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THE FISCAL YEAR 2015 EPA BUDGET

JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND POWER

AND THE

SUBCOMMITTEE ON ENVIRONMENT AND THE ECONOMY

OF THE

COMMITTEE ON ENERGY AND COMMERCE
HOUSE OF REPRESENTATIVES

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C O N T E N T S

	Page
Hon. Ed Whitfield, a Representative in Congress from the Commonwealth of Kentucky, opening statement	2
Prepared statement	3
Hon. Bobby L. Rush, a Representative in Congress from the State of Illinois, opening statement	3
Hon. John Shimkus, a Representative in Congress from the State of Illinois, opening statement	5
Prepared statement	5
Hon. Paul Tonko, a Representative in Congress from the State of New York, opening statement	6
Hon. Fred Upton, a Representative in Congress from the State of Michigan, opening statement	7
Prepared statement	8
Hon. Henry A. Waxman, a Representative in Congress from the State of California, opening statement	9

WITNESS

Gina McCarthy, Administrator, Environmental Protection Agency	10
Prepared statement	13
Answers to submitted questions	64

SUBMITTED MATERIAL

Slide, dated February 20, 2013, URS Corporation, submitted by Mr. Olson	47
Slide, dated January 21, 2010, Nature, submitted by Mr. Olson	49

THE FISCAL YEAR 2015 EPA BUDGET

WEDNESDAY, APRIL 2, 2014

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND POWER,
JOINT WITH THE
SUBCOMMITTEE ON ENVIRONMENT AND THE ECONOMY,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittees met, pursuant to call, at 10:05 a.m., in room 2123 of the Rayburn House Office Building, Hon. Ed Whitfield (chairman of the Subcommittee on Energy and Power) presiding.

Present from the Subcommittee on Energy and Power: Representatives Whitfield, Scalise, Hall, Pitts, Terry, Burgess, Latta, Cassidy, Olson, McKinley, Gardner, Kinzinger, Griffith, Barton, Upton (ex officio), Rush, Tonko, Engel, Green, Capps, Barrow, Christensen, and Waxman (ex officio).

Present from the Subcommittee on Environment and the Economy: Representatives Shimkus, Murphy, Bilirakis, Johnson, Pallone, DeGette, and McNerney.

Also present: Representative Long.

Staff present: Nick Abraham, Legislative Clerk; Gary Andres, Staff Director; Charlotte Baker, Deputy Communications Director; Matt Bravo, Professional Staff Member; Allison Busbee, Policy Coordinator, Energy and Power; Megan Capiak, Staff Assistant; Jerry Couri, Senior Environmental Policy Advisor; Patrick Currier, Counsel, Energy and Power; Tom Hassenboehler, Chief Counsel, Energy and Power; Ben Lieberman, Counsel, Energy and Power; Alexa Marrero, Deputy Staff Director; David McCarthy, Chief Counsel, Environment and the Economy; Brandon Mooney, Professional Staff Member; Mary Neumayr, Senior Energy Counsel; Mark Ratner, Policy Advisor to the Chairman; Chris Sarley, Policy Coordinator, Environment and the Economy; Peter Spencer, Professional Staff Member, Oversight; Tom Wilbur, Digital Media Advisor; Phil Barnett, Democratic Staff Director; Alison Cassady, Democratic Senior Professional Staff Member; Jacqueline Cohen, Democratic Senior Counsel; Greg Dotson, Democratic Staff Director, Energy and the Environment; Caitlin Haberman, Democratic Policy Analyst; Alexandra Teitz, Democratic Senior Counsel, Environment and Energy; Kate Stoll, Democratic Fellow; and Ryan Schmit, Democratic EPA Detailee.

Mr. WHITFIELD. I would like to call the hearing to order this morning. The title of our hearing is the Fiscal Year 2015 EPA Budget, and we certainly want to welcome EPA Administrator Gina McCarthy for being here with us today and talking about the

budget and other actions that are taking place over at EPA. You want to start my 3 minutes?

Each of us that are giving opening statements today will be given 3 minutes because we want to be able to get to the budget and talk about a lot of issues.

OPENING STATEMENT OF HON. ED WHITFIELD, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF KENTUCKY

Jonathan Turley, a professor over at George Washington University, was testifying before the Judiciary Committee recently, and in his testimony he said that President Obama's extensive use of executive orders, executive actions, and unilateral regulatory action threatens to enable President Obama to become a government unto himself.

Now Professor Turley said that he had voted for President Obama but that he was genuinely concerned about this excessive use of executive authority. And when President Obama went to Copenhagen in 2009, he committed the United States to certain things relating to climate change. In his Georgetown speech and in his State of the Union Address, he has repeatedly indicated that since Congress does not act in the way that he wants it to act that he is going to do things by executive order and he will go it alone. I would say first of all that Congress has acted in the areas that the President is concerned about. Congress made the decision, a Democratic-controlled Senate, made the decision that we would not adopt Cap and Trade.

And then I might say that 2 weeks ago the House of Representatives passed legislation for the first time ever, gave EPA the authority to regulate CO_2 emissions, but set parameters. And in our efforts to work with the administration on that legislation, we were not responded to. And even Mr. Dingell has repeatedly said when the Clean Air Act was passed, it was never thought that CO_2 emissions would be adopted.

One of the things I am most concerned about is that the New Source Performance Standards for new electricity generating units, this proposal requires carbon capture and storage for cold-fired power plants which are not commercially available, have not been adequate demonstrated. The Energy Policy Act of 2005 clearly prohibits EPA from relying on federally funded projects when determining whether CCS is adequately demonstrated, and yet EPA went and took three projects in the United States—one in Texas, one in California and one in Louisiana, I mean Mississippi—none of which are in operation. Two of them have not even started construction. And so I think this reflects how aggressive the administration is being.

As a matter of fact, it was pointed out to us that GAO's database said that EPA had published over 1,900 rules during the President's first term alone.

So we have some genuine concerns, and my time is expired.

[The prepared statement of Mr. Whitfield follows:]

PREPARED STATEMENT OF HON. ED WHITFIELD

I would like to thank EPA Administrator Gina McCarthy for appearing before us today, and I certainly hope that we can shed some light on a number of issues with the agency's proposed budget and priorities for the coming fiscal year.

EPA's budget for FY 2015 is $7.89 billion. My biggest concerns are with EPA's regulatory agenda and particularly its efforts to target energy, including coal which is the Nation's largest source of electricity.

Although the President pledged to "cut red tape" in his State of the Union address, EPA is clearly moving in the opposite direction, piling many new major rules on top of all the existing ones. This includes an expansive and expensive global warming agenda that Congress never authorized and that the agency admits will have only a trivial impact on the earth's future temperature. In other words, EPA's climate agenda is all economic pain for no environmental gain, and may well be a part of the reason that the economy and job growth have remained sluggish throughout the Obama presidency.

Just one rule impacting coal-fired power plants, the Mercury and Air Toxics Standards, has been estimated by the agency to cost $9.6 billion annually—more than the agency's entire budget. And the initial real-world experience with this rule indicates that it may cost quite a bit more than $9.6 billion and lead to numerous plant closures. Like many of EPA's most extreme regulations, this rule is affecting the security and affordability of the energy sector.

The regulations targeting coal have already increased the number of coal-fired power plant shutdowns. According to the North American Electric Reliability Corporation, these closures will accelerate in the years ahead and could lead to serious reliability concerns.

And I might add that during this very cold winter, we saw the limits of relying too heavily on natural gas to fill the void left by coal. In fact, many coal-fired units pressed into service to meet peak demand during the coldest days are among those slated to be shut down in the near future. This winter was an early warning that if EPA's anti-coal agenda is left unchecked, there will be serious consequences for electricity reliability and affordability.

Time and time again, we've seen EPA set extreme standards. We've witnessed this with the Utility MACT and the Regional Haze Program, with astronomical compliance costs for States and utilities, and in some cases, are causing power plants to shut down. And the toughest rules for coal are yet to be finalized. Anyone who doubted that EPA is trying to "bankrupt the coal industry" as President Obama promised should have been convinced by proposed New Source Performance Standards for new electric utility generating units. In effect, this proposal requires carbon capture and storage (CCS) for coal-fired power plants, which is not commercially available now and is unlikely to become so for a long time. If this isn't a ban on new coal, then nothing is.

The Clean Air Act requires that New Source Performance Standards be based on technologies that are adequately demonstrated. In the agency's very strained attempt to claim that CCS is adequately demonstrated, EPA relied on projects in the Federal Government's Clean Coal Power Initiative. But the Energy Policy Act of 2005 clearly forbids EPA from relying on such federally funded projects when determining whether CCS is adequately demonstrated. The provision in EPAct 05 is an explicit prohibition that Congress intended to include in order to prevent EPA from prematurely mandating the use of a technology before it is commercially viable.

This committee's November 15, 2013, letter to EPA specified these violations, which are all too typical of an agency that routinely exceeds its authority to achieve a predetermined agenda. And the agency's failure to respond to the letter is all-too-typical of the lack of EPA's transparency and responsiveness.

I hope we can explore these and other serious concerns with both the substance and the legality of EPA's regulatory agenda for the fiscal year ahead.

Mr. WHITFIELD. So at this time, I would like to recognize the gentleman from Illinois, Mr. Rush, for his opening statement.

OPENING STATEMENT OF HON. BOBBY L. RUSH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. RUSH. I want to thank you, Mr. Chairman, and I certainly want to thank the Administrator, Administrator McCarthy, for being with us here today. I want to take a few moments, just a

quick sentence or so, to extend my congratulations to you. I have—was on leave of absence for a number of months due to my wife's illness. So I didn't get a chance to say congratulations. So I want to congratulate you. It is belated, but it is heartfelt.

Madam Administrator, your visit here could not be more timely as it coincides with the release earlier this week on the second report from the Intergovernmental Panel on Climate Change which warn that the detrimental effects of man-made climate change are being felt, and it also warned that if we fail to address this issue, we can continue to expect dire consequences for humans and natural systems all across our globe.

According to the report, the flooding, the heat waves, the reduced crop yields that we have witnessed recently both here and abroad are only going to get worse if we do not act to curb the effects of climate change sooner rather than later. In fact, as a Chairman of the IPCC noted when the study was released, and I quote, "Nobody on the planet is going to be untouched by the impacts of climate change."

So Madam Administrator, I for one want to applaud you, applaud your agency, for your outstanding work for being on the front lines for our Nation's fight against the impacts of climate change, and I certainly do not envy the task that all of you face. At a time when the EPA's budget is consistently being slashed, the American people are still relying on you and your Agency to do everything in its power to protect the public health, both today and for future generations of American families.

The President's fiscal year 2015 budget request of $7.89 billion represents a $310 million decrease from last year's level and in fact represents a smaller budget than that which was enacted in fiscal year 2003 under President Bush. And my Republican colleagues will slash this budget even further in an attempt to hamstring your agency, all while the world's leading scientists warn us of all the calamitous consequences if we fail to curb the effects of climate change and curb the effects of it now.

Madam Secretary, again, I applaud the steps that the Obama administration under your leadership is already taking to reduce our Nation's global footprint, and I look forward to hearing your thoughts and your comments on the latest IPCC report as well as the constructive ways we can address this urgent issue right now.

Thank you, and with that, I yield the balance of my time to Mr. Tonko.

Mr. WHITFIELD. Well, you are out of time, Mr. Rush. I went 21 seconds over. You have gone a minute and 10 seconds over because we only had 3 minutes.

Mr. RUSH. Well, I ask unanimous consent that my colleague, Mr. Tonko, be given 2 minutes for an opening statement.

Mr. WHITFIELD. He will get 3 minutes.

Mr. RUSH. Three minutes?

Mr. WHITFIELD. Yes, he will get three.

Mr. RUSH. You are most gracious.

Mr. WHITFIELD. I am glad you are back, by the way.

Mr. RUSH. Thank you.

Mr. WHITFIELD. At this time I recognize—this is a joint hearing, so he gets his 3 minutes. He went a minute over and I went 21

seconds over, and now I am going to recognize Mr. Shimkus for his 3 minutes.

OPENING STATEMENT OF HON. JOHN SHIMKUS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. SHIMKUS. And I will try to be punctual. Thank you, Mr. Chairman. Welcome, Administrator McCarthy, and thank you for appearing today. I plan to focus my comments and later my questions on programs within my subcommittee's jurisdiction.

Your authorities under the Safe Drinking Water Act and Solid Waste Disposal Act, the Toxic Substances Control Act and the Superfund all come under the Environment and the Economy Subcommittee. These programs touch the lives of most every American citizen.

On several issues, EPA and our subcommittee have worked together closely and successfully on a bipartisan basis to solve problems. For example, with your support we enacted E–Manifest in October 2012 to set up an electronic reporting program for hazardous materials under RCRA. Once we got consensus around the basic policy, we had to negotiate the complex thickets of budget rules, but we finally got it through the House and Senate and to the President for his signature. We are looking for a good progress report on E–Manifest today.

In another example, on drinking water we worked with you and in the end, in the last year, to solve the problem you identified involved fire hydrants. In record time, we were able to agree on the scope of the issue and draft legislation and move it through Congress to the President's desk. As a result, water system managers and firefighters across America never had to face the terrible dilemma whether or not to keep a hydrant out of service just to comply with a restriction that none of us intended to impose.

So with those two solutions under our belts, let us turn together to TSCA reform. Just in the last 10 months I have convened six hearings on TSCA. In February we released a discussion draft of a modernization bill. We have gotten comments from a wide range of stakeholders. EPA has given us some valuable but preliminary technical assistance, but many large policy issues still remain unresolved. We want to resolve those with you, and we hope you share our ambition and sincere desire to make this a collaborative process.

Our Founding Fathers never said it would be easy getting agreement among the President and a majority of the House and the Senate, but that is no reason not to try. We look forward to working closely with you on these and other issues to protect our citizens' health and their way of life. And with that, Mr. Chairman, I yield back the balance of my time.

[The prepared statement of Mr. Shimkus follows:]

PREPARED STATEMENT OF HON. JOHN SHIMKUS

Welcome, Administrator McCarthy, and thank you for appearing today. I plan to focus my comments and later my questions on programs within my subcommittee's jurisdiction. Your authorities under the Safe Drinking Water Act, the Solid Waste Disposal Act, the Toxic Substances Control Act (TSCA), and Superfund all come under the Environment and the Economy Subcommittee. These programs touch the lives of almost everyone in the United States.

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Our Founding Fathers never said it would be easy getting agreement among the President and a majority of the House and of the Senate. But that's no reason to not try. We look forward to working closely with you on these and other issues to protect our citizens' health and their way of life.

Mr. WHITFIELD. The gentleman yields back. This time I want to recognize the gentleman from New York, Mr. Tonko, for his 3-minute opening statement.

OPENING STATEMENT OF HON. PAUL TONKO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. TONKO. Thank you, Mr. Chairman. Good morning. As we know, we are here to discuss the fiscal year 2015 budget request for the Environmental Protection Agency. Welcome Administrator McCarthy, and thank you for being here today, and more importantly, thank you for your tremendous leadership of a very important agency.

I however regret that I find the administration's budget request for your Agency disappointing. A budget does more than lay out the annual priorities for the current year's work. It is or it should be a statement about what we aspire to for the future. This budget is not very inspiring. There are many unmet needs in communities across this great country. When I visit towns across my district, I see the need, and I think we should be addressing that need.

We have been cruising along on investments that our parents' generation made in this country. They invested in the infrastructure to deliver clean, safe drinking water, drinking water that is delivered to American homes across this country. There should be no question that we maintain that level of service, not reduce our commitment. Water is basic to everything we do in our daily lives and in our economy. Water is essential for agriculture, for fisheries, for recreation, manufacturing, transportation, energy development and yes, for daily living.

The 2013 Infrastructure Report Card produced by the American Society of Civil Engineers gave our Nation a D on drinking water infrastructure, and that D was not meant to stand for delightful. New York State, by their estimates, will require an investment of $27 billion over the next 2 decades. There are other States facing

that same situation. That is a huge need. In addition to the backlog of infrastructure repair and replacement, we also need to redesign some of our infrastructure to withstand the new conditions we will face due to climate change.

So we cannot maintain our edge as a Nation in this 21st Century with infrastructure from the 19th and 20th Centuries in need of repair. We could be putting many people to work, rebuilding the infrastructure to support our modern society and maintain a strong and vibrant economy.

There are some important initiatives under way as part of the President's Climate Action Plan, and I am supportive of that. I am very encouraged by it. But we could do much better for our citizens and for future generations.

I want to work with you to make the Federal Government a stronger partner with State and local governments in reducing the backlog of infrastructure projects. We all want to ensure that tax dollars are spent efficiently and effectively, but doing more with less is not going to address the situation where need is growing. It is not a sustainable strategy, and it will not deliver the 21st Century infrastructure that we need. My question: Why put investment off? Infrastructure problems cost money, and the longer projects are delayed the higher the cost to restore services.

Administrator McCarthy, I know you believe that environmental protection and economic development go hand in hand. I have seen you in action. I know you are committed. I want to work with you to continue to demonstrate the power of that combination. And again, I thank you for appearing before this joint committee hearing. I yield back

Mr. WHITFIELD. At this time I will recognize the gentleman of the full committee, Mr. Upton, for 3 minutes.

OPENING STATEMENT OF HON. FRED UPTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. UPTON. Well, thank you, Mr. Chairman, and welcome. I want to begin as I did last year by acknowledging and applauding the success of our Nation's efforts to protect and improve our environment over the years.

Under existing regulations our air quality has improved dramatically. This is something that our entire country should be proud of. EPA reports that total emissions of toxic air pollutants decreased by approximately 42 percent between 1990 and 2005, and between 1980 and 2010, total emissions of the six principal air pollutants dropped by 63 percent.

I want to commend EPA's efforts to resolve issues such as Superfund cleanups, particularly appreciative of your focus along with my two Senators on the Kalamazoo River, particularly the Allied site and look forward to getting that project accomplished. And total removal may well turn out to be the most cost-effective solution in the long run.

But in spite of this success over the last few decades, I do have some concern over EPA's regulatory trajectory. The number and scope of EPA's regulations is continuing to grow without precedent. This administration is seeking to regulate sometimes where they failed to legislate, and that pace is continuing with the release of

several major rules that impose indeed billions of dollars in costs with somewhat questionable benefits.

These rules continue to threaten not only electric reliability and affordability, but they certainly shake up the confidence in the manufacturing renaissance under way. EPA continues to regulate too much too fast. No wonder so many job creating companies are holding back on new investment. They not only face rising energy and compliance costs but also uncertainty as to what those new regs are going to require.

The worst of EPA's regulatory agenda may yet to come, especially with the greenhouse gas regs for power plants. We have yet to see fully what EPA plans proposed for existing power plants or the full impact on consumers' electric bills and unemployment. But if we allow that agenda to continue without the proper oversight, we may well see higher costs, more jobs lost and widespread problems.

We get constant reassurances from the administration that costs are minimal and benefits always trump costs when it comes to EPA's regs. Of course the health law was also rolled out with a host of assurances that certainly fell woefully short. Many EPA rules were introduced with the same kind of rosy economic promises and while they are proving to be just as detached from reality.

When I meet with manufacturers, I usually hear about the problems with the health law and yes, problems with EPA. Both threaten job and global competitiveness and do so at a time when low energy prices are finally giving American manufacturing an edge.

Administrator McCarthy, you were recently quoted in the New York Times saying that you want to avoid a repeat of the Obamacare roll-out debacle. I fear that it may be too late, but I certainly hope that we can work together to limit any further damage. And again, welcome. We appreciate your testimony. I yield back.

[The prepared statement of Mr. Upton follows:]

PREPARED STATEMENT OF HON. FRED UPTON

I want to begin as I did last year by acknowledging and applauding the success of our Nation's efforts to protect and improve our environment over the years. Under existing regulations, our air quality has improved dramatically. This is something that our entire country should be proud of—EPA reports that total emissions of toxic air pollutants decreased by approximately 42 percent between 1990 and 2005 and that between 1980 and 2010, total emissions of the six principal air pollutants dropped by 63 percent.

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These rules continue to threaten not only electric reliability and affordability, but they shake up the confidence in the manufacturing renaissance underway. EPA continues to regulate too much too fast. No wonder so many job-creating companies are holding back on new investment—they not only face rising energy and compliance costs, but also uncertainty as to what new regulations will require.

The worst of EPA's regulatory agenda may be yet to come, especially with its greenhouse gas regulations for power plants. We have yet to see fully what EPA plans to propose for existing power plants, or the full impact on consumers' electric

bills and on employment. But if we allow this agenda to continue, we may well see higher costs, more jobs lost, and widespread problems.

We get constant reassurances from this administration that costs are minimal and benefits always trump costs when it comes to EPA regulations. Of course, the health law was also rolled out with a host of assurances that fell woefully short. Many EPA rules were introduced with the same kinds of rosy economic promises, and they are proving to be just as detached from reality.

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Mr. WHITFIELD. The gentleman yields back. At this time, I recognize the gentleman from California, Mr. Waxman, for a 3-minute opening statement.

OPENING STATEMENT OF HON. HENRY A. WAXMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. WAXMAN. Thank you very much. I might just make a note that Obamacare brought in 7 million people and appears to be quite successful despite the aspirations of our Republicans to trash it.

Administrator McCarthy, I thank you very much for being here and more importantly, thank you for your service to the Nation at the Environmental Protection Agency. Since its inception, EPA has worked to make our air safer to breathe, our water safer to drink, and today EPA is on the front lines of effort to address the greatest environmental challenge of our time, climate change.

Administrator McCarthy, Americans are counting on you to carry out the President's Climate Action Plan and cut dangerous carbon pollution. Earlier this week the world's scientists sounded an alarm once again to alert us of the high stakes if we fail to take immediate action on climate change.

The Intergovernmental Panel on Climate Change, or IPCC, released a new report on the impacts of climate change, the future risks from a changing climate and opportunities for action to mitigate those risks. This new IPCC report concludes that the effects of climate change are evident on all continents and in all oceans. To learn about that report and what scientists have to say, we have to read the newspaper because our committee will not hold a hearing with scientists to hear from them directly.

Climate change is not something we can have the luxury to worry about at some time in the future. It is already here. And the longer we wait to respond, the more pervasive, severe and irreversible the impacts will be. The IPCC concludes sea level rise threatens coastal areas with flooding and erosion. The oceans will grow more acidic threatening fisheries and those who depend on them for their livelihoods. Extreme weather events would become more frequent, threatening lives as well as critical infrastructure. Heat waves will take more lives. No one would be immune from the consequences of climate change, but the impacts will be especially severe for those who are least able to respond and adapt.

I know you understand this and are committed to making the Environmental Protection Agency one of the world's leaders in the effort to protect families from dangerous climate change. I want you to know that I am committed to supporting your efforts. EPA does not often get a warm welcome in the House of Representatives. Don't take it personally. In fact, the House has voted 194 times in the last 3 years to undermine the Agency, 748 times to weaken fundamental environmental protections. That is a testament to how out of touch Congress has become and to the vast influence of the special interests. It is no way a reflection of the quality of your work at EPA which has been so superb.

So I hope you will continue to do exactly what you have been doing, which is taking forceful, reasonable steps to protect the environment for our children and future generations. Families across America are counting on you to do what is right and to stand up to special interests that seem to be vocal in this institution, that those special interests would endanger our future. I yield back my time.

Mr. WHITFIELD. Thank you very much, Mr. Waxman. Now at this time, Ms. McCarthy, I will recognize you for your 5-minute opening statement, and I understand you are accompanied today by the Acting CFO, Ms. Froehlich. We welcome you. We are thrilled that you are here with us this morning, and it will be a joyful morning.

So at this time, Ms. McCarthy, you are recognized for 5 minutes.

STATEMENT OF GINA MCCARTHY, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

Ms. MCCARTHY. Thank you. Thank you Chairman Whitfield, also Chairman Shimkus, Ranking Members Rush and Tonko, it is great to be here in the——

Mr. WHITFIELD. Would you mind just pulling the microphone a little bit closer?

Ms. MCCARTHY. Sure. Is that better? Let us hope I don't blow you away later. But it is great to be here, and thanks for the opportunity to discuss EPA's proposed fiscal year 2015 budget. I am joined by Maryann Froehlich who is the Agency's Acting CFO.

EPA's budget request is $7.89 billion for the fiscal year 2015 starting October 1, 2014. This budget meets the challenge of domestic spending constraints while still fulfilling our mission to protect public health and the environment.

The fiscal year 2015 budget reflects EPA's plans to take advantage of new technologies and new regulatory and nonregulatory approaches. It recognizes that EPA is part of a larger network of environmental partners in our States, our tribes and our communities.

This budget will provide the support for a smaller workforce by focusing on real progress in priority areas: communities, climate change and air quality, toxics and chemical safety, as well as clean water.

We are asking for $7.5 million and 64 staff in fiscal year 2015 to help provide green infrastructure, technical assistance for up to 100 communities to promote cost-effective approaches for water management. In addition, this budget request continues our environmental justice efforts. We will do more to partner with States,

tribes and local governments and other Federal agencies. Funding for State and tribal assistance grants or our STAG funds are once again the largest percentage of the EPA's budget. Addressing the threat from climate change is one of the greatest challenges of this and future generations. The request designates $199.5 million specifically for this work.

The Agency has added $10 million and 24 FTE's in fiscal year 2015 to support the President's Climate Action Plan with $2 million designated for adaptation planning. The Agency will also focus resources on the development of common sense and achievable greenhouse gas standards for power plants, the single largest source of carbon pollution. When it comes to cutting greenhouse gas emissions, the President's budget provides support for the States to help them implement the Clean Air Act.

The EPA's budget requests almost $673 million to support work to improve chemical safety for all Americans and especially our children. We are requesting $23 million and 24 FTE in fiscal year 2015 to support activities under the President's executive order on chemical safety, as well as Agency efforts on chemical prioritization, air toxics, radon, and volatile organic compounds in drinking water.

The Nation's water resources are the lifeblood of our communities. We are requesting $1.775 billion for the Clean Water and Drinking Water State Revolving Funds. The Agency is also directing $8 million and 10 FTE to advance clean water infrastructure in sustainable design like the Municipal Storm Water Sewer System Program for technical support communities. E–Enterprise is a major joint initiative between EPA and the States to modernize our business practices and to look towards the future. The benefits of implementing just the one initiative, the E–Manifest system, includes annual savings estimated at $75 million for over 160,000 waste handlers.

In fiscal year 2015, the Agency is requesting over $1.33 billion to continue to apply effective approaches for cleanup under RCRA, Superfund, Leaking Underground Storage Tanks and other authorities. This strategy will ensure land is returned to beneficial use. $1.16 billion is requested for Superfund which includes a $43.4 million increase for remedial work and an increase of $9.2 million for emergency response and removal.

The fiscal year 2015 budget includes a total of $1.13 billion in categorical grants. Within that total is over $96 million for tribal assistance program grants, an $18 million increase for pollution control, a $16 million increase for environmental information grants and a $15 million increase for State and local air quality management. Science is the foundation of EPA's work, and science is supported in this budget at $537.3 million.

And lastly, recognizing the importance of the 2-year budget agreement Congress reached in December, we are expanding opportunities to all Americans as best we can, but the levels are not sufficient to expand them to all or to grow the economy in ways that we would like. For that reason, across the Federal Government, the budget also includes a separate, fully paid-for $56 billion initiative. Within this initiative is a climate resilience fund which includes

$10 million for protecting and enhancing coastal wetlands and $5 million to support urban forest enhancement and protection.

Chairmen Whitfield and Shimkus, I thank you for the opportunity to testify and also to take your questions.

[The prepared statement of Ms. McCarthy follows:]

TESTIMONY OF
GINA McCARTHY

ADMINISTRATOR
U.S. ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE SUBCOMMITTEE ON ENERGY AND POWER AND THE SUBCOMMITTEE ON ENVIRONMENT AND ECONOMY OF THE

HOUSE COMMITTEE ON ENERGY AND COMMERCE

WEDNESDAY, APRIL 2, 2014

Chairman Whitfield, Chairman Shimkus, Ranking Member Rush, Ranking Member Tonko, and members of the Subcommittees, thank you for the opportunity to appear before you to discuss the Environmental Protection Agency's proposed FY 2015 budget. I'm joined by the Agency's Acting Chief Financial Officer, Maryann Froehlich.

EPA's budget request of $7.890 billion for the 2015 fiscal year starting October 1, 2014 reflects our ongoing efforts to meet the challenges facing the agency today and into the future. Despite these challenges, we remain dedicated to protecting public health and the environment, and we know we must target staff and resources and find new ways to fulfill our mission. We will focus those resources in a way that will allow EPA to be more effective and efficient.

The FY 2015 budget reflects a strategic approach to our budget planning process, looking toward the future rather than continuing to simply react to tough budget choices with cuts across the Agency. The FY 2015 budget request does this in the following ways:

- It reflects EPA's incorporation of new technologies and new regulatory and non-regulatory approaches that can help us maintain our efficiency and effectiveness.
- It strengthens EPA's partnership with public health and environmental protection partners in states, tribes and local communities with a focus on aligning our resources, avoiding duplication, and identifying and closing any gaps in the broader environmental enterprise system.
- It invests our funds and leverages funds of our partners where it makes the most sense and gets the biggest bang for the buck.

Following the framework of priorities laid out in the FY 2014 - 2018 Strategic Plan and working within our budget, we are committed to ensuring the staff we have in program areas and regions make the most sense and will have the most impact.

EPA has already taken steps toward proactive management of our operating budget. Through the VERA/VSIP process, we have begun to accelerate attrition within EPA both at headquarters and the regions toward a ceiling of 15,000 nonrefundable FTE's.

Our FY 2015 budget relies on a reduced workforce focused on programs, policies, and regulations that matter most to public health and the environment. This is not simply about cutting the workforce to save costs. We are reshaping the workforce and our work to meet current and future challenges. Doing this includes making key investments.

It makes long-term fiscal sense to invest the cost savings achieved -- through a smaller workforce and improved use of technology -- to work smarter and more effectively. This approach will keep EPA strong, focused on science and the law, and transparent in addressing environmental challenges and the results we have achieved.

This budget will provide the support we need to move forward by targeting real progress in priority areas: communities, climate change and air quality, toxics and chemical safety, and clean water.

Building on current work on the ground in our communities, we are asking for $7.5 million and 64 staff in FY 2015 to work toward efforts that will make a difference in people's everyday lives and in their communities. Those efforts include providing green infrastructure technical assistance for up to 100 communities that will promote cost-effective approaches to water management.

This budget request furthers our environmental justice efforts. The protections provided by our national environmental laws must be accessible to everyone. We will do more to partner with states, tribes, and local governments and other federal agencies to better coordinate and leverage resources supporting community efforts.

Addressing the threat from a changing climate is one of the greatest challenges of this and future generations. The request for climate change and air quality is $1.03 billion—over $41 million more than fiscal year 2014. And it designates $199.5 million specifically for climate change work.

Building on existing efforts and base budget resources, the Agency has added $10 million and dedicates 24 FTE's in FY 2015 to support the President's climate action plan. $2 million is designated for technical assistance for adaptation planning for water utilities at greatest risk from storm surges. Research and development efforts will focus on support tools for at-risk communities and tribes in preparing for the impacts of climate change.

The Agency will focus resources on the development of common sense and achievable greenhouse gas standards for power plants—the single largest source of carbon pollution. The President's budget provides support for the states to help them meet their obligations under Section 111 of the Clean Air Act with regard to cutting carbon emissions.

This request also supports the President's interagency methane strategy and the President's recently announced directive to EPA to develop phase 2 fuel efficiency and greenhouse gas standards for heavy-duty vehicles. EPA also will be implementing a range of activities in support of the President's call to cut energy waste in homes, businesses, and factories.

Chemicals and toxic substances are prevalent in our everyday lives. The EPA budget requests almost $673 million to support work to reduce the risk and increase the safety of chemicals and prevent pollution for all Americans and especially children.

We are requesting $23 million and 24 FTE in FY 2015 to support activities under the President's executive order on chemical safety, as well as Agency efforts on chemical prioritization, air toxics, radon, and volatile organic compounds in drinking water. $5 million in resources for air toxics work will enhance our capabilities to design effective regulations and continue developing the national air toxics assessment.

The nation's water resources are the lifeblood of our communities. The FY 2015 budget recognizes the long-term benefits of healthy aquatic systems for all aspects of our daily lives.

The Agency is directing $8 million and 10 FTE to advance clean water. Resources are also proposed for the municipal separate storm sewer systems program for technical support to communities that must develop effective stormwater permits for the first time.

We are requesting $1.775 billion for the clean water and drinking water state revolving funds. Although this is a more than a $580 million decrease over FY 2014 levels, federal capitalization of the SRFs totals over $22 billion since FY 2009, if you include the FY 2015 request. The FY 2015 budget seeks to ensure that federal dollars provided through the fund lead to the design, construction, and support of sustainable water infrastructure.

The EPA is looking toward future ways to better serve the American people by employing technology where it can be used more effectively. E-Enterprise is a major joint initiative between EPA and states to modernize our business practices and to increase responsiveness. This effort holds the promise of increased effectiveness and savings for businesses as well as government. The agency is expanding efforts in the second year of the multi-year E-Enterprise business model including focusing people and resources to accelerate development of the E-Manifest system and associated rule-making work. For example, the benefits of implementing the E-Manifest system include annual savings estimated at $75 million for over 160,000 waste handlers. Transitioning from a paper-based system saves time and effort for every person who used to handle that paper.

In addition, EPA is making changes to long-standing business practices such as contracts, grants management, and the regulation development process. One important area of emphasis is improving freedom of information act (FOIA) and records management.

In FY 2015, the Agency is requesting over $1.33 billion to continue to apply the most effective response approaches for cleanups under RCRA, Superfund, Leaking Underground Storage Tank, and other authorities. This strategy will help ensure land is returned to beneficial use in the most effective way. $1.16 billion is requested for Superfund which includes a $43.4 million increase for remedial work and an increase of $9.2 million for emergency response and removal.

In this budget, we hold firm our priority support for state and tribal partners, the primary implementers and front line of environmental programs. Funding for state and tribal assistance

grants – or STAG – is once again the largest percentage of the EPA's budget request and prioritizes funding for state categorical grants.

The FY 2015 budget includes a total of $1.13 billion in categorical grants – a net $76 million increase over FY 2014.

- Within that total is over $96 million for tribal general assistance program grants – a $31 million increase over FY 2014.
- We also included an $18 million increase for pollution control (Section 106),
- There is a $16 million increase for environmental information grants.
- There is a $15 million increase for state and local air quality management in our request.

Science is the foundation of our work at the EPA. And science is supported by the President's request of $537.3 million. In FY 2015, the EPA is focusing research on the most critical issues facing the Agency.

These include efforts to: advance chemical prioritization and predictive toxicology, help communities make sustainable decisions regarding environmental protection and resilience, and inform regional and community level strategies for the use of green infrastructure and other innovative alternative practices.

The EPA continues to focus on reducing its physical footprint and achieving greater energy efficiency. Since 2006, the EPA has released approximately 428 thousand square feet of space nationwide, resulting in a cumulative annual rent avoidance of over $14.6 million.

The EPA continues to eliminate programs that have served their purpose, accomplished their mission, or are duplicative. The FY 2015 budget eliminates a number of such programs totaling nearly $56 million. These include beaches protection categorical grants, state indoor radon grants, and diesel emissions reductions assistance grants.

Recognizing the importance of the two-year budget agreement congress reached in December, which the President's budget adheres to, levels are not sufficient to expand opportunity to all Americans or to drive the growth our economy needs.

For that reason, across the federal government, the budget also includes a separate, fully paid for $56 billion opportunity, growth, and security initiative. This initiative—split evenly between defense and non-defense funding—shows how additional discretionary investments in FY 2015 can spur economic progress, promote opportunity, and strengthen national security.

- Within the initiative is $1 billion for a climate resilience fund, through which the budget will invest in research and unlock data to better understand and prepare for impacts of a changing climate. These investments will also fund breakthrough technologies and resilient infrastructure.

- Within the climate resilience fund, EPA will support a nation better prepared for the impacts of climate change—with $10 million for protecting and enhancing coastal wetlands, and $5 million to support urban forest enhancement and protection.

We have made some very difficult choices in this budget. But we need to look realistically at challenges we face in the future and make sure we have the best tools and people in the right places to make the most difference. Our final FY 2015 budget reflects a balanced approach to accomplishing this.

Thank you for the opportunity to touch upon some of the highlights of EPA's FY 2015 budget request in my testimony today. I look forward to answering your questions.

Mr. WHITFIELD. Well, thank you very much, Ms. McCarthy. As I said, we appreciate your being here, and I will recognize myself for 5 minutes of questions.

Under your New Source Performance Standards for new electric utility generating units, you specifically set the emissions standards based on three plants in the United States, one in Mississippi, one in Texas and one in California. The one in Texas, they have not even started construction. The one in California, they have not even started construction. The one in Mississippi is being constructed. It is not in operation yet. None of them would be built without funding from the Federal Government and our tax credits under the Clean Coal Power Initiative. And the 2005 Energy Policy Act specifically says you cannot—if a facility is receiving funds from the Clean Coal Power Initiative, you cannot say that it has been adequately demonstrated.

And we wrote a letter to you back in November asking your legal justification for doing this. We still have not heard from you all. We have talked to lawyers outside the Congress, inside the Congress, and everyone genuinely believes that the 2005 act explicitly prohibits you from setting an emission standard if it is receiving funds from the Clean Coal Power Initiative. So how can you proceed with this and what are your lawyers telling you and do you intend to respond to our letter?

Ms. MCCARTHY. Well, Mr. Chairman, I did listen to you when we spoke last time and we received your letter. We did respond by including a notice of data availability that is in the Federal Register which really explains the impact of EPAct on this proposal and the fact that we did fully consider it. We did have a very robust record to indicate that CCS was actually technically achievable and available the way the law requires.

Mr. WHITFIELD. No private company is going to build one of those plants without money. You know, the Mississippi plan has a serious cost overrun. The Chairman of Southern has said this would not have been built without Government support.

Ms. MCCARTHY. Mr. Chairman, EPAct requires that we not rely solely on those funded projects out of DOE to establish these standards. We have a very robust record, well beyond those few facilities to indicate that CCS is——

Mr. WHITFIELD. Well, you know, that is the Government's position, but CEOs of private companies that have a responsibility investing say that there is no technology available to them to meet the emissions standard that you all are setting in this new rule. And the reason we get upset about it is, I mean, most people recognize Europe is the green energy capital of the world. Twenty-two percent of their electricity comes from renewables. And yet, even in Europe where they in the last 20 months have mothballed 30 gigawatts of new gas powered plants because the gas coming from Russia is so expensive, and as you know, their unemployment rate is even higher than ours and their economy is more sluggish than ours is, but yet last year they imported 53 percent of our coal exports, from America. Fifty-three percent went to Europe because when the gas prices went so high, they recognized they have to rely on coal. And under this rule, we don't have that flexibility.

So what if our gas prices go high? Where are we going to be left in America trying to compete in the global marketplace when we can't even build a new coal-fired plant?

Ms. MCCARTHY. Mr. Chairman, I think we have indicated many times that this country is relying on coal. Coal will be part of the energy mix for decades to come. We know where investment is heading in new coal facilities, and all of them that you are talking about, while some of them have received DOE funding, they are all relying on advancing CCS, recognizing that they are going to be around for decades——

Mr. WHITFIELD. CCS is so far off——

Ms. MCCARTHY [continuing]. To come.

Mr. WHITFIELD [continuing]. I am telling you. It is not anywhere commercially viable. So you know, I guess there is no sense my continuing to press this point, but I tell you what. Those people who are involved in the utility business tell us explicitly that they cannot build a new coal-fired plant and meet these emission standards. And I think that America is being jeopardized by this kind of action. And I suppose event though you and I have great respect for each other——

Ms. MCCARTHY. We do.

Mr. WHITFIELD [continuing]. And I love dealing with you, it is just an area of where we have serious disagreements.

Ms. MCCARTHY. I understand. Well, Mr. Chairman, we did try to address concerns. This proposal actually requires only partial CCS. It is an ability to move this technology forward and to recognize that it is an opportunity for coal.

Mr. WHITFIELD. But all of this is being used for enhanced oil recovery, and there are many places where we need plants and the enhanced oil recovery cannot play a part in it.

My time has expired. I am sorry. At this time I recognize Mr. Rush for 5 minutes.

Mr. RUSH. Thank you, Mr. Chairman. Administrator McCarthy, there is a lot of talk about cutting carbon pollution, and the other side don't ever want to talk about cutting the cost of—or they think that the cost of climate change is zero. They don't ever want to own up to the fact that there is an economic price that we are paying and will continue to pay for the problems of climate change.

I want to zero in from the general to the specific. I am concerned that the risk and costs of climate change, that it would hit the poorest and most vulnerable especially hard. I would like for you to give me your view on how does climate change multiply risks for people who are already struggling with hunger and with poverty and what are some of the impacts of climate change that you are most concerned about, particularly for low-income communities? As you know, we noted earlier that the IPCC issued a report saying that climate change impacts are projected to slow down economic growth, make poverty reduction more difficult, further erode food security and pull all existing and create new poverty traps. So Madam Administrator, talk to us a little bit about how climate change is going to impact our Nation's and the world's most needy and most disadvantaged.

Ms. MCCARTHY. Thank you, Ranking Member. The real threat of climate change is inaction to address the problem. We have seen

storms, we have seen intense storms, we have seen droughts, we have seen fires that are out of control. Many of these results of a changing climate were anticipated and predicted by the IPCC when they first started gathering. In the fifth assessment they just released indicates that what they predicted and feared is actually what we are experiencing now. And they predict that that will only get worse, and they also make the point that in addition to already large costs that this country and others are facing as a result of a changing climate and those impacts, that the most vulnerable populations, the poor, those living in coastal areas, those most unable to get up and move and protect themselves, that are going to be hurt the most. That is true in the U.S., and that is true internationally as well.

Mr. RUSH. How would you respond to those who say the United States shouldn't do anything to cut carbon pollution unless other countries do something also unless they act first even?

Ms. MCCARTHY. Well, I think the reason that President Obama has put out a Climate Action Plan is to have the United States show leadership in the international community as well as to recognize that the things you need to do to address climate change can be enormously beneficial to the economy. If you are smart about the actions you are taking, if you use existing authority, you do it legally and technically correct, you can generate reductions in electricity generation and demand that will reduce carbon emissions that will save people money, issues like energy efficiency, switch to renewable energy. This is the clean energy future, not relying on the clean energy past.

Mr. RUSH. Mr. Chairman, I want to yield back the minute that I used earlier, so we are even now.

Mr. WHITFIELD. OK. Thank you, Mr. Rush, and at this time I recognize the gentleman from Texas, Mr. Barton, for 5 minutes.

Mr. BARTON. Thank you, Mr. Chairman, and Ms. McCarthy. It is always good to see you.

Ms. MCCARTHY. You, too.

Mr. BARTON. Before I begin to give you a hard time, let me give you a compliment. I think you and your Agency have been as compliant or cooperative as you can on the renewable fuel standards and some of those problems. And I want to thank you and the Agency for trying to show some flexibility there.

Now I have to be a little less friendly. I am going to follow up on what Chairman Whitfield commented on. I was chairman of this committee in 2005 when we passed the Energy Policy Act. I was chairman of the Conference Committee, and I had a good friend named John Dingell who is still a good friend, and there was the ranking member of the Energy and Power Subcommittee, a young man named Rick Boucher who is no longer in the Congress but was a very, very hard-working Congressman from Virginia. And they wanted to do something on clean coal technology, especially Rich Boucher. I know Mr. Griffith is here, and he replaced Mr. Boucher. So we have got a very good replacement in Mr. Griffith.

But we put in a section to fund some research projects for clean coal technology, and I am going to read part of the section, Section 402, Project Criteria, and this is actually from the law, Public Law 10958. "To be eligible to receive assistance under this subtitle, a

project shall advance efficiency, environmental performance and cost competitiveness well beyond the level of technologies that are in commercial service or have been demonstrated on a scale that the Secretary determines is sufficient to demonstrate that commercial service is viable as of the date of enactment of this Act." Well beyond the level of technologies that are in commercial service. That is Section 402(a).

If you come over a little bit further on in the section, you get into how to actually apply it, and in subtitle (i), Applicability, "No technology or level of emission reduction solely by reason of the use of the technology or the achievement of emission reduction by one or more facilities receiving assistance under this Act shall be considered to be adequately demonstrated for purposes of Section 111 of the Clean Air Act, 42 U.S.C. 7411. And that is the New Source Performance Review section of the Clean Air Act.

So it is explicitly clear that in funding these demonstration projects, whatever their level of CO_2 reduction is, that is not supposed to be used to set for New Source Performance Review Standards. Yet, when your Agency put out the proposed regulation on those standards, they referred to these projects, not one of which is in operation, none of which are even actually even close to being operable except for the plant down in Mississippi, and it is behind schedule and over budget. Now you are an intelligent woman. I think you are an honest woman. I think you are an able administrator. How can in good conscience you allow these new emission standards be promulgated when they are based on technology that hasn't been demonstrated yet and by law says you can't use these emission standards from these demonstration projects because they are not in commercial operation? I mean, Mr. Whitfield is agog, and I have to join him.

Ms. MCCARTHY. Well, Congressman, our understanding of EPAct is that EPA shouldn't be relying solely on our determination of what is the best system of emission reduction under 111, just solely on the basis of EPAct-funded projects. But we can look at them in the context of the larger and more robust technical and scientific record, and that is essentially what we are doing.

We know that CCS has been used and is being used at the commercial scale in other industries. It has been for many years. The technologies available, each component of that technology, has been in use, has been tested and is viable. And so we are looking at these larger projects that are full-scale power plants that are under construction or being developed within the context of that larger and more robust context.

Mr. BARTON. Well, my time is expired. I took too long asking the question. I have some other questions for the record, and I will submit those. But we are not going to go away on this.

Mr. WHITFIELD. At this time I recognize the gentleman from New York, Mr. Tonko, for 5 minutes.

Mr. TONKO. Thank you, Mr. Chair. Administrator, again, welcome.

Ms. MCCARTHY. Thank you.

Mr. TONKO. Residents in my home State of New York and all along the East Coast saw last year just how devastating super storms can be. As sea levels rise and storms become more violent,

storm surges will pose risk further and further inland. In 2011, the New York State Energy Research and Development Authority, or NYSERDA, which I had the honor of leading before I came to Congress, completed an authoritative report on the impacts of climate change in New York State.

According to that report, climate change will lead to the propagation of storm surges up the Hudson River and will move the salt water front further and further upstream. This will impair drinking water systems that draw water from the Hudson and could potentially contaminate the backup water supply of New York City. This year's budget request calls for realigning resources to provide technical assistance to water utilities at greatest risk from storm surges.

So my question to you, Administrator, is can you elaborate on EPA's efforts to assist these at-risk water systems?

Ms. MCCARTHY. Sure. In the President's Climate Action Plan, he created a Resiliency Task Force specifically to look at what the best practices were that we are seeing across the country in adapting to a changing climate. So we are not only working nationally and across the United States to identify these projects and to get the lessons learned out, but we are also specifically focusing on some ways in which you can address adaptation to climate that also enhances your ability to protect water cost effectively. That is what we call green infrastructure. That is a way of actually looking at embracing water that is coming in, managing it appropriately and preventing the storm water surges and the sewer overflows that we see have long-lasting impacts on both our pocketbooks as well as the health of our communities.

Mr. TONKO. Thank you. Technical assistance and tools are only part of the solution. Water systems in New York will have to adapt, potentially moving intakes and infrastructure at great cost, and they are not alone. The drinking water infrastructure needs facing our cities and towns continue to grow and will grow significantly with climate adaptation costs.

EPA's most recent survey of drinking water infrastructure needs released in June showed $384 billion worth in drinking water infrastructure repairs needed over the next 20 years. That amount is a significant increase from the previous survey demonstrating that investment in infrastructure is not keeping pace with need, yet the budget request calls for only $757 million for the Drinking Water State Revolving Fund, a 16 percent decrease from this year's enacted levels.

Administrator McCarthy, if more funds were made available through the SRF, could more be done to replace water infrastructure that is at the end of its useful life?

Ms. MCCARTHY. Yes, sir.

Mr. TONKO. Well, is EPA considering alternatives to simply rebuilding or replacing the drinking water infrastructure that is in place and do we have more cost-effective options available that could be applied?

Ms. MCCARTHY. Well, we are exploring cost-effective options so that we can stretch the dollars as much as possible and look at keeping the facilities that we have in better operating condition. So we are looking not only at our fiscal realities of what funds we

have to be able to support these efforts, but we are looking also at directing some of those funds toward these green infrastructure solutions, as well as paying specific attention to small sources, to small water systems, that have particular challenges in terms of operating and generating and leveraging their own funds.

Mr. TONKO. OK. You know, the discussion not only with EPA but across the board for infrastructure are deficient bridges, to cite as an example beyond EPA. There is just a need to invest in this country, and you know, the longer we prolong in that investment as I made in earlier comment, the more difficult it is going to be.

So drinking water infrastructure is essential to our public health, and the need is acute. I think the amounts appropriated for the drinking water SRF should reflect that need and should be considerably higher than this request. I again would hope that this budget would not only suggest or invest in where we are at but certainly where we want to be, and I hope the goal is one that is robust in nature and one that reflects that if we don't do this now, we are going to pass it on to generations yet unborn. And I believe that morally that is incorrect, and certainly financially, it is ineffective. I thank you very much again.

Mr. WHITFIELD. The gentleman yields back. At this time I recognize the gentleman from Texas, Mr. Hall, for 5 minutes.

Mr. HALL. Thank you, Mr. Chairman. And Mrs. McCarthy, I don't totally agree with Mr. Barton's description of your history of dealing with businesses that are in trouble or that you deem in trouble. And I know you will remember this. When I was chairman of Science, Space and Technology, before my committee—and it is something I am not even going to mention, that you said you are not in the business of creating jobs. And it is my hope that the EPA would at least not stand in the way of job creation at this time. It is so important.

As you have to know, abundance of natural gas supplies have opened up the possibility for the United States to be in a manufacturing renaissance almost. In his State of the Union Speech, your President said, "Business plans invest almost $100 billion in new factories to use natural gas." He said I will cut red tape to help these States to get these factories built. Are you familiar with the President's statement during the State of the Union?

Ms. MCCARTHY. Yes, I am.

Mr. HALL. And has the President directed to help get these factories built?

Ms. MCCARTHY. Yes, he has.

Mr. HALL. And to use some degree of science when making decisions that affects these jobs?

Ms. MCCARTHY. Yes.

Mr. HALL. And what steps has he taken to cut that red tape?

Ms. MCCARTHY. Actually, he has provided some additional funding that is proposed in the fiscal year 2015 budget.

Mr. HALL. He just added more money on it? No more——

Ms. MCCARTHY. No, it is——

Mr. HALL [continuing]. Suggestions?

Ms. MCCARTHY. No, it is actually to allow both us and States to work together, hand in hand, to look at how we get these cleaner

facilities up and operating more quickly and through the permit process.

Mr. HALL. Well, then in that case, when and what steps has EPA taken to cut the red tape?

Ms. MCCARTHY. Well, we are working very hard to coordinate with the States——

Mr. HALL. I know you are working hard, but what steps are you taking?

Ms. MCCARTHY. We are working through our normal process of collaborating with the States to identify ways in which we can work together and provide technical assistance to get these permits up and running in a way that they are legally defensible and they also meet the requirements of the law.

Mr. HALL. According to the World Bank and International Finance Corporations, "ease of doing business" index, the United States ranks 34th in the world in the category of dealing with construction permits. Are you aware of that?

Ms. MCCARTHY. I am not aware of that figure, sir, no.

Mr. HALL. Or reconstruction permits under the Clean Air Act's, quote, prevention of significant deterioration——

Ms. MCCARTHY. Yes.

Mr. HALL [continuing]. Or PSD, as you all call it, the application process can take at least 1 year, correct?

Ms. MCCARTHY. It can, yes.

Mr. HALL. It can? It takes that, does it not?

Ms. MCCARTHY. That is the prescribed timeline in the Clean Air Act.

Mr. HALL. And there can be an administrative appeals process that lasts an additional 6 months or more, correct?

Ms. MCCARTHY. There can be appeals, and usually that appeal is productive in keeping things out of the court which can end up going considerably longer.

Mr. HALL. Has EPA taken any steps to expedite the process for obtaining pre-construction permits under the PSD program, and if yes, what are those steps?

Ms. MCCARTHY. We have taken recent steps, but one of the most important things that we have done is we provide guidance to States on how States are dealing with their permits, how they can take advantage of issues that have been resolved elsewhere. So as they are drafting their permits, they are more solid. They understand that they won't be technically challenged, and those challenges won't be successful. So we are working together to try to share information with you more quickly.

Mr. HALL. Well, I hope you are. In Arkansas, not far from my district in Texas, is a John W. Turk Plant. It uses, and listen to this, advanced ultra-super critical technology and is one of the cleanest and most highly efficient coal plants in the world. It came on line in December of 2012. Are you familiar with the Turk plant?

Ms. MCCARTHY. Somewhat, not totally.

Mr. HALL. Have you not visited it?

Ms. MCCARTHY. Say it again?

Mr. HALL. Have you not visited the Turk Plant?

Ms. MCCARTHY. I have not, no.

Mr. HALL. One this important as you make these steps that you are taking?

Ms. MCCARTHY. Well, I am sure I have folks that have been there, but that is not a trip I have yet made.

Mr. HALL. Could the Turk Plant be built under the proposed standards for new coal plants that you signed last September?

Ms. MCCARTHY. I am not familiar with what its output is in terms of its carbon pollution. I do know that ultra-super critical can be very, very efficient and they also can be easily adapted to look at whether carbon capture sequestration is available. So I can't answer this definitively, and I certainly will for you.

Mr. HALL. All right. I appreciate that.

Ms. MCCARTHY. But my sense is that it may be close but probably not there in terms of——

Mr. HALL. Thank you for that.

Ms. MCCARTHY [continuing]. Fuel facilities' requirements.

Mr. HALL. My time is running out. I just wanted to know what specifically does EPA believe the Turk Plant could do to further reduce its carbon dioxide emissions because you are all about that regulation, are you not?

Ms. MCCARTHY. Well, sir, the carbon capture sequestration is only for new facilities. It is not intended to be a measure of performance for existing facilities.

Mr. HALL. I thank you, ma'am.

Mr. WHITFIELD. Mr. Hall, I might just say, I have been to the Turk plant, and I have been told they cannot meet the new emission standards of the New Source——

Mr. HALL. Well, I think that is very sad.

Mr. WHITFIELD. At this time I would like to recognize the gentleman from Texas, Mr. Green, for 5 minutes.

Mr. GREEN. We need to make sure we are in line. Well, I want to thank the chair and the ranking member of our both Energy and Environmental subcommittees for holding this joint hearing on the EPA budget, and I want to thank our EPA Administrator for coming to Houston a few weeks ago. I did not realize that was the first time an EPA Administrator had come to the CERNA Energy Conference, and of course, there is no short of energy conferences in Houston. But that is one of the major ones, and I appreciate you being there.

Like a lot of my colleagues, I have concern with the Agency's budget proposal, particularly regarding the cuts in Superfund and SRF funding, programs of great importance to our industrial and blue collar areas like I have in Houston and East Harris County. Administrator McCarthy, because in Texas the State didn't agree to issue the GHG permitting, the EPA had to implement the Federal Implementation Plan during that time, and we have—a significant backlog was created when EPA had to issue the permits. When pending NSPS rules for power plants, does the EPA expect opposition again from the States' permitting these plants?

Ms. MCCARTHY. No. It seems to be going well. We did have concerns in Texas, and as you know, Congressman, you have been calling us about some of those permits, and we are working——

Mr. GREEN. That backlog——

Ms. MCCARTHY [continuing]. To advance the backlog.

Mr. GREEN [continuing]. Is getting brought down.

Ms. MCCARTHY. But we are working hand in hand with TCEQ to make this transition as smooth as possible, and we seem to be working well together.

Mr. GREEN. OK. Does the EPA have a plan for effectively implementing a Federal Implementation Plan, if that is an issue? I don't know if it is in other States or is it just Texas?

Ms. MCCARTHY. We have no plans at this time, and things are going well.

Mr. GREEN. Does the Agency plan to address permitting with the—my concern is of further reduction in staff and combined resources, how is the Agency going to handle that with reduced staff under the President's budget and resources?

Ms. MCCARTHY. Well, we are looking at a number of different types of approaches both that we would use through voluntary measures and others to monitor facilities more effectively using new technologies so that we can make sure that we keep abreast of compliance issues. We are going to work hard and we are going to figure out how we can use new technologies and practices to do the work that we need to do.

There is no question that it is challenging to keep up with the workload, and I don't doubt that. But there is a reality in the budget that we are trying to face here, and we are trying to change the way we do business so that we are as effective as we have always been.

Mr. GREEN. And in our area you know, delay of even longer keeps those permits from being issued——

Ms. MCCARTHY. Yes.

Mr. GREEN [continuing]. But that also keeps those jobs from being created in our community.

Ms. MCCARTHY. But we are shifting also, sir, some in our priority areas where we know that there is increased work. The President did increase our budget for climate-related activities. He is supporting additional funds for the State in that effort so that any work that we can anticipate escalating will get the necessary resources. So we have budgeted additional funds for that.

Mr. GREEN. Let me get back to the Superfund in the budget request. We have several superfund sites both in and around our congressional district including U.S. oil recovery in Pasadena, Texas, San Jacinto River Waste Pits which is on the San Jacinto River——

Ms. MCCARTHY. Yes.

Mr. GREEN [continuing]. Just east of our district now and the Cavalcade Street which is an older one. Unfortunately, this year's budget's Superfund request is the lowest in the last 12 years.

I know Superfund has been a priority for EPA. Do we know why the program was cut?

Ms. MCCARTHY. Sir, the Superfund program has been enormously valuable, and the President's fiscal year budget requests $1.157 billion which is really a maintenance budget. We would like to be able to increase that, but given fiscal realities, we are trying to make the best of our budget situation.

Mr. GREEN. So under the fiscal year budget proposal, the EPA would not have any money for new starts or new clean-ups?

Ms. MCCARTHY. I don't know the answer to that question. Let me get back to you on this.

Mr. GREEN. OK. One of the consequences of the sequestration cuts to the Superfund in fiscal year 2013 and 2014, was EPA able to begin any new projects during that period of time?

Ms. MCCARTHY. Could you repeat that? I am sorry.

Mr. GREEN. The sequestration cuts——

Ms. MCCARTHY. Yes.

Mr. GREEN [continuing]. To the Superfund, in fiscal year 2013 and 2014, was EPA able to bring any new projects on during that period of time?

Ms. MCCARTHY. I will get back to you on that as well, sir.

Mr. GREEN. OK. Mr. Chairman, I know I am almost down to the end of time, so I appreciate your courtesies. Thank you.

Mr. WHITFIELD. Thank you very much. At this time I will recognize Mr. Upton, the chairman, for 5 minutes.

Mr. UPTON. Well, thank you, and welcome again. As you may know, there are a couple of subcommittees meeting today at the same time, so we are moving back and forth. I really have just two questions, so I am going to ask them both and let you respond and then I will yield back.

One is a Michigan issue, and as you know, I have joined with both my two Senators Levin and Stabenow to try and seek the full removal of PCBs at the Allied Superfund Site there in Kalamazoo. And we are concerned a little bit about the—and we join the local community for sure. There are still a number of issues yet to be resolved for which the feasibility study failed to account, such as a lack of recent data and monitoring of wells on site, the availability of alternative remediation technologies and the reuse and redevelopment options. Can you assure us that these outstanding issues are going to be addressed before EPA issues the preferred clean-up options, and specifically, how is EPA going to account for the communities' redevelopment plans moving forward? That is question one.

Question two, as you know Mr. Waxman and I worked with many members of this committee to try and drive a consensus position on the RFS issue. We have done five white papers, a number of hearings, obviously bipartisan. We are looking for EPA to do their job as well. However, in recent years, EPA has been late in finalizing the rule, and in fact for 2014, EPA still has not finalized the rule, even though the deadline is usually November of the preceding year, as it is in this case. So when do you expect to finalize that RVO for 2014, and what are you doing to get back on schedule for 2015?

Ms. MCCARTHY. OK. Let me quickly answer your questions. We certainly, Congressman, have heard from you and a number of others about the Allied Paper site, and I need to take a close look at that and look at a variety of alternatives. As you know, we are going to be preparing a final clean-up plan for the summer. In advance of that, we are going to have a hearing in the middle of April to take some more comment on this. We are going to look at more water sampling there, and we will make sure that we listen to all the concerns and address them when we put that final clean-up plan together. And I appreciate all the concerns that all the Con-

gress and Senate has indicated to us but also the concerns of the communities around there.

On RFS, we are hoping for a June timeline. If I can do it more quickly, I would like to. We need to get those final levels out. We have certainly heard from many folks on the Hill here that they didn't appreciate some of the proposal that we put out, that they thought we could have done a better job. We got a lot of comments. A lot of good data came in, and we will be taking advantage of that in the final proposal.

Mr. UPTON. And do you think you will be back somehow on schedule for 2015?

Ms. MCCARTHY. That is a very good question. Hope springs eternal.

Mr. UPTON. You are not under oath.

Ms. MCCARTHY. I am hoping we can do better. One of the things that we tried to do with this proposal was to try to provide more certainty moving forward. I think these big fluctuations and the levels tend to provide uncertainty in the investment community, and we certainly don't want that to happen.

Mr. UPTON. Thank you. Yield back.

Mr. WHITFIELD. The gentleman yields back. At this time I recognize the gentleman from California, Mr. Waxman, for 5 minutes.

Mr. WAXMAN. Thank you, Mr. Chairman. On Monday, the Intergovernmental Panel on Climate Change, or IPCC, released its multi-year report on the state of climate science. The world's leading scientists examined the peer-reviewed science and confirmed that climate change is already happening on , quote, all continents and across the oceans and will get much worse if we do not act.

The report has been called a tale of two futures because we are at a crossroads. We have a choice to make. We can seize the moment by taking action to avoid the worst impacts of climate change and realize the benefits of transitioning to a clean energy economy, or we can decide, Mr. Chairman, not to act. The result will be runaway climate change with reduced crop yields, more heat waves and disease, decreased water availability, more extreme weather events and the mass extinction of many of the world's species.

Administrator McCarthy, do you believe that there is an urgent need to act and that our actions now will determine whether we avoid the worst impacts of climate change?

Ms. MCCARTHY. I do, sir.

Mr. WAXMAN. Yet we hear a litany of arguments for why we shouldn't act. Some opponents of action argue that humans are not causing climate change. Should this argument persuade us?

Ms. MCCARTHY. No, sir.

Mr. WAXMAN. The IPCC says that there is at least a 95 percent chance that humans have been the dominant cause of observed warming. And yet, that is not enough for this committee to feel the urgency.

We have heard the claim that climate change has no cause. Does the science support this argument?

Ms. MCCARTHY. No, sir.

Mr. WAXMAN. The IPCC says that there will be significant economic impacts from sea level rise, flooding, extreme weather

events, extreme heat, food insecurity and reduced access to drinking water.

We often hear the claim that the U.S. emissions in the energy sector are lower than they have been in recent years. The implication is that no further action to reduce emissions is required. According to the world's leading scientists, is this implication true? Are we on track to avoid the worst impacts of climate change?

Ms. MCCARTHY. No, we are not, sir.

Mr. WAXMAN. Your answer is persuasive because much larger emission reductions are going to be required than we have been seeing recently, which probably has a lot more to do with our economic decline during the difficult times.

Opponents of action also argue that requiring coal-fired power plants to control their carbon pollution is part of a war on coal. Is that accurate? Is there any way we can reduce our emissions by enough to avoid the worst impacts of climate change without controlling carbon pollution from power plants?

Ms. MCCARTHY. Power plants are the largest stationery source of carbon, and it represents about a third of what we emit. It needs to be addressed.

Mr. WAXMAN. The loudest voices against taking action have offered no alternative plan to protect our children and grandchildren from the ravages of climate change. Now, Mr. Chairman, it is time to choose our path. We could accept all of these excuses for inaction and do nothing. The result would be a climate catastrophe. Or we could choose to act now to address climate change.

Administrator McCarthy, you are proposing to take reasonable action to address this threat, and you have my full support. I would be happy to yield to any of my colleagues on either side of the aisle because I have a minute left. If not, I will yield it back, and thank you, Chairman.

Mr. WHITFIELD. Thank you, Mr. Waxman. At this time I recognize the gentleman from Illinois, Mr. Shimkus, for 5 minutes.

Mr. SHIMKUS. Thank you, Mr. Chairman. It is great to have you here, Administrator.

Ms. MCCARTHY. You, too.

Mr. SHIMKUS. In January, EPA entered a settlement agreement regarding coal ash in which the EPA agreed to finalize the June 2010 proposed rule by December of this year.

Ms. MCCARTHY. That is right.

Mr. SHIMKUS. Will the Agency meet that deadline?

Ms. MCCARTHY. Yes, we will.

Mr. SHIMKUS. Does the Agency intend to finalize the rule under subtitle (d)?

Ms. MCCARTHY. I can't answer that question, sir. The final proposal hasn't yet been developed.

Mr. SHIMKUS. You understand our concern with the subtitle (d) issue in that——

Ms. MCCARTHY. I certainly do.

Mr. SHIMKUS. It is our analysis, there is no statutory authority to implement an enforceable permit program. Does the Agency have a strategy for addressing that tissue?

Ms. MCCARTHY. Well, that is part of the consideration, the development of the final rule.

Mr. SHIMKUS. Thank you. Now I want to turn to TSCA which we talked about a little bit before the hearing opened. What is the EPA budget to carry out TSCA in fiscal year 2015?

Ms. MCCARTHY. Let me take 1 minute to pull that out. Thanks.

Mr. SHIMKUS. And then the follow-up is how does that compare to 2014?

Ms. MCCARTHY. EPA has identified $86.4 million and 332.6 FTE for the TSCA program in the fiscal-year-enacted budget. This request is $90.4 million and 321 FTE. So it is an increase, sir.

Mr. SHIMKUS. How many work plan chemicals has EPA completed action on so far and how many in fiscal 2014?

Ms. MCCARTHY. We have issued five draft work plans for peer review. We are going to finalize those five in 2014. We have plans to release draft risk assessments for 19 additional by the close of 2015, and 10 of those are expected to have been made final.

Mr. SHIMKUS. OK. Do you use current authority to collect user fees to carry out TSCA?

Ms. MCCARTHY. Yes. We actually—TSCA provides limited authority for us to collect user fees. It restricts the amount that we collect per submission, and it requires those funds to go to the Treasury.

Mr. SHIMKUS. And can you tell me, and if not later for the record, how much of the current budget is offset by user fees?

Ms. MCCARTHY. It does not go back to EPA. So I do not know. Oh, I am sorry. I believe this year we anticipate $1.8 million as collected for new chemical submissions in a year. That is generally on average.

Mr. SHIMKUS. EPA reviewed some 1,200 chemicals in prioritizing 83 substances for the Work Plan Chemicals Program. Does EPA have the expertise and the capability to prioritize substances in commerce for further review and assessment?

Ms. MCCARTHY. We have capability of doing that, yes.

Mr. SHIMKUS. And the follow-up here is how quickly can that prioritization be done?

Ms. MCCARTHY. I can get back to you, sir. But as you know, there are 10,000 chemicals we are trying to deal with. The numbers we are talking about will not get us there, which is why we are looking at other capabilities and screening tools that we can develop.

Mr. SHIMKUS. Yes, please talk—I think that is a great point. Obviously, I am kind of deep in this debate.

Ms. MCCARTHY. Yes.

Mr. SHIMKUS. So do you feel prioritization is critical in trying to resolve this backlog and really answer questions?

Ms. MCCARTHY. I think it is important because we have—TSCA provides us some authority, certainly not to address the issue as robustly as we would like. We are looking at new technologies for prioritization based on the information we have today. We are also looking at a new technology that we are working in a very robust and transparent way to look at a computerized toxicology screening process that people think there is great value in. We will see. We are going through appropriate review of that.

Mr. SHIMKUS. Right.

Ms. MCCARTHY. But there has to be a better way for us to target our resources more effectively to protect public——

Mr. SHIMKUS. And the toxicologists are really asking for us to use sound science in our ability to do this, and I would encourage you as we work through this process, prioritization, I think it is a have-to, and this is something we can do.

Let me just take my remaining 20 seconds to just—I live in the St. Louis metropolitan area, although this is really a Missouri issue. But since I am on this committee, I would also like for you just to take a quick look or get briefed if you have not been on the Bridgeton landfill and the West Lake landfill, the Senators from the State of Missouri and my congressional colleagues. It is an interesting dilemma, and if you haven't been briefed on it, it probably is worth your while to do so.

Ms. MCCARTHY. Sounds fascinating.

Mr. SHIMKUS. I yield back my time. Thank you, Mr. Chairman.

Mr. WHITFIELD. The gentleman yields back. At this time I recognize the gentleman from California, Mr. McNerney, for 5 minutes.

Mr. MCNERNEY. Thank you, Mr. Chairman. I want to thank the Administrator for serving at the EPA in a time of difficulty and sometimes hostility.

Ms. MCCARTHY. Opportunity as well, sir.

Mr. MCNERNEY. Section 319 of the Clean Air Act defines an event as an exceptional event if it affects air quality, if it is an event that is not reasonably controlled or preventable and is an event caused by human activity. These are events which the EPA believes normal planning would not be applicable. And now California is in its third straight year of drought. Droughts tend to make air quality worse by having increased dust levels, by wildfires and there is no water to wash that away. Are droughts included in the EPA's list of exceptional events?

Ms. MCCARTHY. The event itself is what we analyze, but we are certainly aware that drought can exacerbate these exceptional events, and we work with States to identify and opportunity to work together to actually excuse those if you will from being calculated as part of their attainment demonstration.

Mr. MCNERNEY. What length of time do you think the EPA would consider appropriate then when making exception in this case or these cases?

Ms. MCCARTHY. Well, we work with the States to identify what kind of data we need, and then we work very hard to go through that data and provide decision points for them.

We actually have done some really big improvements in how we work with States on these exceptional events, most notably wind events. We have recently completed a review of how we do the exceptional events, what data we require to streamline that, and we have been able to get off the books a number of uncertainties that the States were concerned about. We are going to be tackling other issues like fire as well in the future so that we can make sure that we recognize that the climate is changing, and we need a streamlined and more robust way of working on these issues together.

Mr. MCNERNEY. Good. Thank you. On another subject, last week the administration announced an interagency methane strategy.

One component involves reducing emissions from the coal and gas sectors.

Ms. MCCARTHY. Yes.

Mr. MCNERNEY. Why do you think it is important to reduce methane emissions?

Ms. MCCARTHY. Yes. Methane is an extremely intensive CO_2 or source of carbon pollution, and it is important for us to get at methane emissions. It is also an opportunity to actually have some real impact in the short term over the changes we are seeing in climate.

We are looking at that, and the President released a methane strategy, and that is a strategy that goes across the U.S. Government, and part of EPA's responsibility under that strategy is to look at the methane that is being emitted from landfills in context of our Clean Air Act obligations. It is also looking at coal mines. It is also looking at unconventional oil and gas development and how we can continue to work together as we have before to take advantage of new technologies that make the capture of that methane more effective.

Mr. MCNERNEY. Are these new technologies cost effective for the industry?

Ms. MCCARTHY. Well, we have already issued a New Source Performance Standard that captures the volatile organic compounds in the emissions from unconventional gas when hydrofracking happens. Part of that captures the methane as well. It is very cost effective. In fact, it is one of the few rules that EPA has done at least in my tenure that makes the obligated parties money.

Mr. MCNERNEY. Good.

Ms. MCCARTHY. It doesn't take it away because you can certainly reuse the methane and sell it.

Mr. MCNERNEY. Sure. As you know, we have conducted five hearings on the Toxic Substance Control Act. In one hearing, every single witness agreed the decisions on chemical priority should be based on human health safety, every single witness, 11 total. In your opinion, does the discussion draft, Chemicals in Commerce, put human health safety first or are other considerations given higher prominence?

Ms. MCCARTHY. Congressman, EPA hasn't done a complete assessment of any of the rules so far, but we are providing technical assistance to both the Senate and Congress on this issue. We will continue to do that, and we certainly have issued principles that put public health first and we would be evaluating consistent with those principles.

Mr. MCNERNEY. Well, it is important that the EPA have the authority in my opinion to evaluate chemicals. Would you agree that providing EPA with the necessary information of a chemical be mandatory before allowing it to enter commerce?

Ms. MCCARTHY. That is the law now, and I believe that it should remain the law, yes.

Mr. MCNERNEY. Very good. How can Congress best ensure that the EPA is provided with the resources it needs to test and classify these chemicals?

Ms. MCCARTHY. Well, we are requesting continued assistance under the current TSCA rule. We are also looking at developing

new tools as I indicated before to prioritize. We need resources to be able to do that. And we are encouraged that Congress is looking at TSCA with some seriousness, but we certainly know that there is a long way to go before we can rely on a new rule and we have work to do in the meantime and we will keep doing it.

Mr. MCNERNEY. Thank you. Mr. Chairman, I yield back.

Mr. WHITFIELD. The gentleman's time has expired. At this time, I recognize the gentleman from Nebraska, Mr. Terry, for 5 minutes.

Mr. TERRY. Thank you, Mr. Chairman, and coming from Nebraska I may have a little bit of an ag angle. So the first question is I read with interest over the weekend a new proposed dairy rule regarding dairy operations and methane. And I was just wondering if, in the proposed methane, to reduce methane emissions by 25 percent by 2020. You have a look like you don't know that, but it was an article that was in Friday and Saturday's papers.

Ms. MCCARTHY. What kind of rule is it? I am sorry. I did look a little befuddled.

Mr. TERRY. Yes.

Ms. MCCARTHY. I apologize. Everything I think comes out my face. I look a little——

Mr. TERRY. I share the same trait.

Ms. MCCARTHY. I looked befuddled because thankfully, you are not referring to anything that EPA has proposed. I do know that as part of the methane strategy, the USDA has identified a number of ways in which they think they can work with the dairy industry. We have been working with them all along on——

Mr. TERRY. Yes, the article——

Ms. MCCARTHY [continuing]. Methane digesters——

Mr. TERRY [continuing]. Said EPA was involved.

Ms. MCCARTHY. Only to the extent that we work on a voluntary program, not a regulation, to work with the farming community and agriculture, particularly dairy, where there are opportunities to have methane digesters so that you can recapture the methane, and they tend to use it for electricity generation on site.

Mr. TERRY. Yes, and I have seen some——

Ms. MCCARTHY. And that is entirely, not a rule-making.

Mr. TERRY. OK. And there is just a couple of concerns with that that I will lay out, so as part of that one of the concerns deals with the smaller dairy operations because the digester, they are very expensive. And so the feedback that I received over the weekend and on Monday was that if you are a dairy operation of about 300 head, then you can't meet that. So I just wanted to put on the table that requiring—because mostly when farmers hear voluntary, they know it is followed up with mandatory. That is their——

Ms. MCCARTHY. Well——

Mr. TERRY. You may be able to come up with instances it is not but——

Ms. MCCARTHY. I know I should never speak for one of my colleagues on the Cabinet, but I think I can safely speak for Secretary Vilsack that he is really talking about a collaborative process to take a look at how we can assist the dairy industry in this venture. No one at this point that I know of is talking about anything in a regulatory context.

Mr. TERRY. I hope not. I appreciate that but——

Ms. MCCARTHY. Me, too.

Mr. TERRY [continuing]. That is something I would resist. In that regard then also one of the other issues that is brought up a lot is the groundwater, and there is some proposed rule that is viewed in our ag industry and by me as another way to get at water runoff. There is a list of 50 rules that they can use to comply, and again, it is voluntary as I understand.

Ms. MCCARTHY. Let——

Mr. TERRY. Explain that, how that works——

Ms. MCCARTHY [continuing]. Me just quickly——

Mr. TERRY [continuing]. Because it sounds like a backwards way——

Ms. MCCARTHY. No

Mr. TERRY [continuing]. Of just trying to get around two previous Supreme Court decisions to——

Ms. MCCARTHY. No, it is actually trying to implement them. It is called the Waters of the United States, and we can spend some time on this if you would like——

Mr. TERRY. All right.

Ms. MCCARTHY [continuing]. And I would be happy to talk to your community on this. But I think we did a pretty good job. Number one, we made it very clear it does not regulate ground water. That is not its business. It is clearly stated. For the reason why, the same reasons you are raising it is to address those concerns. And the 50 practices are actually agricultural practices that we are defining as exempt from the jurisdiction from the Waters of the United States.

Mr. TERRY. Right.

Ms. MCCARTHY. And we are inviting a process for more of those to be identified. So we are doing the best we can to identify and to provide more certainty while allowing farmers to do the work they need to do for all of us.

Mr. TERRY. Yes, they would disagree with the certainty of what they have to do now. The other part is last week in a hearing there was a question about whether or not the agricultural exemptions apply to Section 404 or 402. Have you been able to clarify that for us as well?

Ms. MCCARTHY. Yes, 404 only.

Mr. TERRY. 404 only?

Ms. MCCARTHY. Yes.

Mr. TERRY. Very good. Last, this is a little snarky but it comes up a lot.

Ms. MCCARTHY. OK.

Mr. TERRY. What is the budget to rent for planes, to fly over feed lots in Nebraska?

Ms. MCCARTHY. First of all, we don't do drones, so the budget for that is zero. We do use flyovers at times to basically as a screening mechanism. I do not know what those budgets are, sir.

Mr. TERRY. All right. Thank you. I yield back my 4 seconds.

Mr. WHITFIELD. The gentleman yields back. This time I will recognize the gentlelady from California, Ms. Capps, for 5 minutes.

Mrs. CAPPS. Thank you, Mr. Chairman, and Administrator McCarthy, thank you for your testimony and for being here today.

I have a couple topics for sure I would like to get on the table, and the first one is off-shore fracking.

Ms. MCCARTHY. Yes.

Mrs. CAPPS. As you know, numerous fracks have taken place from off-shore platforms in Federal waters off the coast of California in recent years. Many of these fracks have been in the sensitive waters of the Santa Barbara Channel which is in my congressional district.

While we know very little about the impacts of on-shore fracking, we really know far less about off-shore. And that is why I called on the EPA and the Department of the Interior last November to place a moratorium on these off-shore activities until a comprehensive environmental review is conducted and considered.

I know EPA included new disclosure requirements in its most recent discharge permit for these off-shore platforms, and I commend you for taking this important step. But this is the catch right now. Much more is needed, and under this new general permit, operators only need to report the type and amount of chemicals in their wastewater after it has already been discharged into the ocean. As a result, regulators like EPA and the California Coastal Commission cannot review these discharges on a case-by-case basis in anticipation of the fracking happening, rather than after the fact.

So Administrator McCarthy, would you consider modifying this discharge permit to require a case-by-case review of these fracking discharges?

Ms. MCCARTHY. Well, the general permit that we issued under the law allows us to reconsider that and take a look at new data. We are more than happy to work with you. We think that the general permit that we put out was a sensible approach, given the authority that we have under the law. It also requires that the certain standards that are achieved in this effluent that is emitted that may contain hydrofracking, that that is appropriately tested to ensure that it doesn't damage aquatic life. But if you have concerns, we are always available to sit down and talk through those, and if changes are necessary, the law allows changes to be made.

Mrs. CAPPS. Great. And I do look forward to that. I think such a modification would be important and look forward to continued discussion on that topic.

Here is another topic. Climate change, as you know, is already having serious impacts on our environment, on our infrastructure and on our public health. Representing a coastal district as I do, I am particularly concerned by one of climate change's lesser understood impacts, ocean acidification.

Ms. MCCARTHY. Yes.

Mrs. CAPPS. The coastal communities in my district depend on healthy oceans and coastal ecosystems for their livelihoods, for recreation and much more. So changing ocean chemistry, particularly in the coastal zone where much of this economic activity takes place, has a direct impact on my constituents.

The just-released IPCC, Intergovernmental Panel on Climate Change, report on climate change highlighted several factors, including runoff and other pollutions, that are magnifying the impacts of ocean acidification at the local level.

What is EPA doing to identify coastal areas that are of particular risk for ocean acidification, and if you can, tell us what is being done or can be done to help make these communities more resilient going forward?

Ms. MCCARTHY. Yes. Yes, I think one of the most important messages from the recent IPCC, other than the increasing certainty around the science, it was the highlighting of ocean acidification as a clear concern. And we have, across the U.S. Government, a number of agencies who are on point to look at that issue, most notably NOAA, who has expertise and others, and we are working across the Federal Government at understanding the science and its implications.

On the resiliency side, every agency has developed an adaptation plan. We also have a Resiliency Task Force that is looking at this from a national level. We need to make sure that our communities at risk understand that risk, are prepared to act when risk happens and that also we are looking at the designs that we can put into our infrastructure that prevent water from creating the same kind of concerns that we have seen in the past. So we are working to mitigate carbon emissions. We are looking at also addressing, hand in hand with communities, how we can keep them safe in the face of a changing climate.

Mrs. CAPPS. Do you see pieces of the President's budget allowing for this? And also—you are nodding so I will take that as an answer——

Ms. MCCARTHY. Yes.

Mrs. CAPPS [continuing]. But also say to our chairman in conclusion that a hearing on climate change adaptation and resiliency or an aspect of that I think would be most appropriate for this committee because these Federal agencies, as the Administrator just said, are going ahead and working on it. I think we need to be apprised, but also there might be a role that we would want to play working with you. And I yield back the balance of my time.

Mr. WHITFIELD. The gentlelady yields back. Thank you. At this time I recognize Dr. Cassidy from Louisiana for 5 minutes.

Mr. CASSIDY. Welcome, Administrator.

Ms. MCCARTHY. Hello.

Mr. CASSIDY. I am from Louisiana, so as you might guess I am interested in the export of liquefied natural gas. Sempra has a plant that they are seeking approval for to build but need clearances. A Reuter's article yesterday spoke about how EPA had issued something to FERC asking them to consider whether approving LNG export would increase methane release, carbon footprint, if you will, by increasing the demand for more natural gas drilling.

Now this interests me in a couple ways. One, I think it reflects we know that natural gas is replacing coal which has a better carbon footprint than coal. Now, if EPA is objecting that there would be more gas released in the Haynesville shale of Louisiana, so therefore we shouldn't do it, in my reading it seems to reflect a limited understanding of the positive impacts that it has, not just on our U.S. economy creating jobs for those who do not have but also on the world economy and frankly on the carbon footprint of the

world economy. Any thoughts on that? I mean, why would EPA be weighing in on this?

Ms. MCCARTHY. Congressman, actually EPA did not oppose any objection, and we didn't recommend that this needed to be done in any way. It was part of the normal environmental process in which we identify all impacts. And so we were not weighing in relative to whether this was good, bad or indifferent related to any other——

Mr. CASSIDY. Now, the first paragraph—so maybe I have a misunderstanding of the Reuter's article. The U.S. environmental regulator raised concerns that a Federal review of Sempra's Energy liquefied natural gas export project did not include an assessment of potential effects of more natural gas drilling. It goes on to say that, you know, increased natural gas extraction would potentially increase carbon footprint.

So even though the article is kind of written to construct that you were opposing if you will——

Ms. MCCARTHY. No, we raise this type of—it is just raising that these are part of the things that you might think about. We did not recommend it. We did not make an argument for it, and it is something that we raise in many of our environmental assessment reviews.

Mr. CASSIDY. OK.

Ms. MCCARTHY. I think they might have put it in a much stronger context and clearly did than EPA raised it.

Mr. CASSIDY. Then let me ask you this. I visit the Petra chemical plants in South Louisiana which made gasoline, for example, for Northeast United States.

Ms. MCCARTHY. Yes.

Mr. CASSIDY. And they pose an interesting question. EPA has demanded that sulfur be extracted from oil, but it takes natural gas to do so and it raises the carbon footprint of the facility to—the process of extracting the sulfur raises the carbon footprint of the community or of the facility. And they really feel like they are getting caught both ways. On the one hand, they have to extract the sulfur, but on the other hand, you increase your carbon footprint. Again, your thoughts on that?

Ms. MCCARTHY. Well, actually, if you take a look at the rule that we did which is called Tier 3, it looks at and recognizes these tradeoffs, but it also recognizes that the low-sulfur fuel provides an opportunity for tremendous greenhouse gas reductions in vehicles because it opens up opportunities for better catalytic converters, better engine technologies.

Mr. CASSIDY. I totally get that. So my understanding——

Ms. MCCARTHY. So on the whole, right now, I think we understand that the refineries have weighed in on this issue. We have considered it. It is in the assessment, and I think we have appropriately addressed it. And no refinery right now is being——

Mr. CASSIDY. Tasked?

Ms. MCCARTHY [continuing]. Tasked with taking a look at this issue individually.

Mr. CASSIDY. Now, let me ask you because also, and again, I don't know, I am asking.

Ms. MCCARTHY. Yes.

Mr. CASSIDY. Sometimes they have to get a permit from one of your regional offices in order to expand capacity. But again, if they are having to raise their carbon footprint——

Ms. MCCARTHY. No.

Mr. CASSIDY [continuing]. In order to lower sulfur, is this taking into account the kind of whole system approach? Well, wait a second. Yes, you have done that. You have lowered the carbon footprint of vehicles, so therefore we will allow you a higher carbon footprint at the facility. Is that what is being said?

Ms. MCCARTHY. Well, the good news is I think, Congressman, that in our assessment in working with the refineries themselves, the facilities don't need to make large capital investments and——

Mr. CASSIDY. But I have been told at least locally——

Ms. MCCARTHY. If they do for pollution control equipment, there are appropriate exemptions for that, and we work through them.

Mr. CASSIDY. At least in times past there have been limitations on the expansion of some of the facilities in my district because of concern over greenhouse gas emission. And so again, my concern is that one set of restrictions is setting them up to be denied the ability to expand.

Ms. MCCARTHY. I am happy to work with you on it if there is an instance where this is coming up.

Mr. CASSIDY. OK.

Ms. MCCARTHY. I am not aware of it, but we will work through it.

Mr. CASSIDY. Thank you, Ms. McCarthy.

Ms. MCCARTHY. Thanks.

Mr. WHITFIELD. At this time I would like to recognize Dr. Christensen from the Virgin Islands.

Mrs. CHRISTENSEN. Thank you, Chairman Whitfield. Good morning, Administrator McCarthy and welcome.

Ms. MCCARTHY. Good morning.

Mrs. CHRISTENSEN. You know, I appreciate the efforts being made to streamline the Agency and to meet your missions, yet that mission of protecting the public health and the environment. But there are many in the House and on this committee who would rather just starve EPA to death, and considering that your budget is lower as I understand it than the 2003 enacted budget just seems to help that process.

Back home in St. Croix in my district in the USVI, one of my high schools is closed after noxious fumes sickened children and teachers, and individuals were sent to hospital, and that was the third time in a month. EPA has responded, and we thank you for that. But we need to know that you will be able to respond if this happens again this year, next year or the year after and that you would be able to help us with providing monitoring that would be long-term monitoring because that is not the first time this has happened either at this school or in the surrounding communities.

The budget with the decreases don't give me that assurance. In your testimony you say that the budget furthers environmental justice efforts, and we are glad to hear that you, too, and you partner with the States and the tribes and I am assuming—I shouldn't assume. I hope that includes the territories.

But many districts like mine are struggling with economic downturns and budget deficits. So we don't have much to contribute. How successful do you think EPA can be in furthering its commitment to environmental justice and other priority goals given that many States and territories just don't have the resources?

Ms. McCarthy. Well, I think the good news in this budget is that we have increased our request for these categorical grants, the STAG grants that go to our States, and certainly it will impact your community as well. But we also are really focusing on prioritizing our efforts in a couple of different ways. One is the issue of environmental justice, and it is important for us to recognize because these are challenges that are not only a fairness question but they point to areas where our intervention would be most beneficial from a public health perspective. So we are working very hard to get the tools and the policies in place that help us prioritize and direct our efforts in that way.

But part of the challenge here is we have to recognize budget realities, and we are trying to do that. But at the same time we are trying to take advantage of new technologies and practices so that we can have our people available to answer when schools call and not be at every facility measuring the stack. There are new technologies that can help us remotely monitor. We have an E–Enterprise system that is going to get us out of paperwork and into this century to do electronic data exchanges and to have that data publically available.

This is a whole new way that we are trying to shift our ability of our Agency to understand the value of new technologies and how they can change the way we do business so that human beings see human beings when they need to.

Mrs. Christensen. Well, thank you. I am somewhat reassured by your response, and I hope that at the very least, you get all of the budget that you are asking for. But I would have preferred——

Ms. McCarthy. I know.

Mrs. Christensen [continuing]. To see some more. Another area, a proposed cut that is most troubling is the defunding of the Beaches Protection categorical grants and the implications of this are coastal economy and public health. We rely on our beaches and oceans as a source of recreation but also as a major economic driver. In 2011 alone there were 23,481 beach closures and advisories issued in this country, and if we stop conducting beach sampling, it will be impossible for us to know of pollution problems, and as a result we won't be able to address them. And cutting these important funds could mean fewer tests for bacterial levels and fewer people informed when the water is unhealthy.

In my district close to 3 million visitors come to our shore by air and cruise, and about that number came in 2013. And that is a lot of people to be affected, and this doesn't even factor in the residents who depend on these resources the most.

So Administrator, there have been some discussions that State-level organizations are expected to begin to take on these efforts. Has EPA done any analysis of how defunding the beaches program will affect States and territories and do we know if localities are prepared to assume this important responsibility?

Ms. MCCARTHY. Yes, I am more than happy to provide you with additional background on that. We have three program eliminations in this budget that total $37 million. One is our radon grants to States. The second is the Beach Monitoring Program, and the third is the DERA fund, our Diesel Emission Reduction fund. And you know, these are difficult choices for me, and I know that they will be. At least the thinking behind the Beaches Monitoring Program is that there is a level of expertise and technology that has been built up in States that can allow this transition to happen. It also is in the context of a $76 million increase in categorical grants on the whole to States that we hope will be prioritized by those States effectively.

But I understand that there are concerns raised on these issues, and I will certainly wait to hear from Congress in terms of their understanding of these and whether or not this is the appropriate way to do our budget.

Mrs. CHRISTENSEN. Thank you. Thank you, and I yield back.

Mr. WHITFIELD. At this time I recognize the gentleman from Louisiana, Mr. Scalise, for 5 minutes.

Mr. SCALISE. Thank you, Mr. Chairman. I appreciate you having this hearing, and Ms. McCarthy, Administrator McCarthy, I appreciate you being here with us to talk about the budget and obviously the impacts that that budget will have.

When I look at your budget, it seems EPA spent a significant portion of that budget on rule-making activities. In your testimony you say that EPA will focus resources on developing achievable greenhouse gas standards for power plants.

Now, when I look at the track record that EPA has had on the rule-making and especially on projections on the kind of impacts those rules would have, it raises some serious questions. I want to ask you, in 2012, EPA said that its utility MACT rule would not result in significant plant shutdowns. On February 8 of 2012, you testified that EPA's analysis showed that only 4.7 gigawatts of capacity would be retired as a result of utility MACT when in fact I think you further said that removal of this capacity "will not adversely affect capacity reserve margins in any region of the country."

And so when you look at the reality of utility MACT, it is responsible for hundreds of coal plants being shut down nationwide. In fact, a group has estimated that nearly 51 gigawatts, or about 330 coal units in 30 different States, have been shut down or converted into a different fuel because of the EPA's rule. So when you projected in 2012 4.7 gigawatts would be retired, in fact, the numbers show it is closer to 51 gigawatts. In fact, the U.S. Department of Energy estimates that approximately 54 gigawatts of coal-fired capacity will retire by 2016.

So when you look at this track record, as you all make rules, it seems your predictions of what will happen are so far off and to the detriment of American consumers. When these coal plants are being shut down, people are paying more for their electricity because of the results of your actions. So you are out there making all these rules. You are making all these projections of what these rules will do and the impacts have, and it seems that you are so

far off. So can you explain EPA's failure to accurately assess the real-world implications, especially as it relates to utility MACT?

Ms. MCCARTHY. I am happy to talk about this. The numbers that you are quoting are numbers of closures that result both from the increased inexpensive natural gas, the inability for coal in many areas to compete and consumers wanting to spend less money for their electricity, much more than it is accountable to one particular rule, in this instance.

Mr. SCALISE. So you are saying that these coal plants that are being shut down aren't because of your rules?

Ms. MCCARTHY. That is correct. The vast majority——

Mr. SCALISE. That is what they are saying, if you are listening to what people are saying in the real world.

Ms. MCCARTHY. That is what I am saying, is that what we estimated was the incremental impact from MACT, we did not say that there wasn't a transformation in the energy world——

Mr. SCALISE. I mean, President Obama himself said——

Ms. MCCARTHY [continuing]. Wouldn't change.

Mr. SCALISE [continuing]. That he wants to bankrupt coal. It is not like there is some secret out there.

Ms. MCCARTHY. Who said that?

Mr. SCALISE. President Obama when he was running for president. He talked about, you know, utility costs skyrocketing——

Ms. MCCARTHY. I think the President has been clear in an all-of-the-above strategy, and that includes——

Mr. SCALISE. All of the above? He is against everything below, it seems in his strategies. When you look at what is happening with coal, I mean, I hope you are not trying to say there is not a war on coal? I mean, there is clearly a war on coal.

Let me read you a quote from Barack Obama. I mean, you are putting words in his mouth. The problem is he said things very different, and he is pushing things very differently. In fact, you are carrying things out differently than what is being purported. The President said, "So if somebody wants to build a coal plant, they can. It is just that it will bankrupt them because they are going to be charged a huge sum for all that greenhouse gas that is being admitted." That is was Barack Obama in 2008 when he was running for president. He said, "It is just that it will bankrupt them" to build a coal plant.

So clearly, he has had this agenda for a long time, whether you recognize it or not.

Ms. MCCARTHY. Mr. Scalise, the Mercury and Air Toxics Standard is a standard on toxic emissions like mercury and arsenic. It has nothing to do——

Mr. SCALISE. Well, let me ask you this——

Ms. MCCARTHY [continuing]. With greenhouse gas——

Mr. SCALISE [continuing]. Because we are talking about greenhouse gas emissions and you know, it used to be called global warming.

Ms. MCCARTHY. Yes.

Mr. SCALISE. And then all of a sudden we had the worst freeze ever. I mean, it was so cold a couple of weeks ago the polar bear could not go outside in Chicago because it was so cold. So now the term is no longer global warming, it is climate change.

You got Secretary of State John Kerry, climate change is as big a threat as terrorism, the Secretary of State saying climate change is as big a threat as terrorism. We are running coal out of this country, coal jobs, the coal itself. It is going to foreign countries, by the way, that emit more carbon than we do here in America today without all of your standards that you are trying to change that are killing jobs, jacking up people's electricity rates. The impacts are so devastating.

So do you at least acknowledge that if that coal that used to be burned here to provide fuel is being shipped to another country, and in many cases they are emitting four or five times the amount of carbon in those other countries, do you have a concern about the impact on the climate when those policies are actually resulting in even more carbon being admitted into the atmosphere when you run those jobs to other countries?

Ms. MCCARTHY. I have two concerns. One is the concern to do what I can within the authority of the law that is technically available to reduce carbon pollution in the United States, and I have a concern that that provide the United States an opportunity to leverage additional reductions internationally so we can have a comprehensive, global strategy to address what I believe is——

Mr. SCALISE. So what is happening in the real world, you are not concerned that it is devastating our economy and it is actually increasing the amount of carbon emitted in the atmosphere because those other countries emit even more than is done here.

Mr. WHITFIELD. The gentleman's time——

Mr. SCALISE. Well, it is the real world. I yield back——

Mr. WHITFIELD. The gentleman's time is expired.

Mr. SCALISE [continuing]. The balance of my time.

Mr. WHITFIELD. At this time I recognize the gentleman from Ohio, Mr. Latta, for 5 minutes.

Mr. LATTA. Thank you very much, Mr. Chairman, and Administrator, thanks very much for being with us today. I really appreciate you being here to answer questions today.

And I know some of the members on this committee have heard me say this before, but I always like to talk about what my district looks like and the concerns that we have back home.

I represent 60,000 manufacturing jobs. Interesting enough, I also represent the largest agricultural district for the State of Ohio. And when I go out and literally meet with the hundreds of businesses that I have seen and talked with over the last couple of years that the number one issue that I always hear from my businesses out there is on regulations. That is the top question, problem, they run into.

But when I ask them, OK, what regulations are you always talking about, it always comes down to the EPA are the toughest things for them to have to try to comply with. And so as we are talking about those issues out there, one of the things of course that comes up, we want to have people expanding their businesses and employing more people. And the question then is would you agree that it is more difficult for these businesses that I have and across the Nation like this to build new factories or manufacturing facilities in areas that don't meet the national Ambient Air Quality Standards?

Ms. McCARTHY. There are different requirements. Whether it is more difficult or not I can't answer, sir.

Mr. LATTA. Well, let me go on because—for example, it is easier to build a factory in an area that meets those existing ozone standards than the nonattainment area, and you know, especially when I look around Ohio, one of the interesting things is you can be in one county and be out of attainment and literally put a factory across that next county line and be in attainment. Now, I don't want to say that I want to see that county that was able to get that factory to say, well, let us put them out of attainment. But these are the things that, you know, these businesses are facing out there, and I want to also make sure that we can get the folks out there to employ more people.

And is the EPA currently considering lowering the existing ozone standards?

Ms. McCARTHY. We are currently in the process of doing the 5-year review that is required under the Clean Air Act, and it is now being currently considered by the Clean Air Science Advisory Committee.

Mr. LATTA. OK, and if the EPA does lower the standards, will that expand the number of areas in the country that are going to go into nonattainment?

Ms. McCARTHY. Sir, we will have to take a look at what the Clean Air Science Advisory Committee says and what the data says, and we will see what the decision of the Administrator has.

Mr. LATTA. OK, so if we see more going in there, so we are going to have it that more areas in the country, it is going to be much more difficult to build more factories that are going to employ more people if these standards are lowered. Is that correct?

Ms. McCARTHY. I can't answer the question because there would be different standards that are required, but I do not know whether it would be more difficult for an industry to develop there as opposed to a place that is in attainment.

Mr. LATTA. OK. And even though, you know, in the State of Ohio, we have been very fortunate with the Utica shale being developed in the eastern part of the State, Ohio is still 78 percent coal-based in our electric generation. In 2010, the EPA proposed ozone standards that were subsequently withdrawn at the President's direction, but that would have placed 77 to 96 percent of the counties in the United States with ozone monitors in nonattainment. Is the EPA currently considering the same potential revisions to our ozone standards from that 77- to 96-percent level? Did you understand the question?

Ms. McCARTHY. I am sorry. I didn't exactly understand the question.

Mr. LATTA. OK. Back in 2010——

Ms. McCARTHY. Yes.

Mr. LATTA [continuing]. These were withdrawn, but at that time, under the President's direction, they would have placed 77 to 96 percent of the counties in the United States with ozone monitors——

Ms. McCARTHY. Oh, I see.

Mr. LATTA [continuing]. And nonattainment.

Ms. MCCARTHY. I see. This is what I do know, is that the policy assessment in the Clean Air Science Advisory Committee is looking at ranges that are not dissimilar to what the reconsidered proposal was looking at, and I do not know what that would translate into in terms of nonattainment areas because that is always based on the last 3 years of certified data. So I can't exactly say, but it is a similar review that is going on now to what we looked at during the re-proposal.

Mr. LATTA. OK. Well, let me just follow up then because do you then think that that would be acceptable to adopt those revised ozone standards that would put let us just say 96 percent of the counties with ozone monitors in nonattainment, or at 77 percent?

Ms. MCCARTHY. It is not acceptable or unacceptable, sir. I wouldn't be making a decision on the basis of the science related to what the protective standard needs to be under the law.

Mr. LATTA. Mr. Chairman, I see my time has expired, and I yield back.

Mr. WHITFIELD. The gentleman yields back. At this time I recognize the gentleman from New York, Mr. Engel, for 5 minutes.

Mr. ENGEL. Thank you very much, Mr. Chairman, and welcome, Administrator McCarthy.

Ms. MCCARTHY. Thank you

Mr. ENGEL. Thank you for the good job you are doing, Ms. Froehlich, as well. I have three issues. I am going to see if I can talk fast and get them all in, but one is about fracking in my home State of New York——

Ms. MCCARTHY. Yes.

Mr. ENGEL [continuing]. And Upstate New York. It is a big point of contention. Some say it will create lots of jobs. Others are worried about the safety of it. Some argue that the EPA's real goal is to prevent or slow natural gas development in the United States. Some say that additional studies aren't necessary given industry's long track record of using this technology. So how do you respond to those things and how will the hydraulic fracking study help achieve, you know, the objective that it is supposed to achieve?

Ms. MCCARTHY. Well, the President I think has made it clear that the process of fracking has really opened up opportunities for clean, natural gas, but it has to be done safe and responsibly. And what EPA is doing right now is the research it needs to do to understand what the potential impacts are to ground water as well as looking at what technologies are available to support the recapture of methane so that we are addressing that as an intensive climate-warming compound. And we will keep working through these issues. But we are trying to establish the science foundation that we can share with the outside community to ensure that natural gas is done safe and responsibly.

Mr. ENGEL. Thank you. I have a very parochial issue involving my district. It is the Hillview Reservoir, and in accord with Federal Long-Term 2 Surface Water Treatment Rule, the EPA sought to have New York City——

Ms. MCCARTHY. Yes.

Mr. ENGEL [continuing]. Build a concrete cover over the Hillview Reservoir in Yonkers. My district goes from New York City through Yonkers. That reservoir is in my district. I was one of several mem-

bers of the New York delegation that wrote to Administrator Lisa Jackson urging a waiver of the regulation as it applies to Hillview, and EPA subsequently agreed to initiate a review process for the regulation requiring covers on reservoirs such as Hillview.

So I am wondering if you could please provide me with an update or at least get back to me on the status of that review process?

Ms. MCCARTHY. I do know that this issue has come up to everybody's attention that Region 2 is working with New York City on it, but I will provide you an update on how the rule is being looked at.

Mr. ENGEL. There are just some mandates that just don't make sense that are—

Ms. MCCARTHY. Yes.

Mr. ENGEL. —costly, and the benefits are very, very minor compared to what the cost is.

Ms. MCCARTHY. We are just trying to get at the public health impacts, and if there is a better way to do that, we will be wide open to it.

Mr. ENGEL. All right. Thank you. And my last one is about revolving funds. States are able to provide low-cost financing for a wide range of water quality infrastructure projects through the Clean Water, and Drinking Water State Revolving Funds in New York has received lots of money through the years to protect our watersheds and make upgrades and repairs to our sewer systems. I certainly support all of that.

But despite these investments, EPA's most recent drinking water infrastructure needs survey indicates that New York will require approximately $29 billion over 20 years to ensure continued delivery of safe public drinking water. New York has aging sewer and water systems. They are in desperate need of repair and upgrade or they will pose significant environmental and public health problems. So I think that is important. It also represents an economic opportunity because we can put several thousands in New Yorkers back to work over the next several years helping to do that. But when we look at the President's fiscal year 2015 budget, it proposes a $580 million reduction to the State Revolving Funds from this year, and I think that is not obviously very good. So I want to just say that.

And I want to also ask you setting aside environmental and public health issues, please explain the economic and jobs benefits of investing in water infrastructure, and tell me how these cuts to the State Revolving Funds would impact these benefits.

Ms. MCCARTHY. Yes. We have had to make some difficult choices. Clearly the State Revolving Fund is important for public health as well as for jobs. I mean, clearly it keeps people employed. It prevents major illnesses from occurring. It helps protect our rivers and streams and natural places. So it is extremely important.

But the choices we needed to make are ones that I know that you will consider strongly. But we had to look at how we have been capitalizing this fund, what opportunities there are for the revolving fund payments to be in the system and also supporting this effort and also recognize that this administration over the past 5 years has already invested $20.7 billion in SRF. That compares to

8 years of history in the prior administration were $17.2 billion has been invested.

Now, that doesn't mean that me, individually, wouldn't like to see lots more money to this effort for public health purposes and certainly because of the economic growth. But there are difficult decisions to be made. We did the best we could, and we will certainly listen to what Congress says.

Mr. ENGEL. Thank you very much. Thank you, Mr. Chairman.

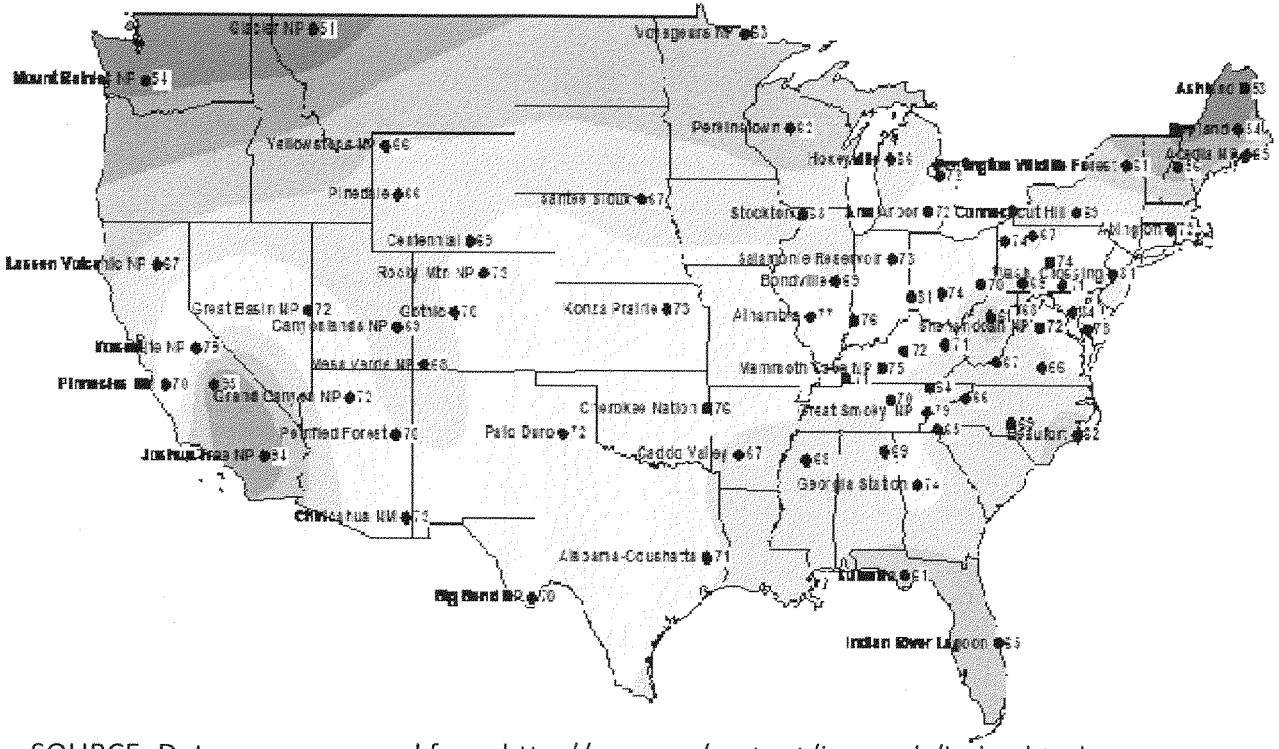
Mr. WHITFIELD. Thank you. At this time I recognize the gentleman from Texas, Mr. Olson, for 5 minutes.

Mr. OLSON. I thank the chair, and Ms. McCarthy, I would like to keep the conversation going that my colleague from Ohio, Mr. Latta, had about NAAQS, National Ambient Air Quality Standards and ozone. America has come a long way in improving air quality, but counties nationwide are hitting the limits of what they can do. VOC offsets are now $238,000 per ton in my home State of Texas, and that is if they can get the offsets. Without offsets, new factories, new power plants and almost anything new that creates jobs becomes impossible. If you stop cutting the fat, you are cutting to the bone. And EPA's rules are getting tougher. EPA recently pushed the particulate standard lower. Ozone is next. EPA is headed to court next week to settle with the environmental activists on a new ozone rule. It should be out by December.

EPA is looking to lower the ozone standard from 75 parts per billion to as low as 60 parts per billion. A few years ago, your cost estimate, yours, for doing that was $90 billion per year, almost $1 trillion over 10 years. That is a killer for the economy.

Please pull up the slide for me, my friends.

[The information follows:]



SOURCE: Data were accessed from http://epa.gov/castnet/javaweb/index.html on February 20, 2013

A. Hendler, URS Corporation, Austin, TX

Mr. OLSON. Here it comes. This slide shows the few counties that meet the 60 billion parts-per-billion rule. Only five national parks would be in attainment at 60 parts per billion. Even at 65 parts per billion, this will likely be the most expensive rule in American history.

We can only cut emissions so far. Natural sources, like forest fires and lightning, create these pollutants. We have foreign sources, too. Next slide, please.

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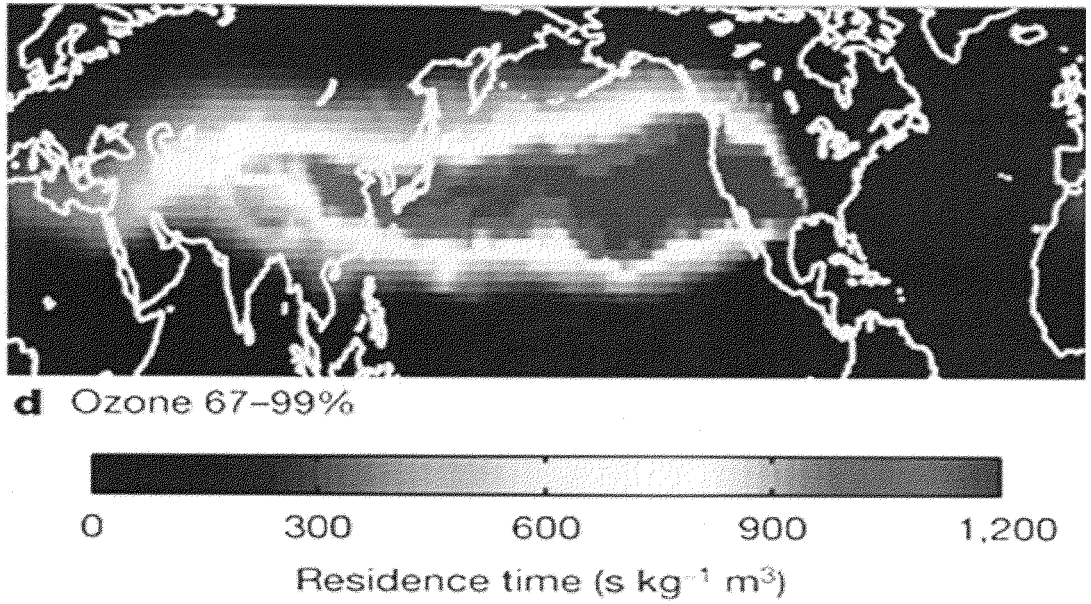

SOURCE: Cooper, O. R., Parrish, D. D., Stohl, A., Trainer, M., Ne´de´lec, P., Thouret, V. Cammas, J. P., Oltmans, S. J., Johnson, B. J., Tarasick, D., Leblanc, T., McDermid, I. S., Jaffe, D., Gao, R., Stith, J., Ryerson, T., Aikin, K., Campos, T., Weinheimer, A., and Avery, M. A., 2010, "Increasing springtime ozone mixing ratios in the free troposphere over western North America", Nature, Vol. 463, 21 January, 2010, doi:10.1038, nature08708.

Mr. OLSON. The New York Times declared, "A New East Asian Import: Ozone." This slide shows the tsunami of Chinese ozone swarming over our West Coast. Chinese pollution puts our homes out of compliance, even under the current caps. On top of all this, we still have to grow our economy. Communities can't create new jobs if they can't expand. In homage to Chairman Emeritus Dingell, I have some yes-or-no questions.

Will you commit to include in any NAAQS standards a proposal to keep the current standard? Yes or no.

Ms. MCCARTHY. I cannot make that commitment, sir.

Mr. OLSON. No commitment? OK. Is EPA allowed to consider economic costs in setting new NAAQS? Yes or no.

Ms. MCCARTHY. That answer is no.

Mr. OLSON. No? Will EPA consider job losses? Yes or no.

Ms. MCCARTHY. We will assess them.

Mr. OLSON. OK, and will EPA consider feasibility, economic feasibility?

Ms. MCCARTHY. In the establishment of the standard? No, sir.

Mr. OLSON. Will you do this before December? Yes or no. New standards before December?

Ms. MCCARTHY. I do not know, sir, because I don't know the results of the court case.

Mr. OLSON. OK. If I can just move on, ma'am, I am running out of time here. But we can't shut down the economy or energy production. We can't end natural and foreign pollution, and we all know it is impossible to have zero smog and zero particulate matter. So very briefly, does EPA have a way of striking the balance between air quality and achievability?

Ms. MCCARTHY. The Clean Air Act does not ask States to reduce background levels.

Mr. OLSON. OK. I want to follow up on a comment. You touched on this issue with my colleague from California about exceptional events, to get any relief from penalties if pollution is outside of their control. Of the 10 exceptional events waiver requests, my State is saying EPA has approved zero of them, zero. Other States have the same problems. Do you commit to having a follow-up conversation with this committee on the broken exceptional event system? Yes or no.

Ms. MCCARTHY. We are having those discussions with States as we speak.

Mr. OLSON. This committee then? This committee, commit to this committee, have these discussions right here?

Ms. MCCARTHY. I will wait on what the chair asks.

Mr. OLSON. OK. We will work on that. Thank you. I yield back.

Mr. WHITFIELD. Mr. Olson, thank you. I am glad you raised this issue because as you said, there are lot of areas out of compliance with the Ambient Air Quality Standard today, and they are going to make this more stringent. It is probably not going to be until after the election. But if you are not in compliance, then we know that economic development is hampered, and it is something that this committee needs to look at because we have some significant economic issues.

At this time I recognize the gentleman from West Virginia, Mr. McKinley, for 5 minutes.

Mr. MCKINLEY. Thank you, Mr. Chairman, and thank you, Ms. McCarthy for appearing before us again. Here is a question. We have already talked about CCS and boiler or coal ash and some of these other matters, so I won't get into that. But I am interested in the Spruce mine——

Ms. MCCARTHY. Yes.

Mr. MCKINLEY [continuing]. And the fact that for 44 years the EPA never used that authority to retroactively withdraw a permit that they have done in this case, and I guess the answer you just gave to the fact that you don't consider the economic impact before you make your decision and make a rule on it, I guess that comes into play because the consequences of that decision have a chilling effect, certainly not just in the coal industry but all industries that have a 404 or 402 permits. If they have to make those applications, you can pull them.

I have talked to a bunch of bankers, and they all said they are going to revisit their decision whether or not they will purchase any bonds or obligations if EPA for the first time now is entering in—they can pull a permit. So the consequences of your actions are detrimental to the economic growth here in this country.

I am surprised that you don't take that into consideration but I will just have to move on.

Ms. MCCARTHY. Congressman, I was trying to make a decision. The NAAQ standard is really a health-based standard where cost is considered in the implementation, not the standard itself. And so we certainly——

Mr. MCKINLEY. I really want to spend more time on the Clean——

Ms. MCCARTHY [continuing]. Where available——

Mr. MCKINLEY [continuing]. Water and safe drinking. That was more of a comment that I just hope you would be more considerate for the economic impact you are doing with some of the decisions.

But on the Clean Water and Drinking Act, I really want to amplify a little bit on what Engel and Tonko, their comments about that, and I think numbers of other people have made that same response. Do you agree with the President's priorities in his budget?

Ms. MCCARTHY. Yes, I certainly do.

Mr. MCKINLEY. This is a chart that I just wanted for everyone to maybe be able to get a grasp.

You made me suck in my breath when you said how much the President is investing in clean water—when you see that he is—now, his recommendation that you say you support is half what it was when he came into office. He does not have a priority for funding State Revolving Fund, for clean water and clean drinking. You can see the numbers drop from 3.9 to 1.78. But yet I see that other things. When you have a chance at $555 million, you have reduced, because you are with him on this, you are reducing the allocation into that account, but you are increasing the money for climate change, air quality and enforcement.

Administrator, I have got to tell you. I hold a lot of town hall meetings and discussions with small communities in rural America. They are not concerned, maybe to the level they should be, but they are not as concerned about climate change or your enforcement. They just want sewer and water lines. And by virtue of the

President slashing the money for sewer and water lines, for water, water quality, that undermines all their hopes and dreams of being able to achieve some health environment in these small towns.

How do you react to that when you see that the President is not making it a priority to fund clean water?

Ms. MCCARTHY. Well, I can answer that in a few different ways, Congressman, because the President was clearly respecting the bipartisan budget agreement. That put challenges on EPA in order to identify how we were going to expend our resources. We did recognize that there were significant investments over the past 5 years during this administration, well beyond what had been invested the prior eight. We know that money is out and being expended. We also know that the revolving fund that States have been operating for years is accruing significant revenues that is increasing the amount of money they can spend——

Mr. MCKINLEY. If I could reclaim the time.

Ms. MCCARTHY [continuing]. On these projects.

Mr. MCKINLEY. I think it is important to also——

Ms. MCCARTHY. So we are doing the best we can.

Mr. MCKINLEY [continuing]. If I could, fortunately the chairman of the Appropriations Committee has gotten a hold of this, and now he is stopping it and reversing this downward slide by holding steady the amount of money we have for this.

I am just going to reinforce again as at the end. These other issues of enforcement, clean up our communities, there may be—that is not what America is worried about. American citizens in these small towns want sewer and water lines, and for you to take an arbitrary—you said it was a tough decision.

Ms. MCCARTHY. Um-hum.

Mr. MCKINLEY. Think about what that decision is for those small towns where they are trying to improve their economy, they are trying to give health. I can tell you example after example of people of those little communities that have no money and no clean water, and yet we put money into more environmental——

Ms. MCCARTHY. Part of our consideration, sir, is how does climate actually exacerbate the challenges of our——

Mr. MCKINLEY. Oh, come on.

Ms. MCCARTHY [continuing]. Infrastructure with——

Mr. MCKINLEY. You know better than that. We will talk about that another day, and you know—it has nothing to do with climate change, and you know that.

Mr. WHITFIELD. At this time I recognize the gentleman from Illinois, Mr. Kinzinger, for 5 minutes.

Mr. KINZINGER. Well, thank you, Mr. Chair, and Administrator McCarthy, thanks for being with us today——

Ms. MCCARTHY. Great to be here. Thanks.

Mr. KINZINGER [continuing]. And during the long times. I want to chat a little bit about nuclear. Nationwide, four nuclear plants retired last year, and at least one is scheduled to shut down this year. In Illinois, half of our electricity generation in fact comes from nuclear plants. Does your agency believe that nuclear is critical to provide affordable, reliable electricity in the United States?

Ms. MCCARTHY. Well, certainly the President does as well as the Secretary Moniz at the Department of Energy. EPA tries to stay

in our lane and make sure that any permits can be issued and work can get done, but clearly nuclear plays a big part of the current generation capacity, the base load capacity, and from a carbon perspective, it is extremely important.

Mr. KINZINGER. So on January 24th of this year, the CEOs of five nuclear companies wrote to your Agency expressing their concerns with the cooling towers, or it is the 316(b) rule of the Clean Water Act. They raise concerns that the rule could trigger the premature retirement of a significant portion of the nuclear fleet.

The letter states that in Virginia, Dominion's preliminary estimate for retrofitting the Surry Nuclear Power Station with cooling towers is about $3 billion. For the Diablo Canyon Power Plant in California, which serves about 10 percent of their State's needs, the cost is estimated to be upwards of $12 billion. And lastly, the letter states that the projection of the North American Electric Reliability Corporation on units impacted by this rule-making could cause a closure up to 39 gigawatts of electric generating capacity.

So I just want to ask what steps, if any, is the EPA taking to address the concerns expressed by these nuclear companies? And can you provide any assurances that the EPA's cooling tower rule will not cause the premature retirement of a significant portion of the nuclear fleet?

Ms. MCCARTHY. Certainly we have had a number of utilities come in expressing concern about 316(b) that was proposed. There has been a robust dialogue as there always is, and they have come into us. They have had meetings at our Office of Management and Budget, and we have been working really closely with our other agencies to understand the implications and to make sure that this rule is reasonable and appropriate.

I think you will see that we have listened very closely when this rule is released.

Mr. KINZINGER. Do you have any concerns personally about the premature retirement of those plants?

Ms. MCCARTHY. We have seen some of the numbers as we are looking at greenhouse gas emission projections, and I would indicate to you, being from the New England region, I can remember when one of our large nuclear base load facilities went out when I was working in Massachusetts. It was a scramble to try to ensure that we had the reliability we needed, and we certainly want to do nothing that would impact reliability in this country. But we also want to make sure that we deal with the pollution challenges effectively.

Mr. KINZINGER. And so you would consider the preservation of nuclear plants a key part of the administration's, what they call their climate change policy?

Ms. MCCARTHY. Nuclear is part of the all-of-the-above strategy, yes.

Mr. KINZINGER. OK. It is been reported that the DOE—you may or may not be able to answer this—is analyzing a scenario in which one-third of our nuclear power plants retire and the impact that that would have on the President's Climate Action Plan—has estimated that the closure of one-third of our nuclear plants would increase electric sector carbon emissions by 8 percent, and have you accounted for such a scenario in your Agency's modeling?

Ms. MCCARTHY. We are looking at a variety of different models, yes.

Mr. KINZINGER. Again, just briefly I'd like to change topics about the benefits of mechanical insulation when it comes to saving water and energy. Mechanical insulation is a proven technology that does not require additional research or engineering. Simply put, it is an energy-saving tool that is available for deployment today. I have seen instances in which your Agency has partnered with various industries, most notably the lighting industry, to promote the energy savings that can come from using certain projects. Has your agency considered partnering with insulation industry in order to push a similar program?

Ms. MCCARTHY. I do not know, but I will certainly find out.

Mr. KINZINGER. So you guys would be open to an opportunity?

Ms. MCCARTHY. To be very honest with you, I am looking with a blank stare for a good reason.

Mr. KINZINGER. I got you.

Ms. MCCARTHY. I know nothing about mechanical insulation. But I am more than happy to go back and see if there is opportunities there for us.

Mr. KINZINGER. If you are open to it, I would like to have maybe my staff follow up with your staff——

Ms. MCCARTHY. That would be great.

Mr. KINZINGER [continuing]. And we could go from there. Thank you, Mr. Chairman and Administrator, thank you, and I yield back.

Mr. WHITFIELD. The gentleman yields back. At this time I recognize the gentleman from Virginia, Mr. Griffith, for 5 minutes.

Mr. GRIFFITH. Thank you for being here. I appreciate it. You know, it is interesting because it doesn't happen that often particularly when we have the EPA Administrator in. But without any reference or without any discussions in advance, you have had at least two Democrats and now two Republicans talk to you about the Clean Water State Revolving Fund.

This is a big deal, and as you know, I don't often agree with things that the EPA is doing. That is one that I have touted before publically as something that the EPA gets right, and you can imagine my surprise and chagrin when I noticed that the President's budget has a 430—and I have heard higher numbers, but my folks gave me $430 million cut to that program which is so important. And it is particularly important in the very reasons that are being impacted by the policies on coal. And you know so my district is not a wealthy district. The unemployment for those people that are still trying to find jobs is high. District-wide it averages out to about $7.61. But when you take into account just the coal-producing counties, it is over 9 percent unemployment, and it is not just the 9 percent loss of jobs that are minimum-wage jobs, those are the jobs that are paying $60,000, $75,000, $85,000 a year and came with benefits. And when you lose hundreds of those over a course of just a few years, and my district hasn't been hurt as bad as parts of West Virginia and Kentucky, it makes a big deal. It is a big difference. When you don't have a job and you don't have clean water, it is not a great thing.

But my folks don't want to be forced to move out of the mountains where their ancestors and they have lived for hundreds of

years. And so I ask you to go back and take a look at the revolving fund because it is a big deal.

Ms. MCCARTHY. Thank you.

Mr. GRIFFITH. And I appreciate that. I will have to also point out that it is one of the things in the administration—you are not the only one. Everybody keeps thinking that it is not the policies that are pushing coal out the door as much as it is the price of natural gas. So I did some quick checking on that. Last week, on 3/26, it was $4.42. The experts have all told us—per million BTU, the cost of natural gas. Experts have all told us that coal competes just fine at $4 or higher. They have also told us that they anticipate long term over the next couple of years or decades natural gas prices will stabilize in the $4 to $6 range. But the coal companies have always been used to that fluctuation, as have the power generation companies, that fluctuation in price, and I went back and did some checking. Toward the end of March in 1997, March 21, 1997, the price was $1.87 for the natural gas. March 22, 2002, $3.57. 2007, $7.16. 2010, $4.08. So it is not the price alone. Sure, natural gas went down quite a bit. This winter it spiked in the Northeast quite a bit. It has leveled back out into that $4 range, $4.33 the week before this one or earlier in March, $4.42 last week.

And so you know, to say that that is the reason that all these coal facilities are closing down is not accurate. It is in fact the policies of this administration that are closing that down, that is causing the cost of electricity to go up. You know, if we could count on having $2 natural gas which nobody thinks we can indefinitely, then theoretically over time the consumer who is paying those electric bills might see their rates stabilize. That is not going to happen. It is going to be a higher rate. And when you take all the coal-powered generation off the board, all those families that are struggling to make ends meet with the high unemployment rate or who are middle-income Americans are going to suffer, and it is a serious and significant problem. And I hope that when you are looking at your budget, you pay close attention to that as well and realize that maybe where we ought to be cutting is the folks who are writing all the new regulations here in DC, not the folks who are out examining things and not the folks who are doing the clean water projects.

Also, if I could ask you, in regard to EPA's pending greenhouse gas rules for existing power plants——

Ms. MCCARTHY. Yes.

Mr. GRIFFITH [continuing]. That are expected to be proposed in June, recognizing the difference between setting a standard and complying with a standard, do you believe you have the legal authority to set the standard based on reductions that occur outside the fence line of the facility? And if so, where does that authority come from?

Ms. MCCARTHY. We have certainly heard from States in our many discussions as well as the energy sector that we are working with closely that they want us to provide as much flexibility as we can in terms of the compliance with this——

Mr. GRIFFITH. Well, we are certainly under enough pressure as it is——

Ms. MCCARTHY [continuing]. But any guidance that——

Mr. GRIFFITH [continuing]. And I only have another second. I do want to ask, if the courts vacate, stay or remand the rules for the new coal-fired power plants, how does that impact your working on the rules for the existing plants? I am talking about the carbon.

Ms. MCCARTHY. You mean when we finish some?

Mr. GRIFFITH. Yes, when you finish.

Ms. MCCARTHY. They are only proposed so we——

Mr. GRIFFITH. I understand.

Ms. MCCARTHY [continuing]. Need to go through a final. It is my understanding that a 21(d) is only required and appropriate when you have an existing 111(b) standard that governs either new or modified or both.

Mr. GRIFFITH. All right. I appreciate your answers, and I yield back.

Ms. MCCARTHY. Thank you, sir.

Mr. WHITFIELD. The gentleman's time is expired. At this time I recognize the gentleman from Ohio, Mr. Johnson, for 5 minutes.

Mr. JOHNSON. Thank you, Mr. Chairman, and Administrator McCarthy. Thanks again. It is good to see you again today.

Ms. MCCARTHY. You, too.

Mr. JOHNSON. I am sure you probably remember back in May of 2012 you met with Representative Shelly Moore Capito and me to discuss a rule that you were working on for ferromanganese producers. As there are only two remaining domestic producers of this strategically important product left in America, you were gracious and gave us your word that the EPA would work with the two companies and other stakeholders to craft a rule that meets the statutory obligations of the EPA, mitigates the unreasonable risks and allows the facilities and the jobs associated with those facilities to remain the United States. I am fearful that all of that work and your graciousness has been for naught because it is my understanding that the rule that you submitted to OMB goes well beyond what the stakeholders and your own EPA staff had designed to address the local risk concerns after substantial investment in time and effort and resources in pursuing the three objectives that you gave to us.

Furthermore, nearly 200 men and women in my hometown of Marietta, Ohio, will likely lose their jobs because of your Agency's actions on this rule. Are you comfortable with sending this vital industry and the related jobs related to ferromanganese production overseas?

Ms. MCCARTHY. I do remember the concerns that you raised, sir, and I believe we have developed a proposal that is now being looked at that will meet my obligation to you to look closely at this. If we have missed our mark, we are talking about a proposal that is due to go out in the end of May. So we can certainly have conversations. I would encourage that because——

Mr. JOHNSON. Well, when——

Ms. MCCARTHY [continuing]. During the interagency process, folks have an ability to come in and we can talk through these issues and when the proposed rule is issued in May.

Mr. JOHNSON. Well, I would really like to sit down and have another conversation then because it is my understanding that the rule that has been sent to OMB goes above and beyond. It is going

to level millions and millions more on these companies, and they are going to shut down.

Ms. MCCARTHY. Yes.

Mr. JOHNSON. And the crux of the problem is that it goes beyond what your own staff recommended in their initial findings in working with those companies. So I just want to make sure that the hard work that your team went to and that these companies went to that we actually produce a——

Ms. MCCARTHY. And I want to make folks—make sure that they actually understand what is likely to be proposed so that if you could encourage it, we can certainly reach out to the company directly.

Mr. JOHNSON. Well, we will——

Ms. MCCARTHY. There are only a few of them. I am more than happy to do that if——

Mr. JOHNSON. We will reengage. We will reengage. As you know, there aren't many secrets in Washington these days, except for maybe——

Ms. MCCARTHY. Apparently not.

Mr. JOHNSON. Except for maybe the real—what the 7.1 million people that have supposedly enrolled in the healthcare law consist of, how many of them had insurance before, and how many of them have actually paid their premiums. That is the big secret to everybody. But this is not—

Another one. Your Agency is also working on a MACT rule that will significantly impact the brick-making industry.

Ms. MCCARTHY. Yes.

Mr. JOHNSON. This MACT is unique in that it had already been issued, yet it was overturned and vacated by the courts despite the brick industry already investing $100 million in compliance costs over 10 years. Yet, these controls are now being used to establish a new floor for brick industry emissions. Recently I helped spearhead a bipartisan letter, some 70 members signed it, urging you to reconsider the current proposal and use the tools provided within the Clean Air Act to minimize regulatory burdens on the brick industry that do not provide commensurate environmental benefits.

So what have you done, Madam Administrator? What have you done in regards to addressing our concerns as your Agency works toward the August 2014 deadline?

Ms. MCCARTHY. We agree with you that this is a proposal that actually encompasses a broad number of facilities. Many of them are small businesses, and so we are extremely sensitive to do outreach to those businesses to make sure that any proposal that we put out will be—so to fully understand their concerns and what technologies are available and what those standards ought to be. This is very challenging.

Mr. JOHNSON. I am out of time, but if I could just get your commitment? You know, $100 million is a lot of money for that industry.

Ms. MCCARTHY. I understand.

Mr. JOHNSON. Could I get your commitment that you will consider that investment already in whatever rules you establish? Because that's a vital industry and——

Ms. MCCARTHY. Thank you for bringing it up, sir. It is a challenge.

Mr. JOHNSON. OK. Thank you.

Mr. WHITFIELD. At this time I recognize the gentleman from Missouri, Mr. Long, for 5 minutes.

Mr. LONG. Thank you, Mr. Chairman, and thank you, Administrator McCarthy, for being here today and giving your testimony.

The winter in my part of the country, we have had real sharp propane price spikes——

Ms. MCCARTHY. Yes.

Mr. LONG [continuing]. Which were market driven, but something that could not be controlled by the people in our area, of course, and we are going to have them again because I just know how the market works. And when that happens, people in southwest Missouri where I am from turned to burning wood, a good, reliable source of heating their homes because it is cheap, available, reliable, and families use wood stoves to heat their homes. Farmers use wood-burning stoves and heaters for their livestock and other operations. This New Source Performance Standard or NSPS, I guess we are calling it here today, as I understand were designed primarily to regulate industrial activities in large facilities like commercial-scale power plants and oil refineries or manufacturing operations.

Many of my constituents are very concerned about the EPA's move forward with potentially unachievable NSPS regulations on these wood stoves.

Ms. MCCARTHY. Yes.

Mr. LONG. And are you aware of the significant concerns because I know I have heard a lot about it with the pending regulations and their impact on the affordability of wood, wood heating?

Ms. MCCARTHY. I certainly am aware of the reliance on wood stoves in many communities, and we have been working on this rule and working with States and stakeholders for a long time. And I think the good news about this rule is I think you will see that we listened. We narrowed the kind of technologies that we will actually be regulating under this rule. It is only about new wood stoves, not existing, and it actually spreads the timeline to achieve this window out 5 years so that we can take advantage of all the new technologies that are in the marketplace to make it efficient for people when they burn wood. I know this is important. I expect we will get lots of comment on this proposal, but I am sensitive both to the need to use wood but also to the impact in some areas that wood burning actually has on particulate matter levels.

Mr. LONG. So the stoves that are on the market today can continue to be sold for 5 years, is that correct?

Ms. MCCARTHY. The stoves that are on the market today can be sold for 5 years, but in that—but no stoves are actually going to be taken off the market. We know that stoves are available to achieve the standards that are in the rule, but we pushed that out 5 years——

Mr. LONG. They are available now?

Ms. MCCARTHY. They are available now. And we just pushed that compliance window out so that we wouldn't be impacting the current stoves that are for sale but only sending the right signals

that those newer stoves, those more efficient, are ones that should be entering into the marketplace 5 years from now. We actually provided an alternative that would make it 8 years as well. So we are trying our best to help this transition along without impacting the wood stove industry which is really coming up with some very efficient stoves moving forward.

Mr. LONG. These stoves are available now that——

Ms. MCCARTHY. That is right.

Mr. LONG [continuing]. Comply with the standards that will go into effect 5 years from now?

Ms. MCCARTHY. That is correct.

Mr. LONG. I doubt—if you want to tell me now, you can, if you have it off the top of your head what those are, but could you get back with the committee and give me a list of what companies, what brands, what models——

Ms. MCCARTHY. Absolutely. Yes.

Mr. LONG [continuing]. Currently today because that would help me because I am answering a ton of mail on this——

Ms. MCCARTHY. I would——

Mr. LONG [continuing]. And people are very, very concerned in my area. So if you can provide that to the committee, I would appreciate it greatly.

Ms. MCCARTHY. That would be great. I would be happy to do that.

Mr. LONG. Thank you. And with that, Mr. Chairman, I yield back.

Mr. WHITFIELD. The gentleman yields back. At this time I recognize the gentleman from Colorado, Mr. Gardner, for 5 minutes.

Mr. GARDNER. Thank you, Mr. Chairman, and thank you, Administrator McCarthy——

Ms. MCCARTHY. How are you?

Mr. GARDNER [continuing]. For joining us today. Last Friday the White House announced a strategy to cut methane emissions for the oil and gas sector. The White House states, and I quote, "In the spring of 2014, EPA will assess several potentially significant sources of methane and other emissions from the oil and gas sector. EPA will solicit input from independent experts through a series of technical white papers. In the fall of 2014, EPA will determine how best to pursue further methane reductions from these sources. If EPA decides to develop additional regulations, it will complete those regulations by the end of 2016."

I am concerned that these efforts could harm the economy of many States, especially States who are trying to promote their own efforts and other States that are seeing the benefits of unconventional oil and gas production. The University of Colorado estimates that 68,000 jobs could be lost in Colorado and even more in secondary jobs if hydraulic fracturing is prohibited.

Now, we also have an immense opportunity before us to sell some natural gas abroad which I think would strengthen our allies and lower our trade deficit.

We had a hearing last week on legislation I introduced, H.R. 6, that would reform the LNG export approval process. I am worried that the administration's regulations may end one of the few good economic stories that is happening in our country. What kind of

regulations for the oil and gas sector are under consideration at this point?

Ms. McCarthy. Under consideration at this point is actually a release of white papers. We are actually going to be working with the industry, going to collect data, before any decision is made about any next opportunity that regulation may provide.

Mr. Gardner. Those are regulations on methane?

Ms. McCarthy. That is correct.

Mr. Gardner. Any other regulations on other matters?

Ms. McCarthy. I am trying to think. I don't want to answer too quickly. If there is, I will let you know.

Mr. Gardner. OK.

Ms. McCarthy. But at this point, I am not anticipating any.

Mr. Gardner. What is the legal authority for the methane regulation?

Ms. McCarthy. It would be under the Clean Air Act. Right now we actually regulate volatile organic compounds from natural gas wells during the hydrofracking process because that is already a traditional pollutant under the Clean Air Act. It captures the methane. It may very well be that we decide not to regulate methane from additional wells.

Mr. Gardner. Would that be Section 111 of the Clean Air Act?

Ms. McCarthy. That is correct.

Mr. Gardner. That is Section 182 of the Clean Air Act?

Ms. McCarthy. That is correct.

Mr. Gardner. Are there other possible statutory authorities outside of those two?

Ms. McCarthy. None that I have considered.

Mr. Gardner. But nothing that you have considered but there may be other statutory authorities?

Ms. McCarthy. There may be. I have no——

Mr. Gardner. Has EPA already decided to develop additional methane regulations for the oil and gas sector?

Ms. McCarthy. No.

Mr. Gardner. If EPA hasn't decided whether to issue regulations or what form they may take or confirm the statutory authority, why are you setting up a schedule for completing the regulations?

Ms. McCarthy. It was in anticipation to send the signal to the industry about when it might be considered, but the first step is a white paper to collect information. Colorado and other States have been developing their own regulations on these issues. We are very respectful of that. We need to work with the States in the industry before any decision is made.

Mr. Gardner. Last week EPA also announced plans to bring nearly all rivers, creeks and streams under the regulatory control of the Federal Government through the Clean Water Act. EPA's proposal would now cover streams that might only flow in some seasons and are isolated from navigable waters.

In my State of Colorado, where according to the EPA's own study, 68 percent of the streams are intermittent. This proposal could have a major impact. The bipartisan Western Governors' Association immediately criticized EPA's proposal on the day that it was released in a letter that was cosigned by my State's Governor. The Governors stated that they were not adequately consulted on

this proposed regulation, and the proposal could harm a State's ability to manage their waters.

How will you correct this problem?

Ms. MCCARTHY. Well, we have certainly done outreach, and we will work with the Western Governors' Association. I talked to Governor Sandoval yesterday. And so we have been working with the States on this issue. But your characterization that the waters of the United States is actually going to be bringing every water under the jurisdiction of the Waters of the United States is not correct, sir. Actually, we have listened to the Supreme Court, and what is included in the Waters of the United States are waters that are navigable as well as those waters that could significantly impact——

Mr. GARDNER. What do you define as——

Ms. MCCARTHY [continuing]. The chemical, physical and biological——

Mr. GARDNER. What do you define as navigable?

Ms. MCCARTHY [continuing]. Integrity of navigable——

Mr. GARDNER. What do you define as navigable?

Ms. MCCARTHY. The same way that you would.

Mr. GARDNER. Put a boat in it?

Ms. MCCARTHY. Rivers, large rivers, large streams.

Mr. GARDNER. Large? What is large? I mean, seriously, because I am thinking of the South Platte River in Colorado. I am thinking of the Republican River in Colorado——

Ms. MCCARTHY. I don't think there is any disagreement——

Mr. GARDNER [continuing]. To Arkansas.

Ms. MCCARTHY [continuing]. About what a navigable water is, sir. The question is what is the extent of Waters of the United States and is it limited to navigable waters? And it actually isn't. It includes navigable waters, and those waters, that if they are damaged, could significantly impact the integrity of navigable waters.

Mr. GARDNER. But an intermittent flow——

Ms. MCCARTHY. That has never been in question.

Mr. GARDNER. An intermittent flow river could be considered at times a navigable river?

Ms. MCCARTHY. It absolutely could.

Mr. GARDNER. So 68 percent of the rivers in Colorado which are intermittent, could then fall under this rule?

Ms. MCCARTHY. They could actually have to do a test or a case-by-case analysis as to whether or not they are not only hydrologically connected but whether they have a significant nexus to navigable waters. It does not automatically make them subject to Clean Water Act permitting.

Mr. GARDNER. Are you familiar with Colorado Water Law as compared to other States' water laws?

Ms. MCCARTHY. I am not familiar with Colorado Water Law.

Mr. GARDNER. A board of independent science advisors that have been tasked by the EPA to study the water bodies that are going to—I think my time—I have got a couple of additional questions that I would submit to you for the record.

Ms. MCCARTHY. I am happy to work with you on this, sir.

Mr. GARDNER. Mr. Chairman, my time has expired. Thank you.

Mr. WHITFIELD. All right. Yes, submit them for the record. So I guess that concludes the hearing.

I do want to have a contact at the EPA, Ms. McCarthy, because Congressman Rothfus and other members of the Pennsylvania delegation, including Senator Casey, have asked me to try to arrange a meeting relating to EPA's utility MACT rule and its impact on Pennsylvania, Illinois, Utah and West Virginia relating to recycling coal waste using a circulating fluidized bed technology. They have got these plants, and they are taking the coal waste and they are producing power from it. And they are cleaning up the environment, eliminating this coal waste, and it appears that they are going to be forced to close down.

And so I would like the name of a person that you would tell me at EPA that we could talk to because some members of the Pennsylvania delegation and others would like to have a meeting with you all here to discuss this. So if you could—

Ms. MCCARTHY. I will have my Legislative Director get in touch with your staff right away, and we will make sure that we get appropriate meetings set up.

Mr. WHITFIELD. OK.

Ms. MCCARTHY. Thank you.

Mr. WHITFIELD. Mary——

Ms. MCCARTHY. Thanks for calling it.

Mr. WHITFIELD. OK. And then you know, the first article of the Constitution talks about the legislative branch of Government, and we have the responsibility for oversight. And I know that you all get a lot of requests, but back in early October and early December, as a result of some hearings that we had, we had asked for some specific information from EPA to reply to our request. We received it today. So it is, you know, 4 or 5 months in receiving it. And then in November we wrote a letter about the Energy Policy Act asking the legal justification for setting those three plants in the United States as the emission standard, and then on March the 12th, we sent a letter requesting documents—March 12th.

Mrs. CAPPS. Yes.

Mr. WHITFIELD. That was last year.

Mrs. CAPPS. This year, yes.

Mr. WHITFIELD. Well, we won't worry about that one. But on the November 15th letter——

Ms. MCCARTHY. We have to have a meeting scheduled on that one, sir.

Mr. WHITFIELD. We would like to have a response, and then you said it was in the record and so forth, but we asked some specific questions. We would appreciate a response.

Ms. MCCARTHY. If we have not answered you appropriately, we will——

Mr. WHITFIELD. Well, it is my understanding we have not been answered appropriately.

Ms. MCCARTHY. OK.

Mr. WHITFIELD. So if you would do that, we would appreciate that.

Ms. MCCARTHY. I will.

Mr. WHITFIELD. And then finally I just want to ask one question to get it clarified. Can you identify any fully operational base-load-

ed coal-fired power plant using CCS on a commercial operation anywhere in the United States today?

Ms. MCCARTHY. Did you say power plant, sir?

Mr. WHITFIELD. Yes.

Ms. MCCARTHY. I am not aware of any, but I will certainly double check.

Mr. WHITFIELD. Well, we are not aware of any, either, so that——

Ms. MCCARTHY. I know they are being constructed, and I know they are close to operational.

Mr. WHITFIELD. Well, with Federal funds, but OK. Thank you very much. Did you have a question Mr.—OK. Well, that concludes today's hearing. We thank you very much for your patience and spending 2 ½ hours with us.

Ms. MCCARTHY. Thank you, Mr. Chairman.

Mr. WHITFIELD. And we look forward to working with you as we move forward. The record will remain open for 10 days, and that concludes today's hearing.

[Whereupon, at 12:40 p.m., the subcommittees were adjourned.]

[Material submitted for inclusion in the record follows:]

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
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Majority (202) 225–2927
Minority (202) 225–3641

April 30, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator McCarthy:

Thank you for appearing before the Subcommittee on Energy and Power and the Subcommittee on Environment and the Economy on Wednesday, April 2, 2014, to testify at the hearing entitled "The Fiscal Year 2015 EPA Budget."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

Also attached are Member requests made during the hearing. The format of your responses to these requests should follow the same format as your responses to the additional questions for the record.

To facilitate the printing of the hearing record, please respond to these questions and requests with a transmittal letter by the close of business on Wednesday, May 14, 2014. Your responses should be mailed to Nick Abraham, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed to Nick.Abraham@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittees.

Sincerely,

Ed Whitfield
Chairman
Subcommittee on Energy and Power

John Shimkus
Chairman
Subcommittee on Environment and the Economy

cc: The Honorable Bobby L. Rush, Ranking Member, Subcommittee on Energy and Power
The Honorable Paul Tonko, Ranking Member, Subcommittee on Environment and the Economy

Attachments

Questions Submitted for the Record by Representative Whitfield

Whitfield Q1: EPA's budget calls for a total of over $234 million to "Address Climate Change." How much of this relates to the President's climate action plan?

Answer: The President's 2013 Climate Action Plan sets forth a broad-based blueprint that encompasses climate mitigation, climate adaptation, and global efforts to address the problem of global climate change, and helps guide the Agency's ongoing work to address climate change.

Whitfield Q2: With respect to EPA's proposed greenhouse gas (GHG) rule entitled "Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units," announced September 20, 2013, we wrote you on November 15, 2013 concerning the statutory provisions of the Energy Policy Act of 2005 ("EPACT 2005"), including provisions codified at 42 U.S.C. § 15962(1) and 26 U.S.C. §48A.

a. **Why has EPA still not provided a written response to that letter?**
b. **Prior to receipt of that letter, were you aware of those EPACT 2005 provisions? Please provide a yes or no response.**
c. **Prior to receipt of that letter, who, if anyone, to your knowledge at EPA was aware of those EPACT 2005 provisions?**
d. **Please provide a detailed explanation of why EPA did not address those EPACT 2005 provisions in the proposed rule you signed in September.**

Answer: It is my understanding that the agency sent an initial response and has subsequently been involved in productive conversations with your staff on this topic, including multiple meetings and briefings as well as providing documents.

The EPA does not believe that these provisions preclude its determination. The EPA has issued a Notice of Data Availability (NODA) that notes the availability of a Technical Support Document (TSD), in the rulemaking docket that details its position on this issue. It explains, "EPA interprets these provisions to preclude EPA from relying solely on the experience of facilities that received EPAct05 assistance, but not to preclude EPA from relying on the experience of such facilities in conjunction with other information." Moreover, the EPA based its determination on a number of projects and other information including projects that did not receive any assistance under the EPAct05. In addition, the agency extended the public comment period for the January 2014 proposal by 60 days to allow adequate time for the public to review and comment on the contents of the NODA and TSD.

Whitfield Q3: On February 5, 2014, EPA posted a "Notice of Data Availability" (NODA) in support of the proposed GHG rule for new power plants referenced above. While EPA posted the NODA on its website on February 5, 2014 and solicited extensive comment, EPA failed to issue a press release or other regulatory announcement notifying the public of the posting of the NODA or the fact that the agency was soliciting comments on the EPAct 2005 provisions.

Why did EPA fail to issue a press release or make a public regulatory announcement on February 5, 2014 or shortly thereafter?

Answer: The EPA followed the appropriate procedures to make public the Notice of Data Availability (NODA) in support of the proposed Carbon Pollutions Standards for New Power Plants. In addition to publication in the *Federal Register*, the EPA posted the NODA and the accompanying technical support document on its web site at: http://www2.epa.gov/carbon-pollution-standards/2013-proposed-carbon-pollution-standard-new-power-plants

Whitfield Q4: With respect to EPA's proposed GHG rule for new electric generating units referenced above, EPA proposes to require that any new coal-fired power plants install carbon capture and storage (CCS) technologies that EPA maintains have been adequately demonstrated for use at full-scale commercial power plants.

a. **During the interagency review process, did Department of Energy (DOE) officials or staff provide any written comments on EPA's proposed rule? Please provide a yes or no response.**
b. **During the interagency review process, did DOE officials or staff provide written comments on EPA's proposed CCS requirement for new coal-fired power plants? Please provide a yes or no response.**
c. **Are all DOE comments, during the interagency review process regarding the proposed rule, included in the administrative record for the proposed rule?**

Answer: Comments reflecting interagency concerns, including those of DOE, were conveyed to the EPA in writing during the interagency review process. All such comments are in the administrative record for the proposed rule.

Whitfield Q5: With respect to the GHG regulations EPA plans to propose for modified and reconstructed electric generating units by June 1, 2014:

a. **Will the agency propose standards that can be achieved at modified and reconstructed coal-fired units using technologies that are currently in commercial service at operating electric generating units?**
b. **What emissions levels does the agency believe are achievable by modified and reconstructed coal-fired electric generating units?**
c. **What technologies currently in commercial service does the agency believe could be used at modified and reconstructed coal-fired units to achieve those reductions?**

Answer: On June 2, 2014, the EPA proposed Carbon Pollution Standards for Modified and Reconstructed Stationary Sources: Electric Utility Generating Units. This proposal was published in the *Federal Register* (FR) on June 18, 2014. The proposed emission limits for modified or reconstructed sources are based on the performance of available and demonstrated technology. Consistent with the requirements of CAA section 111(b), these proposed standards reflect the degree of emission limitation achievable through the application of the best system of emission reduction (BSER) that the EPA has determined has been adequately demonstrated for

each type of unit. The proposed standards for the affected modified and reconstructed sources are summarized in Table 1 of the proposed rule at: https://www.federalregister.gov/articles/2014/06/18/2014-13725/carbon-pollution-standards-for-modified-and-reconstructed-stationary-sources-electric-utility.

Whitfield Q6: With respect to the GHG regulations EPA plans to propose for existing electric generating units by June 1, 2014:

a. Does EPA plan to impose statewide numerical GHG emissions reduction requirements?
b. Does EPA plan to propose emissions levels for existing coal-fired units that can be achieved using technologies and control equipment that are currently in commercial service at operating electric generating units?
c. What emissions levels does the agency believe are achievable by existing coal-fired electric generating units?
d. What existing technologies and control equipment in commercial service does the agency believe could be used at existing coal-fired units to achieve those reductions?

Answer: On June 2, 2014, the EPA proposed the Clean Power Plan for existing power plants. This proposal was published in the *Federal Register* (FR) on June 18, 2014. The Clean Power Plan has two main parts: state-specific goals to lower carbon pollution from power plants and guidelines to help the states develop their plans for meeting the goals. The EPA is proposing the state goal approach under Section 111(d) of the Clean Air Act, which requires that the EPA identify the "best system of emission reduction ... adequately demonstrated" (BSER) that is available to limit pollution - and set guidelines for states to achieve reductions that reflect that system. States then make plans to get the reductions that would result from that system.

In this case, the EPA analyzed the practical and affordable strategies that states and utilities are already using to lower carbon pollution from the power sector. The EPA identified four sets of measures - or "building blocks" - that are in use by many states and utilities and that together make up the best system for reducing carbon pollution. These building blocks recognize the interconnected nature of the power sector and include improving energy efficiency, improving power plant operations, and encouraging reliance on low-carbon energy. The EPA analyzed historical data about emissions and the power sector to create a consistent national formula for reductions that reflects the building blocks.

The Clean Power Plan works by setting state goals that gradually reduce each state's carbon intensity rate or "pollution-to-power ratio." These state goals are not requirements on individual electric generating units. The state goals are determined by using a formula that takes the amount of CO_2 emitted and divides it by the megawatt-hours of electricity generated (lbs/MWh). Each state will choose how to meet the goal through whatever combination of measures reflects its particular circumstances and policy objectives. A state does not have to put in place the same mix of strategies that EPA used to set the goal and there are no specific requirements for specific plants; these may be established if states choose to include those plants in their specific 111(d) implementation plans. States can choose to rely on measures EPA used to calculate the goal as well as on other measures that were not part of the goal-setting analysis.

Whitfield Q7: EPA has advised the Committee that it is working on GHG standards for aircraft. What is EPA's current schedule for issuing such standards?

Answer: In response to a petition and related litigation, the EPA is currently initiating an analysis of whether greenhouse gas emissions from aircraft cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare. When this analysis is complete, the EPA expects to propose findings regarding this question. The EPA previously estimated that, upon receipt of a final court ruling upholding our prior greenhouse gas findings regarding motor vehicles in December 2012, a minimum of 22 months would be needed to conduct the analysis, develop a proposal, publish it for comment, review and analyze comments, and issue final findings regarding aircraft engine greenhouse gas emissions. A more specific time table for rulemaking can be provided after such a determination is made.

Whitfield Q8: EPA has advised the Committee that it is working on additional GHG standards for trucks. What is EPA's current schedule for issuing such standards?

Answer: The EPA and NHTSA are jointly developing a proposal for the second round of heavy-duty GHG and fuel efficiency standards (Phase 2). On February 18, 2014, the President announced the timeline for issuing the heavy-duty Phase 2 standards, with a proposed rule by March 31, 2015, and a final rule by March 31, 2016.

Whitfield Q9: For each of the following source categories, please indicate whether the agency is currently conducting work relating to potential GHG regulations for those sources, and if the agency is conducting work, the agency's current timetable for performing analyses and making determinations:

a. Petroleum refineries
b. Pulp and paper facilities
c. Municipal landfills
d. Iron and steel production
e. Animal feeding operations
f. Portland cement manufacturing

Answer: The EPA is not actively developing national standards to specifically regulate greenhouse gas (GHG) emissions from any of the source categories identified. The EPA is continuing to study the issue, and to the extent we work toward developing such rules, the EPA would reach out to and engage all interested stakeholders. For example, the EPA recently issued an Advance Notice of Proposed Rulemaking (ANPR) seeking broad public feedback on options for further reducing landfill gas emissions from existing municipal solid waste (MSW) landfills – including taking comment on whether to regulate methane.

Whitfield Q10: On May 15, 2013, EPA provided a list of GHG Prevention of Significant Deterioration (PSD) permits issued by EPA or States that included 87 permits.

Please identify all additional GHG PSD permits that have been issued by EPA or States since that list was prepared.

Answer: The EPA is aware of 189 Prevention of Significant Deterioration (PSD) Greenhouse Gas (GHG) Permits that were issued between April 21, 2011, and July 2014. The complete list is included below.

A total of 189 Prevention of Significant Deterioration (PSD) Greenhouse Gas (GHG) Permits have been issued since April 21, 2011. This breakdown includes:

61 EPA permits
10 Permits issued by Delegated states
118 Permits issued by states

Full Listing of 189 Permits:

1. NUCOR Corporation, St. James Parish, LA
2. We Energies, Rothschild, WI. (biomass co-gen boiler at a paper mill)
3. PacifiCorp Lake Side Power Plant, Utah County, UT
4. Mid-American Energy, George Neal South, Salix, IA (installation of pollution controls at a coal-fired power plant)
5. Mid-American Energy, George Neal South, Salix, IA (same as #4 but at different unit)
6. Wolverine Power Co-op, Rogers City, MI (biomass boilers)
7. Lafarge Cement, Ravena, NY
8. Abengoa BioRefinery, Hugoton, KS
9. Sumpter Energy, Carleton Farms, MI
10. US Steel Keetac Iron & Taconite Plant, Keewatin, MN [***Delegated State Permit***]
11. Mid-American Energy, George Neal North, Sergeant Bluff, IA (same as #4)
12. Palmdale Hybrid Energy Center, Antelope Valley, CA **[EPA PERMIT]**
13. Crawford Renewable Energy, Greenwood Township, PA
14. Eni Holy Cross Drilling Project, OCS Eastern GOM **[EPA PERMIT]**
15. Hyperion Refinery and Energy Center, Union County, SD
16. Lower Colorado River Authority - Ferguson, Horseshoe Bend, TX **[EPA PERMIT]**
17. Wolverine Power, Sumpter Power Plant, Belleville, Michigan
18. Hoosier Energy - Merom Station, Sullivan, IN
19. Port Dolphin Energy LNG Port, OCS Eastern GOM **[EPA PERMIT]**
20. IPL Ottumwa Generating, Ottumwa, IA
21. Kennecott Utah Copper- Repowering, South Jordan, UT
22. US Nitrogen - Midway, Green County, TN
23. Beaver Wood Energy, Fairhaven, VT
24. University of Wisconsin - Charter Street, Madison, WI

25. Universal Cement, Chicago, IL [***Delegated State Permit***]
26. Carolina Cement, Castle Hayne, NC
27. PyraMax Ceramics, Allendale, SC
28. PyraMax Ceramics, Wrens, GA
29. NRG Energy, Dover, DE
30. York Plant Holding, Springettsbury, PA
31. Pioneer Valley Energy Center, Westfield, MA **[EPA PERMIT]**
32. Tenaska Christian County Generation IGCC, Taylorville, IL [***Delegated State Permit***]
33. Entergy Louisiana LLC - Ninemile Point Plant, LA
34. Sabine Pass LNG LP, LA
35. Westlake Vinyls, LA
36. CF Industries Nitrogen Complex, LA
37. Pryor Chemical Company, OK
38. Atlas Pipeline Mid-Continent West OK, LLC (WESTOK), OK
39. ETC Texas Pipeline, Natural Gas Processing Plant, Jackson County, TX **[EPA PERMIT]**
40. Indiana Gasification, Spencer County, IN
41. BHP Billiton Petroleum, Sake Exploratory Project, OCS Eastern GOM **[EPA PERMIT]**
42. Milwaukee Metropolitan Sewerage District, Milwaukee, WI
43. Essar Steel, Nashwauk, MN [***Delegated State Permit***]
44. CARBO Ceramics, Millen, GA
45. Effingham Power, Rincon, GA
46. Showa Denko Carbon, Dorchester County, SC
47. Woodbridge Energy, NJ [***Delegated State Permit***]
48. Phillips 66 Alliance, LA
49. Williams Olefins, Geismar, LA
50. JM Huber, Huber Engineered Woods, GA
51. BASF FINA Petrochemical LP (BFLP), Port Arthur, TX **[EPA PERMIT]**
52. Black Hills Power – Cheyenne Prairie Generating Station, Cheyenne, WY **[EPA PERMIT]**
53. Cricket Valley Energy Center, Dover, NY
54. Newark Energy Center, Newark, NJ [***Delegated State Permit***]
55. Exxon Mobil Point Thomson, North Slope, AK
56. Sevier Power Project, UT
57. INEOS Olefins and Polymers, Alvin, TX **[EPA PERMIT]**
58. Enterprise Products – Eagleford Fractionation/DIB, Mont Belvieu, TX **[EPA PERMIT]**
59. Energy Transfer Partners - Lone Star, Mont Belvieu, TX **[EPA PERMIT]**
60. Next Generation Processing, LLC - Haven Gas Plant, KS
61. Pio Pico Energy Center, San Diego, CA **[EPA PERMIT]**
62. Moxie Liberty, Asylum Township, PA

63. Graymont Limestone - Pleasant Gap, Spring Township, Center County, PA
64. GSA Federal Research Center (White Oak), MD
65. CPV Energy, St. Charles, MD
66. Iowa Fertilizer Company, Wever, IA
67. Klausner Holding, Enfield, NC
68. North Springfield Sustainable Energy, North Springfield, VT
69. Gateway Cogeneration, Prince George, VA
70. Calpine, Deer Park, TX **[EPA PERMIT]**
71. WE Energies Elm Road, Milwaukee, WI
72. Energy Answers (permit revision to include GHG), MD
73. Chevron Phillips Chemical Co., Cedar Bayou Plant, Baytown, TX **[EPA PERMIT]**
74. Capitol Power (PAL), Washington, DC **[EPA PERMIT]**
75. Moxie Patriot, Clinton Township, Lycoming County, PA
76. Calpine, Channel Energy Center, Pasadena, TX **[EPA PERMIT]**
77. St. Joseph Energy Center, New Carlisle, IN
78. RockTenn-Solvay LLC, NY
79. Gerdau MACSTEEL, MI
80. Equistar Chemicals, Methanol Unit, Channelview, TX **[EPA PERMIT]**
81. Mid-Kansas Electric Co. – Rubart Station, KS
82. Copano Energy, Sheridan, Colorado County, TX **[EPA PERMIT]**
83. Sinclair Wyoming Refining, Sinclair, WY **[EPA PERMIT]**
84. WBI Energy, Dakota Prairie, ND
85. Montana-Dakota Utilities, Heskett Station, Mandan, ND
86. Equistar Chemicals, La Porte, TX **[EPA PERMIT]**
87. Gibson County Generating, Rutherford, TN
88. Magnetation, Reynolds, IN
89. INVISTA, Victoria, TX **[EPA PERMIT]**
90. Copano Gas Processing, Houston TX **[EPA PERMIT]**
91. Cargill Ethanol Plant, Fort Dodge, IA
92. Alcoa, Davenport Works, IA
93. Rio Grande Cement, Pueblo, CO
94. LADWP Scattergood Generating Station, CA
95. Roxul USA, MS
96. KM Liquids Terminals, Galena Park, TX **[EPA PERMIT]**
97. PL Propylene LLC, Houston, TX **[EPA PERMIT]**
98. Targa Gas Processing, Longhorn, Wise County, TX **[EPA PERMIT]**
99. Energy Answers, Arecibo, PR **[EPA PERMIT]**
100. Equistar Chemicals, Olefins 1 Expansion, Channelview, TX **[EPA PERMIT]**
101. Equistar Chemicals, Olefins 2 Expansion, Channelview, TX **[EPA PERMIT]**
102. Oregon Clean Energy Center, Oregon, OH

103. Green Bay Packaging, WI
104. Empire District Electric, KS
105. Hydrogen Electric California, Kern County, CA
106. Basin Electric Pioneer Generating Station, ND
107. Kerr-McGee Gathering, CO
108. ONEOK Hydrocarbon, Mont Belvieu NGL Fractionation, TX **[EPA PERMIT]**
109. Consumers Energy, MI
110. Midland Cogen Venture, Midland, MI
111. Southern Minnesota Beet Sugar, MN ***[Delegated State Permit]***
112. Flint Hills Resources draft PSD permit- Rosemount, MN ***[Delegated State Permit]***
113. IPL Eagle Valley Generating Station, Martinsville, IN
114. Diamond Shamrock, Valero McKee Refinery, Sunray, TX **[EPA PERMIT]**
115. DCP Midstream NGL Fractionation, Jefferson County, TX **[EPA PERMIT]**
116. Exxon Mobil Chemical, Mont Belvieu Plastics, TX
117. Virginia Power and Light, Brunswick Plant, VA
118. Green Energy Partners – Stonewall Energy, VA
119. EN-Tire, White Deer Energy, PA
120. DSM Chemicals, GA
121. Klausner Holding, SC
122. FPL Port Everglades, Broward County, FL **[EPA PERMIT]**
123. Carroll County Energy, OH
124. Big River Steel, AR
125. La Paloma Energy Center, Cameron, TX **[EPA PERMIT]**
126. Cargill –Blair, NE
127. Nucor Steel, NE
128. Anchorage Municipal Power and Light, Sullivan Plant Two, AK
129. Puget Sound Energy, Fredonia, WA
130. ExxonMobil Chemical, Olefins Plant Baytown TX **[EPA PERMIT]**
131. Air Liquide Large Industries, Bayou Generation Plant, TX **[EPA PERMIT]**
132. Crosstex Processing Services, Eunice Gas Extraction Plant, LA
133. Shintech Louisiana, LLC., Hydrochloric Acid Production Furnace, LA
134. Shintech Louisiana, LLC, Plaquemine PVC Plant, LA
135. Crosstex Proceesing Services, Plaquemine NGL Fractionation Plant, LA
136. Basin Electric Power, Lonesome Creek Generating, ND
137. Kraton Polymers U.S. LLC, OH
138. BP-Husky Refining, LLC, OH
139. TECO Polk Station, FL **[EPA PERMIT]**
140. Frontier El Dorado Refining, LLC, KS
141. Holly Corporation SLC Refinery, UT
142. CPV Valley, NJ ***[Delegated State]***

143. Texas Eastern Transmission, PA
144. Garrison Energy Center, DE
145. Berks Hollow Energy, PA
146. Hickory Run Energy, PA
147. Frederick County Waste to Energy, MD
148. Future Power of PA, PA
149. Progress Energy Carolinas, NC
150. DuPont Johnsonville, TN
151. Ohio Valley Resources, IN
152. Nucor Steel, IN
153. Renaissance Power, MI
154. Lima Refinery, OH
155. PCS Nitrogen Ohio, OH
156. Holly Tulsa Refinery, OK
157. Mid America Midstream, Rose Valley, OK
158. Targa Midstream Services, Mont Belvieu, TX ***[EPA Issued Permit]***
159. Apex Bethel Energy Center, TX ***[EPA Issued Permit]***
160. Rohm and Haas, Deer Park, TX ***[EPA Issued Permit]***
161. Occidental Chemical, Ingleside, TX ***[EPA Issued Permit]***
162. Celanese Clear Lake, TX ***[EPA Issued Permit]***
163. CF Industries Nitrogen, Port Neal, IA
164. TradeWind Energy, Lacey Randall Station, KS
165. Dyno Nobel Ammonia Plant, LA
166. Sunbury Generation LLC, Sunbury, PA
167. APEX Matagorda Energy Center, LLC, TX ***[EPA Issued Permit]***
168. Chamisa CAES at Tulia, LLC, TX ***[EPA Issued Permit]***
169. El Paso Electric Company, TX ***[EPA Issued Permit]***
170. Enterprise Products Mont Belvieu Propane Dehy., TX ***[EPA Issued Permit]***
171. Equistar Chemical, Olefins, Corpus Christi, TX ***[EPA Issued Permit]***
172. Lone Star NGL Mont Belvieu Gas Plant, TX ***[EPA Issued Permit]***
173. FGE Power, Westbrook, TX ***[EPA Issued Permit]***
174. Lenzig Fibers, Alabama
175. University of Alaska, Fairbanks, Alaska
176. Troutdale Energy Center, OR
177. EFS Shady Hills Generating Station, FL ***[EPA Issued Permit]***
178. New Hope Power Company Okeelanta Cogeneration ***[EPA Issued Permit]***
179. Dow Chemical Freeport, TX ***[EPA Issued Permit]***
180. Flint Hills Resources, Corpus Christi, TX ***[EPA Issued Permit]***
181. Golden Spread Electric Cooperative, Antelope, TX ***[EPA Issued Permit]***
182. Indeck Wharton Energy Center, TX ***[EPA Issued Permit]***

183. Occidental Chemical Corporation, Ingleside Ethylene Plant ***[EPA Issued Permit]***
184. PSEG Sewaren Generating, NJ ***[Delegated State]***
185. Global Foundries, NY
186. Novelis Corporation, NY
187. C3 Petrochemicals, TX ***[EPA Issued Permit]***
188. ONOEK Hydrocarbon, Baytown, TX ***[EPA Issued Permit]***
189. Voestelpine, Portland, TX ***[EPA Issued Permit]***

Whitfield Q11: Looking across the range of EPA regulations that affect electric power generation, there are sizable cumulative impacts of Clean Air Act rules, Clean Water Act rules, and other rulemakings that risk substantial retirements of electric generating capacity.

Has EPA prepared any analyses to identify the worst case scenarios for electricity generation and reliability that could result from the cumulative impact of its rules?

a. If yes, will EPA make those risk assessments available to the Committee?
b. If no, why hasn't EPA performed such risk assessments?

Answer: The EPA performs detailed regulatory impact analyses of its power sector rules, including estimates of potential impacts on the mix of generation resources as well as electricity prices. The modeling approaches EPA uses take into account other regulations. For example, when the EPA modeled the proposed Clean Power Plan using the integrated planning model, the existing air rules already were coded into the model. These models capture the investment decisions of plant owners as they look at all of the investments they will have to make over the modeled timeline. The result is that the model captures the combined impact of all of these requirements on both electricity prices and electricity generating margins.

Our Regulatory Impact Analyses (RIAs) follow peer-reviewed EPA guidelines, relevant Executive Orders, and adhere to OMB requirements and the requirements of relevant statutes. These documents are publicly available and subject to notice and comment.

Whitfield Q12: The Energy Information Administration (EIA) issued an update on February 14, 2014 regarding its Annual Energy Outlook 2014 projections and indicated there will be more coal-fired power plant retirements by 2016 than have been scheduled. EIA stated:

> *"Coal-fired power plants are subject to the Mercury and Air Toxics Standards (MATS), which require significant reductions in emissions of mercury, acid gases, and toxic metals. The standards are scheduled to take effect in April 2015, a deadline that is conditionally allowed to be extended by up to one year by state environmental permitting agencies. Projected retirements of coal-fired generating capacity in the AE02014 include retirements above and beyond those reported to ELA as planned by power plant owners and operators. In these projections, 90% of the coal-fired capacity retirements occur by 2016, coinciding with the first year of enforcement for the Mercury and Air Toxics Standards."*

a. **Is EPA tracking all of the coal-fired electric generating units that will be retiring by 2016, coinciding with the first year of enforcement for the MATS rule? If yes, how many coal-fired electric generating units in the United States are expected to retire by 2016?**
b. **Have any coal-fired electric generating units been granted additional time to comply with the MATS rule beyond 2016? If yes, which units have been granted additional time?**

Answer: MATS has put in motion planning and investment that is leading to the installation of pollution control technologies and adoption of emissions reduction measures across the existing fleet of power plants. Although generation owners, in some instances, publically have attributed retirements exclusively to MATS, most analysts agree that these plants already have been facing decreasing utilization rates due to market factors, including historically low natural gas prices and slowing electricity demand growth. This is demonstrated by the fact that many units are being retired well in advance of MATS compliance dates.

The preamble to MATS provided guidance on which states and other permitting authorities could rely on granting an additional, 4th year for compliance. States report that they have received 4th year extension requests and have granted some.

In addition, the EPA issued an enforcement policy that provides a clear pathway for reliability-critical units to receive an administrative order that includes a schedule of up to an additional year, if it is needed to ensure electricity reliability. The EPA has not received any formal requests for use of this authority. The enforcement policy recommends, however, that facility operators notify planning authorities if they may need to seek an administrative order in the future. The EPA is aware that, to date, a very small number of sources have notified those entities that they may ultimately request an administrative order. The EPA is monitoring these cases closely.

Whitfield Q13: On March 10th, the *New York Times* published an article entitled: "Coal to the Rescue, but Maybe Not Next Winter" raising concern that there could be significant price increases for electricity because "[s]cores of old coal-fired power plants in the Midwest will close in the next year."

a. **Is EPA evaluating the cost and reliability concerns that have been raised regarding the pending shutdowns of coal-fired power plants in the Midwest, or other regions of the United States, that have announced they will close in the next one to two years?**
b. **What is EPA's current assessment of these concerns?**
c. **Is EPA taking any steps to postpone the retirement of any of these plants to ensure there will be no risks to electric reliability in the next few years?**
d. **Is EPA taking any steps to postpone the retirement of any of these plants to ensure there will not be significant electricity price increases over the next few years?**

Answer: Utilities are making substantial progress in complying with MATS. All of the information that the EPA has seen shows that this progress is occurring without threats to

reliability or other insurmountable challenges that some had predicted. The EPA's extensive engagement with grid planners, undertaken in coordination with the Department of Energy (DOE) and the Federal Energy Regulatory Commission (FERC), and frequent communications with utilities, state regulators, regional transmission organizations, and other key stakeholders indicates that these entities are proactively managing potential issues to ensure reliability is maintained and are adopting cost-effective solutions to MATS compliance requirements.

Whitfield Q14: On April 6, 2014, the *Chicago Tribune* published an article entitled: "NRG Chief: Utilities need to 'play it straight" in which the chief executive of NRG stated that: "The story that has not really been reported is how close the system came to collapsing in January."

a. **Does EPA agree there were serious reliability concerns in January?**
b. **Since January, has EPA been consulting with DOE, Federal Energy Regulatory Commission, and other federal agencies regarding the electric reliability concerns associated with the pending closure of many coal-fired units over the next 1 to 2 years, coinciding with the MATS rule?**
   i. If yes, which agencies and which EPA officials are consulting with those agencies? In your response, please identify when such consultations have occurred and which EPA officials have engaged in the consultations.
   ii. If no, will EPA be consulting with those federal agencies? In your response, if consultations are planned, please identify when such consultations will occur and which EPA officials will engage in those consultations.

Answer: The EPA, DOE, and FERC have been working together, since early 2012, to identify and, as needed, respond to any potential reliability concerns related to MATS. The mechanisms for this coordination have been memorialized in a document developed by staff from the three agencies. The three agencies meet jointly on a regular basis with RTOs in the regions with substantial capacity subject to MATS: Electric Reliability Council of Texas (ERCOT), Midwest Independent System Operator (MISO), the PJM Interconnection (PJM), and the Southwest Power Pool (SPP). The agencies also have had regular interaction with other planning authorities, including several large vertically integrated utilities that serve as transmission operators in these and other regions of the country, as well as NERC and key NERC-affiliated regional entities. In addition, the EPA is in regular contact with key industry trade associations (EEI, APPA, NRECA, CEG); labor unions (boilermakers, utility workers, electrical workers, and others); and state regulatory agencies to monitor MATS implementation.

Whitfield Q15: In addition to an unprecedented number of shutdowns of coal-fired electric generating units by 2016, coinciding with the compliance date for the MATS rule, on January 24, 2014, the CEOs of five nuclear companies wrote to EPA to express concern about the agency's "Cooling Towers" or "316(b)" rule. They raised concerns that the rule "could trigger the premature retirement of a significant portion of the nuclear fleet."

a. Do you have any concerns about the potential "premature retirement of a significant portion of the nuclear fleet" due to EPA rules?

Answer: EPA analyzed the possibility that plants would close due to increased costs of compliance with the final Clean Water Act 316(b) rule; this analysis is not confined to just nuclear power plants. EPA analyzed impacts of the rule, along with the impacts of Clean Air Act rules for power plants [Mercury and Air Toxics Standards (MATS), and Cross-State Air Pollution Rule (CSAPR)]. Based on this analysis, described in the supporting documentation for the final 316(b) rule, using the Integrated Planning Model for the electricity generating sector, EPA found that no electric generating facilities would close due to the final rule.

b. Is preserving the existing nuclear fleet important to the Administration?

Answer: The Administration supports the safe and secure use of nuclear power.

c. What steps, if any, is EPA taking to address the concerns expressed by these nuclear companies and can you provide any assurances that EPA's cooling towers rule will not cause or contribute to the premature retirement of a significant portion of the nuclear fleet?

Answer: EPA took into account public comments prior to finalizing the rule. EPA does not expect that generating facilities would close due to the 316(b) rule.

Whitfield Q16: According to a Feb. 5, 2014 *Greenwire* article, DOE is reportedly analyzing a scenario in which one third of U.S. nuclear power plants retire and the impact that would have on the president's Climate Action Plan. **Is EPA also analyzing this scenario?**

a. Is EPA concerned about the impacts on electric reliability from the premature retirement of nuclear power plants?
b. What is EPA doing to ensure its actions do not cause or contribute to the premature retirement of nuclear power plants?

Answer: The EPA has not modeled this scenario in any recent Regulatory Impact Analysis (RIA). The EPA's extensive engagement with grid planners, undertaken in coordination with the Department of Energy (DOE) and the Federal Energy Regulatory Commission (FERC) and frequent communications with utilities, state regulators, regional transmission organizations, and other key stakeholders indicates that these entities are proactively managing electric reliability. Nuclear power is part of an all-of-the-above diverse energy mix and provides a low-cost, emissions-free source of power. Nuclear power can help the U.S. meet its goals to reduce carbon pollution and meet clean air standards.

Whitfield Q17: EPA issues National Ambient Air Quality Standards (NAAQS), but years can pass before it provides guidance about how to implement the new standards, including

permitting, to States and stakeholders.

Going forward, will EPA commit to providing States and stakeholders with this essential information at the time EPA issues a final NAAQS?

Answer: The national ambient air quality standard is a health-based standard which the Clean Air Act directs the EPA to set at a level requisite to protect public health and public welfare. That said, it is important that States, regulated parties, and the general public have the information they need to achieve and maintain these health-based standards. The EPA has worked and will continue to work with state, local, and tribal air agencies to provide appropriate implementation guidance in a timely manner.

Whitfield Q18: While NAAQS State Implementation Plans and attainment can take years, a new NAAQS is effective immediately for new air permits. Any delay in EPA's implementation guidance and updating air quality models makes it more difficult for businesses to expand and create jobs.

Will EPA issue clear guidance to regions and States encouraging the use of near-term alternatives in any situation where the issuance of new implementation updates is delayed?

Answer: The EPA recognizes the importance of providing implementation guidance to air agencies and affected stakeholders for new or revised NAAQS standards. When the need for such guidance is identified, we strive to provide that guidance as soon as possible. Because Prevention of Significant Deterioration (PSD) program requirements are applicable to a new or revised NAAQS when it becomes effective, providing timely guidance related to changes in permitting requirements is especially important for PSD major sources. For example, to address this need by states and industry, the EPA recently proposed and finalized transitional PSD requirements (including grandfathering of pending PSD permit applications) at the same time it promulgated the 2012 $PM_{2.5}$ NAAQS. Similarly, the EPA intends to issue necessary PSD transition guidance along with future new or revised NAAQS.

Whitfield Q19: Many of our nation's energy infrastructure projects rely on nationwide permits under the Clean Water Act when building new infrastructure or upgrading and maintaining existing infrastructure. On March 25, 2014, EPA and the U.S. Army Corps of Engineers jointly released a proposed rule addressing waters of the United States.

a. Has EPA analyzed the potential impact of the proposed rule on building new energy infrastructure or upgrading and maintaining existing infrastructure? If yes, where in the rulemaking documents is that analysis?

Answer: As part of its analysis, the EPA found that the proposed rule would not have a significant adverse effect on the supply, distribution, or use of energy. This statement is found in the preamble to the proposed rule in Section IV.H. Executive order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

b. What does EPA consider the impacts of the proposed rule to be on building new energy

infrastructure or upgrading and maintaining existing infrastructure?

Answer: As described above, the EPA found that the proposed rule would not have a significant adverse effect on the supply, distribution, or use of energy. This statement is found in the preamble to the proposed rule in Section IV.H. Executive order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. As a general matter, the agencies believe that clarifying the scope of Clean Water Act jurisdiction will help make the permitting process more straightforward for energy infrastructure.

i. Will there be an increase in the need for individual permits?

Answer: As a general matter, the agencies believe that their proposed rule would not add significant Clean Water Act permitting burden. Section 7 of the agencies' economic analysis includes an estimate of CWA Section 404 program costs, and estimates that a slight 3.2 percent increase in permitting would occur as a result of the proposed rule. The agencies welcome comments on this issue during the public comment period to ensure that their rulemaking efforts provide additional clarity while increasing efficiency in determining coverage of the Clean Water Act.

ii. Will there be increases in processing time, cost, and manpower to administer and process this increase in individual permits?

Answer: As noted above, the agencies' economic analysis estimates that a slight 3.2 percent increase in permitting would occur as a result of the proposed rule. Applying the estimated incremental 3.2 percent increase in CWA Section 404 permits, the Corps estimates that their additional administrative costs will range from $7.4 million to $11.2 million annually. Overall, the agencies estimate that the proposed rule would provide more benefits to the public ($388 million to $514 million) than costs ($162 million to $278 million).

iii. If these costs were not considered in the proposed rule, why not?

Answer: Such costs were considered in the agencies' analysis, as described above.

c. To the extent that EPA has said in briefings that the agency expects that industry will be able to continue to rely on existing nationwide permits, please explain how the agency arrives at that conclusion and where the analysis is to support that conclusion in the agency's rulemaking documents.

Answer: The industry will be able to continue to rely on existing nationwide permits because the proposed rule will not impact existing nationwide permits. The proposed rule does not alter the Clean Water Act Section 404 permitting process administered by the U.S. Army Corps of Engineers and two authorized states. The proposed rule does not alter the Corps' existing nationwide permits (NWPs) that currently streamline the permitting process for many energy projects, such as NWPs 8, 12, 17, 44, 51, and 52.

Whitfield Q20: The President, in executive orders and public statements, has said streamlining

the permitting process for energy projects — particularly those necessary to support renewable energy projects — is a high priority for this Administration. Individual permits, by definition, take longer to reach a final decision.

a. If more individual permits will be necessary for energy projects, can you explain how an increase in the need for individual permits in this proposal is consistent with the President's energy permit streamlining objective?

Answer: The proposed rule does not alter the Clean Water Act Section 404 permitting process administered by the U.S. Army Corps of Engineers and two authorized states. The proposed rule does not alter the Corps' existing nationwide permits (NWPs) that currently streamline the permitting process for many energy projects, such as NWPs 8, 12, 17, 44, 51, and 52. In general, the agencies believe the proposed rule will expedite the permit review process in the long-term by clarifying jurisdictional matters that have been time-consuming and cumbersome for field staff and the regulated community for certain waters in light of the 2001 and 2006 Supreme Court cases.

b. In addition, can you point to where in the preamble, regulatory text, or economic analysis there is any discussion of direct and indirect impacts on energy infrastructure: for example, the time, manpower, and administrative oversight necessary to conduct the increased burden of carrying out such federal requirements as NEPA reviews, potential ESA consultations, historic preservation review, tribal consultations, and responses to citizen suit enforcement?

Answer: Because the proposed rule does not change the Clean Water Act Sections 402 and 404 use of general permits, the EPA found that the proposed rule would not have a significant adverse effect on the supply, distribution, or use of energy. This statement is found in the preamble to the proposed rule in Section IV.H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

The agencies' economic analysis, which was made publicly available concurrently with the proposed rule, further describes the agencies' estimates about the overall benefits and costs of the proposed rule. The agencies' analysis reflects estimated costs related to all CWA programs, and with respect to CWA Section 404, the agencies' analysis includes an estimate of all financial costs to finalize a permit application that the Corps deems to be complete, including any actions needed to comply with other Federal laws before a permit can be issued (e.g. Endangered Species Act, National Historic Preservation Act, etc.). For the purposes of this analysis, these application costs were applied to a permit impacting an average number of acres, as calculated from the FY 2010 data in the Corps' Operation and Maintenance Business Information Link, Regulatory Module (ORM2) database. Thus, these estimated permit costs apply to an "average" project and, as recognized in the analysis, costs for projects could vary widely based on the size, complexity, or other elements of the project. The agencies welcome public comment on the approaches used in their economic analysis to ensure that the analysis adequately captures the benefits and costs of the proposed rule.

Whitfield Q21: With respect to EPA's proposed "Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces, and New Residential Masonry Heaters," published Feb. 3, 2014 in the Federal Register:

a: The proposed rule contemplates complex regulations on some classes of products that have never before been subject to regulation. As a practical matter, this means that EPA may not have the extent of knowledge or expertise, nor has the agency collected as extensive an amount of data, as with other categories that have been subject to regulation. Further, there are an estimated 97 instances in the proposal where EPA specifically asks for comments on various provisions. **Given what is expected to be an expedited review process, and our understanding that EPA has indicated that EPA has no plans to enlist contractor support for comment review, how is it possible for the agency to adequately respond to the large volume of comments it is likely to receive on the proposal?**

Answer: The proposed rule is an update of a standard originally promulgated in 1988. The 1988 NSPS requires manufacturers to design new residential wood heaters to meet particulate emission (PM) limits, have representative heaters (per model line) tested by an EPA-accredited lab, and attach the EPA label after the EPA approval. The proposal would update the 1988 NSPS to reflect today's best systems of emission reduction, considering costs. These systems are ~80% cleaner and more efficient. The EPA is reviewing every comment and preparing appropriate responses for the final rulemaking. We are also reviewing all data that has been submitted to help inform our decisions on the final rule. We are currently on schedule and expect to sign a final rule by February 3, 2015, consistent with a proposed consent decree deadline.

A proposed consent decree was published in the Federal Register on May 9th (79 FR 26752), with a 30 day comment period that runs through June 9th.

Once the EPA reviews the comments, as provided in Clean Air Act (CAA 113(g)), the Agency will determine whether the comments disclose facts or information that indicate that the consent decree is "inappropriate, improper, inadequate or inconsistent with [the CAA]." If there are no such facts or information, we will move the court to enter the consent decree. Upon entry by the court, the consent decree will be a binding court order.

b: Given the number of new products which will be covered in the proposed NSPS for residential wood heaters, and the current backlog at OECA, the enforcement and certification arm of EPA, what does the EPA propose to do to protect small businesses who try to certify to the new rule from excessive paperwork backlogs?

Answer: Under the current NSPS for residential wood heaters, the Office of Enforcement and Compliance Assurance (OECA) issues certificates of compliance for wood heater manufacturers. The certificates of compliance are valid for five years from the date of issuance (40 CFR 60.533 (j) (1) (ii)). After the five year term, OECA checks to make sure that no changes have been made to the design of the stove that would increase particulate matter emissions.

OECA works directly with wood heater manufacturers and their representative laboratories to obtain all engineering data that is necessary for EPA to expedite review and avoid backlogs in the certification process. OECA typically reviews (both initial and renewal) certification requests in 30-90 days. We currently do not have a backlog of pending requests, and will continue to work with the wood heating industry to review certifications as expeditiously as possible.

Should the final rule be finalized in its proposed state, the third party certification program described in section III.A should facilitate the development of improved wood heater designs by providing a faster approval process and reducing redundancies in quality assurance for emissions testing and safety testing. The proposed third-party certification program should also improve enforcement by providing for more frequent on-site inspections of manufacturing facilities and laboratories.

Whitfield Q22: With respect to the Safe Drinking Water Act and the Clean Air Act, are any of the enhanced oil recovery (EOR) projects referenced in the preamble for the proposed GHG rule for new electric generating units announced on September 20, 2013, complying with anything other than UIC Class II requirements?

a. **With respect to EPA's Subpart RR-Geologic Sequestration of Carbon Dioxide Rule, are there any Monitoring, Reporting and Verification (MRV) plans that have been submitted to EPA for approval under Subpart RR of the GHG Reporting Program?**
b. **If yes, how many have been submitted? Also, if yes, how many have been approved under Subpart RR of the GHG Reporting Program?**

Answer: U.S. EOR projects with traditional risk profiles, such as current projects referenced in the preamble of the proposed rule, are permitted as UIC Class II. EOR projects also are subject to the Greenhouse Gas Reporting Program under Subpart UU – Injection of Carbon Dioxide (if not reporting under Subpart RR) and potentially other source categories including Subpart W – Petroleum and Natural Gas Systems. As of May 2014, the EPA has not received any Subpart RR MRV plans.

Whitfield Q23: According to EPA, the agency initiated the Bristol Bay Watershed Assessment in response to a petition for EPA to exercise its 404(c) authority. **Has the agency received any other similar petitions, and if so, what has been requested? Has the agency received any petitions concerning the agency's use of 404(c) on any existing permits?**

Answer: The agency received petitions from Wisconsin tribes requesting EPA use section 404(c) to prohibit a proposed mine in northern Wisconsin. EPA has not received any petitions regarding an existing permit.

Whitfield Q24: Does EPA have any plans to potentially perform studies on or initiate the 404(c) process on any other waters at this time? If so, where?

Answer: No, the EPA does not have plans to perform studies on or initiate the 404(c) process on any other waters at this time

Whitfield Q25: Does EPA have any plans to potentially reevaluate any existing 404 permits pursuant to its 404(c) authority? If so, which ones?

Answer: No, the agency does not have any such plans.

Whitfield Q26: The current definition of fill material, finalized in May 2002, solidifies decades of regulatory practice by unifying the Corps and EPA's prior conflicting definitions so as to be consistent with each other and the structure of the CWA. However, both EPA and the Corps have stated that they are considering revising the definition of fill material. These changes could mean that certain mining-related activities would be deemed illegal, thereby preventing mining companies from operating. The FY14 Omnibus appropriations bill included language to prevent the Corps from working on any regulation changing the definition of fill material.

a. Has EPA engaged in discussions with the Corps on revising the rule?

Answer: During past years, the Corps and the EPA have discussed actions for the definition of "fill material" that could provide additional clarity. However, the EPA has no active discussions with the Corps in FY 2014 on revising the agencies' definition of "fill material."

b. What is EPA's rationale for potentially revisiting the well-established division of the Sec. 402 and Sec. 404 programs?

Answer: The EPA has no active discussions with the Corps in FY 2014 on revising the agencies' definition of "fill material."

c. What specific problems is EPA seeking to address by revisiting the definition of fill material, and how exactly is EPA intending to address them?

Answer: The EPA has no active discussions with the Corps in FY 2014 on revising the agencies' definition of "fill material."

Whitfield Q27: Some advanced biofuel developers have proposed that EPA consider a pathway to allow for the generation of RINs under the renewable fuel standard (RFS) when renewable hydrogen is used to displace conventional hydrogen in petroleum refining operations. The pathway, if approved, would create an economic incentive to produce hydrogen from biomass sources, including bio-methane collected from landfill emissions and bio-digesters. Renewable hydrogen, if used in refinery hydro-reactors, would increase the fraction of renewable content in the nation's gasoline and diesel supplies.

Discussions regarding a pathway application have been underway since September 2013. EPA has indicated that, in order to properly consider this pathway, it needs additional technical information, which stakeholders have developed and provided earlier this year. However, EPA

has indicated that, currently, it is unable to assess this information or meet with industry experts to discuss it due to the overwhelming demands on the Office of Transportation and Air Quality's (OTAQ) time from other regulatory matters.

a: Has OTAQ determined a timetable for resuming consideration of a renewable hydrogen pathway under the RFS?

Answer: The EPA has spent a significant amount of time with these stakeholders in the spirit of trying to understand their proposed approach. Since the renewable hydrogen only makes up a small portion of the gasoline or diesel transportation fuel in which it is used, it is not clear that the fuel would meet the GHG emission reduction thresholds required by the Clean Air Act. Furthermore, the EPA has already approved other pathways that allow for the use of biogas, so the proposed pathway would not necessarily result in more biogas being used as a transportation fuel. We have also determined that this pathway may give rise to some unique technical, regulatory, and implementation issues. For example, new recordkeeping and reporting requirements for refiners might be necessary to ensure that RINs were appropriately generated for the fuel derived from the biogas. Given these concerns and resource constraints, the EPA does not currently have an anticipated timeline for further consideration of this pathway.

b: Has OTAQ determined that it cannot devote time to any further processing of RFS pathways at this time, and if so, how long is that expected to last?

Answer: The EPA already has approved a significant list of advanced and cellulosic biofuels under the RFS program. However, the RFS program is facing new and different issues on an ongoing basis as the renewable fuels market continues to evolve and grow. In order to carry out its responsibilities, the agency has shifted resources from other program areas, to the extent possible, but limited agency resources has made this difficult.

To address some of these challenges, on March 13, the EPA posted a program announcement about activities that we are undertaking to improve the petition process for new fuel pathways. During the improvement process, the EPA intends to continue reviewing pending petitions that are high priority and pending petitions for which substantial modeling has already been done. Considering resource limitations, we will be setting priorities with respect to petition reviews, such as focusing on pathways that can contribute to meeting the cellulosic biofuel volumes. We expect this improvement process to take approximately six months.

Questions Submitted for the Record by Representative Barton

Barton Q1: As set forth on EPA's website, the Agency's Clean Air Scientific Advisory Committee (CASAC) provides advice to the EPA Administrator on the technical bases for EPA's national ambient air quality standards.

a. Are CASAC advisory committee meetings transcribed?
   i. If yes, are those transcripts made accessible to the public on EPA's website?
   ii. If not, will transcripts be prepared going forward and will EPA make those transcripts accessible to the public on the Agency's website?

b. Are CASAC advisory committee meetings webcast?
   i. If yes, are those webcasts archived and made accessible to the public on EPA's website?
   ii. If not, will EPA webcast these meeting going forward, archive the webcasts and make the webcasts accessible to the public on the Agency's website?

Answer: The SAB Staff Office (SABSO) does not transcribe CASAC meetings. The EPA's National Center for Environmental Assessment and the EPA's Office of Air Quality Planning and Standards sometimes have transcribers at CASAC meetings. The SABSO has no plans to prepare transcripts of CASAC meetings. To meet our legal requirements for Federal Advisory Committee Act (FACA) records keeping, the SABSO develops meeting minutes which are certified as accurate by the chair of the committee in question and makes those meeting minutes available to the public. These meeting minutes document the actions taken and decisions made by the panel during its public deliberations.

The SABSO does live webcast some CASAC meetings. The CASAC webcasts are live events designed to share the real time public meeting with all interested parties who wish to watch. The webcasts are not archived and the EPA has no plans to do so going forward.

Barton Q2: As set forth on EPA's website, EPA's Science Advisory Board (SAB) advises the agency on technical matters, including reviewing the quality and relevance of the scientific and technical information being used or proposed as the basis for EPA regulations.

a: Are SAB advisory committee meetings transcribed?

   i. If yes, are those transcripts made accessible to the public on EPA's website?

   ii. If not, will transcripts of those meetings be prepared going forward and will EPA make those transcripts accessible to the public on the Agency's website?

b: Are SAB advisory committee meetings webcast?

   i. If yes, are those webcasts archived and made accessible to the public on the EPA's website?
   ii. If not, will EPA webcast these meeting going forward, archive the webcasts and

make those webcasts accessible to the public on the Agency's website?

Answer: The SAB Staff Office does live webcast some SAB meetings. The SAB webcasts are live events designed to share the real time public meeting with all interested parties who wish to watch. The webcasts are not archived and the EPA has no plans to do so going forward. The SAB Staff Office (SABSO) does not transcribe SAB meetings. The SABSO has no plans to prepare transcripts of SAB meetings.

Barton Q3: As set forth on EPA's website, the Advisory Council on Clean Air Compliance Analysis (COUNCIL) was established to provide advice, information and recommendations on technical and economic aspects of analyses and reports EPA prepares on the impacts of the Clean Air Act on the public health, economy, and environment of the United States.

a: Are COUNCIL advisory committee meetings transcribed?

- **i. If yes, are those transcripts made accessible to the public on EPA's website?**
- **ii. If not, will transcripts of those meetings be prepared going forward and will EPA make those transcripts accessible to the public on the Agency's website?**

Answer: The EPA's SAB Staff Office (SABSO) does not transcribe COUNCIL meetings. The SABSO has no plans to develop transcripts of COUNCIL meetings. To meet our legal requirements for Federal Advisory Committee Act (FACA) records keeping, the SABSO develops meeting minutes which are certified as accurate by the chair of the committee in question. These meeting minutes document the actions taken and decisions made by the panel during its public deliberations. It should be noted that the work of the COUNCIL is complete and the EPA is working to administratively retire the COUNCIL as a peer review body in FY 2014.

b: Are COUNCIL advisory committee meetings webcast?

- **i. If yes, are those webcasts archived and made accessible to the public on EPA's website?**
- **ii. If not, will EPA webcast these meeting going forward, archive the webcasts and make those webcasts accessible to the public on the Agency's website?**

Answer: The SABSO does not webcast COUNCIL meetings and has no plans to do so going forward.

Barton Q4. In December 2007, the City of Fort Worth partnered with the EPA on the Alternative Asbestos Control Method (AACM) project performed at the Oak Hollow Apartments in Fort Worth, Texas. Upon completion of the AACM project, the EPA prepared a peer reviewed draft report. However, the final version of that report was never published, and as a result, the project has entirely stalled despite repeated attempts by the City for clarity and answers.

a. Why has the EPA repeatedly decided not to publish legitimate scientific research so that the public and broader scientific community may have access to this data?

Answer: As your inquiry indicated, you are aware that there was an initial peer review

of the draft reports for the AACM2 and AACM3 projects. Following that initial review, revised reports were prepared. These revised drafts went through an extensive review process involving multiple EPA program and regional offices. This subsequent peer review identified technical issues that did not meet the Agency's scientific standards and could not be resolved.

The EPA Office of Inspector General has recently completed an investigation of the AACM experiments and methods used to demolish buildings at additional locations. The final report is currently available at:

http://www.epa.gov/oig/reports/2014/20140925-14-P-0359.pdf

We share your desire to protect the health and safety of the citizens in Texas. In light of the Inspector General investigation, the unresolved technical issues, and because the agency is not considering modifying the Asbestos National Emissions Standards for Hazardous Air Pollutants (NESHAP), EPA has decided not to publish the reports for AACM2 and AACM3.

b. Furthermore, I request copies of all documentation related to the recent "re-review" of documents related to the AACM and the data generated during and after the demolitions as referenced in the April 26, 2013 letter from the EPA to the City of Fort Worth.

Answer: If you continue to desire the described documents, please make such a request through a separate letter to the Agency. EPA's longstanding protocol is to process document requests through separate letters and we will be happy to work with you or your staff to provide an appropriate response.

Questions Submitted for the Record by Representative Pitts

Pitts Q1: In Pennsylvania, we have benefitted greatly from having electric generating units that burn coal refuse (also called waste coal) to create affordable, domestic energy. By processing this coal refuse, these units have had significant positive effects on the surrounding environment as well. In fact, to date, these units have been used to reclaim some 8,200 acres of damaged land and improve hundreds of miles of streams.

The EPA's Mercury and Air Toxics Rule (MATS) takes effect next April, however, and among other things, the rule establishes hydrogen chloride and sulfur dioxide emission limitations that are unattainable for most coal refuse fired units. In anticipation, the industry has approached the EPA seeking reconsideration under the rule and also has met with various members of your staff including Acting Assistant Administrator for the Office of Air and Radiation, Janet McCabe.

Would you please provide an update on the status of these discussions and the industry's request for reconsideration? What is your schedule for responding? Will you commit to continuing these discussions with the industry in order to avoid shutting down these facilities and harming both the local environment and economy?

Answer: Discussions are ongoing. The EPA continues to review the petitions for reconsideration and how they may be affected by the U.S. Court of Appeals for the District of Columbia Circuit decision on the final MATS rule on April 15, 2014. The court specifically spoke to some issues raised by ARIPPA, saying: "EPA's decision not to create a CFB subcategory in the Final Rule is reasonable and well-supported by the record." However, at this time, the EPA has not made any final decisions regarding the ARIPPA petition or the remaining petitions on the final MATS rulemaking.

Pitts Q2: In the preambles of various EPA proposed rules, the agency has specifically mentioned and discussed the environmental benefits associated with reclamation of coal refuse to produce electricity. If the EPA's Mercury and Air Toxics Rule (MATS) is enforced as it is currently written, however, a number of these facilities will likely be forced to close as a result of compliance costs.

Does the EPA have an alternative plan to clean up these coal refuse piles if and when these facilities are forced to shut down as a result of MATS?

Answer: EPA believes that a number of the coal refuse electric generating units are already meeting the finalized MATS standards without the use of any additional controls. Coal refuse units needing additional time to comply with the final MATS may seek an extension of up to one year to install controls necessary to comply with the final standards.

Pitts Q3: I know that one of our colleagues from Pennsylvania, Mr. Rothfus, has been actively engaged on the issue of electrical generating units that process coal refuse and has been seeking some sort of solution that will allow these units to continue in operation after the Mercury and Air Toxics Rule (MATS) takes effect next spring.

As currently written, the rule establishes hydrogen chloride and sulfur dioxide emission limitations that are unattainable for most coal refuse fired units. There is significant concern that implementation of the rule will force many plants to shut down and their workers to lose their jobs.

Mr. Rothfus has asked me to invite you and your staff to tour these facilities and see firsthand the sort of positive impacts that they have had on the surrounding areas.

Will you commit today to making this a priority and ensuring that those on your staff who are responsible for this issue will travel and meet with the coal refuse industry to work to find a mutually-agreeable solution?

Answer: We will continue to work with Congressman Rothfus and other interested parties on these issues.

Pitts Q4: The EPA's Mercury and Air Toxics Rule (MATS) takes effect next April and many in the coal industry have expressed significant concern about the associated compliance costs.

To date, how many utility and non-utility coal fired boilers have announced they are shutting down as a result of MATS? How many requests for reconsiderations has the EPA received and how many has your agency acted upon? What is your schedule for responding to any and all pending requests for reconsideration so that industry can have certainty about their future costs?

Answer: Utilities are making substantial progress in complying with MATS. All of the information that the EPA has seen shows that this progress is occurring without threats to reliability or other insurmountable challenges. EPA's extensive engagement with grid planners, undertaken in coordination with the Department of Energy (DOE) and the Federal Energy Regulatory Commission (FERC) and frequent communications with utilities, state regulators, regional transmission organizations, and other key stakeholders indicates that these entities are proactively managing potential issues to ensure reliability is maintained and are adopting cost-effective solutions to MATS compliance requirements.

MATS has put in motion planning and investment that is leading to the installation of pollution control technologies and adoption of emissions reduction measures across the existing fleet of power plants. Although generation owners in some instances publically have attributed retirements exclusively to MATS, at least one study found that these plants already have been facing decreasing utilization rates due to market factors, including historically low natural gas prices and slowing electricity demand growth.[1] This is demonstrated by the fact that many units are being retired well in advance of MATS compliance dates.

The EPA received 20 petitions for reconsideration of the MATS NESHAP and 4 petitions for reconsideration of the MATS NSPS. Many, if not all, of these petitions contained

[1] http://www.analysisgroup.com/uploadedFiles/News_and_Events/News/2012_Tierney_WhyCoalPlantsRetire.pdf.

multiple issues. We granted reconsideration on two of the issues raised – the new-source emission limits and the startup/shutdown provisions. To date, we have finalized responses to the new-source limits issue. We are in the process of finalizing the startup/shutdown provisions issue. The EPA continues to review the remaining petitions for reconsideration and how they may be affected by the U.S. Court of Appeals for the District of Columbia Circuit decision on the final MATS rule on April 15, 2014.

Pitts Q5: The month of January 2014 saw two historic cold snaps in the Eastern United States. The first, the polar vortex, brought the lowest temperatures in decades across the East and Southeast in early January. The second event brought more record-cold temperatures to the Northeast and Midwest, along with paralyzing snow and ice to the Southeast.

a. Let me ask some straight-forward yes or no questions:

- **i. Does affordable, reliable electricity play a critical role in promoting economic growth?**
- **ii. Does affordable, reliable electricity play a critical role in protecting public health and safety?**
- **iii. Does affordable, reliable electricity play a critical role in responding to severe weather and natural disasters, regardless of the causes?**

Answer: Affordable, reliable electricity is among the many factors that affect the public health and welfare, economic growth, and resiliency against disasters.

Pitts Q6: Recently, the Chairman of the North Carolina Public Utility Commission and other officials wrote to Acting Assistant Administrator of the EPA, Janet McCabe, about EPA's pending rules for existing power plants. They stated that "It is no secret that the economic recovery across the United States is fragile and many ratepayers struggle to pay their monthly bills, including their utility bills."

- **a. Do you agree that the economic recovery across the United States is fragile?**
- **b. Do you agree that many ratepayers struggle to pay monthly utility bills?**
- **c. In developing rules, does EPA analyze the impacts on the rates people pay for electricity?**
- **d. In conducting that analysis, is there a threshold for electricity price increases that EPA finds unacceptable? For example, if rates are going to go up by ten, twenty, fifty dollars a month per household in communities in Pennsylvania?**
- **e. We had testimony just last month about how those kinds of rate increases - even twenty dollars a month - can be too much for many ratepayers, especially in today's economy.**

Answer: The EPA evaluates the costs and benefits of its rules in our Regulatory Impact Analyses (RIAs), including analyses of electricity rates and electricity bills. In our illustrative modeling, conducted for the proposed Clean Power Plan, the EPA estimated that small changes in electricity prices would be within normal, historical fluctuations and any short-term increase

in what we pay every month on our electric bill—think the price of a gallon of milk—will still keep our bills lower than they were in 2010. In fact, if states choose to take advantage of available opportunities to increase efficiency, we expect by 2030 average residential electricity bills will be 8 percent lower than they would be without the Clean Power Plan, saving the average American family almost $9 on their electric bill every month.

Pitts Q7: The Natural Resources Defense Council (NRDC) has proposed a cap-and-trade approach to regulating carbon dioxide emissions from power plants. An analysis of that proposal, by the National Economic Research Associates, concluded that NRDC's proposal could cost consumers $13 billion to $17 billion per year in higher electricity and natural gas prices.

Is an approach that will mean those kind of higher energy costs acceptable to EPA?

Answer: States, cities, businesses, and homeowners have been working for years to increase energy efficiency and reduce demand for electricity. The EPA projects that the Clean Power Plan will continue—and accelerate—this downward trend. This means that, in 2030, nationally, electricity bills would be expected to be roughly 8 percent lower than they would have been without the plan. That would save $9 on the average American's monthly electricity bill.

Questions Submitted for the Record by Representative Terry

Terry Q1: Are you familiar with the Farmer Identity Protection Act, a bipartisan bill introduced by Crawford, McIntyre, Costa, and myself?

a: Do you support or oppose?
b: Barring legislation, what assurances can you give the farmers of America that their information is safe?

Answer: The EPA has not taken a position on the Farmers Identity Protection Act. The EPA understands the need to protect personal information. The EPA has a Privacy Policy which establishes agency requirements for safeguarding the collection, access, use, dissemination, and storage of personally identifiable information and Privacy Act information in accordance with the Privacy Act of 1974, the E-Government Act of 2002, the Federal Information Security Management Act (FISMA), and policy and guidance issued by the President and the Office of Management and Budget. The EPA also has a Privacy Act Manual, which establishes policy and procedures for protecting the privacy of individuals who are identified in EPA's information systems. The EPA will continue to work with our federal partners, industry, and other stakeholders to ensure the agency addresses the privacy interests of farmers.

Terry Q2: Last week, you testified before the House Interior Appropriations Subcommittee and said farmers would have greater certainty because you now have put out a list of 50 or more exemptions. Experts in the Clean Water Act have indicated that the certainty you talk about comes about only because EPA has decided broadly to assert jurisdiction in spite of the Supreme Court decisions in SWANCC and Rapanos.

a: Can you tell the committee where you have not asserted jurisdiction where you previously claimed it?

Answer: The proposed rule in paragraphs (b)(3) through (b)(5) identifies waters that are proposed to not be considered waters of the United States. Specifically, the agencies propose that the following are not waters of the United States notwithstanding whether they would otherwise be jurisdictional under section (a):

- Ditches that are excavated wholly in uplands, drain only uplands, and have less than perennial flow;
- Ditches that do not contribute flow, either directly or through another water, to a traditional navigable water, interstate water, the territorial seas, or impoundment;
- Artificially irrigated areas that would revert to upland should application of irrigation water to that area cease;

- Artificial lakes or ponds created by excavating and/or diking dry land and used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing;
- Artificial reflecting pools or swimming pools created by excavating and/or diking dry land;
- Small ornamental waters created by excavating and/or diking dry land for primarily aesthetic reasons;
- Water-filled depressions created incidental to construction activity;
- Groundwater, including groundwater drained through subsurface drainage systems; and
- Gullies and rills and non-wetland swales.

Most of these features and waters have been identified by the agencies as generally not waters of the United States in previous preambles or guidance documents, but the agencies have always preserved the authority to determine in a particular case that any of these waters are a water of the United States. One goal in this proposed rule is to increase certainty about the scope of waters of the United States. To that end, the agencies propose that these features and waters are expressly not waters of the United States by rule. Thus, the agencies would not retain the authority to determine that any of these waters was a water of the United States because it would otherwise be jurisdictional under section (a).

b: Can you tell the committee how your proposed rule comports with the Court's rulings in SWANCC and Rapanos?

Answer: Determining Clean Water Act protection for streams and wetlands became confusing and complex following Supreme Court decisions in 2001 and 2006. For nearly a decade, members of Congress, state and local officials, industry, agriculture, environmental groups, and the public asked for a rulemaking to provide clarity. The proposed rule is consistent with the Supreme Court's more narrow reading of Clean Water Act jurisdiction.

As Justice Kennedy stated in his *Rapanos* opinion, "In *Solid Waste Agency of Northern Cook Cty.* v. *Army Corps of Engineers, [cites omitted]* the Court held, under the circumstances presented there, that to constitute navigable waters under the Act, a water or wetland must possess a significant nexus to waters that are or were navigable in fact or that could reasonably be so made. *[cites omitted]*." Justice Kennedy then indicated that a water has a significant nexus when, either alone in combination with similarly situated waters in the region, the water significantly affects the chemical, physical, or biological integrity of a navigable water.

When developing the proposed definition of "waters of the United States," the agencies carefully considered available scientific literature and proposed a rule consistent with their conclusions that a particular category of waters, either alone or in combination with similarly situated waters in the region, significantly affects the chemical, physical, or biological integrity

of traditional navigable waters, interstate waters, or the territorial seas.

The proposed rule identifies tributaries and adjacent waters as "waters of the United States." As discussed in the proposal preamble and its Appendix A, tributaries as proposed to be defined perform the requisite functions for them to be considered "waters of the United States" by rule. Tributary streams exert a strong influence on the character and functioning of downstream traditional navigable waters, interstate waters, and the territorial seas, either individually or cumulatively. With respect to adjacent waters, the agencies similarly conclude that adjacent waters as defined in the proposal perform the requisite functions for them to be considered "waters of the United States" by rule, and these conclusions and their scientific basis are discussed at length in the proposal preamble and Appendix A.

For an "other water" to be jurisdictional, the proposed rule expressly requires a case-specific evaluation whether a significant nexus is present between the "other water" and a navigable water, interstate water, or territorial sea. As discussed in the proposal preamble, the agencies conclude that "other waters" may affect downstream traditional navigable waters, interstate waters, and the territorial seas, depending on the characteristics of the connection to the river network. However, currently available science suggests this connectivity varies within a watershed and over time, making it difficult to generalize about whether such waters have a significant nexus as a category. As a result, the proposal indicates that these waters require a case-specific significant nexus analysis.

This approach is fully consistent with the *Rapanos* and *SWANCC* decisions. The agencies further explain the legal issues outlined in these cases in the preamble of the agencies' proposed rule and in Appendix B: Legal Analysis.

c: Is it correct that a farmer only qualifies for any one of these exemptions if the farmer follows NRCS standards?

Answer: Clean Water Act Section 404(f)(1)(A) identifies "normal" farming practices as exempt from Section 404 permitting, and gives as examples plowing, seeding, cultivating, minor drainage, harvesting, and upland soil and water conservation practices. Under the interpretive rule, the EPA and Corps of Engineers, with assistance from the Natural Resources Conservation Service (NRCS), identified 56 additional specific agricultural conservation practices that are "normal farming" and thus exempt from permitting under Section 404(f)(1)(A). These practices are defined by the accompanying NRCS technical standards, which is why the interpretative rule relies on agriculture producers to follow the NRCS technical standards.

d: Is it true that any- or all-of these exemptions can be changed, curtailed, or even eliminated by NRCS without notice to the public and without public input?

95

Answer: The EPA, the Army, and the U.S. Department of Agriculture have signed a Memorandum of Agreement that describes how the agencies will revisit the conservation practices considered exempt from permitting under Clean Water Act Section 404(f)(1)(A). The agencies have agreed to annually review and update, as necessary, the Natural Resources Conservation Service's agricultural conservation practices that may include discharges to waters of the United States. Note also that the Section 404(f) exemptions are established by the Clean Water Act itself, and the agriculture interpretive rule merely clarifies that the statutory exemption for "normal farming" extends to cover the 56 identified NRCS conservation practice standards.

Questions for the Record Submitted by Representative Burgess

Burgess Q1: Please list the names, titles, salaries, and dates of Title 42 appointments for all EPA employees compensated under the Title 42 program, including current and past recipients.

Answer: The table below provides EPA's current on-board Title 42 employees. Currently, the average salary for Title 42 employees is $192,000.

FY Hired	OPM Position Classification	EPA/ORD Organization	Science Expertise
2006	Research Chemist (Bioinformatics)	National Center for Computational Toxicology (NCCT), Research Triangle Park, NC	• Leads cutting-edge research in systems models of cellular behavior. • International expertise in bioinformatics and predictive biochemical pathways.
	Research Physicist (Computational Systems Biology)	NCCT, Research Triangle Park, NC	• Heads innovative research in developing complex computational solutions to use models to characterize chemical exposure, hazard, or risk, such as ToxCast. • International leadership in creating informatics teams and in the area of genomics.
	Research Biologist (Systems Biology)	National Health and Environmental Effects Research Laboratory (NHEERL), Integrated Systems Toxicology Lab, Research Triangle Park, NC	• Leads the lab in initiating systems approaches in developing molecular biology methodologies. •International leadership in combining experimental and computational approaches to health effects of environmental contaminants.
2007	Research Biologist (Developmental Systems Biology)	NCCT, Research Triangle Park, NC	•Heads ORD's research to develop complex systems level models of biological processes and tissues. • Provides international expertise in developmental biology, systems biology, genomics, and computational modeling.

FY Hired	OPM Position Classification	EPA/ORD Organization	Science Expertise
2007	Supervisory Research Biologist (Director)	NHEERL/Environmental Public Health Lab/Clinical Research Center, Research Triangle Park, NC	• Leads ORD's research on pulmonary effects related to air pollution and sensitivity factors. • Brings international experience in the area of assessment and characterization of immunological and allergic diseases in response to air pollution.
2008	Supervisory Research Biologist (Director)	National Center for Environmental Assessment (NCEA), Research Triangle Park Center, NC	•Directs ORD assessment of the health and environmental effects of single environmental pollutants and combinations of pollutants. • Provides international expertise in health risk assessment and air pollutants research.
2010	Supervisory Chemist (Director)	National Risk Management Research Laboratory (NRMRL), Sustainable Technology Lab, Cincinnati, OH	• Leads ORD's development and application of models and tools to prevent, mitigate, and control environmental risks. •International expertise in green chemistry, engineering, and sustainability science.
2011	Supervisory Health Scientist (Director)	NHEERL, Environmental Public Health Lab, Research Triangle Park, NC	• Heads ORD's integrated, clinical, epidemiological, and laboratory animal based research program. • Brings international leadership in cardiac effects of air pollution on environmental exposure and risk identification and characterization.
2011	Supervisory Research Biologist (Director)	NHEERL Integrated Systems Toxicology Lab, Research Triangle Park, NC	• Leads ORD's research in using systems biology approaches to describe normal biological, homeostatic processes and to identify key events that signal departure from those processes leading to adverse health outcomes.

FY Hired	OPM Position Classification	EPA/ORD Organization	Science Expertise
			•International leadership in toxicology, molecular biology, pharmacology, and genetics.
	Supervisory Biologist (Director)	NHEERL, Toxicity Assessment Lab, Research Triangle Park, NC	• Directs ORD's integrated toxicology assessment research that incorporates developmental biology, reproductive biology, endocrinology, and neurosciences. •Provides international expertise in in vivo toxicology, neurological biology, reproductive and developmental biology, and source to effects models.
	Supervisory Physical Scientist (Director)	National Exposure Research Laboratory (NERL), Ecosystems Research Lab, Athens, GA	• Heads ORD's research into fate and transport of environmental stressors, including studies of the behavior of contaminants, nutrients, and biota in environmental systems. • Provides international expertise in working with ecologists, chemists, fisheries biologists, geologists, and engineers.
	Supervisory Biologist (Director)	NERL, Microbiological and Chemical Exposure Assessment Research Lab, Cincinnati, OH	• Leads ORD's research on microbial ecology and the potential risk factors in natural and engineered water systems. • International leader in microbial ecology, chemistry, and physiology.
2012	Supervisory Biologist (Deputy Assistant Administrator for Science)	Office of the Assistant Administrator, Immediate Office, Washington, DC	• Leads all science and research in ORD. • Provides scientific foundation and leadership across ORD research programs. • International leader in the areas of developmental toxicology, endocrine disruption, benchmark dose analysis, and computational toxicology.
	Supervisory	Air, Climate, and Energy	• Provides the critical science to

FY Hired	OPM Position Classification	EPA/ORD Organization	Science Expertise
	Biologist (National Program Director)	National Research Program, Research Triangle Park, NC	develop and implement the National Ambient Air Quality Standards under the Clean Air Act. The research program fosters innovative approaches to ensure clean air in the context of a changing climate and energy options. • Internationally recognized expert in the area of public health effects of air pollution, including inhalation and cardiovascular toxicology.
	Supervisory Biologist (National Program Director)	Safe and Sustainable Water Resources Research Program, Washington, DC	• Heads ORD's research on developing new approaches for evaluating groups of contaminants for the protection of human health and the environment; developing innovative tools, technologies, and strategies for managing water resources; and supporting a systems approach for protecting and restoring aquatic systems. • Provides internationally recognized expertise in the areas of environmental sciences, toxicology, human health, and wetland restoration.
2012	Supervisory Environmental Engineer (Director)	National Center for Environmental Research, Washington, DC	Leads and conducts highly recognized, leading edge, extramural research in the areas of exposure, risk assessment, and risk management. This includes supporting high-quality research by the nation's leading scientists and engineers that will improve the scientific basis for national environmental decisions. • Internationally recognized leader and expert in the area of environmental engineering, including hazardous waste management, treatment, and disposal.

FY Hired	OPM Position Classification	EPA/ORD Organization	Science Expertise
	Supervisory Physical Scientist (National Program Director)	Chemical Safety for Sustainability, Washington, DC	• Provides the scientific foundation for the chemical safety for sustainability program in order to advance environmental sustainability. • Leads international innovation in areas of chemical design and chemical impacts to human health and the environment.
2012	Supervisory Biologist (Director)	NCEA, Washington, DC	• Leads ORD's health and ecological assessment program to determine how pollutants may impact human health and the environment. • Internationally recognized leader and expert in toxicology and environmental health sciences.
	Supervisory Environmental Health Scientist (Director)	NERL, Human Exposure and Atmospheric Sciences Lab, Research Triangle Park, NC	• Heads ORD's research effort to develop innovative approaches for assessing the fate, transport, and exposure to air pollutants from different sources and develop and apply tools for assessing aggregate exposures and cumulative risk to all stressors from all sources. • Internationally recognized expert in the area of human exposure and atmospheric sciences.
2013	Associate Director for Health	NHEERL, Research Triangle Park, NC	• Leads NHEERL's health effects research program to assess the impact of chemical and other environmental stressors on human health that builds on systems biology thinking employing a variety of approaches such as in vivo, in vitro, and in silica technologies. • International recognition in the areas of gene regulation, toxicokinetics and toxicogenomics, and developmental toxicology.

FY Hired	OPM Position Classification	EPA/ORD Organization	Science Expertise
	Supervisory Toxicologist (Director)	NCCT, Research Triangle Park, NC	• Heads ORD's research into the application of mathematical and computer models to technologies derived from computational chemistry, molecular biology, and systems biology. • Brings international leadership and experience in the areas of genomic biology, bioinformatics and chemical safety sciences.
FY 2014	Supervisory Biologist (Director)	NRMRL, Kerr Lab, Ada, OK	• Leads NRMRL's research into the interactions of technical, economic, and social factors which affect current and future demands on water resources. • International recognition on subsurface resources, water quality, nutrient cycling, and ecosystems research and management.

Burgess Q2: In its response to the GAO's recommendation in 2012 regarding handling of ethics issues under the Title 42 program, EPA wrote that although they disagreed with the recommendation, the agency would soon implement plans that would address issues that arise after appointment under Title 42. GAO stated that these plans may address the concerns documented in the 2012 report and may be the basis for closing the recommendation as implemented. GAO has stated that it is currently reviewing plans issued by EPA and will follow up in December 2013 to understand if additional plans have been released internally to the agency.

a: What plans has the EPA issued in response to the issues raised by the GAO recommendation? Have additional plans been released internally to the agency?

Answer: At EPA, the ethics review for all Title 42 candidates is undertaken by the EPA Ethics Office. That office adheres to the following procedure: for every new Title 42 candidate proposed by the Office of Research and Development (ORD) for hire, EPA's Ethics Office reviews his or her public financial disclosure form (OGE 278) and confers directly with the candidate to ensure complete reporting of necessary information. EPA Ethics discusses potential ethics issues with the candidate and with the appropriate Deputy Ethics Official. If necessary, EPA Ethics drafts a recusal statement/screening arrangement for the candidate to be issued upon

entry to employment. EPA Ethics follows up to ensure that it receives a signed copy of the recusal statement. At EPA, only the EPA Ethics Office is responsible for collection, review, and certification of public financial disclosure reports, so there is no need to release any additional plans to the rest of the agency.

b: Has EPA been in communication with GAO regarding Title 42 issues over the last five months? If so, what is the status and nature of the communications?

Answer: EPA has not had direct communication with GAO specific to the Title 42 recommendation issued from this report. However, as part of a routine, annual process, GAO has recently requested an update of all open GAO recommendations at the Agency, which includes the Title 42 recommendation.

Burgess Q3: Does EPA have plans to use authority under Title 42 Section 209 (f)? If so, has EPA developed guidance for implementing such authority?

Answer: At this time, EPA does not have plans to implement Title 42 Section 209 (f).

Burgess Q4: In December 2010, EPA began a pilot of using market salary data to estimate salaries of what Title 42 candidates could earn in positions outside of government given their education, experience, professional standing, and other factors. According to the GAO, this pilot was to conclude in December 2012.

What is the status of the market salary pilot? Did EPA analyze the pilot's effect on salary negotiations? If yes, what did the analysis show?

Answer: EPA uses market salary data to inform decision-making on when to use the Title 42 authority and in salary negotiations. The 2010 pilot emphasized the importance of the critical information market salary data provides to EPA in decision-making. EPA completed the pilot and continues to use the market data in its decision-making process. Guidance on the use of the data is currently being incorporated into EPA's Title 42 policy and guidance.

Burgess Q5: EPA's authority to use Title 42 pay scales, granted through the annual appropriations process, expires in 2015.

Does EPA intend to ask for an extension to use this authority? Has EPA had discussions with the Appropriations Committees in the House and/or Senate regarding such an extension? Does EPA intend to request that it be granted Title 42 hiring authority through the authorizing committees, either in the House or Senate?

Answer: The FY 2015 President's Budget included language to extend EPA's Title 42 authority through FY 2017 and to remove the 50 person cap.

Burgess Q6: It appears that a number of executive branch agencies are working on methane. EPA is looking to regulate oil wells with associated gas, DOE is holding roundtables, DOI is looking at methane capture for royalties, the WH is issuing white papers, and I think I'm probably missing a few.

Can you give the committee an update on this issue, who is on point, how is it being coordinated, where is it headed, and what are you doing to avoid duplication of effort and overlapping regulatory and budget requirements?

Answer: In June 2013, the President's Climate Action Plan called on the EPA and the Departments of Agriculture, Energy, Interior, Labor, and Transportation to develop a comprehensive methane strategy. This strategy, which was released at the end of March 2014, builds on progress to date and takes steps to further cut methane emissions from a number of key sources including: landfills, coal mines, agriculture, and oil and gas.

For the oil and gas sector activities noted above, the methane strategy outlines the EPA activities including the development of technical white papers. On April 15, 2014, the EPA released, for external peer review, five technical white papers on potentially significant sources of emissions in the oil and gas sector, including emissions from completions and ongoing production of hydraulically fractured oil wells. The white papers focus on technical issues covering emissions and mitigation techniques that target methane and volatile organic compounds (VOCs). The EPA will use the papers, along with the input we receive from the peer reviewers and the public, to determine how to best pursue additional reductions from these sources. Additional details on the white papers can be found at - http://www.epa.gov/airquality/oilandgas/whitepapers.html.

The EPA will continue to coordinate closely with DOI, DOE, and other Federal agencies to ensure all activities related to methane emissions are complementary and support the overall goals of the Climate Action Plan: Strategy to Reduce Methane Emissions.

Burgess Q7: Please provide the committee with the research funding EPA has provided to the current ozone CASAC panel members, the research institutions with which the panel members are associated, and the name and amount of each project grant by individual or research institution?

Answer: When evaluating the research funding of CASAC members who are to serve on specific panels, like the Ozone panel, the Science Advisory Board (SAB) Staff Office will look at research (awarded or active) in a two-year time frame (in this case 2012 - 2014). That analysis shows that seven of the CASAC ozone panelists have research funded by the EPA. Attached is a table breaking down the individuals, the research institutes, and the project name and dollar amounts. In each case the individual panel members were part of a multi-individual, multi-institution list of recipients. That information is also presented and the project amount provided represents the aggregate funding for all of the principal investigators and institutions listed.

Please note the excel attachment provides a separate tab for each CASAC member

participating in EPA-funded projects.

Burgess Q8: EPA's website for tracking regulations used to indicate that EPA planned to propose ozone standards in 2014, but now has no schedule indicated.

a and b: What is EPA's current schedule for proposing new ozone standards? What is EPA's current schedule for finalizing the standards?

Answer: On April 30th, 2014, the U.S. District Court for Northern California ordered the EPA to propose revisions to the National Ambient Air Quality Standards for ozone by December 1, 2014, and to finalize any such revisions by October 1, 2015.

Burgess Q9: The most recent ozone standards were published in 2008 and have not yet been implemented.

In proposing new standards next year, will EPA propose retaining the current standards set in 2008?

Answer: The EPA has not yet reached a decision about what revisions, if any, to the ozone standards may be appropriate in light of the current scientific evidence.

Burgess Q10: EPA estimated that the 2010 ozone NAAQS reconsideration could have cost American manufacturing, agriculture, and other sectors up to $90 billion per year. I'm concerned that we are driving manufacturing out of the U.S. to other countries with lax environmental standards.

a: In analyzing these regulations, does EPA consider the economic and environmental effects of driving manufacturing offshore to countries with little or no environmental controls? If not, shouldn't the agency consider that?

Answer: The EPA is prohibited by law from considering costs of implementation in setting the health-based NAAQS. The U.S. Supreme Court ruled in *Whitman v. American Trucking Associations*, 531 U.S. 457 (2001), that the EPA may not consider the costs of implementation in setting standards that are requisite to protect public health and welfare, as provided in section 109(b) of the Clean Air Act. However, the Clean Air Act gives state and local officials, in nonattainment areas, the ability to consider several factors, including employment impacts and costs of controls, when designing their state implementation plans to implement the NAAQS.

Burgess Q11: Regarding the Keystone XL Pipeline, has EPA completed its analysis of SEIS and will EPA try to delay the process again?

Answer: EPA is required under Section 309 of the Clean Air Act to "review and comment in writing" on other Agency's Environmental Impact Statements. Pursuant to that mandate, EPA has provided comments to the Department of State on its draft and draft supplemental EIS's for the Keystone XL pipeline. EPA must provide these comments within the

timeframes established by the lead Agency. On April 18, 2014, the Department of State notified eight Agencies, including EPA that State was providing more time for submission of views on the proposed Keystone Pipeline Project. As noted by the State Department, "Agencies need additional time based on the uncertainty created by the on-going litigation in the Nebraska Supreme Court which could ultimately affect the pipeline route in that state." As a result, EPA's analysis is on-going.

Burgess Q12: In this rule, I understand that EPA contends the proposed rule would actually result in fewer federal jurisdictional determinations and provide greater clarity to the regulated community.

Furthermore, EPA claims that by codifying a specific exclusion for ditches located in uplands and drain only uplands should result in far fewer man made drainage ditches becoming subject to the Clean Water Act's (CWA) regulatory and permitting requirements.

However, the proposed rule also contains an entirely new and significantly expanded definition of "tributary" that includes any feature (e.g., natural or manmade) that has a bed, bank, ordinary high water mark, and eventually contributes flow (surface or subsurface) to "Traditional Navigable Waters." Furthermore, the proposed rule's definition of tributary specifically includes manmade ditches, pipes, or culverts.

In my District (Texas 26th), like many other places in the country, there are literally thousands of miles of manmade roadside drainage ditches installed and maintained by county governments for primary purpose road safety. These roadside drainage ditches are located in both uplands and other areas.

How can these man-made roadside drainage ditches benefit from the proposed rule's exclusion when these ditches also are considered a tributary under the proposed rule?

Answer: The proposed waters of the U.S. rule proposes to reduce jurisdiction over ditches by excluding certain intermittent ditches which are considered to be jurisdictional under existing regulations and the December 2008 guidance which the Agencies currently use. The proposed rule does this in section (b) of the regulatory language which states: "The following are not waters of the United States notwithstanding whether they meet the terms of paragraphs (a)(1) through (7) of this section." This language means that if a ditch qualifies as being exempt under paragraph (b), then it is exempt regardless of whether the ditch meets the definition of a tributary.

Burgess Q13: I understand that the EPA worked to create a scientific study to illustrate the need for this regulation. This scientific report, entitled "Connectivity of Streams and Wetlands to Downstream Waters" states that all waters require federal protection, regardless of size or significance in connectivity.

In the *Rapanos* and the *SWANCC* decisions that preceded it, the Supreme Court made clear that there is a limit to federal jurisdiction under the CWA, specifically rejecting the notion that any hydrologic connection is a sufficient basis to trump state jurisdiction.

Do you think that the term "significant nexus" should be quantified in order to ensure that it does not extend jurisdiction to waters that have a de minimums connection to jurisdictional waters? Perhaps this is something that the National Academy of Sciences could look into?

Answer: The draft EPA report, "Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence," provides a synopsis of the science relevant to connections between waters. The draft report does not draw any policy conclusions and therefore does not suggest that all waters require federal protection. The EPA and the Corps considered the information in this scientific report, along with other information cited in the docket to the proposed rule, to develop the definition of "waters of the U.S." included in the proposed rule, which reflects Supreme Court decisions on this issue. The agencies' proposed definition for "significant nexus" within the proposed rule includes consideration of significant affects to the chemical, physical, or biological integrity of a navigable or interstate water or the territorial seas. For an effect to be significant, it must be more than speculative or insubstantial.

The EPA believes it is critical for its rulemaking efforts to reflect the best science. To help do this, the agency developed the draft report described above, which synthesizes available peer-reviewed literature and is receiving extensive independent peer review by the agency's Science Advisory Board (SAB). The agency believes that the SAB review process will provide sufficient independent external review of the agency's scientific work, and thus the agency has not specifically considered any additional process for obtaining such review with an outside body such as the National Academy of Sciences.

Burgess Q14: Why didn't the EPA wait until the scientific study's Science Advisory Board panel gave their final recommendations (expected in May/June) before proposing the rule?

Answer: We agree that it is essential for the Agency's regulatory promulgation to reflect the most current relevant science. In the case of the proposed rulemaking for the definition of "waters of the U.S." under the Clean Water Act (CWA), the EPA's Draft Connectivity Report ("Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence") provides a review and synthesis of over 1,000 pieces of published, peer-reviewed scientific literature regarding the effects that streams, wetlands, and open waters have on larger downstream waters such as rivers, lakes, estuaries, and oceans. The draft report does not reflect new information or new science. The draft report already has undergone both internal and independent external peer review, and is now being reviewed by the EPA's independent Science Advisory Board (SAB). The peer review report from the first peer review is available in the docket for the proposed rule, and the draft Connectivity Report reflects comments from that first peer review. The SAB published its draft peer review report on April 1, 2014 and held public teleconferences to discuss its draft report on April 28 and May 2. The SAB expects to issue a final peer review report later in 2014. The EPA has committed that the rule will not be finalized until the SAB review and the final Connectivity Report are complete.

Questions Submitted for the Record by Representative Cassidy

Cassidy Q1: My area has many communities who feel particularly strapped by the price tag required for compliance with EPA regulations under the Safe Drinking Water Act. I noticed the President's proposed budget provides that 30 percent of state allocations from the Drinking Water State Revolving Loan Fund (DWSRF) would be used for debt forgiveness.

a: How does this use of the Drinking Water State Revolving Loan Fund compare to other needs addressed by the DWSRF?

Answer: The Safe Drinking Water Act allows for up to 30% of a state's capitalization grant to be used for additional subsidy. Funds provided for subsidy greatly assist with the affordability of DWSRF lending. However, the more subsidy a State provides, the fewer funds that are loaned to generate interest and principal repayments, impacting future growth of the program and the states' ability to leverage funds in the short-term. States have discretion in how to manage their funds, including how to balance their needs for subsidy and maintaining the overall revolving corpus of their funds.

b: In 2009, the American Recovery and Reinvestment Act doubled the amount made available to DWSRF accounts. How much of the debt forgiveness is meant to cover loans made for the "shovel ready projects" covered by this spending?

Answer: All DWSRF funds are intended to lend to projects that are ready to proceed. Where a project that was considered ready to proceed fails to do so, the state is able to by-pass that project for another. For projects that received financial assistance under ARRA, 71% of the funds were for principal forgiveness.

c: From a practical perspective, what types of needs ordinarily addressed by the DWSRF will be squeezed out by use of DWSRF money this way?

Answer: Increased subsidy reduces the amount of financial assistance repaid to the states that revolves in the loan portion of the fund, decreasing principal and interest that would maintain and grow the fund. This means slower growth for the program due to a reduced repayment stream.

d: Does the Obama Administration consider the current DWSRF self-sustaining?

Answer: The President's FY 2015 budget request of $757 million supports the continued work of the DWSRF in ensuring that small and underserved communities have access to funding

that helps address their water infrastructure needs and that states have adequate resources to manage their programs.

Cassidy Q2: The Safe Drinking Water Act's funding is meant to assure compliance with the public health-based mandates of the law, not merely build infrastructure. I noticed the President's budget contains a Sustainable Water Infrastructure Policy to "develop sustainable systems that employ effective utility management practices to build and maintain the level of technical, financial, and managerial capacity necessary to ensure long-term sustainability."

a: Can you assure me, apart from a general desire to provide technical assistance to drinking water systems, that this particular program will not divert precious resources away from compliance and towards construction planning in certain communities?

Answer: Public health protection is enhanced through the assistance given to strengthen the technical, managerial, and financial capacity of drinking water systems. Improved capabilities and effective management help systems to sustainably provide safe drinking water to consumers. This is a key component to EPA's sustainable water infrastructure policy. In addition, through the FY 2014-2015 Small Systems Agency Priority Goal, EPA is working closely with state programs to improve public water system sustainability and compliance for persons served by small water systems. These activities consist of direct technical assistance needed to assure compliance with current and future public health-based mandates of the Safe Drinking Water Act. While sustainable planning is necessary for both managerial and capital decisions, the EPA's activities are not primarily infrastructure-based.

Funds used for sustainable infrastructure efforts result in better compliance with the Safe Drinking Water Act through:

- Improved long-term planning
- Improved life-span of assets
- Decreased rate-payer costs to replace infrastructure before necessary
- Better trained operators and more informed boards

Cassidy Q3: Last week, EPA and the Corps of Engineers jointly released a proposed rule relating to "Waters of the United States."

a: Before issuing the proposed rule, did EPA assess whether the proposed rule could affect the building of new energy infrastructure? For example:

i. Did EPA analyze whether it may be more difficult to build a new power generating facility, or expand an existing one?
ii. Did EPA analyze whether it may be harder to lay new pipelines or power lines because of the need to obtain wetlands or other permits?

Answer: As part of its analysis regarding the proposed rule, the EPA found that the proposed rule would not have a significant adverse effect on the supply, distribution, or use of energy. This statement is found in the preamble to the proposed rule in section IV.H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

b: Has EPA analyzed whether the proposed rule would trigger new permitting requirements relating to maintaining existing energy infrastructure? For example:

i. Will there be a need for new permits to do routine maintenance on transmission lines or pipelines? Or to obtain individual permits for activities that are currently covered under general or nationwide permits?

Answer: The proposed rule does not alter the Clean Water Act Section 404 permitting process administered by the U.S. Army Corps of Engineers and two authorized states. The proposed rule does not alter the Corps' existing nationwide permits (NWPs) that currently streamline the permitting process for many energy projects, such as NWPs 8, 12, 17, 44, 51, and 52. The proposed rule may require additional permits than under current practice, but will expedite the permit review process in the long-term by clarifying jurisdictional matters that have been time-consuming and cumbersome for field staff and the regulated community for certain waters in light of Supreme Court decisions in 2001 and 2006.

Cassidy Q4: As you know, EPA issues many regulations that can impose very large compliance costs, many of which are ultimately passed on to consumers. Last year, I introduced the Energy Consumers Relief Act (HR 1582) to provide greater transparency and oversight over EPA's multi-billion dollar energy related-rules.

a: At the time the House considered that bill, the Congressional Budget Office estimate indicated there would be about <u>25 more energy-related EPA rules</u> in the next 5 years that would cost $1 billion or more to implement.

i. Is CBO's estimate accurate? Are there really 25 billion-dollar energy related rules coming out of the EPA in the next five years?
ii. If you don't know, can you get back to the Committee about whether the estimate is accurate?

Answer: This question refers to a recent CBO estimate that "there would be about 25 more energy-related EPA rules in the next 5 years that would cost $1 billion or more to implement." We are unfamiliar with the CBO study that is referenced, and are therefore unable to evaluate it.

b: Can you provide us a list of all rules EPA is currently working on or plans to work

on in the foreseeable future that the agency expects will impose compliance costs of $1 billion or more?

Answer: According to EPA's spring 2014 Semi-Annual Regulatory Agenda, there are 13 regulatory actions currently under development at EPA that the Office of Management and Budget has deemed "economically significant." Economically significant actions are those that are projected to have economic impacts of greater than $100 million in a single year. Some subset of these actions could be considered "energy-related."

It should be noted that throughout the rule development process, EPA works closely with regulated industries, all levels of government, and the public, to develop sensible, cost-effective rules that can be cost-effectively implemented and fulfill the Agency's statutory obligations to protect public health and the environment, while providing regulated entities with as much compliance flexibility as possible. Hence, the estimated costs of some of the rules that are currently identified as economically significant in the Semi-Annual Regulatory Agenda may be revised downward prior to their final promulgation, and may ultimately fall below the $100 million threshold.

It also should be noted that in addition to compliance costs, EPA's rules bring economic benefits to the American public and provide a necessary underpinning for a strong and sustainable economy. Studies have shown that EPA's rules yield economic benefits that exceed their costs. For example, EPA's peer-reviewed study, released in 2011, of the benefits and costs of Clean Air Act programs adopted since 1990 found that the monetized benefits of those programs exceed the costs by a factor of more than 30 to one.

Questions Submitted for the Record by Representative Kinzinger

As you know, the most pressing issue facing the biodiesel industry, and indeed all renewable fuels industries, is the EPA's recently proposed rule for volumes under the Renewable Fuel Standard (RFS). Biodiesel companies across the country — based on the clear signals of support sent by this Administration — invested their time and resources to build biodiesel plants that would assist in meeting the targets set by the RFS.

Biodiesel is an unmitigated RFS success story. It is the first EPA-designated Advanced Biofuel being produced on a commercial-scale across the country. The industry, with the help of strong energy policy, has crossed the billion-gallon threshold for three consecutive years, and this year is on pace for a record year of more than 1.7 billion gallons. Gallon for gallon, according to EPA's own calculations, biodiesel is reducing greenhouse gas emissions by 57 to 86 percent. All of this is happening as biodiesel blends at the pump — usually of 5 percent or less — are saving consumers' money.

Under the proposal, EPA believes biomass based diesel can compete just as it did in 2013 even though it would dramatically cut production back to 1.28 billion gallons. As proposed, the advanced standard would also be reduced to 2.2 billion gallons. Based on the equivalence value of our fuel and nesting, there would be a maximum of 290 million gallons available for biomass-based diesel, other advanced fuels and cellulosic production. With potential for carryover of excess 2013 volume into 2014, we could see a market closer to 1 billion gallons. Obviously, cutting an industry from a 2 billion gallon production rate down close to 1 billion gallons would cause incredible harm. Plants would close. People would be out of work. Further, EPA has proposed this cut for 2014 and 2015, for two years, sending a terrible signal to investors and entrepreneurs who are poised to continue building this industry.

In this regard, please provide written responses to the following questions:

Kinzinger Q1: With no feedstock, infrastructure, or compatibility issues, what other factors did the administration take into account when not increasing the RVO?

Answer: While the applicable biomass-based diesel (BBD) standard in 2013 was 1.28 billion gallons, the biodiesel industry produced significantly more than the 1.28 billion gallon standard because it was profitable for them to do so. There are a number of factors that influenced this production level, such as the biodiesel tax credit and high ethanol prices, which allowed biodiesel to be competitive in meeting the advanced and total standards in the context of the E10 blendwall. There also was strong demand for biodiesel in other countries in 2013, leading to high levels of export that are not reflected in the use of production volumes alone. To the extent that these or other favorable market conditions exist in 2014, the biodiesel industry would again benefit from production in excess of 1.28 billion gallons.

The proposed BBD standard was set at a level intended to balance the many different factors the EPA is required to consider when setting this standard, which includes the roles of the advanced and total standards, and a review of implementation of the program to date.

Furthermore, even though we proposed to maintain the BBD standard at 1.28 billion gallons, we also proposed to use a range of biodiesel volume from 1.28 to 1.6 billion gallons in setting the advanced biofuel standard. It is important to understand that the 1.28 billion gallon standard is a minimum – it is a floor, rather than a cap. Biodiesel could continue to compete with other advanced biofuels in meeting the advanced biofuel standard, just as it successfully did in 2013. The EPA is in the process of reviewing the comments received on the proposal and gathering additional data and information. This will be reflected in the standards for the final rule.

Kinzinger Q2: What factors has the industry not met in order to have its volume increased to at least 1.7 billion gallons? What information do you still need?

Answer: Since the proposal was released, we have met with multiple stakeholders to listen to their input on the proposed rule and to solicit any new and relevant data that should be factored into setting the volume standards for 2014. We are currently evaluating the over 300,000 comments which we received on the 2014 RFS proposal and we will take any of this new input on biomass-based diesel and advanced biofuels into account in our final rule.

Kinzinger Q3: Have you taken into consideration how potential Argentinian biodiesel imports will impact the volume of RFS qualifying biodiesel in 2014?

Answer: In our proposed rule for the 2014 RFS volumes, we noted that there was uncertainty in the amount of biodiesel which could be imported in 2014 and, as a result, did not include any imported volumes in our analysis of available supply. We will take any new data and information regarding imported biodiesel into account, as appropriate, in establishing the 2014 volumes in our final rule.

Kinzinger Q4: When do you anticipate the 2014 RVO being finalized?

Answer: We anticipate issuing a final rule as soon as possible.

Kinzinger Q5: Are there aspects of biodiesel that make you uncomfortable with it as a replacement to diesel fuel?

Answer: Biodiesel is registered with the EPA as a motor vehicle diesel fuel and motor vehicle diesel fuel additive under Title 40, Part 79, of the U.S. Code of Federal Regulations (CFR). It is registered for use at any blend level up to B100 in highway diesel vehicles. Under the RFS program, biodiesel qualifies as an advanced biofuel, provided that it is produced from approved feedstock, meets the lifecycle greenhouse gas (GHG) emissions requirements as defined by the Clean Air Act, and is used to replace or reduce the quantity of fossil fuel present in a transportation fuel, heating oil, or jet fuel. Biodiesel currently satisfies a significantly large portion of the RFS advanced volume standard.

Questions Submitted for the Record by Representative Griffith

Griffith Q1: In 1972, when the Amendments to the Federal Water Pollution Control Act were being discussed by Congress, Senator Edward Muskie of Maine, in addition to strongly emphasizing the need to protect the nation's waterways, reminded the chamber that there were "three essential elements" to the legislation: "uniformity, finality, and enforceability."

How does your interpretation of your authority under the Clean Water Act comport with the notion of permit finality?

Answer: The EPA takes very seriously the authority provided to the agency by Congress, pursuant to Section 404(c) of the Clean Water Act (CWA), to determine whether discharges of dredged or fill material into a specified site in waters of the U.S. would result in an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas, wildlife, or recreational areas.

The EPA's careful use of this authority is indicated by the fact that the agency has completed 13 Final Determinations since 1972 pursuant to CWA Section 404(c). To put this in perspective, over the same period of time, the Corps of Engineers is estimated to have authorized more than two million activities in waters of the U.S. under the CWA Section 404 regulatory program.

As these numbers demonstrate, the EPA has worked successfully with the Corps and permit applicants to resolve concerns without exercising its Section 404(c) authority in all but a miniscule fraction of cases.

Griffith Q2: Do you agree that finality is an important consideration for permits? How does EPA intend to provide certainty to the regulated community that they can receive due process to have their projects fairly considered, and can rely on their permits once they are issued, in light of the agency's recent actions concerning Pebble and Spruce?

Answer: The EPA takes very seriously the authority provided to the agency by Congress, pursuant to Section 404(c) of the Clean Water Act (CWA), to determine whether discharges of dredged or fill material into a specified site in waters of the U.S. would result in an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas, wildlife, or recreational areas.

The EPA's careful use of this authority is indicated by the fact that the agency has completed 13 Final Determinations since 1972 pursuant to CWA Section 404(c). To put this in perspective, over the same period of time, the Corps of Engineers is estimated to have authorized more than two million activities in waters of the U.S. under the CWA Section 404 regulatory program.

As these numbers demonstrate, the EPA has worked successfully with the Corps and permit applicants to resolve concerns without exercising its Section 404(c) authority in all but a miniscule fraction of cases.

Questions Submitted for the Record by Representative Johnson

Johnson Q1: You've said that hydraulic fracturing can be done safely and have agreed with former EPA Administrator Lisa Jackson that there have been no confirmed cases of hydraulic fracturing impacting drinking water.

Given that the President's Climate Action Plan relies heavily on the use of natural gas, what is your vision for getting the American public to understand that hydraulic fracturing is safe and that fracking has unlocked an American energy revolution that is lowering all Americans' energy prices, creating jobs, helping to lower GHG emissions, and revitalizing such industries as the manufacturing, steel, and chemical sectors?

Answer: We are committed to working with states and other stakeholders to understand and address potential concerns with hydraulic fracturing so the public has confidence that unconventional oil and gas production will proceed in a safe and responsible manner. In so doing, we will continue to follow a transparent, science-driven approach, with significant stakeholder involvement.

Johnson Q2: I am aware that the EPA is considering whether a health-based standard is possible for this industry, and I applaud your consideration of this discretionary approach. I also understand that the brick industry has supplied you with all the information necessary to evaluate a health-based compliance alternative for every major source. **Could you please describe in detail:**

What impediments you see to establish a health-based rule for this small industry comprised of a large number of small businesses and how those impediments could be overcome? It would make sense if you would use this approach, since it seems to be both protective of the environment, achievable, and allow the industry to survive.

Answer: The EPA is currently considering health-based standards and other regulatory flexibilities for proposed requirements to address the Hazardous Air Pollutants emitted by the brick industry in a reasonable way. The EPA has not yet reached a decision about what form of standard will best protect the public health and welfare while imposing the least burden on the brick industry and the general public.

Johnson Q3: An emission standard is broadly defined in the Clean Air Act. Why would the EPA look to a single facility to establish the emission level for all facilities to meet, rather than consider a health-based metric as a possible emission standard format?

Answer: The EPA is considering all options that are legally permissible under the Clean Air Act. In addition, the EPA has had numerous meetings and discussions with brick manufacturers and representatives of the Brick Industry Association. We also have had separate meetings with the Brick Industry Association to exchange data and ensure that we have all of the information available and necessary to establish legally permissible standards.

Johnson Q4: The rule-makings for the brick industry have been impacted by the EPA's "sue and settle" approach to dealing with third-party lawsuits on both rounds. The now-vacated MACT was rushed in 2003 due to a pending lawsuit from an environmental group, resulting in a rule that was vacated by the courts for its deficiencies. Now, this industry is facing another court-ordered schedule based on a consent decree that you recently accepted.

What assurances can you give the Committee, and this industry, that the schedule will not be used as justification for yet another rushed, deficient rule?

What can you do to ensure that the new rule will include a full consideration for the alternative approach of using a combination of both health-based and work-practice standards to ensure that the requirements of the Clean Air Act are followed and the environment is protected, without requiring huge burdens on a critical industry that provide limited to no environmental benefit?

Answer: The EPA has a court-ordered proposal deadline of August 28, 2014 and a promulgation deadline of June 30, 2015. We are considering all options that are legally permissible under the Clean Air Act in order to propose a rule grounded in the best science and data available. The Clean Air Act directs us to address emissions of all Hazardous Air Pollutants (HAP) emitted by the brick industry. We will provide as much flexibility as possible as we develop proposal requirements for the brick industry to address their HAP emissions in a way that minimizes economic burden while protecting the public health and welfare.

Johnson Q5: My office has been coordinating with the Ohio Department of Natural Resources (ODNR), Ohio Environmental Protection Agency and your Agency to clarify what the Ohio Department of Natural Resources would need to include in their Risk Based Data Management System in order to be fully compliant with the Emergency Planning and Community Right-to-Know Act.

Can your Agency provide ODNR with the requested 'check list' of all elements, as soon as possible, that would need to be included in their upgraded database to ensure that full compliance is met?

Answer: EPA has worked with your office to address the concerns of ODNR regarding data and reporting requirements under the Emergency Planning and Community Right-to-Know Act (EPCRA). By letter dated May 21, 2014, EPA provided your office with the information needed for ODNR's Data Management System to meet EPCRA reporting requirements. The EPCRA Federal Emergency and Hazardous Chemical Inventory (Tier II Form) requires the following data elements:

1) Certification by owner or operator or the officially designated representative of the owner or operator that all information included in the Tier II submission is true, accurate and complete.
2) The calendar year of the reporting period.

3) An indication whether the information being reported on page one of the form is identical to that submitted last year.
4) The complete name and address of the location of the facility (including the full street address or state road, city, county, state and zip code), latitude and longitude.
5) An indication if the location of the facility is manned or unmanned.
6) An estimate of the maximum number of occupants present at any one time.
7) The phone number of the facility (this is an optional data element).
8) The North American Industry Classification System (NAICS) code of the facility.
9) The Dun & Bradstreet number of the facility.
10) Facility identification numbers assigned under the Toxic Release Inventory (TRI) and Risk Management Program (including the possibility of N/A in the event that the facility has not been assigned an identification number under these programs or if the facility is not subject to reporting under these programs).
11) An indication if the facility is subject to the emergency planning notification requirement under section 302 of EPCRA, codified in 40 CFR part 355.
12) An indication if the facility is subject to the chemical accident prevention requirements under section 112(r) of the Clean Air Act (CAA), codified in 40 CFR part 68.
13) The name, mailing address, phone number and email address of the owner or operator of the facility.
14) The name, mailing address, phone number, Dun & Bradstreet number and email address of the facility's parent company (these are optional data elements).
15) The name, title, phone number, 24-hour phone number and email address of the facility emergency coordinator, if the facility is subject to reporting under the emergency planning notification of EPCRA Section 302, codified in 40 CFR part 355.
16) The name, title, phone number, and email address of the person to contact regarding information contained in the Tier II form.
17) The name, title, phone number and email address of at least one local individual that can act as a referral if emergency responders need assistance in responding to a chemical accident at the facility. The emergency phone number should be available 24 hours a day, every day.
18) An indication whether the information being reported on page two of the form is identical to that submitted last year.
19) For each hazardous chemical, the following information should be provided:
    (a) *Pure chemical*: Provide the chemical name (or the common name of the chemical) as provided on the Material Safety Data Sheet (MSDS) and the Chemical Abstract Service (CAS) registry number of the chemical provided on the MSDS. (*Note: The facility has the option of withholding the specific name of the hazardous chemical as trade secret, if the facility submits substantiation to EPA as provided in the regulations at 40 CFR part 350.)*

(b) *Form of Chemical:* Indicate whether the chemical is a solid, liquid, or gas; and whether the chemical is an extremely hazardous substance (EHS).
(c) *Mixture:* If a mixture is reported, provide the mixture name, product name or trade name as provided on the MSDS and provide the CAS registry number of the mixture provided on the MSDS (including the availability of an N/A option if there is no CAS number provided or it is not known.)
(d) *EHS Content in Mixture:* If the mixture reported contains any EHS, provide the name(s) of EHS in the mixture.
(e) *Hazard Categories*: Indicate which hazard categories apply to the chemical or the mixture. The five hazard categories are defined in 40 CFR 370.66.
(f) *Maximum Volume:* Provide an estimate (in ranges) of the maximum amount of the hazardous chemical present at the facility on any single day during the preceding calendar year.
(g) *Average Volume:* Provide an estimate (in ranges) of the average daily amount of the hazardous chemical present at the facility during the preceding calendar year.
(h) *Maximum Presence:* Provide the maximum number of days that the hazardous chemical or mixture was present at your facility during the preceding calendar year.
(i) *Type of Storage:* Provide the type of storage for the hazardous chemical or the mixture containing the hazardous chemical at the facility.
(j) *Storage Conditions:* Provide the storage conditions for the hazardous chemical or the mixture containing hazardous chemical at the facility.
(k) *Location:* Provide a brief description of the precise location(s) of the hazardous chemical(s) or the mixture(s) at the facility.

The instructions to the Tier II form contain a detailed description of these data elements which is available on EPA's website at www.epa.gov/emergencies. The data elements required on the Tier II form are codified in the Code of Federal Regulations at 40 CFR 370.42.

Questions Submitted for the Record by Representative Bilirakis

Bilirakis Q1: Administrator McCarthy, Tampa Electric Company serves my constituents in Hillsborough County, Florida. I understand that they recently completed a ten year, $1.2 billion emissions reduction initiative which reduced CO_2 emissions by 20% compared to 1998 levels. Their most significant CO_2 reductions began in 2005. As 2005 also is the suggested baseline year for reductions under EPA's 111(d) rule for existing power plants, recognition of these reductions is important to protecting Tampa Electric customers who are benefiting from and paying for these long-term investments.

How does the EPA intend to recognize early reductions, such as Tampa Electric's, in its upcoming 111(d) proposal?

Answer: The EPA has proposed to set forward-looking state goals based on a determination of what the best system of emission reduction would achieve in 2030, and based on what the fleet looked like in 2012 – the most recent set of complete data we had available. We want to hear from states, utilities, and others about how reductions prior to 2012 are addressed in both setting the goals and meeting the goals, and all other issues related to goal-setting and compliance planning.

Questions for the Record Submitted by Representative DeGette

As you know, in 20 1 0, former Congressman Hinchey and I requested an EPA study to determine the potential impacts of hydraulic fracturing on drinking water. I understand that the draft report will be available in late 2014. In your FY 2015 budget request, you ask for $6.1 million for the study.

DeGette Q1: Are any additional progress reports forthcoming before the draft report is released?

Answer: No, EPA does not plan to release any progress reports in addition to the one released in 2012. We are now working hard on completing the work necessary for the draft assessment, which includes producing individual scientific papers that will undergo peer review and feed into the draft assessment. To date, six research papers stemming from the study have been published and are available on EPA's website, which is updated as papers and reports are published. The website also contains summaries from technical roundtables and workshops. As additional research papers are published, they also will be posted on EPA's website.

DeGette Q2: When do you expect this paper to be final?

Answer: We have recently intensified our state outreach efforts as part of the study. These efforts will ensure that states understand the data sources we used and will provide them further opportunity to recommend additional sources of information. The careful and intensive review and synthesis of literature, research results, and stakeholder input, along with the recently intensified state outreach effort, will ensure that EPA's draft science assessment is as robust and complete as possible. The EPA's current timeline for release of the study for public comment and a formal SAB peer review is early 2015.

One part of the study I am especially interested in is the case studies. You identified five sites for retrospective case studies and directed EPA, the state, and industry to be present during sampling to verify and review the samples for quality assurance. At about this time last year, EPA's Tier 2 data quality assurance was underway.

DeGette Q3: What is the status of this effort with respect to these five sites?

Answer: All sampling through Tier II, as described in the site-specific quality assurance project plans, has been completed for the five retrospective case studies, and audits of data quality for all samples have been completed.

An important part of the drinking water study is the inclusion of several prospective case studies. These case studies will document the hydraulic process at each stage including drilling, completion, and production. Measurements will be taken before and after each stage. It was my understanding that pursuant to investigations, there were agreements between

industry and EPA to develop these case studies together.

DeGette Q4: At this time last year, EPA was in the process of identifying locations. Have these locations been identified? If not, can you provide specific reasons why the locations have not yet been identified?

Answer: We have worked closely with industry partners to try to identify suitable locations for prospective case studies that meet the scientific needs of the study and industry's business needs. Unfortunately, so far, we have not identified a suitable location. For a location to be suitable, it is necessary to gather a minimum of one year of characterization data for ground water and surface water prior to and following unconventional exploration activities in the study area, and for there to be no other hydraulic fracturing activities on adjacent properties, currently or potentially leased, during the entire study period, which could last several years.

DeGette Q5: What are the specific criteria required for choosing these locations? If the locations have not been chosen, what criteria are difficult to satisfy?

Answer: We have worked closely with industry partners to try to identify suitable locations for prospective case studies that meet the scientific needs of the study and industry's needs. For a location to be suitable, it is necessary to gather one year minimum of characterization data for ground water and surface water prior to and following unconventional exploration activities in the study area, and for there to be no other hydraulic fracturing activities on adjacent properties, currently or potentially leased, during the entire study period, which could last several years. We have not yet been able to identify a location that meets all of these criteria and the business needs of potential partners.

DeGette Q6: Are the states and industry collaborating with EPA, as planned, to develop the prospective studies? If not, what is impeding their participation?

Answer: Yes.

DeGette Q7: Will analysis of the prospective studies be included in the draft report and final report or will this need to be incorporated into a follow-up report?

Answer: As mentioned in the 2012 Progress report, the prospective case studies would be completed after the assessment report and the results would be part of a follow-up report.

For FY 2015, the EPA is proposing to spend $1 million to support states and tribes in making permitting decisions and to provide oversight related to implementation of EPA's guidance on hydraulic fracturing with diesel fuels.

DeGette Q8: Can you provide some examples of how you will assist states and tribes in following this guidance?

Answer: The EPA released guidance on hydraulic fracturing to help ensure the benefit of

energy development while not jeopardizing precious drinking water resources and environmental quality. To aid states and tribes in implementing the guidance, the EPA will provide additional resources to build new capability for permitting hydraulic fracturing activities using diesel fuels. These funds will help states and tribes review complex data typically contained in underground injection control applications for hydraulic fracturing using diesel fuels. Funding also will be used to conduct inspections of permitted wells to ensure ongoing compliance with regulatory safeguards and to inform the public of permitted activities occurring in their communities. Implementation support will ensure that authorized agencies are effectively managing and overseeing the rapidly growing energy sector while preventing endangerment of underground sources of drinking water.

DeGette Q9: Will states that have primacy for UIC wells get assistance as well?

Answer: Yes, states with primacy will receive this assistance.

In collaboration with USGS and DOE, EPA has budgeted about $8 million towards research on the potential impacts of hydraulic fracturing on air, ecosystem, and water quality.

DeGette Q10: What were the results of this effort from last year?

Answer: In April 2012, DOE, DOI, and EPA signed a memorandum agreeing to coordinate and collaborate on research devoted to UOG production and the three agencies are working together to conduct timely scientific and technology research. The results of this research will inform the policymaking of Federal agencies; State, Tribal, and local governments; the oil and gas industry; and others.

To date, Congress has appropriated funding for EPA's Drinking Water Study. EPA has not begun research in the areas of air quality and ecosystem research because the requested increase in resources for this research was not appropriated as part of the FY 2014 Congressional Appropriation.

DeGette Q11: What are your milestones for this project this year?

Answer: The EPA expects to provide the draft assessment report of the *Study of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources* for public comment and peer review by early 2015. The EPA then expects to provide a final report that is responsive to comments received from the public and the peer review.

Beyond the milestones already described above for the EPA Drinking Water Study, no additional milestones have been developed for EPA research related to the potential impacts of UOG development on air quality and ecosystems, as resources were not appropriated for this research in FY 2014. Resources have been requested for FY 2015. Milestones will be developed consistent with appropriated levels.

DeGette Q12: Will you keep the public informed of your progress/findings as the research unfolds?

Answer: If funds are appropriated in FY 2015, EPA plans to inform the public of the planned activities that will be undertaken as part of its additional water quality research as well as its air quality and ecosystem research.

In addition, EPA is planning to inform the public about the release of the draft assessment of the potential impacts of hydraulic fracturing from oil and gas on drinking water resources for public comment and peer review through a number of mechanisms. The Science Advisory Board (SAB) is planning to hold a public meeting to hear public comments. EPA is planning to post the report on the website, send out listserv messages and tweets, and hold public webinars.

DeGette Q13: Do you expect this to be an ongoing effort that flows again into the following fiscal year?

Answer: Since UOG development is likely to continue, EPA anticipates that research devoted to safely and prudently developing these resources will continue to be needed. That said, these research needs will be compared with others when future budgets are developed to optimize the impact of Federal research resources.

DeGette Q14: What are the respective roles of DOI, DOE, and EPA in the effort?

Answer: Under the DOE, DOI, and EPA joint memorandum, the agencies are coordinating their research planning efforts, recognizing each agency's areas of core competency, and collaborating on research with each other and others as much as possible. For example, EPA's areas of core competency are: water quality assessment, air monitoring and assessment, and human health and environmental risk.

Questions Submitted for the Record by Representative Matsui

Matsui Q1: In 2010, Congress passed legislation of mine that protects American consumers from the formaldehyde toxin used in common household items. It is my understanding that the EPA is still in the drafting phase for the final rule that the comment period ended last October.

What is your anticipated timing for completing your work on formaldehyde emissions in composite wood products?

Answer: Since proposing the rules to implement the Formaldehyde Standards for Composite Wood Products Act (TSCA Title VI) on June 10, 2013 (78 FR 34795 and 78 FR 34820), the EPA has twice granted extensions to public comment periods for both proposals, as requested by numerous commenters. In addition, the EPA, on April 8, 2014 (79 FR 19305) reopened until May 8, 2014, the comment period for the proposed rule to implement TSCA Title VI emission standards (78 FR 34820) to seek additional public input regarding potential modifications to the Agency's proposed treatment of laminated products. The EPA also announced a public meeting, held April 28, 2014, to provide opportunity for further public comment on this set of issues. Based on input from public meeting participants, the EPA extended the comment period related to the treatment of laminated products under the regulation until May 26, 2014.

The Agency will consider all information received from commenters in developing the final rule, which is expected to be made final late this calendar year.

Matsui Q2: Do you expect to harmonize your regulations with the California Air Resources Board with respect to laminated products as directed by Congress?

Answer: The EPA is in regular communication with the California Air Resources Board (CARB) and is striving to ensure that provisions in EPA's final rule(s) are compliant with the Formaldehyde Standards for Composite Wood Products Act (TSCA Title VI) formaldehyde emission standards while aligning, to the extent possible and practical, with the regulatory requirements in California. It is important to note that TSCA Title VI departs from CARB's Airborne Toxic Control Measure in several ways that have required careful harmonization.

The Act establishes formaldehyde emission standards for hardwood plywood, particleboard, and medium-density fiberboard that are identical to the emission standards in CARB's regulation. The Act also includes laminated products on the list of composite wood products to be regulated under TSCA Title VI, while CARB has an exemption for these products. With respect to these laminated products, Congress did provide the EPA with the authority to modify the definition of laminated product and exempt some or all laminated products from the definition of hardwood plywood pursuant to a rulemaking under TSCA Title VI, which shall be promulgated "in a manner that ensures compliance with the [statutory]

emission standards."

The information available to the EPA at the time the initial proposal was issued did not indicate that laminated products would be in compliance with the emission standards, and therefore the Agency did not propose an exemption for all laminated products from the proposed regulations. The EPA did, however, propose to exempt laminated products that are made with compliant cores and laminated with "no-added-formaldehyde" resins because the Agency concluded that such exemptions would be consistent with the statutory directive.

On April 8, 2014, the EPA re-opened the comment period for the proposed implementation rule to seek additional public input regarding potential modifications to the EPA's proposed treatment of laminated products. On April 28, 2014, the Agency held a public meeting at the EPA Headquarters in Washington, D.C. Based on a request from the public, the EPA extended the comment period for comments related to the treatment of laminated products under the regulation until May 26, 2014. The EPA will consider all information received from commenters as the Agency makes decisions on how to proceed on laminated products when preparing the final regulations.