration will work with Congress to determine an appropriate level of funding that is consistent with the President's budget priorities.

AIR

Question 1. The Agency's budget document says that "We (the Agency) continue to believe that the standards ('the revised, more protective NAAQS for ozone and PM') are necessary to protect human health, and nothing in the (court) decisions undercuts that belief." Is that correct, does the Administration support the revised standards, as published in 1997, and their implementation as indicated by Mr. Holmstead in his nomination hearing?

Response. Yes, the Administration supports the revised standards for ozone and particulate matter, published in 1997 and their implementation. EPA is in the process of determining how to implement the standards consistent with the Supreme Court's opinion.

Question 2. Does the Administration budget request for the Agency include sufficient and adequate funds to implement the outcome of the court decisions to which you referred, including vigorously defending the standards against further litigation?

Response. Yes, the Agency's budget request includes funding to implement the outcome of the court decisions. The Agency is continuing to work with the Department of Justice in defending the revised standards in the ongoing litigation concerning the revised ozone and particulate matter standards which is currently before the D.C. Circuit Court of Appeals.

Question 3. Implementation of the new NAAQS for ozone will require EPA to take a number of steps, not the least of which is defending the standards in court. These steps include: (a) Promulgating a final rule on the relative benefits of ozone pollution in reducing human exposure to ultraviolet B solar radiation; (b) Developing an implementation strategy that comports with the Supreme Courts direction to harmonize Subpart 1 and 2; and (c) Making nonattainment designations.

Will the Agency accomplish all these things, more or less in that order, in FY 2002? If not, why not?

Response. The Agency plans to propose a response to the remand of the D.C. Circuit Court to consider the alleged beneficial health effects of ozone pollution in

shielding the public from the "harmful effects of the sun's ultraviolet rays." Our schedule after that is to publish the proposed response no later than October 31 and finalize the response by the end of August 2002.

With regard to responding to the Supreme Court's remand to develop an implementation strategy to harmonize Subparts 1 and 2, we are working with state, local and tribal partners to develop a proposal. Our intent is to propose a new implementation strategy next spring.

EPA continues to work with States and Tribes to identify areas not meeting the 8-hour ozone standard. EPA will not issue final designations of nonattainment areas until we issue a final implementation framework for the standard.

Question 4. TEA–21 set out a statutory schedule for the designation of areas that are in nonattainment with the new $PM_{-2.5}$ standard. EPA seems to be off that schedule somewhat (by about 1 year). Assuming that EPA receives at least the resources in the budget request for PM-related work, when will those designations occur?

Response. EPA is not behind in meeting the schedule in TEA–21 for designating areas that are not attaining the $PM_{-2.5}$ standard. Assuming adequate resources, EPA intends to meet the schedule in TEA–21, which requires designations no later than December 31, 2005. EPA's scientific review of the $PM_{-2.5}$ standard is somewhat delayed (about a year) from the schedule EPA issued when it adopted the $PM_{-2.5}$ standard in 1997, but this delay should not prevent EPA from meeting the TEA–21 schedule (assuming adequate resources).

Question 5. Last week, before the House Appropriations Committee, you pointed out that the budget request includes level funding for the Agency's climate change activities. Most of these are voluntary in nature and that approach can be helpful. At that hearing, you said that ". . . we've actually seen decreases in greenhouse gases." As far as I can tell, we have steadily increased our emissions of these gases for many years. Please clarify your statement?

Response. Although total U.S. greenhouse gas emissions have increased by about 12 percent from 1990 to 1999 (the latest year of our annual emissions inventory), EPA's voluntary climate programs have reduced this growth by about 20 percent from what it would have been without these programs. In 2000 alone, the voluntary climate programs reduced greenhouse gas emissions by 57 million metric tons of carbon equivalent (MMTCE). Emissions in a few specific sectors, particularly where we have voluntary programs with industry, have declined in some cases. In addition, total U.S. greenhouse gas emissions relative to gross domestic product have decreased by more than 15 percent during the same period.

Question 6. Does the budget request include adequate funds for the Agency to work with Congress on the development of a multi-pollutant bill, potentially including carbon dioxide, that deals with power plants?

Response. For fiscal year 2002, EPA will redirect approximately $900,000 to help support the development of a multi-pollutant bill to integrate emission reduction strategies for nitrogen oxides (NO_X), sulfur dioxide (SO_2), and mercury. This redirection will support a modest analytical effort associated with the bill. The need for any additional resources for fiscal year 2002 will depend on progress in developing and enacting the bill.

The Administration's National Energy Policy (NEP) provides many recommendations for enhancing these voluntary programs. The NEP calls for increasing energy efficiency, including expanding the ENERGY STAR program to new building types, as well as to additional products, appliances, and services. The NEP also provides recommendations for EPA to promote cleaner energy supply, such as Combined Heat and Power. These types of programs will continue to play a strong role in limiting national emissions of greenhouse gases and other pollutants, while allowing our economy to grow.

Question 7. Do you believe that man made emissions are causing the Earth to warm?

Response. Atmospheric greenhouse gases (water vapor, carbon dioxide, and other gases) trap some of the outgoing solar energy, retaining heat somewhat like the glass panels of a greenhouse. Some greenhouse gases occur naturally in the atmosphere, although human activities, such as burning fossil fuel, are a significant source of current emissions of these gases. Since the beginning of the industrial revolution, atmospheric concentrations of carbon dioxide have increased 30 percent, methane concentrations have more than tripled, and nitrous oxide concentrations have risen by about 15 percent. In addition to these greenhouse gases, there are several potent greenhouse gases which are, for the most part, solely a product of

manmade industrial activities. These manmade industrial gases are a small part of total current emissions, but are growing rapidly.

The increases in all of these greenhouse gases have enhanced the heat-trapping capability of the earth's atmosphere. In short, the globally averaged temperature is rising, and the best available evidence to date suggests that most of the observed warming over the last 50 years is likely to have been due to the increase in greenhouse gas concentrations. A recent study by the National Academy of Sciences (NAS) on climate change supports this theory. However, the NAS study also tells us that we do not know how much effect natural fluctuations in climate may have had on warming, or how much our climate could change in the future, or how fast change could occur, or even how some of our actions could impact it.

Question 8. You have expressed your support for voluntary programs, like ENERGY STAR, but these voluntary activities have not actually moved the Nation much toward our Senate-ratified treaty commitment. That commitment says we will get to 1990 emissions levels by the year 2000. We are 13 percent over that goal now. Why will the voluntary programs start working in a significant way now to achieve that goal, when they have not before?

Response. The Administration is now conducting a cabinet-level review to develop an effective and science-based approach to address the important issue of global climate change. To date, EPA's voluntary climate protection programs have been very effective. They have slowed the growth of greenhouse gases, while reducing air pollution and saving businesses, organizations, and consumers billions of dollars on their energy bills, all in a period of strong economic growth. Although it is true that U.S. greenhouse gases have increased about 12 percent compared to 1990, we estimate that our voluntary programs have reduced this growth by about 20 percent from what it would have been without these programs. In 2000 alone, the programs:

- Reduced U.S. greenhouse gas emissions by an estimated 57 million metric tons of carbon equivalent.
- Reduced energy consumption by an estimated 75 billion kilowatt hours.
- Offset almost 10,000 megawatts of peak summer capacity.

Question 9. As you may know, Senator Lieberman and I have publicly stated that we are not really interested in working on a multi-pollutant bill unless it covers carbon dioxide. During your testimony, it sounded as if you were supporting a "cap-and-trade" program for carbon dioxide, similar to the acid rain program. Can we work out some kind of system without labeling it mandatory or voluntary that effectively caps carbon dioxide emissions from power plants?

Response. The Administration is now conducting a cabinet-level review to develop effective and science-based approach to address the important issue of global climate change. The Administration intends to work with Congress to establish emissions caps on sulfur dioxide, nitrogen oxides, and mercury from power plants. However, the President does not believe that the government should impose mandatory emissions reductions for carbon dioxide from power plants, because it creates the potential for significantly higher electricity prices, with little or no benefits.

Question 10. The Supreme Court also decided another case in EPA's favor earlier this year. That was on the NO_X SIP call. Not all of the states have submitted revisions for their SIP (state implementation plans) and the clock is ticking. Does the budget request contain adequate funds for the preparation and possible imposition of a Federal Implementation Plan for states who fail to submit timely and complete SIPs?

Response. EPA remains committed to implementing on time, rules to combat the regional smog problem in the eastern United States. The NO_X reductions from SIP call are needed to help many cities in the eastern half of the United States meet the 1-hour ozone air quality standard set to protect public health. So far, 15 states and the District of Columbia have adopted or are in the process of adopting NO_X SIP call rules that EPA has approved, or expects to be able to approve, as achieving the required reductions on time. We are continuing to work with the states to maximize chances of getting approvable rules from all states in time for sources to comply by May 2004.

Alternatively, we are positioned to issue a final Federal implementation plan (FIP) rule in a timely manner, if necessary. EPA proposed the FIP rule in October 1998 and issued the NO_X trading program—a key part of the proposed FIP rule—as a final rule under section 126 in January 2000.

Question 11. Does the budget request assume that the Agency will finalize guidance in fiscal year 2002 on the best available retrofit technology (BART) to the states so they can go ahead with implementing the Regional Haze rule? When will that final guidance be issued?

Response. On June 22, 2001, EPA Administrator Christie Whitman signed the BART proposal. The proposed rule provides guidelines for states and tribal air quality agencies to determine air pollution controls for a number of older, large power plants and other industrial facilities. The proposed amendments appeared in the Federal Register on July 20, 2001; the public-comment period for this proposal closes on September 18, after which EPA will develop the final rule in light of comments received. EPA's schedule calls for submission of the final rule to OMB in May or June of 2002, with the final rule issued in the Fall of 2002.

Question 12. New Source Review has been under much discussion since EPA took enforcement actions against 32 power plans last year. How much does your budget request assume will be spent on supporting the ongoing litigation involving those actions?

Response. EPA does not track how much is being spent on these enforcement cases. In addition, EPA has not developed a specific budget line item for NSR enforcement at this time. In fiscal year 2002, the Agency is requesting 866 workyears and $92 million for the civil enforcement program in the Environmental Programs and Management appropriation. Support for NSR litigation comes from the civil enforcement budget.

Question 13. Does your budget request assume and include resources to support additional enforcement actions under New Source Review in fiscal year 2002? Please quantify those specific resources.

Response. EPA does not specifically track resources dedicated to NSR. In addition, EPA has not developed a specific budget line item for NSR enforcement at this time. In fiscal year 2002, The Agency is requesting 866 workyears and $92 million for the civil enforcement program in the Environmental Program and Management appropriation. Support for NSR litigation comes from the civil enforcement budget.

Question 14. Given the number of reports and activities directed by the President's new National Energy Policy involving EPA, how will the agency comply with those directions and existing resource/program requirements in fiscal year 2002? Please specify the additional amounts necessary or quantify the probable shifts in resource allocations that will occur in fiscal year 2002 to comply with those directions.

Response. We are in the process of reviewing the policy recommendations to determine which current EPA programs fit in the policy, where we may need to expand or scale back current programs and/or initiate new programs, and how EPA, in conjunction with other Federal agencies, can best meet the requirements of the National Energy Policy. Once we have a full understanding of the policy, we will lay out a plan that will allow us to comply with the Administration's recommendations. This plan would include resource and program requirements for fiscal year 2002.

PESTICIDE

Question 1. As you know, I wrote you on March 15 urging you to sign a consent decree to put EPA on a schedule to comply with critical pesticide protections for children. I was very pleased when you signed the decree. Time and time again since then, President Bush has reminded us of that action, highlighting the pesticide settlement as great environmental achievement.

That achievement is only as good as the dollars the President is willing to put behind it. This year, maintenance fees authorized under the Federal Insecticides, Fungicide, and Rodenticide Act (FIFRA) which support reregistration of pesticides will expire. You have not requested an extension of that authorization. At the same time, your budget also shows as cut of 50 percent from last year's level for the pesticide tolerance reassessment program.

Together the lack of reauthorization of these FIFRA fees and the cut in appropriated dollars for the pesticide tolerance program would, by your own estimation, result in the loss of 200 employees who perform tolerance work—25 percent of the pesticide program office. I understand that the Administration doesn't view this as a cut because it plans to finalize a proposed Clinton Administration rule to raise the fees charged pesticide companies to do this work. In view of the Administration's strong commitment to advancing critical pesticide protections for children, and its reliance upon the tolerance fee rule of effect that goal.

Will you strongly oppose legislative riders seeking to limit or prohibit EPA from finalizing or implementing the tolerance fee rule?

Response. EPA will work to secure to passage of the President's budget that calls for implementation of the tolerance fee rule.

Question 2. Will you recommend that the President veto legislation that contains a rider to block the imposition of the tolerance rule? Please provide a yes or no answer to this question.

Response. It is not possible to provide a yes or no answer at this time, because I can not speculate on the Administration's future position on appropriations legislation. It is critical, however, that a stable funding mechanism be identified.

Question 3. In the event that the rule is blocked either by congressional or judicial action, will you commit to fully implementing the consent decree signed on March 19, 2001 in *NRDC* v. *Whitman*?

Response. Yes, EPA is committed to seeing that work go forward. Currently the Consent Decree is undergoing public comment, and EPA will review these comments.

Question 4. In the event that the rule is blocked by either congressional or judicial action, will you commit to fully implementing the programs contained in your budget request including, but not limited to: reassessing 9,721 pesticide standards to protect children; priority reassessment for high risk pesticides on foods commonly eaten by children; health effects research to measure the effects of pesticides on children; exposure research to measure pathways of pesticide exposure to children; and research to assess the cumulative risks pesticides pose to children?

Response. EPA does not intend to implement any reductions-in-force. The Agency is committed to implementing the tolerance reassessment program on schedule. If the tolerance fee as mandated by FQPA is not, in the opinion of Congress, the best method of funding these critical pesticide tolerance reassessment programs, we welcome the opportunity to work with the Congress to explore other approaches to providing full, stable funding for the program.

Qeustion 5. In the event that the rule is blocked by either congressional or judicial action, will you seek additional appropriated dollars or fees to support the abovementioned programs rather than institute cuts to other EPA programs?

Response. EPA does not plan to implement any reductions-in-force, and it is important that a stable funding mechanism be identified.

Question 6. Would you support legislation to reauthorize the maintenance fees FIFRA?

Response. EPA fully supports the President's budget and to collect maintenance fees instead of tolerance fees would be inconsistent with the current statutory mandate to collect tolerance fees that is reflected in the President's budget. The important work of the tolerance reassessment program must continue, and the tolerance fee rule provides for full, stable funding for the life of the program. Any alternatives would need to offer similarly stable and adequate funds.

SUPERFUND

Question 1. As you well know from your experience in New Jersey, the Superfund program could not achieve the number of cleanups we have seen in recent years without the significant participation of PRPs: PRPs conduct approximately 70 percent of the cleanups of NPL sites. I am very concerned that the cuts to enforcement will result in fewer cleanup agreements between EPA and PRPs, and less cost recovery. As you know, unlike other environmental laws, states cannot be authorized to implement Superfund—only EPA has the authority to select remedies and issue cleanup orders and enter settlements at NPL sites. Under the President's proposed budget would there be any reduction to the number of FTEs for Superfund enforcement?

Response. The President's fiscal year 2002 budget request includes a reduction of 68.1 FTE to the Superfund enforcement program. This is part of an overall Agency reduction to meet a congressionally-directed FTE ceiling of 17,500 for EPA in fiscal year 2002.

Question 2. Can you guarantee that there will be sufficient staff resources to ensure all of the needs will be met, and no cleanup agreements will be delayed? How can you demonstrate this?

Response. In fiscal year 2002, EPA will continue to stress "enforcement first" by getting PRPs to initiate or fund 70 percent of new remedial construction starts, at non-Federal Facility Superfund sites, and emphasize fairness in the settlement process. Furthermore, the President's budget request provides sufficient funding to address cost recovery cases greater than or equal to $200,000 prior to the expiration of their statute of limitations.

It will require hard work and creativity to achieve our goals with these reductions. I'm asking my people to look for new efficiencies and innovations in the way

they carry out their day to day work to keep enforcement projects, including settlement negotiations, proceeding at a steady pace. The Superfund enforcement program's reduction of 68 FTE does not mean 68 people, as the program is currently operating below the fiscal year 2001 FTE levels. I expect to meet this reduced level through attrition.

Question 3. As you know, any reduction in cleanups by PRPs means either a greater shift of cleanup costs to the general public, or a sacrifice in the number of cleanups. I am concerned that the President's budget request is setting us up for less cost recovery. Can you demonstrate to me that this is not the case? Are there FTE cuts in the Superfund cost recovery area?

Response. The Agency has requested sufficient funding to meet its goal of addressing all cost recovery cases with total past costs greater than $200,000 before the expiration of their statute of limitation. Cost recovery collections received by the U.S. Treasury Department will vary from year to year depending on the value of settlements the Agency achieves. However, the Agency doesn't anticipate any loss of revenue as a result of reductions to enforcement. The Superfund enforcement program was reduced by a total of 68 FTE, of this amount, 16 FTE were reduced from the cost recovery program. I expect to meet this reduced level through attrition.

UNDERGROUND STORAGE TANK PROGRAM

Questions 1 and 2. I have a question about the underground storage tanks program under the Resource Conservation and Recovery Act. It is my understanding that there are approximately 160,000 confirmed gasoline leaks that still need to be cleaned up, plus about 200,000 abandoned petroleum tanks at brownfields sites that still need to be cleaned up; a new GAO report that concludes that compliance with EPA tank regulations is still a significant problem; MTBE contamination in our nations's drinking water from Long Island to Lake Tahoe and many places in between; and a $1.5 billion balance sitting in EPA's Leaking Underground Storage Tank Trust Fund, collecting about $90 million in interest a year and another $190 million in new revenue a year. Why is the Administration only requesting $71.9 million in fiscal year 2002 for the underground tank program?

Response. We believe that the amount we are requesting from the Leaking Underground Storage Tank (LUST) Trust Fund is appropriate at this time. Cleaning up petroleum contamination from leaking underground storage tanks that affect public health and the environment is an important priority for EPA. We will continue to evaluate the adequacy of resources to address these releases especially in light of the presence of additional contaminants such as methyl ter-butyl ether (MTBE) which have caused cleanups to take longer and be more expensive.

Question 3. Do you think that amount will allow the Administration, with the states, to address the backlog of sites requiring inspections, cleanup and enforcement? Can you explain how this would be accomplished?

Response. EPA has begun implementing an initiative to reduce the backlog of cleanups. Under this initiative, EPA will work with states to establish national, regional, and state-specific cleanup goals that will reduce the backlog over time. EPA will also promote the use of innovative cleanup tools including multi-site cleanup agreements and performance-based cleanup contracts as part of this initiative. EPA believes that the current budget provides the resources needed to begin the process of addressing the cleanup backlog. We will, however, continue to evaluate our cleanup progress and the adequacy of resources to reduce the backlog.

With respect to inspections and enforcement of EPA's underground storage tank regulatory requirements, the budget provides $10 million in State grants. EPA believes that this amount is sufficient to begin implementing an initiative to increase compliance with the regulatory requirements. Working with states, EPA will set national and regional targets for bringing tanks into compliance. EPA will also work with states to obtain commitments to increase their inspection and enforcement presence if state-specific targets are not met. As part of this initiative, EPA and the states will use innovative tools such as multi-site agreements to bring more tanks into compliance. EPA will also provide technical assistance tools, improved guidance, and training to owners, operators and inspectors to foster improved operational compliance with the requirements.

RESPONSES BY CHRISTINE TODD WHITMAN TO ADDITIONAL QUESTIONS FROM SENATOR CHAFEE

Question 1. The Estuaries and Clean Water Act of 2000, signed into law last year, expands the National Estuary Program (NEP) and reauthorizes funding for the pro-

gram at $35 million for fiscal year 2002. Despite the growth in the number of NEPs, the level of appropriated funds has peaked at roughly $18 million, resulting in baseline funding for each NEP of between $310,000 and $350,000 after accounting for administrative costs. Meanwhile, documented needs for the NEPs are estimated in the billions of dollars.

In light of the recent reauthorization, could you provide justification for EPA's fiscal year 2002 request for the NEP?

Response. We believe that the fiscal year 2002 request will be sufficient to maintain approximately level funding for the 28 current NEPs. It should be noted that funding under the NEP program has largely been focused on organizing local stakeholder interests and developing management plants, not on large scale implementation of those plans. Other Agency funds support implementation efforts, including the $450 million in new grants to states requested in fiscal year 2002 to address combined sewer overflows and sanitary sewer overflows—issues of critical significance to many estuaries.

Question 2a. I have been contacted by a Rhode Island water company that is concerned with the Agency's plans to reclassify chlorine gas used for water treatment as a "restricted use" pesticide. I understand this reclassification is now under review. As the new administrator, what changes may be made to the chlorine gas regulation?

Response. By way of background, EPA regulates pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). EPA requires pesticides to be thoroughly tested before they are registered (licensed by EPA for sale and use in U.S.). In evaluating a pesticide registration application, EPA assesses a wide variety of potential human health and environmental effects associated with use of the product. We carefully consider the scientific evidence to determine whether or not and how the pesticide can be distributed and used safely in the United States and if so, under what restrictions. If, after registration, the Agency has reason to suspect that a pesticide may pose any unreasonable risk, we will take additional regulatory action as appropriate.

EPA is currently in the midst of reassessing pesticides through the reregistration program. EPA is assuring that older pesticides meet contemporary health and safety standards and product labeling requirements.

The Agency has not made its final decision on the reregistration of chlorine gas. Chlorine gas is currently undergoing reregistration review. In February 1999, the Agency issued a draft Reregistration Eligibility Decision (RED) on the pesticidal uses of chlorine gas. On March 10, 1999, the Agency published a Federal Register (FR) Notice of Availability opening a 60-day public comment period for the Chlorine Gas RED. Based on comments received, a second Notice of Availability was published September 2000, specifically requesting comment on possible restricted use status for chlorine gas. The comment period closed on December 18, 2000. EPA encouraged registrants, users, other stakeholders and the public to fully participate and submit their comments. EPA is carefully considering all comments and is working with industry, the states, and other stakeholders in addressing them. Many water suppliers participated in the comment process and EPA is reviewing their concerns.

Question 2b. When is the new regulation for chlorine gas reclassification expected to be proposed?

Response. EPA intends to have the amended chlorine gas RED completed by Fall 2001. This will include our decision of whether or not to list chlorine gas as a Restricted Use Pesticide and require pesticide training and certification for chlorine gas applicators. This would include drinking water treatment system operators, although we would encourage States to use their current training and certification programs to avoid duplicative training requirements. The scheduled time for implementation will be a minimum of 2 years after the date of our final decision.

Question 3. It is my understanding that EPA's Office of Solid Waste has been working on a draft Notice of Proposed Rulemaking for some time that would clarify Federal Policy under the Resource Conservation and Recovery Act regarding the handling and treatment of industrial wiping products used with industrial solvents. What is the status of this rulemaking? Do you expect EPA to publish this rulemaking during this fiscal year?

Response. EPA's Office of Solid Waste has been examining the issue of Federal policy regarding the regulation of solvent-contaminated industrial wiping materials. The Agency has not determined what, if any, regulatory action may be appropriate for solvent-contaminated wipes. Thus, we are unable at this time to predict if or when a proposed regulation would be issued. We do not expect a rule to be proposed this fiscal year.

EPA's goal is to ensure that solvent-contaminated wipes are managed in an environmentally sound and cost-effective manner that encourages source reduction and recycling of hazardous solvents. Throughout our process, we have met with key stakeholders, including small businesses, to listen to their concerns and incorporate those concerns wherever appropriate. In addition to the ongoing stakeholder outreach effort, EPA has been and will continue to analyze the economic impact, including small business impacts, of any future rule on the stakeholders who would be affected.

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