

PRESIDENT'S PROPOSED EPA BUDGET FOR FISCAL YEAR 2008

HEARING BEFORE THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE ONE HUNDRED TENTH CONGRESS FIRST SESSION

MARCH 7, 2007

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ONE HUNDRED TENTH CONGRESS
FIRST SESSION

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C O N T E N T S

Page

MARCH 7, 2007

OPENING STATEMENTS

Boxer, Hon. Barbara, U.S. Senator from the State of California	1
Inhofe, Hon. James M., U.S. Senator from the State of Oklahoma	4
Lautenberg, Hon. Frank, U.S. Senator from the State of New Jersey	6
Vitter, Hon. David, U.S. Senator from the State of Louisiana	8
Voinovich, Hon. George, U.S. Senator from the State of Ohio	9
Whitehouse, Hon. Sheldon, U.S. Senator from the State of Rhode Island	11
Craig, Hon. Larry, U.S. Senator from the State of Idaho	12

WITNESSES

Johnson, Stephen , Administrator, U.S. Environmental Protection Agency	
Accompanied by: Benjamin H. Grumbles, Assistant Administrator, Office	
of Water, U.S. Environmental Protection Agency	13
Prepared statement	14
Responses to additional questions from Senator Boxer	19
Responses to additional questions from Senator Inhofe	57
Responses to additional questions from Senator Vitter	62
Responses to additional questions from Senator Voinovich	66
Responses to additional questions from Senator Cardin	68
Responses to additional questions from Senator Carper	70
Responses to additional questions from Senator Sanders	72

PRESIDENT'S PROPOSED EPA BUDGET FOR FISCAL YEAR 2008

Wednesday, March 7, 2007

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

The committee met, pursuant to notice, at 3:00 p.m. in room 406, Dirksen Senate Office Building, the Hon. Barbara Boxer (chairman of the committee) presiding.

Present: Senators Boxer, Lautenberg, Warner, Baucus, Voinovich, Alexander, Bond, Cardin, Carper, Craig, Inhofe, Isakson, Klobuchar, Lieberman, Sanders, Thomas, Vitter, and Whitehouse.

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

Senator BOXER. We are going to call the hearing to order today. We are here today to review the President's proposed budget for the Environmental Protection Agency for fiscal year 2008.

We are awaiting others, but they will come as they can. It has been a very hectic day, and everybody is going to read the record on this, I am sure. We will take 5 minute rounds, and then the Administrator, we will give you 5 minutes, and then we will go into questions.

Unfortunately, my view is that the President's proposal fails to provide EPA with the money it needs to fully protect the public health and the environment. Budgets are about priorities, whether we are talking about our own households or the Federal Government. By chopping hundreds of millions of dollars out of EPA's funding, this budget sends an unmistakable message to people who are concerned about our health and a clean environment, that you are not a high priority.

This budget shortchanges core EPA programs of the resources they need to clean up toxic waste sites, prevent contamination from polluting our rivers and lakes, and reduce dangerous air pollution. Even programs that are specifically designed to protect our children have been cut.

The American people are going to know about this, because I am going to tell them. Because if you live near one of the Nation's most heavily contaminated toxic waste sites, you need to know the Administration's budget cuts \$7 million for those cleanups. The Nation has 1,240 Superfund sites. One in four people in the country lives within 4 miles of a Superfund site, including 10 million of our children. Why on earth would we cut back on that program?

Human exposure, EPA's words, is not under control at 108 sites. EPA has insufficient information to determine if exposure is under control at 162 sites. Over the last 6 years, the annual pace of Superfund cleanups has declined by 50 percent, from more than 80 cleanups per year, to 39. This year, EPA revised their projected cleanups from 40 to 24. This is a 71 percent decline. Just remember, when Bill Clinton was President, we had 80 cleanups a year. Now, we are looking at 24.

Based on internal documents, EPA has projected a cleanup backlog of more than \$1 billion in fiscal year 2007. Something is wrong. The Administration proposes to reduce independent oversight of cleanups by slashing \$6 million from EPA's Inspector General's funding to audit and analyze how to improve the Superfund program.

If you want to take your family to enjoy a clean river or lake, you need to know that this budget asks Congress to cut almost \$400 million to the Clean Water State Revolving Loan Fund Program, a 37 percent reduction. These funds go to water treatment projects that stop raw sewage and other pollution from washing into our Nation's waterways. More funding is needed, since almost 50 percent of our surface waters fail to meet, or are at risk of not meeting environmental standards.

Undermining efforts to clean up unhealthy levels of air pollution, the President's budget would cut research funds needed to help set health-based air quality standards and to reduce the emission of toxic chemicals that cause cancer or reproductive harm. It would slash State and local air quality management program funding by \$35 million. State and local officials run those programs to help clean up our Nation's air. When 150 million people live in areas with unhealthy levels of air pollution. Later in the time I have I am going to show you some examples of the quality or lack thereof of the air in parts of polluted California. It says to me we need to support clean air programs, not cut them.

To have the Environmental Protection Agency agreeing to these kind of cuts is devastating to the people. The Environmental Council of the States, representing all 50 environmental protection agencies, says, "It is disappointing to see a budget proposal that cuts air programs and water programs, and has the biggest cut to water infrastructure in the history of the Agency."

The President also proposes to combine EPA's Office for Protecting Children's Health with its Environmental Education Office. By consolidating the functions of these two offices and eliminating \$8 million in funding for environmental education, the Administration appears to undermine the purpose of the Children's Health Office. The reason we set up a separate Children's Health Office was to give attention to children's health. When you combine it, you are doing away with it. Let's call it what it is.

EPA says it will spread out its children's health issues as one of many considerations addressed by multiple agency programs. This undermines the mission of the Children's Health Office. I can't wait to have this issue on the floor of the United States Senate, because we wanted in a bipartisan way to single out children's health because of the particular threat to children posed by environmental pollutants.

Once again, with this budget the Administration takes us further down the wrong path, cutting dollars necessary to protect our air, water and communities from toxic pollution. We have to head in a different direction. The EPA needs to live up to its name and its mission: the Environmental Protection Agency, not the Environmental Pollution Agency. EPA's budget should reflect our shared values, our spiritual values, our religious values, our commitment to safeguarding the health of our families and all of God's children.

The budget before us fails to meet this test. It is shocking to me, some of the initiatives that are in this budget, and again I say to my friend, Senator Inhofe, who missed my opening statement I am sure not by design.

Senator INHOFE. No, ma'am.

[Laughter.]

Senator BOXER. We will be having a number of these issues about the children's health budget, the cuts to the States's water funds, all of these things will be issues when we get to the floor.

I am delighted to see Senator Vitter has joined us, so Senator Inhofe, we welcome your opening statement. We are keeping it to 5 minutes.

[The prepared statement of Senator Boxer follows:]

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

Today we will hear from a group of leading corporations and environmental groups who have agreed on a roadmap for next steps to address the global warming challenge.

They have banded together to issue "A Call for Action" on global warming. They have concluded that "we know enough to act" on global warming and that "Congress needs to enact legislation as quickly as possible."

I want to thank these companies for their report and let them know that I believe it makes an important contribution to helping solve the global warming problem.

This group includes some of the world's largest corporations, such as General Electric, Dupont, BP, Caterpillar, Alcoa, and includes key energy companies such as Duke Power, Florida Power and Light and PG&E, from my home State of California.

These companies produce products of all types, use fuels of all types, including coal, and are committed to being profitable for many years to come. As the Chairman of Duke Power noted on release of the report, Duke Power is the third largest user of coal in the United States. Yet all these companies agree that we need to act now to enact a mandatory program to address global warming.

What is more, they agree on the targets for reduction, both in the short term and the long term. They agree that we need to stabilize world wide atmospheric concentrations of CO₂ at 450-550 parts per million. Their targets for emissions include reductions of 10-30 percent from today's levels within the next 15 years and a 60 percent to 80 percent reduction from today's levels by 2050.

These targets are consistent with what the scientists are telling us and they are consistent with the targets set forth in the Sanders bill, of which I am co-sponsor, as well as other bills introduced in this Congress.

The companies and groups before us today also make clear that by acting now, we can help, not hurt our economy. They say that:

"Each year we delay action to control emissions increases the risk of unavoidable consequences that could necessitate even steeper reductions in the future, at potentially greater economic cost and social disruption."

The U.S. CAP report also makes the point that we need to enact an economy wide program.

I am very proud of my home State of California, which enacted AB 32, an economy-wide global warming bill. The California law sets a mandatory cap on carbon pollution, including a 25 percent reduction from projected levels by 2020 and the California Governor's Executive Order includes a target to reduce emissions 80 percent from 1990 levels by 2050.

California is leading the way in combating global warming. And one of the companies here, Pacific Gas and Electric, has helped enormously by working hard to help increase California's energy efficiency, which is one of the highest in the Nation.

I continue to believe we should approach this problem with hope and not fear. I am an optimist, and I believe we can solve this problem, and that in doing so, we will be better for it in every way.

The members of the Climate Action Partnership who are here today agree with this approach. They say that "In our view, the climate change challenge, like other challenges our country has confronted in the past, will create more economic opportunities than risks for the U.S. economy" and that "addressing climate change will require innovation and products that drive increased energy efficiency, creating new markets. . . increased U.S. competitiveness, as well as reduced reliance on energy from foreign sources."

As business leaders that successfully compete in national and world-wide markets, they should know.

We must face the challenge of global warming now. It is one of the great challenges of this generation. With the help groups and businesses like those in the Climate Action Partnership, this is a challenge we can and will meet.

I look forward to hearing the witnesses' testimony.

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

Senator INHOFE. Thank you, Madam Chairman.

Welcome, Mr. Administrator. We are anxious to hear your testimony. I think I might find myself in partial agreement with the last thing that the Chairman said, and some of the things. What I would not want to happen, since we are talking about \$500 million less than the previous year in this year's budget, the 2008 budget, is for you to come up with things that you know in your own mind that Congress isn't going to let you get by with. This is one of the things that we are, whether it is the State revolving fund or some of the clean water programs.

So I would hope that in trying to meet this budget that you would be looking at it realistically and looking at things, not just making cuts where you know that it is going to be reversed during the congressional process.

One place to exercise some budgetary restraint might be in the voluntary programs EPA has created that have not been authorized by Congress. Some of these may have laudable goals, but at a time when the agency is proposing cutting clean water funding by nearly \$400 million, it may not be the time for administratively created programs.

I raise the same concern about the Agency's international grants last year. While these programs may not add up to too much, it is a good starting point. And while I disagree with your cut to the SRS revolving fund, I am pleased to see that the Administration has proposed an alternative to fill the gap. The budget includes lifting the cap on private activity bonds for water and wastewater infrastructure projects. I look forward to working with the Administration to see if using the tax code through private activity bonds would help fill the infrastructure gap that has given us the shortfall of appropriated dollars.

I would like to address also a couple of other issues. One of the obvious issues, Tar Creek. You guys have done a great job. That is the most devastating of all the Superfund sites. Finally, after 25 years of failure, we are doing the right thing. I commend you, DOI, the tribes, the Governor of the State of Oklahoma and all of us

working together. It is a team effort that can truly be used as a model. It includes all of the Indian tribes that are involved up there. So I just hope that we have your commitment to continue that as you have in the past and see it through.

The agency is in the process of finalizing several policies that are important to Oklahoma. Last year, you proposed the changes in the agency's drinking water affordability standard. As I have mentioned in the past, we have a real crisis in Oklahoma with regard to the disinfection byproducts rule. Had the affordability standard accurately reflected the needs, the small rural towns might not be in a such a dire situation.

Furthermore, the agency will soon promulgate a new rule to again revise the spill prevention control countermeasure. We have every expectation that the proposal will address the issues that have been raised by Oklahoma farmers, as well as farmers in other States, the Oklahoma Farm Bureau, our refineries. We pretty took care of the problem that was on the airports with this spill policy, but we have not been able to do it. It needs to continue to its conclusion.

In our water systems, going back to the previous point that I made, we have a total of 1,717 public water systems. Of these, 1,463 meet the State definition of a small system, which means the system only serves less than 3,300 people. Only 25 systems in the State serve more than 10,000 people, so we are very much interested in that in our State of Oklahoma.

My staff has continued to investigate EPA regions and how they vary in their implementations and rules. You will recall we had a hearing on that, Madam Chairman. We found that in some districts, I think region five was a problem, and is working out to address some of the treatment, the way they operate that is different from some of the other regions.

And finally, Mr. Administrator, I am deeply interested in the EPA's implementation of the renewable fuel standard, in part because I moved that legislation through this committee while chairman, and also because I am committed to improving our energy security. On that note, I look forward to working with you to make sure that the agency takes steps to maximize fuel supply reliability, and particularly provide flexibility to small refineries, and at the same time continue our jurisdiction in this because it is always under fire.

Thank you.

Senator BOXER. Thank you very much, Senator.

We are going to do the early bird rule, but we will go back and forth. So we are going to go to Senator Lautenberg, and then Senator Vitter.

Senator, 5 minutes please. Welcome.

[The prepared statement of Senator Inhofe follows:]

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

Madame Chairman, I appreciate you having this hearing today. The issue of climate change has taken on a larger significance lately. And the subject of the day is mandatory carbon cap and trade. More and more, companies that wish to profit on the backs of consumers are coming out of the woodwork to endorse climate pro-

posals in the hope of forcing customers to buy their unnecessary products or to penalize their competitors.

Some companies are coming together in an attempt to profit from Government intervention where they have failed in the marketplace. Economists call this rent-seeking. But I think the Wall Street Journal was right. They are climate profiteers. These companies will gain market-share against their competitors while the economy flattens and jobs are sent to China—which in an ironic twist of fate will soon become the biggest emitter of carbon dioxide on the planet. Madame Chairman, not all companies have joined the climate profiteers. Most will be its victims, particularly small businesses that will no longer be able to compete. But the biggest losers won't be businesses, but American consumers.

This proposal and others like it may be written in the form of Government regulatory mandates, but for all practical purposes, it is really a regressive tax on the American economy, where select powerful companies profit at the expense of seniors, the working class and the poor. These groups already pay disproportionately more of their monthly budget for energy, and this situation will only worsen under proposals like we see today. Let me be clear—this is the biggest tax hike in U.S. history.

I am told that the rush to do something about global warming has gained momentum. But the not so hidden secret is that more and more serious scientists and political leaders are voicing their discontent with both the hype and the symbolic approaches that masquerade as solutions that are designed more to line the pockets of its promoters than to accomplish anything.

Among scientists, of course, there is Claude Allegre—the French Socialist, geophysicist, and member of the French and American academies of science—who has said that warming may be due simply to natural variation and that this debate appears to be about money. There is also Nir Shariv, one of Israel's top young astrophysicists, who says there is no proof of man's contribution rather than natural variation.

And then there are the political leaders. Prime Minister Stephen Harper reportedly once called the Kyoto accord a “socialist scheme” designed to suck money out of rich countries. And just last week, Czech President Vaclav Klaus made clear his disdain for politics parading for science when he said “Global warming is a false myth and every serious person and scientist says so. It is not fair to refer to the U.N. panel. IPCC is not a scientific institution: it's a political body, a sort of non-government organization of green flavor.”

You don't have to agree with my position on the science to question the wisdom of the cap and trade approach. These proposals will do little and cost much. Moreover, as White House spokesman Tony Snow stated last week, “there is a carbon cap system in place in Europe, we are doing a better job of reducing emissions here,” Snow said.

The simple fact is that we cannot continue to put pressure on demand for natural gas in this country while we curtail the efforts of producers to supply it. We cannot demand significant emission reductions while Senators oppose the construction of new nuclear facilities. In short, we cannot demand reductions from our fossil fuel sector unless these demands can be met.

The result can only be further increases and volatility of natural gas prices, continued and even increased job flight to countries that don't participate. But the biggest cost will be to consumers, who will be forced to foot the bill for this climate chicanery. That is why I have decided to fight for consumers and plan to introduce the Ratepayer's Protection Act, which will protect consumers in regulated States from having their rates raised to pay any climate schemes.

Thank you.

**OPENING STATEMENT OF THE HON. FRANK LAUTENBERG,
U.S. SENATOR FROM THE STATE OF NEW JERSEY**

Senator LAUTENBERG. Thank you, Madam Chairman.

Senator BOXER. Make sure you turn on your mic.

Senator LAUTENBERG. This is the first time I have been accused of not being heard enough.

[Laughter.]

Senator LAUTENBERG. Senator Inhofe thinks I have been heard too much.

[Laughter.]

Senator LAUTENBERG. I want to begin with a statement, and welcome, Administrator Johnson, that you made during a recent EPA hearing. You said, and I quote you here, "America's air, water and land are cleaner today," and I remember it vividly because I didn't quite get the support for that, "than they were a generation ago under the Bush administration. This progress continues."

Unfortunately, actions speak louder than words. We have to look at the facts. First, President Bush wants to cut \$7 million from the Superfund program. We can't afford that. Ask the people who live near Superfund sites and they will tell you that we can't afford to work with less. We have more Superfund sites in our State than any other State in the Country. Right now, Superfund is cleaning up fewer and fewer sites and letting toxic chemicals gather in places where our children play.

Now, in February, Chairman Boxer and I were at a site in South Plainfield, NJ working to get the Superfund program back on track. If we want to help that community, we have to have a budget that advances our goal, not turns its back on it.

Second, President Bush wants to take away yearly \$400 million from the Clean Water State Revolving Fund, which keeps our streams, rivers, lakes and coastal waters safe from pollutants. New Jersey alone stands to lose \$16 million under the Administration's plan. The health of our waters and our local economies depends on this and simply cannot afford this kind of a loss.

Thirdly, President Bush wants to cut more than \$35 million from State and local agencies that enforce the Clean Air Act. Yet the Clean Air Act is essential in removing from our air the harmful pollutants that can trigger respiratory illnesses such as asthma. Small particles alone can cause up to 30,000 premature deaths a year.

So what do we say to those parents of the children with asthma about that cut? I know what my daughter says to my oldest grandchild, who is 13, when he goes out to play sports. The first thing my daughter does is check to see where the nearest emergency room is. If the weather is bad and the air is not good and clear, it is a price that we pay in the family. There are millions of people across the country who will have the same result as a consequence of these cuts.

Finally, if the science of climate change proves that the planet is warming, why does the President want to cut funding for the Federal Global Climate Change program? The EPA needs a budget that is more than talk. It needs a budget that will clean up our Superfund sites, keep our water clean, our air safe to breathe, and reduce global warming, but that is not what is said by this budget.

I will do my part on this committee to make sure that EPA, Madam Chairman, has enough resources to act on these goals. I hope that we will all do that together.

Thank you.

Senator BOXER. Thank you so much.

Senator Vitter.

**OPENING STATEMENT OF THE HON. DAVID VITTER,
U.S. SENATOR FROM THE STATE OF LOUISIANA**

Senator VITTER. Thank you, Madam Chairman, and thank you, Ranking Member Inhofe.

Mr. Administrator, thank you for being here.

Obviously, the EPA's work is very important to Louisiana, always has been, but quite frankly post-Katrina and post-Rita, that has never been more true than it is now. I know you appreciate that.

I wanted to focus briefly in my opening comments on two very specific issues. One is the Lake Pontchartrain Basin Restoration Program. I recently sent you and EPA a letter about this. As you know, this was a program created in 2000, a bill I introduced when I was a House member. It was reauthorized in 2006. It sets up a restoration program within the EPA for the largest watershed in our lake, built around Lake Pontchartrain, which is the second-largest lake in the U.S. after the Great Lakes.

I appreciate that the EPA has been very supportive of this program in the past, and I would ask that you continue that support. Specifically because of the unusual nature of the continuing resolution for fiscal year 2007, you all have to perhaps make many more decisions and have fewer directives from us than normal. So I would specifically ask that you look at the Lake Pontchartrain Basin Restoration Program and continue the type of funding levels from EPA that we have together forged in the last several years. I look forward to your analysis of that and response in terms of specifically what you can do within the continuing resolution for fiscal year 2007.

The second very specific issue I wanted to focus on is landfills in the greater New Orleans area post-Katrina. For several months now, I have expressed real concern about a couple of landfills in particular that have been opened under emergency regulations by the State DEQ and operated in eastern New Orleans to help deal with Katrina debris. I have been very concerned that they do not meet significant enough environmental standards. They were opened under emergency authority, and all this was done when there are other landfills in the area that meet higher standards, and that could accept all of this flow of waste and debris for the same cost or less.

I have expressed this concern for several months, but something happened recently which really brought this concern to a new level. A couple of weeks ago, it was disclosed in the context of a separate Federal criminal investigation that lo and behold two people who were close associates to our former Mayor of New Orleans had hidden financial interests in the opening and in the operation of one of these landfills, the other has been closed, the only one still remaining open is the Old Gentilly landfill. Lo and behold, these two people had hidden financial interests and they helped get it open and get it permitted and get the contract with the city.

I think it is of some note one of these two people is going to jail. He is in the process of going to jail in a separate Federal criminal matter, and the reason he is going to jail is because he was making money off another city contract because of his connections, not because of any work he performed. So basically, the exact same pos-

ture he appears to be in regard to the landfill deal, he is going to jail with regard to another deal.

His other associate is not going to jail yet, but he has been named by the U.S. Attorney and the FBI in that other investigation as an unindicted co-conspirator, basically getting paid for his connections, not for any work performed. The two of them, it has finally been discovered, are in the middle of this other landfill deal.

Now, I know it is not your job to prosecute criminal cases. I am not asking you to. What I am suggesting is that this newest revelation underscores my concern, and I think it adds a whole lot of credibility and legitimacy to the questions I have been asking about whether we are doing the right thing environmentally at this landfill. I think the answer is clearly not.

It is also I think significant and important that in this landfill deal, the City of New Orleans actually owns the land. For owning the land, they retain 100 percent of the environmental liability in case there are problems in the future. For all of that, for owning the land, for having all of the liability, they get a whopping 3 percent of the revenue under this wonderful deal that the former Mayor's cronies have cut with the city.

Again, I am not asking you to step into the shoes of the U.S. Attorney. I am asking you, with this newest revelation, to look at the environmental details of this landfill because there are serious concerns about it. I think it is very clear, given these new revelations, that this deal is about corruption and greed, not good public policy or good environmental policy.

Thank you very much.

Senator BOXER. Thank you, Senator Vitter.

I want to point out that the committee did go down to New Orleans. We have seven Senators. We are all very concerned about this matter that was raised here, as well as other issues that don't fall under your domain. But this particular matter of a landfill, we hope you will take a very special look at it. I just want you to know the full committee is interested in this, so I hope you will keep the full committee briefed on this.

Now, Senator Voinovich. Welcome.

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

Senator VOINOVICH. Thank you. I am pleased to be here. I thank you for calling this hearing today.

I would like to thank you, Administrator Johnson, for being here today to discuss the President's proposed budget for the EPA. I look forward to spending some time with you to discuss your presentation. Thank you for serving our country, and I thank your family for their sacrifice. I appreciate all the time that you and your team spent with us last year on Clear Skies, even though we didn't clear the skies.

[Laughter.]

Senator VOINOVICH. As a former Governor and Mayor, I respect and know first-hand the enormous challenges that you have to address when working out a budget proposal. Putting together a budget is a process that requires responsible prioritizing and fiscal

discipline in order to avoid breaking the bank, and responding to the orders that you get from OMB.

I want you to know that the next few remarks that I make in this statement are not aimed at you personally or your team, because I have no idea of what you went through when you went to OMB and presented your case. You were probably told, this is your number; live with it and go back and eat it.

I want to make that clear. I am really enraged with this budget. Okay? I really am. Again, I wasn't there with you to hear what you had to say to my friend that is the OMB director.

In 2006, this past fiscal year, we suffered a budget deficit of \$248 billion, and that is not taking into account the funds borrowed from the Social Security trust fund, which increases the deficit to \$434 billion. According to OMB's numbers, even though we held non-security discretionary spending to less than 1 percent growth in fiscal year 2007, the budgets for non-security spending is less than 1 percent. In other words, we will still suffer from deficits totaling about a half-trillion dollars in 2007 and 2008.

The meager 1 percent in non-security spending is a symptom of our political failure to address the real source of budgetary problems. In your case, according to my numbers, you are getting a 6.9 percent reduction in your budget, 6.9 percent. Think of it. In refusing to address our entitlements, and instead placing the burden of fiscal austerity on discretionary spending means that, you know what, we are eating our seed corn. We will do little to solve our long-term budget problems, but we would fail in our responsibility to invest for the future in education, transportation, and the subject of today's hearing, our environment.

The truth of the matter is, and nobody wants to say it, we do need a tax increase or we need tax reform. We can't keep going. You can't be carrying on a war the way we are in Afghanistan and Iraq, and see the spending for the 22 agencies in Homeland Security that have gone up over 300 percent, and think that you can run the Government of the United States with this kind of a budget. It is unacceptable. I am concerned, and I am going to get into just a few of these things because some of my colleagues are getting into some other ones. The Diesel Emissions Reduction Act, we worked so hard on it and got it done in 45 days. It leverages \$4 for every \$1 we put into it. I talked to Josh Bolten about this. I have talked to Portman about it. I said, for God's sake, when you are putting a budget together, if you can spend \$1 and get \$4 for it, you ought to support it. And what did they do? They proposed a \$35 million cut from \$50 million last year.

The Great Lakes Legacy Act is another thing. We have been working on that to try and make that something very special, and \$35 million for 2008. For 2007, the Administration requested \$49.6 million. I know you have worked hard in helping to improve the Great Lakes and continue to work for Great Lakes regional collaboration to make the restoration and protection of the lakes a priority, but I told them last night, they had a big meeting here in Washington, that you are not going to get your money. He doesn't have it. We have to figure out how we get some more money in so that we can do some of the things that this country should be doing.

As a member of this committee, I have worked hard to bring attention to the Nation's wastewater infrastructure needs. Every single year, I have participated in trying to get your budget up. This year is no exception. The EPA's budget is woefully inadequate to take care of the Nation's pressing water and wastewater infrastructure needs. What we have is a ticking time bomb, ready to blow up, but we continue to ignore our Nation's needs.

As we on this committee know, billions of dollars have already been spent and billions more are needed to upgrade the Nation's aging waste treatment. I have people coming in here, \$426 million to Akron and you have to get it done in 10 years; Cleveland in northeastern Ohio, \$4 billion. The little Mayor of Fostoria came in and said, I have to spend \$30 million and I have 12,000 people that live in my city. Either you have to back off with these orders that you are putting out there, or we have to come up with the money to help these people pay for this. You can't have it both ways.

The environmental groups that are represented here ought to know that. Sure, you can jam it to it, but the fact is these people can't handle it. What we forget about, and some of our Senators know this, when we really did something about waste treatment around this country is when we had the 2575 program in the 1970s. That is when we really did it. Today, that infrastructure is just falling apart.

So what I would like to say to you is this, is that I know you have a tough job, but you have to start to think about some of the things that you are asking people to do, particularly on the local level. This is a big unfunded mandate, and the guys over at OMB say, oh that's fine; we will just let them raise their rates, you know, 400 percent, 500 percent.

These people can't afford that. So you ought to come back and say, you know what? We are going to give you more time. In Akron, Ohio, they wanted 30 years; no, you can't do it; you have to do it in 10 years or 15 years.

Your folks are being unreasonable. If you can't do it, then come back to us and we will maybe give you some more flexibility to do the job that we have asked you to do.

Thank you.

Senator BOXER. Thank you, Senator.

We are going back and forth by early bird.

Senator Whitehouse.

**OPENING STATEMENT OF THE HON. SHELDON WHITEHOUSE,
U.S. SENATOR FROM THE STATE OF RHODE ISLAND**

Senator WHITEHOUSE. Thank you, Chairman.

Hello, Administrator. How are you?

I was pleased to see that the EPA has recently promulgated some regulations about benzene in gasoline, although I am concerned that they don't take full effect until 2030, which seems like a long way off. My understanding is the proposed regulations do not consider the other aromatics that are added to gasoline, toluene and xylene. I am wondering what your plans are to take any action with respect to those; whether you believe that they are dangerous; and where they rank in your priorities. Is there any hope of the benzene time frame being accelerated?

Senator Boxer. We are just making statements now. He can answer that later. We are doing opening statements.

Senator WHITEHOUSE. My opening statement is that I want to ask that question.

[Laughter.]

Senator BOXER. Duly noted, Senator.

Senator WHITEHOUSE. Thank you.

Senator BOXER. Senator Craig.

**OPENING STATEMENT OF THE HON. LARRY CRAIG,
U.S. SENATOR FROM THE STATE OF IDAHO**

Senator CRAIG. Well, in that case, if I am the last, I will be brief because I think it is important we get to you, Mr. Johnson, and also get to our questions.

I think you have heard the frustration that has been expressed by a variety of my colleagues as it relates to your budget, and asking constituent compliance in areas where we may be taking away from them some of the resources that they are going to need to gain that kind of compliance.

I still have a large Superfund site in my State that we continue to work toward filling. One of the issues, and you and I have had that conversation, is a little issue called arsenic in drinking water, and small communities, and compliance, and 5,000 people, 3,000, 2,000 on a system and requirements that standards be met. I could dispute the standards. I won't because they are now the law of the land. But be that as it may, it is a compliance issue of considerable concern as to how we get to where we get in reasonable time.

You have shown some flexibility. Everybody wants to get where we all want to get. At the same time, we have to have flexibility, cooperation. We are looking for affordability in so many issues.

Another area that I have worked on, it is my understanding the agency may be working on proposed rules to help clarify air emissions reporting requirements for livestock operations. As you know, I have worked for some time to educate and to clarify the issue. I am always amazed that there are some that would like to call out the firemen and the AMTs and the police and the Federal emergency squads and FEMA because of a dairy farm in their community, even though they moved in yesterday and the dairy farm moved in a decade ago.

Reality, though, says, and I believe it, that the Clean Air Act and the Clean Water Act and a myriad of other Federal and State environmental laws should continue to apply to agriculture. There is a threshold, though, that some are trying to cross, as you know, as it relates to pushing these cathodes into the Superfund and the Community Right To Know Acts. So your cooperation in working on that, and obviously we are gaining ground here in the Congress to support the reality of what we meant and intended under the original laws. Working with you is going to be awfully important on that.

I could talk a little bit about Superfund. Now that I am the Ranking Member on the Superfund and Environmental Health Subcommittee, we will spend a little more time on that issue. But lastly, and as important, I understand your spending plan required

by the fiscal year 2007 continuing resolution will be coming out on the 15th.

I want to make sure that you make available the \$11 million for the National Rural Water Association, so that our circuit riders on the ground can continue to work with our rural communities and help ensure compliance in those areas. Those are tasks that are nearly impossible for our small communities to meet, and the circuit rider issue serves them well. So I hope that is going to be the case in the proposal we will see on the 15th.

Thank you much, Madam Chairman.

Senator BOXER. Thank you so much, Senator Craig.

Administrator Johnson, you have 5 minutes, and please, we will put your entire statement in the record, which we have, and we hope you will summarize and get to the salient points. Thank you.

STATEMENT OF STEPHEN JOHNSON, ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY ACCOMPANIED BY: BENJAMIN H. GRUMBLES, ASSISTANT ADMINISTRATOR, OFFICE OF WATER, U.S. ENVIRONMENTAL PROTECTION AGENCY

Mr. JOHNSON. Thank you, Madam Chairman, and members of the committee. I am pleased to be here to discuss the President's fiscal year 2008 budget request for the Environmental Protection Agency. The President's \$7.2 billion request builds upon EPA's record of accomplishments and funds its role as our Nation enters the next phase of environmental progress.

Over our 36 years, EPA has laid a strong foundation to shift America to a green culture. Our citizens are embracing the fact that environmental responsibility is everyone's responsibility. So today, instead of having only 17,000 EPA employees working to protect the environment, we now have 300 million Americans as environmental partners.

These are exciting times. Our air, water and land are cleaner today than they were a generation ago. With this budget, our progress will continue. The evolution of environmental progress has come in part because we have proven that a healthy environment and a healthy economy can, in fact, go hand in hand.

As the economy continues to grow, so do our energy needs. In order to help meet the President's ambitious clean energy and air goals, EPA's budget requests over \$82 million to support our Energy Policy Act responsibilities. This includes \$8.4 million to implement the renewable fuel standards and \$35 million for grants to cut diesel emissions from trucks and school buses.

EPA also plays a vital role in advancing the Administration's aggressive, yet practical strategy for reducing greenhouse gas emissions. The President has requested \$117.9 million for EPA's climate change programs, including \$44 million for the successful Energy Star Program, \$5 million for the Asia Pacific Partnership Initiative, and \$4.4 million for the Methane to Markets Program.

The evolution of environmental progress requires EPA to work effectively with our State and local partners. The President's budget builds on this cooperation by providing \$2.7 billion to help our partners improve their water quality. We are also promoting the

use of innovative tax-exempt private activity bonds for capital investments in drinking water and wastewater projects.

Additionally, collaboration is the key to protecting America's great water bodies. In order to strengthen the efforts of EPA and our partners, the President is requesting \$28.8 million for the Chesapeake Bay, \$56.8 million for the Great Lakes, \$4.5 million for the Gulf of Mexico, and \$1 million for Puget Sound.

At EPA, we are working productively with our partners to deliver a healthier and more prosperous future. The President's budget provides \$1.2 billion for the Superfund Program to continue transforming hazardous waste sites back into community assets.

After highlighting some of our cooperative initiatives, we must also recognize the necessity of vigorously enforcing our Nation's environmental laws. The proposed 2008 enforcement budget, \$549.5 million, is the highest enforcement budget ever.

As EPA helps shape America's green culture, we understand the need to advance environmental science. The President's commitment to sound science is reflected in his \$134 million request, an increase of \$9.4 million to fund human health risk, clean air, and nanotechnology research.

Finally, I must mention EPA's evolving role from being guardians of the environment to also guardians of our homeland. The President has requested \$152 million for our homeland security responsibilities and water security and decontamination.

While the Nation's environmental progress continues to evolve, so does EPA's role. This budget will fulfill EPA's responsibilities of being good stewards of the environment and good stewards of our Nation's tax dollars. By making smart use of our resources, we are not only building on our Nation's environmental accomplishments, we are creating a lasting legacy for future generations of Americans.

Thank you and I look forward to addressing your questions. Thank you, Madam Chairman.

[The prepared statement of Stephen Johnson follows:]

STATEMENT OF STEPHEN L. JOHNSON, ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY ACCOMPANIED BY BENJAMIN H. GRUMBLES, ASSISTANT ADMINISTRATOR, OFFICE OF WATER, U.S. ENVIRONMENTAL PROTECTION AGENCY

Madam Chairman and members of the committee, I am pleased to be here today to discuss the fiscal year (FY) 2008 budget request for the Environmental Protection Agency (EPA). The President has requested \$7.2 billion to support the work of EPA and our partners nationwide. This funding illustrates the Administration's unwavering commitment to setting high environmental protection standards, while focusing on results and performance, and achieving the goals outlined in the President's Management Agenda.

The President's request builds on EPA's long record of accomplishments and funds its role as America enters into the next phase of environmental progress. These are exciting times for our Nation's environment. Since its founding, EPA has laid a strong foundation of environmental progress. Our air, water and land are cleaner today than they were just a generation ago, and with this year's budget, this progress will continue.

While our Nation's environmental results are significant, it is important to understand how they're being achieved. Over our 36 years, EPA has laid a strong foundation to shift America into a "green" culture. Today, instead of having just 17,000 EPA employees working to protect the environment, we now have over 300 million Americans as environmental partners. Americans from all sectors of society—busi-

nesses, communities and individuals—have begun to embrace the fact that the environment is everyone’s responsibility, not just the responsibility of EPA.

Madam Chairman, the FY 2008 budget will fund our new role in this next exciting phase of environmental progress.

Our Nation is committed to balancing the budget, and EPA is a proud partner in this effort. EPA is not only a good steward of our environment, but it is a good steward of our nation’s tax dollars. We are accountable for spending the taxpayer’s money efficiently and effectively, while focusing on wisely investing in environmental results.

CLEAN AIR AND GLOBAL CLIMATE CHANGE

The FY 2008 President’s Budget requests \$912 million for the Clean Air and Global Climate Change goal at EPA. EPA implements this goal through its national and regional programs that are designed to provide healthier air for all Americans and protect the stratospheric ozone layer while also minimizing the risks from radiation releases, reducing greenhouse gas intensity, and enhancing science and research. In order to carry out its responsibilities, EPA utilizes programs that include many common elements, including: setting risk-based priorities; facilitating regulatory reform and market-based approaches; partnering with State, tribal, and local Governments, non-governmental organizations, and industry; promoting energy efficiency; and utilizing sound science.

The Clean Air Rules are a major component of EPA work under Goal 1 and include a suite of actions that will dramatically improve America’s air quality. Three of the rules specifically address the transport of pollution across State borders (the Clean Air Interstate Rule, the Clean Air Mercury Rule, and the Clean Air Nonroad Diesel Rule). These rules provide national tools to achieve significant improvement in air quality and the associated benefits of improved health, longevity and quality of life for all Americans. In FY 2008, EPA will be working with the States and industry to implement these rules.

In order to address the Nation’s growing energy challenges, EPA’s request supports activities associated with the Energy Policy Act of 2005. These activities include the implementation of the Renewable Fuel Standards that will promote the use of renewable fuels, diversify our energy sources, and reduce our reliance on oil. EPA’s request provides \$35 million to support the new Diesel Emission Reduction Grants program that is designed to reduce diesel emissions in trucks and school buses through retrofitting and replacing existing engines. This program will target projects in areas that don’t meet air quality standards to help ensure improvements occur in areas of the country where the benefits are needed most.

In FY 2008, EPA’s climate protection programs will continue its Government and industry partnerships to achieve reductions in greenhouse gas emissions and contribute to the President’s goal of reducing greenhouse gas intensity by 18 percent in 2012. The President’s request for EPA’s voluntary partnership climate change programs and research on technology and science in FY 2008 is \$118 million. The request includes \$4 million for the Methane to Markets Partnership which promotes methane recovery and use in landfills, coal mines and natural gas facilities. In addition, EPA’s request provides \$5 million to support the Asia Pacific Partnership—this partnership supports international efforts to reduce greenhouse gas emissions by creating new investment opportunities, building local capacity, and removing barriers to the introduction of more efficient technologies. EPA’s climate partnership and technology research efforts are components of the Administration’s Climate Change Technology Program. In addition, EPA’s Global Change research program coordinates its efforts and actively contributes to the Administration’s Climate Change Science Program.

CLEAN AND SAFE WATER

The FY 2008 President’s Budget requests \$2.7 billion to implement the Clean and Safe Water goal through programs designed to improve the quality of surface water and drinking water. EPA will continue to work with its State, tribal, and local partners to achieve measurable improvements to the quality and safety of the nation’s drinking water supplies as well as the conditions of rivers, lakes and coastal waters.

The President’s request continues the Administration’s commitments to the Clean Water and Drinking Water State Revolving Funds. The President funds the Clean Water State Revolving Fund (CWSRF) at \$688 million, supporting the cumulative capitalization commitment of \$6.8 billion for 2004-2011 and enabling the CWSRF to eventually revolve at an annual level of \$3.4 billion. The budget proposes \$842 million for the Drinking Water State Revolving Fund (DWSRF), essentially the

same as the 2007 level. This request keeps the Administration's commitment of achieving a long-term \$1.2 billion revolving level.

EPA has worked with Treasury and other parts of the Administration to propose expanded use of tax-exempt Private Activity Bonds for capital investments in drinking water and wastewater projects. The President's Budget proposes to exempt PABs from the private activity bond unified State volume cap. PABs are tax-exempt bonds issued by a State or local Government, the proceeds of which are used by another entity for a public purpose or by the Government entity itself for certain public-private partnerships. By removing drinking water and wastewater bonds from the volume cap, this proposal will provide States and communities greater access to PABs to help finance their water infrastructure needs and increase capital investment in the nation's water infrastructure.

This Water Enterprise Bond proposal would provide an exception to the unified annual State volume cap on tax-exempt qualified private activity bonds for exempt facilities for the "furnishing of water" or "sewage facilities." To ensure the long-term financial health and solvency of these drinking water and wastewater systems, communities using these bonds must have demonstrated a process that will move towards full-cost pricing for services within 5 years of issuing the Private Activity Bonds. This will help water systems become self-financing and minimize the need for future subsidies.

LAND PRESERVATION AND RESTORATION

The Agency's FY 2008 budget request to Congress implements the Land Preservation and Restoration goal through EPA's land program activities that promote the following themes: Revitalization, Recycling, Waste Minimization, and Energy Recovery; Emergency Preparedness and Response; and Homeland Security.

The President's budget provides \$1.2 billion for the Superfund program to continue progress cleaning up the nation's most contaminated hazardous waste sites. As of the end of FY 2006, cleanup construction has been completed at 1,006 National Priorities List (NPL) sites. The Superfund program often completes short-term removal actions to mitigate immediate health threats at sites prior to completion of investigations and the start of long-term cleanup construction. EPA has continued its efforts to efficiently utilize every dollar and resource available to clean up contaminated sites and to protect human health. In FY 2006, EPA obligated \$390 million of appropriated, State cost-share, and responsible party funding to conduct ongoing cleanup construction and post-construction work at Superfund sites that includes nearly \$45 million to begin construction at 18 new Superfund projects. Based upon the construction schedules, EPA expects to complete construction of all remedies at 24 sites in FY 2007 and 30 sites in FY 2008. EPA expects to complete construction at 165 sites during the FY 2007 to FY 2011 time period, the goal established in the Agency's FY 2006 to FY 2011 Strategic Plan.

In FY 2008, the Agency is requesting \$34 million for the Underground Storage Tank Program to provide assistance to States to help them meet their new responsibilities, that include: 1) mandatory inspections every 3 years for all underground storage tanks; 2) operator training; 3) prohibition of delivery to non-complying facilities; 4) secondary containment of financial responsibility for tank manufacturers and installers; 5) various compliance reports; and 6) grant guidelines. The Agency is also submitting new legislative language to allow States to use alternative mechanisms, such as the Environment Results Program, to meet the mandatory 3-year inspection requirement. This proposal provides States with a less costly alternative to meet the objectives of the Energy Policy Act.

HEALTHY COMMUNITIES AND ECOSYSTEMS

In FY 2008, EPA's Budget carries out the Healthy Communities and Ecosystems goal via a combination of regulatory, voluntary, and incentive-based programs. A key component of the Healthy Communities and Ecosystems goal is to reduce risks to human health and the environment through community and geographically-based programs.

In FY 2008, \$162.2 million was requested for the Brownfields program to support research efforts with additional assessments, revolving loan fund, cleanup grants and workforce development programs. When leveraged with State and local resources, this Brownfield funding will help assess more than 1,000 properties, clean up more than 60 sites, and address petroleum contamination in more than 40 communities.

EPA focuses on collaborative place-based programs to protect the great waterbodies—the Chesapeake Bay, the Great Lakes, the Gulf of Mexico and the Puget Sound.

The Chesapeake Bay is the largest estuary in the United States and a water resource of tremendous ecological and economic importance. The greatest success in the last five years has been the water quality initiative that has resulted in new water quality standards for the Bay, the adoption of nutrient and sediment allocations for all parts of the watershed that meet new standards, and tributary-specific pollution reduction and habitat restoration plans. To continue to carry out these functions, the FY 2008 President's Budget requests \$29 million in FY 2008, an increase of over \$2 million from the previous President's Budget request. Within the request is \$8 million for competitive grants for innovative, cost-effective non-point source watershed projects, which reduce nutrient and/or sediment discharges to the Bay.

The Great Lakes are the largest system of surface freshwater on earth, containing 20 percent of the world's surface freshwater and accounting for 84 percent of the surface freshwater in the United States. The goal of the Agency's Great Lakes Program is to restore and maintain the chemical, physical and biological integrity of the Great Lakes Basin Ecosystem. The President's FY 2008 budget commits \$57 million towards continuing efforts by EPA's Great Lakes program, working with State, local, and tribal partners and using the Great Lakes Regional Collaboration Strategy as a guide to protect and restore the Great Lakes. The Agency will focus on working with partners to clean up and de-list eight Areas of Concern (AOCs) by 2010, emphasizing clean up of contaminated sediments under the Great Lakes Legacy Act. EPA will continue to work towards reducing PCB concentrations in lake trout and walleye and keeping Great Lakes beaches open and safe for swimming during the beach season.

The FY 2008 President's Budget Request provides \$4.5 million for the Gulf of Mexico program to support Gulf States and stakeholders in developing a regional, ecosystem-based framework for restoring and protecting the Gulf of Mexico.

EPA efforts in the Puget Sound are focused on the Basin's highest priority environmental challenges: air and water quality. The FY 2008 Budget provides \$1 million for restoration activities to improve water quality and minimize the adverse impacts of rapid development.

Another major focus of the Healthy Communities and Ecosystems goal is identifying, assessing, and reducing the risks from pesticides. In FY 2008, EPA will continue identifying and assessing potential risks from pesticides. In addition, EPA will set priorities for addressing pesticide risks and promoting innovative and alternative measures of pest control. EPA will continue to meet its pesticide-related homeland security responsibilities by identifying and reviewing proposed pesticides for use against pathogens of greatest concern for crops, animals, and humans. EPA will continue to work closely with other Federal agencies and industry to implement its Registration Review program that will review existing pesticide registrations on a 15-year cycle to ensure that registered pesticides in the marketplace continue to be safe for use in accordance with the latest scientific information.

COMPLIANCE AND ENVIRONMENTAL STEWARDSHIP

The EPA's FY 2008 Budget request of \$743.8 million for the Compliance and Environmental Stewardship goal provides funding for programs that monitor and promote enforcement and compliance with environmental laws and policies. The Agency will also support stewardship through direct programs, collaboration and grants for pollution prevention, pesticide and toxic substance enforcement, environmental information, and continuing an environmental presence in Indian country.

In FY 2008, the budget for this goal also provides \$56.9 million for GAP grants, which will build tribal environmental capacity to assess environmental conditions, utilize available Federal information, and build an environmental program tailored to tribes' needs. The grants will develop environmental education and outreach programs, develop and implement integrated solid waste management plans, and alert EPA to serious conditions that pose immediate public health and ecological threats. Through GAP program guidance, EPA emphasizes outcome-based results.

ENFORCEMENT

In FY 2008, the proposed total of \$549.5 million represents the highest requested enforcement budget. This request for an increase of \$9.1 million reflects the Administration's strong commitment to the vigorous enforcement of our nation's environmental laws and ensures that we will have the resources necessary to maintain a robust and effective enforcement program.

EPA's enforcement program continues to achieve outstanding enforcement results with settlements over the past 3 years resulting in commitments of nearly \$20 billion in future pollution controls. As an outcome of EPA's Superfund enforcement ac-

tions in FY 06, parties held responsible for pollution will invest \$391 million to clean up 15 million cubic yards of contaminated soil and approximately 1.3 billion cubic yards of contaminated groundwater at waste sites. These results show a strong and vigorous enforcement program that will be attainable under the FY 2008 Request.

RESEARCH

EPA conducts research that provides a scientific foundation for the Agency's actions to protect the air that all Americans breathe. In FY 2008, EPA's air research program will support implementation of the Clean Air Act, especially the National Ambient Air Quality Standards (NAAQS). The NAAQS programs will focus on tropospheric ozone, particulate matter, carbon monoxide, sulfur dioxide, nitrogen oxides, and lead. EPA also conducts research to improve understanding of the risks from other hazardous air pollutants, known as air toxics. EPA is also one of many Federal agencies that actively contribute to the Administration's Climate Change Science Program.

Other important areas of research in FY 2008 will include: 1) development of molecular microarrays for detection of bacterial pathogens and non-pathogenic microbes in drinking water source waters; 2) epidemiological studies on the illness rates resulting from untreated groundwater and distribution systems; 3) studies on the practices, such as blending, for handling significant wet weather events to identify "best practices" for preventing peak wet weather flows from overwhelming wastewater treatment facilities while protecting water quality; and 4) providing more efficient monitoring and diagnostic tools through continued research to develop methods of using landscape assessments for monitoring and assessing watershed conditions. These programs will help assess risks and priorities for ensuring clean water.

EPA is requesting \$10.2 million in FY 2008 for nanotechnology research, which will focus primarily on the potential implications of manufactured nanomaterials on human health and the environment. The Agency's efforts are coordinated with other Federal agencies through the National Nanotechnology Initiative (NNI), which the Administration has identified as a FY 2008 research and development budget priority. In FY 2008, EPA's Science to Achieve Results (STAR) program will continue to fund exploratory grants on the potential implications of manufactured nanomaterials on the environment and human health, in collaboration with other Federal agencies.

The Agency also will continue in-house nanotechnology research initiated in FY 2007. The integrated programs will focus on: 1) assessing the potential ecological and human health exposures and effects from nanomaterials likely to be released into the environment; 2) studying the lifecycles of nanomaterials to better understand how environmental releases may occur; 3) developing methods to detect releases of nanomaterials; and 4) using nanotechnology to detect, control, and remediate traditional pollutants.

Recognizing that environmental policy and regulatory decisions will only be as good as the science upon which they are based, EPA makes every effort to ensure that its science is of the highest quality and relevance, thereby providing the basis for sound environmental decisions and results. EPA uses the Federal Research and Development (R&D) Investment Criteria of quality, relevance, and performance in its decision-making processes through: 1) the use of research strategies and plans; 2) program review and evaluation by the Board of Scientific Counselors (BOSC) and the Science Advisory Board (SAB); and 3) independent peer review.

HOMELAND SECURITY

Following the cleanup and decontamination efforts after the terrorist incidents in 2001, the Agency has focused on ensuring we have the tools and protocols needed to detect and recover quickly from deliberate incidents. The emphasis for FY 2008 is on several areas including decontaminating threat agents, protecting our water and food supplies, and ensuring that trained personnel and key lab capacities are in place to be drawn upon in the event of an emergency. Part of these FY 2008 efforts will continue to include activities to implement a common identification standard for EPA employees and contractors such as the Smartcard initiative.

EPA has a major role in supporting the protection of the nation's critical water infrastructure from terrorist threats. In FY 2008, EPA will continue to support the Water Security Initiative (formerly known as Water Sentinel) pilot program and water sector-specific agency responsibilities, including the Water Alliance for Threat Reduction (WATR), to protect the nation's critical water infrastructure. The FY 2008 budget provides \$22 million for the Water Security Initiative to continue operation

at the existing pilot systems and to begin deployment of the last pilot systems. Ultimately, an expansion of the number of utilities will serve to promote the adoption of Water Security within the water sector. Functioning warning systems, among several utilities of potentially divergent configurations, will afford a more compelling outcome than just one utility. After start-up of the remaining pilot systems in 2008, the program will ramp down as EPA shifts its focus to evaluation of the pilots. EPA will continue support of each pilot for three years, after which the host cities will assume maintenance of these systems and over time bring them to full-scale operation. By the end of FY 2007, EPA will issue interim guidance on design and consequence management that will enable water utilities to deploy and test contamination warning systems in their own communities.

In FY 2008, the Agency, in collaboration with our water sector security stakeholders, will continue our efforts to develop, implement and initiate tracking of national measures related to homeland security critical infrastructure protection activities.

In summary, this budget will enable us to carry out the goals and objectives as set forth in our Strategic Plan, meet challenges through innovative and collaborative efforts with our State, tribal, and private entity partners, and focus on accountability and results in order to maximize environmental benefits. The requested resources will help us better understand and solve environmental challenges using the best available science and data, and support the President's focus on the importance of homeland security while carrying out EPA's mission.

RESPONSES BY STEPHEN JOHNSON TO ADDITIONAL QUESTIONS
FROM SENATOR BOXER

GLOBAL CHANGE SCIENCE & TECHNOLOGY PROGRAM

Question 1. Funding for the EPA's Global Change Science & Technology Program was cut by \$548,400 in from the FY06 enacted level to the President's Budget FY08 (See Appendix). Why was this program cut?

Response. The President's FY 2008 request includes \$17 million for climate change research at EPA. In FY 2008, EPA's global change research program will continue to play a major role in the interagency U.S. Climate Change Science Program (CCSP) and focus on developing the scientific understanding of how climate change will influence air and water quality, ecosystems, and human health. The program will also emphasize providing information and decision support tools that enable policymakers to respond effectively to global change. The budget reduction planned for FY 2008 will result in approximately one fewer research grant to study how global change will influence aeroallergens such as pollen and mold.

Question 2. How do the above cuts exemplify the Bush administration's and the EPA's commitment to funding Climate Change science?

Response. The President's FY 2008 budget includes a commitment of \$17 million for climate change research at EPA and, more generally, over \$1.8 billion for the U.S. Climate Change Science Program (CCSP). Together these agencies, with significant contributions from EPA, are implementing a coordinated strategy to improve our understanding of climate change and variability and strengthen the science that will be needed to address climate change.

Appendix

Climate Protection Program
(Dollars in Thousands)

	FY 2007 Pres. Budget	FY 2008 Pres. Budget	Change from FY07 to FY08
Environment Program & Management	\$91,843.3	\$87,927.0	(\$3,916.3)

Climate Protection Program
(Dollars in Thousands)

	FY 2006 Enacted	FY 2007 Pres. Budget	FY 2008 Pres. Budget	Change from FY07 to FY08	Change from FY06 Enacted to FY08 Pres. Budget
Science & Technology	\$18,648.0	\$12,549.6	\$13,104.0	\$554.4	(\$5,544.0)

Global Change
(Dollars in Thousands)

	FY 2006 Enacted	FY 2008 Pres. Budget	Change from FY06 Enacted to FY08 Pres. Budget
Science & Technology	\$18,619.0	\$16,908.0	(\$1,711.0)

INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE (IPCC) REPORT

Question 3. This IPCC report was strongly embraced by the Bush administration in the same press release, stating:

The report confirms what President Bush has said about the nature of climate change and it reaffirms the need for continued U.S. leadership in addressing global climate issues. The report findings highlight the need for robust climate research and the development of new technologies to clean our air and deal with global climate change, while maintaining economic competitiveness.

How do the above cuts fit with the Bush administration's support of the IPCC report and the need for climate research?

Response. The President's FY 2008 budget includes a commitment of \$17 million for climate change research at EPA and, more than \$1.8 billion for the Federal participants of the interagency Climate Change Science Program which includes 13 agencies and departments. Together these agencies, with significant contributions from EPA, are implementing a coordinated strategy to improve our understanding of climate change and variability and strengthen the science that will be needed to address climate change.

\$29 BILLION STUDIES

Question 4. On February 8, 2007, in an online forum at the White House, you are quoted as saying, "[S]ince 2001, the Bush administration has invested more than \$29 billion to study climate change science, promote energy-efficient and carbon dioxide-reducing technologies, and fund tax incentive programs."

In September 2006, several of my colleagues and I sent a letter to James Connaughton, Director, White House Council of Environmental Quality asking questions regarding the \$29 billion figure. This letter is attached. Because we have not

received a response from Mr. Connaughton, we would like you to answer these questions. Please answer each of the specific questions in the attached letter.

Response. It is our understanding that CEQ is in the process of responding to the letter. Inasmuch, EPA will defer.

PESTICIDES—LEAD RULE

Question 5. EPA's Budget Justification says that the Agency is reducing funding to protect people from pesticides in order to fund work on a rule to reduce risks from lead. It seems clear that EPA needs more money to do its job of protecting public health.

Describe the amount of money that EPA needs to both complete the lead rule and promptly review all of the pesticides that need to be reviewed to ensure their safety by the end of 2008.

Response. EPA has requested \$1,000,000 for the completion of the Lead Renovation and Remodeling (R&R) Rule in 2008. The FY 2008 President's Budget provides sufficient funding to protect human health and the environment by reviewing pesticides to ensure their safety by the end of FY 2008, as mandated by FQPA and PRIA.

ENVIRONMENTAL JUSTICE—FUNDING

Question 6. The EPA is charged with ensuring environmental justice in its decisions and in the programs that it oversees. However, a 2004 EPA Inspector General (IG) report concluded that the Agency had not "consistently integrated environmental justice into its day-to-day operations, [and that the Agency had] not established values, goals, expectations, and performance measurements" for environmental justice. A 2006 IG survey "showed that EPA senior management has not sufficiently directed program and regional offices to conduct environmental justice reviews" in accordance with an executive order on environmental justice. The IG stated, "Consequently, the majority of respondents reported their programs or offices have not performed environmental justice reviews." Clearly, EPA should be doing more—not less—to ensure environmental justice in its decisions and programs. However, the budget proposes to cut funding for environmental justice by more than \$1.7 million, a 31 percent cut.

Please describe:

The amount of annual funding that EPA has provided to the National Environmental Justice Advisory Council (NEJAC) since 2001. Please also describe the level of Federal resources, measured by the number of fully staffed Full Time Equivalents, devoted to the NEJAC annually since 2001.

Response. We are pleased to update you on the progress the Agency has made in addressing the concerns raised by the IG concerning the environmental justice program at EPA. Recently, we convened the Agency senior managers to complete the plan for developing and conducting environmental justice reviews for selected programs and activities. The Office of the Inspector General accepted the Agency's plan stating that "we accept the proposed actions and appreciate your constructive approach to the issues raised in our report." Developing and conducting environmental justice reviews is one component of many that the Office of Environmental Justice is undertaking to promote the integration of environmental justice into the day-to-day operations of the Agency.

As indicated in the IG report, the ultimate goal is to integrate EJ into the Agency's core programs.

With respect to the budget for the EPA's Environmental Justice program, the environmental justice base program is being reduced by a modest 1.0 FTE in the FY 2008 budget request (from the FY 2007 Request). The reduction reflects efficiencies the program has been able to achieve from reducing the number of NEJAC subcommittees, requiring less Headquarters coordination and support. The decrease mentioned in your question refers to the earmark received in FY 2006, but not requested in FY 2008. As a matter of policy, the Agency does not sustain Congressional earmarks in its budget request.

Although Congress did not provide an earmark in FY 2007, EPA increased funding by \$850,000 for the environmental justice grant program.

Staff support and funding for the NEJAC is provided by the Office of Environmental Justice as part of its mission. There is not a separate budget line item for the NEJAC activities. The following table provides funding for the Agency's Environmental Justice program project between FYs 2001 and 2008. FTE reductions in recent years are largely associated with a reduction in the number of NEJAC Subcommittees, requiring less Headquarters coordination and support.

With regards to NEJAC meetings, EPA anticipates there will be three meetings held in FY 2008.

Table: Environmental Justice program/project, dollar amounts in thousands

FY	FTE EPM	Dollars EPM	Dollars Superfund	Dollars Total
2001 Enacted	16.1	\$4,011.8	\$997.8	\$5,009.6
2002 Enacted	16.0	\$4,163.4	\$900.0	\$5,063.4
2003 Enacted	16.0	\$5,364.0	\$894.1	\$6,258.1
2004 Enacted	18.0	\$5,810.6	\$1,103.4	\$6,914.0
2005 Enacted	18.0	\$5,882.5	\$937.6	\$6,820.1
2006 Enacted	18.0	\$5,558.0	\$827.0	\$6,385.0
2007 Request	17.9	\$3,859.0	\$756.7	\$4,615.7
2007 Enacted	16.9	\$4,675.0	\$757.0	\$5,432.0
2008 Request	16.9	\$3,822.0	\$757.0	\$4,579.0

ENVIRONMENTAL JUSTICE—POLLUTION PREVENTION

Question 7. EPA's process of reviewing Federal regulatory programs for pollution prevention opportunities by reducing the use and production of toxic chemicals as required by the Pollution Prevention Act and endorsed by the NEJAC: Please provide a list of pollution prevention initiatives that seek to reduce the use and production of toxic chemicals in environmental justice communities that EPA has implemented since 2001. Please provide a description of initiative, its current status, and an assessment of its impacts in reducing the use and production of toxic chemicals.

Response. The Office of Pesticides, Prevention, and Toxics has taken numerous actions since 2001 to reduce the use and production of toxic chemicals in environmental justice communities. Examples include:

- In 2003, the Agency initiated a new program, Community Action for a Renewed Environment, or CARE, to assist communities—especially those with EJ concerns—to better understand risks of, and to utilize pollution prevention and other approaches to reduce exposure to toxic chemicals in their communities. This grant and technical assistance program helps communities build local partnerships to understand risks from all sources, set priorities, and take voluntary actions to reduce risks. Cross program, multimedia teams have been organized in the Agency to work with the CARE. The CARE program is now working with 51 communities in over 25 States.

- EPA has also been working with Tribes to address toxic chemicals concerns on tribal lands:

- EPA's Office of Pollution Prevention and Toxics (OPPT) participates in the Forum for State and Tribal Toxics Actions (FOSTTA), which has conducted approximately three meeting per year concerning its Tribal Project. Further, the Office of Prevention, Pesticides and Toxic Substances has developed and is implementing an OPPTS Tribal Strategic Plan for Fiscal Years 2004-2008.

- OPPT has also been engaged since FY 2002 with the Tribal Workgroup of the National Pollution Prevention and Toxics Advisory Committee (NPPTAC), chartered under the Federal Advisory Committee Act (FACA). The workgroup identified and framed two broad issues for consideration by the Committee: Green Buildings on Tribal Lands and Tribal Access to, and Utilization of, Publicly Available Chemical Hazard and Exposure Data. The Committee approved and provided to EPA two recommendations based on these issues. The Agency, in addition to supporting the Tribal workgroup, has begun to implement both of these recommendations.

- OPPT is also developing a Tribal Green Building and P2 Technologies Guidance Document under a contract with a tribal owned business. The document seeks to provide information which can be used to guide decision-making for Tribal Governments in their business and economic development plans. This document includes a cost/benefit analysis on green building options and technologies, including rain-water run-off roofs, green landscaping, green building materials, etc. A draft of the document is currently being circulated for review among tribal communities, specifically seeking recommendations on its applicability in Indian Country.

- OPPT is working with the Department of Housing and Urban Development (HUD) to incorporate green building guidance into the Indian Housing Block Grants (IHBG) Program and other Tribal programs. HUD has indicated that they would in-

clude green building information on their website; negotiations on changing their IHBG guidance to include an emphasis on green buildings are continuing.

-OPPT has initiated discussions with the Indian Health Service (IHS) to implement greener health care practices in Indian health clinics and hospitals. IHS has begun EMS pilot sites at two facilities—a hospital and a clinic. IHS has identified additional sites to implement the EMS program, and has asked OPPT and the Hospitals for a Healthy Environment (H2E) organization for technical assistance.

To ensure that pollution prevention approaches are considered in the development of regulations and major Agency actions, EPA's formal process for initiating and reviewing regulatory actions, known as the Action Development Process (ADP), includes a specific step to ensure that pollution prevention approaches are considered at the very beginning of the regulatory development process. The ADP includes the creation of a document known as an "analytic blueprint," or ABP, for guiding the development of a major regulation or Agency action. The analytic blueprint is meant to specifically address the topic of pollution prevention (P2), and to examine potential P2 approaches, or to explain why P2 isn't an appropriate option for the particular regulatory action under development.

TITLE VI COMPLAINTS

Question 8. The number of Title VI complaints since 2001 that the Agency has received based on environmental justice concerns, the number of complaints investigated, the number of permits reviewed, and the outcome of such reviews. Please include a description of the type of investigation and review, and dates for the beginning and completion of each review process.

Response. Since 2001, the Agency has received 84 complaints based on environmental justice concerns. Of those 84 complaints, 26 complaints are undergoing jurisdictional review and 8 complaints are under active investigation. Fifty of the complaints received since 2001 have been closed. Forty-one of the closed complaints were rejected on jurisdictional grounds. The most frequent grounds for rejection were untimeliness and lack of a financial assistance recipient. One complaint was referred to another Federal agency that likely had jurisdiction. Another complaint was informally resolved by the parties.

EPA's implementing regulations, found at 40 C.F.R. Part 7, state that it is EPA's policy to seek informal resolution of Title VI complaints whenever possible. EPA has employed alternative dispute resolution (ADR) techniques in several of our Title VI cases.

The informal resolution of a complaint has occurred when the parties (i.e. EPA, complainant, and recipient) involved have reached a resolution by informal voluntary negotiations.

Seven of the complaints received and reviewed since 2001 were dismissed after acceptance (see chart below). The withdrawal of a complaint has occurred when a complainant notifies EPA that it would like to withdraw their complaint. This withdrawal therefore dismisses the complaint and renders the case resolved. None of these seven complaints involved permit reviews.

From 2001 to the present, the Agency has closed a total of 103 complaints alleging discrimination by recipients of EPA assistance. Fifty-three of those complaints were received by the Agency prior to 2001, and 50 of the complaints were received since 2001.

Complaints Received since 2001, and Subsequently Dismissed

Date Received	Dated Close:	Issue	Outcome of Ruling
08/01	09/02	Public hearing	No discrimination
04/02	04/07	Public Access	Withdrawn-- issue resolved
07/02	07/06	Proposed Landfill	Issue rendered moot due to court decision.
12/03	04/07	Retaliation	No Retaliation (Letter of Concern issued) EPA issued a Letter of Concern because the investigation, although finding that no violation of Title VI or EPA's implementing regulation occurred, raised concerns about specific procedural requirements, found at 40 C.F.R. Part 7, that must be implemented by all recipients of EPA financial assistance. EPA therefore made recommendations to the recipient based upon these concerns.
02/04	06/05	Public participation	Withdrawn-- issue resolved
04/04	03/05	Regional Treatment Facility Design	No discrimination
10/05	08/06	Cleanup/Remediation	Withdrawn-- issue resolved

INSPECTOR GENERAL-STAFF

Question 9. Please describe whether the IG, given the demographics of the Office, should be hiring and training staff now to ensure that it maintains its output and expertise as staff retire.

Response. The OIG maintains an ambitious level of technical and management training, as appropriate for its staff and in compliance with the rigors of Comptroller General's Government Auditing Standards, which is certified through an independent peer review. This training, along with assignments designed to provide staff with developmental experience, increasing levels of responsibility, and supervisory opportunities, prepare them for greater challenges to build organizational competence at all levels. While approximately 11 percent of the EPA OIG staff are currently eligible for retirement, the OIG has built a strong core of young managers and has been highly successful in attracting and developing outstanding candidates when positions are available. The OIG constantly explores staffing and skill needs in relation to its strategic goals, specific assignments, and available resources to consider all options for accomplishing its mission, through the most efficient blend of permanent staff and specialized contract services. Within this overarching framework, the OIG plans to hire 5-10 new trainees each year.

EPA ENFORCEMENT *question 10.* epa proposes to cut \$1.3 million for the superfund program's enforcement budget for forensic support to track polluters and make them pay. epa also expects a decline in the money it recovers from polluters for past epa cleanups. epa should not be cutting enforcement resources at the same time that the agency's budget proposed to provide fewer funds for cleanups and independent oversight activities by the inspector general.

Please describe the forensic programs that could have their funding cut under the proposed budget, including any potential funding cuts for work that may be done by the National Enforcement Investigations Center.

Response. The Agency's FY 2008 request for the National Enforcement Investigations Center (NEIC), EPA's forensics laboratory, is sufficient to continue providing specialized scientific and technical support for the nation's most complex enforcement cases across all media. We are confident that the proposed FY 2008 budget achieves the appropriate balance between our programs.

Most of the budget changes to the Forensics Support Superfund program represent a realignment of resources between appropriations and not a reduction to the program. EPA proposes to transfer resources from the Superfund appropriation to the Science and Technology appropriation to reflect a shifting workload between Superfund and non-Superfund activities. This shift is based on workload data used to establish a charging methodology for Superfund and non-Superfund activities.

CLIMATE CHANGE PROGRAMS—ENERGY STAR

Question 11. During the Environment and Public Works Committee hearing on EPA's Budget, you mentioned EPA's Energy Star program numerous times, mentioning how successful a program it has been. According to your statement, in 2005 alone, Americans "saved \$12 billion in energy costs" from the Energy Star program.

The FY 2006 enacted level was \$49.5 million for Energy Star while the President's FY08 Budget requests \$43.9 million, a decrease of over \$5.6 million. Why would such a successful program be cut?

Response. The reductions to the Energy Star programs in FY 2007 and FY 2008 reflect a decrease in Federal investment due to public and private industry adoption of these programs. For example, the acceptance of energy efficiency as an industry standard is now seen in building construction and in the manufacturing of hundreds of appliances. This decrease also included contract funding that reflects efficiency gains and shifting priorities.

CLIMATE CHANGE PROGRAMS—ENERGY STAR GOALS AND OBJECTIVES

Question 12. You also stated that you feel the budget provides "sufficient funds to be able to meet our fiscal year 2008 goals and objectives in Energy Star." Are the standards for goals and objectives being lowered to compensate for the decreased funding? Please provide details on the goals and objectives of the Energy Star for FY08, specifically noting any changes that have been made to goals from FY07.

Response. EPA still anticipates that ENERGY STAR will meet its goals of avoiding 33 MMTCE and 40 MMTCE of greenhouse gas emissions in 2007 and 2008. The goal for the Energy Star program includes ongoing work (that is work funded in previous years). This work is not dependent on the funding in the current year. The effects of the funding reduction in FY 2008 will be seen as EPA sets goals for future years.

CLIMATE PROTECTION PROGRAM—S&T

Question 13. Though funding for the EPA Climate Protection Program Science & Technology program increased by \$554,400 in the President's Budget from FY07 to FY08, from the FY06 enacted level, the President's FY08 Budget represents a cut of over \$5.5 million. (See Appendix) Why was this program cut?

Response. Reductions from FY 2006 to FY 2008 to the S&T portion of the Climate Change program reflects a phase down in Federal investment in hydraulic hybrid technology development as a result of transfer to private sector of hybrid and clean diesel technologies. The plan to transfer these technologies will be as follows:

1. Innovations are first evaluated by EPA engineers in the laboratory.
2. EPA then works with private industry to demonstrate that the concept evaluated in the laboratory will work in the real world.

Finally, EPA collaborates with industry partners to transfer unique expertise and know-how about specified technology from EPA engineers to private industry.

GLOBAL CHANGE SCIENCE & TECHNOLOGY PROGRAM

Question 14. Funding for the EPA's Global Change Science & Technology Program was cut by \$548,400 in from the FY06 enacted level to the President's Budget FY08. 3(See Appendix) Why was this program cut?

Response. The President's FY 2008 request includes \$17 million for climate change research at EPA. In FY 2008, EPA's global change research program will continue to play a major role in the interagency U.S. Climate Change Science Program (CCSP) and focus on developing the scientific understanding of how climate change will influence air and water quality, ecosystems, and human health. The program will also emphasize providing information and decision support tools that enable policymakers to respond effectively to global change. The budget reduction planned for FY 2008 will result in approximately one fewer research grant to study how global change will influence aeroallergens such as pollen and mold.

Question 15. How do the above cuts exemplify the Bush administration's and the EPA's commitment to funding Climate Change science?

Response. The President's FY 2008 budget includes a commitment of \$17 million for climate change research at EPA and, more generally, over \$1.8 billion for the U.S. Climate Change Science Program (CCSP). Together these agencies, with significant contributions from EPA, are implementing a coordinated strategy to improve our understanding of climate change and variability and strengthen the science that will be needed to address climate change.

INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE (IPCC) REPORT

Question 16. This IPCC report was strongly embraced by the Bush administration in the same press release, stating:

The report confirms what President Bush has said about the nature of climate change and it reaffirms the need for continued U.S. leadership in addressing global climate issues. The report findings highlight the need for robust climate research and the development of new technologies to clean our air and deal with global climate change, while maintaining economic competitiveness.

How do the above cuts fit with the Bush administration's support of the IPCC report and the need for climate research?

Response. The President's FY 2008 budget includes a commitment of \$17 million for climate change research at EPA and, more than \$1.8 billion for the Federal participants of the interagency Climate Change Science Program which includes 13 agencies and departments. Together these agencies, with significant contributions from EPA, are implementing a coordinated strategy to improve our understanding of climate change and variability and strengthen the science that will be needed to address climate change.

CLIMATE CHANGE PROGRAMS—ENERGY STAR AND SMALL BUSINESSES

Question 17. On March 8, 2007 EPA Acting Assistant Administrator William Wehrum testified regarding the Energy Star Program, before the Committee on Small Business and entrepreneurship. He noted that "in 2006, there were more than 130,000 visits to the Energy Star small business web site." This program is needed to serve more than 26 million small businesses as well as other institutions like churches. Yet EPA is proposing to cut the Energy Star Budget. What is the budget for the Energy Star Small Business program, and how many exclusive staff does this expenditure support? What percentage of the overall Energy Star budget is devoted to small business and how much will the overall amount decrease under the proposed cut?

Response. The annual EPA budget for ENERGY STAR activities aimed directly at small businesses and congregations is approximately \$1 million. This represents approximately 2 percent of EPA's overall ENERGY STAR budget. However, in addition to these dedicated resources, a number of other efforts within the ENERGY STAR program directly benefit small businesses not including benefits to small businesses from the Department of Energy, who is a partner with EPA in ENERGY STAR. EPA efforts include:

- Maintaining an up-to-date website on energy efficient products and other energy saving information.
- Implementing outreach campaigns on proper maintenance of heating and cooling equipment and other energy saving practices.
- Technical tool development.
- Promotion of energy efficiency to commercial real estate operators, who are the landlords for many small businesses.

Promotion of ENERGY STAR Commercial Food Service equipment to thousands of small businesses through the National Restaurant Association and other organizations.

The ENERGY STAR small business program is supported by two full-time EPA staff, as well as part-time efforts from a number of additional EPA staff.

We have not yet considered the FY 2008 budget for support of the ENERGY STAR small business program, therefore it is not possible to determine the specific funding level at this time.

\$29 BILLION STUDIES

Question 18. On February 8, 2007, in an online forum at the White House, you are quoted as saying, "[S]ince 2001, the Bush administration has invested more than \$29 billion to study climate change science, promote energy-efficient and carbon dioxide-reducing technologies, and fund tax incentive programs."

In September 2006, several of my colleagues and I sent a letter to James Connaughton, Director, White House Council of Environmental Quality asking questions regarding the \$29 billion figure. This letter is attached. Because we have not received a response from Mr. Connaughton, we would like you to answer these questions. Please answer each of the specific questions in the attached letter.

Response. It is our understanding that CEQ is in the process of responding to the letter. Inasmuch, EPA will defer.

SUPERFUND TOXIC WASTE CLEANUP PROGRAM—NPL SITES BEGINNING 1993

Question 19. For sites listed under Superfund beginning in 1993 that do not have a Federal Government agency as the potentially responsible party (i.e. non-federal Superfund sites), please describe: Whether the site has a final Record of Decision, including the date of any such document. The expected date for any such document to be signed, if it has not yet been signed. The amount of cleanup work already completed at the site and the expected date for completing any remaining cleanup work at the site, and for all sites that Federal Superfund money is being used to conduct a cleanup, the expected amount of money needed to finish construction activities required for cleanup.

Response. The table in Attachment 1 contains data for 215 non-federal, final National Priorities List (NPL) sites that were added to the NPL beginning in 1993 and that were not construction complete as of the end of FY 2006. Please note that:

- If a site had a final remedy selected as of the end of FY 2006, the fiscal year of that decision is indicated in the attachment.
- If a site did not have a final remedy selected as of the end of FY 2006, the latest planned completion date (FY) of any planned Records of Decision (RODs) is identified in the attached table. This date may not indicate the expected date of the final remedy decision, as additional RODs, ROD Amendments, or Explanations of Significant Difference may be necessary in the future that have not yet been planned. If no date was provided, then a future decision document planned completion date does not exist or was not currently available in the Agency's data system.
- Because site-wide cleanup is dependent upon multiple remedial and/or removal actions at potentially multiple subunits with differing costs and durations, EPA has not defined a measure to determine the percentage of total remedial work at a site that has been accomplished. For sites that have a Final Remedy Selected decision as of the end of FY 2006, the attached table provides the currently estimated construction completion date. Note that planning information in the Agency's data system is dynamic, and estimates change frequently for a variety of reasons.
- The amount of money needed to finish construction activities for cleanup at sites where Federal Superfund money is being used to conduct a cleanup is defined in this response as all FY 2007 and subsequent planned obligations for all Fund-lead construction actions at sites that are not construction complete as of the end of FY 2006. These estimates include both appropriated resources as well as resources recovered from settlements with potentially responsible parties (PRPs) and State cost share resources. Estimates do not include costs associated with post-construction or oversight of PRP implementation, nor costs of construction activities that have not yet been planned, nor costs associated with remedies that have not yet been selected. Lack of planning data may be due to several reasons, such as remedy decisions are still pending, projects are still in the early phases of design, or EPA is still identifying, or negotiating with, PRPs to perform the cleanup. Sites where a PRP has the lead for any planned or ongoing construction (last column of table in Attachment 1) may not include a cost estimate. However, some of these sites may also have planned or ongoing Fund-lead construction actions and the cost estimates for those projects are included.

Attachment 1

TABLE — NON-FEDERAL, NON-CONSTRUCTION COMPLETE, FINAL NPL SITES LISTED BEGINNING 1993

RO	State	Site	Location	NPL Status	FF Status	EOFY 2006 CC Status	Final Remedy Date	Projected Final Remedy Date	CERCLIS CC Plan Date	All Planned Construction Obligations	PRP Has Lead for Any Planned or Ongoing Construction
01	CT	RAYMARK INDUSTRIES, INC.	STRATFORD	F	N	Non-CC		2009		\$98,000,000	
01	CT	SCOVILL INDUSTRIAL LANDFILL	WATERBURY	F	N	Non-CC		2009			
01	MA	BLACKBURN & UNION PRIVILEGES	WALPOLE	F	N	Non-CC		2007			Y
01	MA	HATHEWAY & PATTERSON	MANSFIELD	F	N	Non-CC	2005		2009	\$11,000,000	
01	MA	NUCLEAR METALS, INC.	CONCORD	F	N	Non-CC		2009			Y
01	MA	OLIN CHEMICAL	WILMINGTON	F	N	Non-CC		2013			Y
01	MA	SUTTON BROOK DISPOSAL AREA	TEWKSBURY	F	N	Non-CC		2007			Y
01	ME	CALLAHAN MINING CORP	BROOKSVILLE (CAPE ROSIER)	F	N	Non-CC		2008			Y
01	ME	WEST SITE/HOWS CORNERS	PLYMOUTH	F	N	Non-CC	2006		2009		Y
01	NH	BEEDE WASTE OIL	PLAISTOW	F	N	Non-CC	2004		2011	\$150,000	Y
01	NH	CHLOR-ALKALI FACILITY (FORMER)	BERLIN	F	N	Non-CC		2009			
01	RI	CENTREDALE MANOR RESTORATION PROJECT	NORTH PROVIDENCE	F	N	Non-CC		2008			Y
01	RI	WEST KINGSTON TOWN DUMP/URI DISPOSAL AREA	SOUTH KINGSTOWN	F	N	Non-CC	2006		2008		Y
01	VT	COMMERCE STREET PLUME	WILLISTON	F	N	Non-CC		2009			Y
01	VT	ELIZABETH MINE	STRAFFORD	F	N	Non-CC	2006		2012	\$10,100,000	
01	VT	ELY COPPER MINE	VERSHIRE	F	N	Non-CC		2008		\$12,000,000	
01	VT	PIKE HILL COPPER MINE	CORINTH	F	N	Non-CC		2009		\$12,000,000	
02	NJ	ATLANTIC RESOURCES	SAYREVILLE	F	N	Non-CC		2007		\$10,000,000	Y
02	NJ	CORNELL DUBILIER ELECTRONICS INC.	SOUTH PLAINFIELD	F	N	Non-CC		2010		\$88,294,270	Y
02	NJ	CROWN VANTAGE LANDFILL	ALEXANDRIA TOWNSHIP	F	N	Non-CC		2009			Y
02	NJ	DIAMOND HEAD OIL REFINERY DIV.	KEARNY	F	N	Non-CC		2008		\$10,000,000	
02	NJ	EMMELL'S SEPTIC LANDFILL	GALLOWAY TOWNSHIP	F	N	Non-CC		2008		\$11,500,000	

RO	State	Site	Location	NPL Status	FF Status	EOFY 2006 CC Status	Final Remedy Date	Projected Final Remedy Date	CERCLIS CC Plan Date	All Planned Construction Obligations	PRP Has Lead for Any Planned or Ongoing Construction
02	NJ	FEDERAL CREOSOTE	MANVILLE	F	N	Non-CC				\$9,400,000	
02	NJ	HORSESHOE ROAD	SAYREVILLE	F	N	Non-CC		2007		\$34,047,070	Y
02	NJ	ICELAND COIN LAUNDRY AREA GW PLUME	VINELAND	F	N	Non-CC	2006		2012	\$10,000,000	
02	NJ	LCP CHEMICALS INC.	LINDEN	F	N	Non-CC		2008			Y
02	NJ	LIGHTMAN DRUM COMPANY	WINSLOW TOWNSHIP	F	N	Non-CC		2007			Y
02	NJ	MARTIN AARON, INC.	CAMDEN	F	N	Non-CC	2005		2012		Y
02	NJ	MATTEO & SONS INC.	THOROFARE	F	N	Non-CC		2009		\$10,000,000	
02	NJ	PUGHACK WELL FIELD	PENNSAUKEN TOWNSHIP	F	N	Non-CC		2009		\$20,000,000	
02	NJ	QUANTA RESOURCES	EDGEWATER	F	N	Non-CC		2008			Y
02	NJ	ROLLING KNOLLS LF	GREEN VILLAGE	F	N	Non-CC		2009			Y
02	NJ	UNITED STATES AVENUE BURN	GIBBSBORO	F	N	Non-CC		2008			Y
02	NJ	WELSBACH & GENERAL GAS MANTLE (CAMDEN RADIATION)	CAMDEN AND GLOUCESTER CIT	F	N	Non-CC		2012		\$137,228,000	
02	NJ	WHITE SWAN LAUNDRY AND CLEANER INC.	WALL TWP	F	N	Non-CC		2008		\$10,000,000	
02	NJ	WOODBROOK ROAD DUMP	SOUTH PLAINFIELD	F	N	Non-CC		2008			Y
02	NJ	ZSCHIEGNER REFINING	HOWELL TOWNSHIP	F	N	Non-CC	2004		2012	\$4,000,000	
02	NY	CAYUGA GROUNDWATER CONTAMINATION SITE	UNION SPRINGS	F	N	Non-CC		2008		\$10,000,000	
02	NY	COMPUTER CIRCUITS	HAUPPAUGE	F	N	Non-CC		2007			Y
02	NY	CONSOLIDATED IRON AND METAL	NEWBURGH	F	N	Non-CC		2007		\$10,000,000	
02	NY	CROWN CLEANERS OF WATERTOWN INC.	CARTHAGE	F	N	Non-CC		2008			
02	NY	DIAZ CHEMICAL	HOLLEY	F	N	Non-CC		2009		\$10,772,380	
02	NY	ELLENVILLE SCRAP IRON AND METAL	ELLENVILLE	F	N	Non-CC		2009		\$5,000,000	
02	NY	FULTON AVENUE	NORTH HEMPSTEAD	F	N	Non-CC		2008		\$5,000,000	Y
02	NY	HITEMAN LEATHER	WEST WINFIELD	F	N	Non-CC	2006		2011	\$6,575,000	

RO	State	Site	Location	NPL Status	FF Status	EOFY 2006 CC Status	Final Remedy Date	Projected Final Remedy Date	CERCLIS CC Plan Date	All Planned Construction Obligations	PRP Has Lead for Any Planned or Ongoing Construction
02	NY	HOPEWELL PRECISION	HOPEWELL JUNCTION	F	N	Non-CC		2008		\$10,000,000	
02	NY	JACKSON STEEL	MINEOLA/NORTH HEMPSTEAD	F	N	Non-CC	2004		2007		
02	NY	LAWRENCE AVIATION INDUSTRIES, INC.	PORT JEFFERSON STATION	F	N	Non-CC	2006		2010	\$24,000,000	
02	NY	LEHIGH VALLEY RAILROAD	LE ROY	F	N	Non-CC		2009		\$10,000,000	Y
02	NY	LI TUNGSTEN CORP.	GLEN COVE	F	N	Non-CC	2005		2008		Y
02	NY	MACKENZIE CHEMICAL WORKS	CENTRAL ISLIP	F	N	Non-CC					
02	NY	MOHONK ROAD INDUSTRIAL PLANT	HIGH FALLS	F	N	Non-CC	2000		2011	\$250,000	
02	NY	OLD ROOSEVELT FIELD CONTAMINATED GW AREA	GARDEN CITY	F	N	Non-CC		2007		\$10,000,000	
02	NY	ONONDAGA LAKE	SYRACUSE	F	N	Non-CC		2010			Y
02	NY	PENINSULA BOULEVARD GROUNDWATER PLUME	HEWLETT	F	N	Non-CC		2008		\$10,000,000	
02	NY	PETER COOPER	GOWANDA	F	N	Non-CC					Y
02	NY	PETER COOPER CORPORATION (MARKHAMS)	DAYTON	F	N	Non-CC		2007			Y
02	NY	SHENANDOAH ROAD GROUNDWATER CONTAMINATION	EAST FISHKILL	F	N	Non-CC		2009		\$10,000,000	
02	PR	CIDRA GROUNDWATER CONTAMINATION	CIDRA	F	N	Non-CC		2009		\$10,000,000	
02	PR	MAUNABO URBANO PUBLIC WELLS	MAUNABO	F	N	Non-CC		2009		\$10,000,000	
02	PR	PESTICIDE WAREHOUSE I	ARECIBO	F	N	Non-CC		2010			Y
02	PR	PESTICIDE WAREHOUSE III	MANATI	F	N	Non-CC		2009			Y
02	PR	SCORPIO RECYCLING, INC.	CANDELERIA WARD	F	N	Non-CC		2009			
02	PR	VEGA BAJA SOLID WASTE DISPOSAL	RIO ABAJO WARD	F	N	Non-CC		2009		\$10,000,000	
03	MD	CENTRAL CHEMICAL (HAGERSTOWN)	HAGERSTOWN	F	N	Non-CC		2008			Y
03	MD	ORDNANCE PRODUCTS, INC.	NORTH EAST	F	N	Non-CC	2006		2013	\$7,000,000	

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03	MD	SPECTRON, INC.	ELKTON	F	N	Non-CC		2009			Y
03	PA	BRESLUBE-PENN, INC.	CORAPOLIS	F	N	Non-CC		2007			Y
03	PA	CRATER RESOURCES, INC./KEYSTONE COKE CO./ALAN WOOD STEEL CO.	UPPER MERION TOWNSHIP	F	N	Non-CC	2000		2010		Y
03	PA	CROSSLEY FARM	HEREFORD TOWNSHIP	F	N	Non-CC				\$9,050,000	
03	PA	FOOTE MINERAL CO.	EAST WHITELAND TOWNSHIP	F	N	Non-CC	2006		2010		Y
03	PA	FRANKLIN SLAG PILE (MDC)	PHILADELPHIA	F	N	Non-CC		2007		\$6,000,000	
03	PA	JACKSON CERAMIX INC	FALLS CREEK	F	N	Non-CC		2008			
03	PA	LOWER DARBY CREEK AREA	DARBY TWP	F	N	Non-CC		2009		\$5,000,000	Y
03	PA	OLD WILMINGTON ROAD GW CONTAMINATION	SADSBURYVILLE	F	N	Non-CC		2008		\$5,000,000	
03	PA	PRICE BATTERY	HAMBURG	F	N	Non-CC		2009		\$12,000,000	
03	PA	RYELAND ROAD ARSENIC SITE	HEIDELBERG TWP.	F	N	Non-CC		2010		\$12,800,000	
03	PA	SAFETY LIGHT CORPORATION	BLOOMSBURG	F	N	Non-CC		2009		\$37,500,000	
03	PA	SHARON STEEL CORP (FARRELL WORKS DISPOSAL AREA)	HICKORY TOWNSHIP	F	N	Non-CC		2008			Y
03	PA	UGI COLUMBIA GAS PLANT	COLUMBIA	F	N	Non-CC		2007			Y
03	PA	VALMONT TCE SITE (FORMER - VALMONT INDUSTRIAL PARK)	WEST HAZLETON	F	N	Non-CC		2008		\$1,000,000	
03	PA	WATSON JOHNSON LANDFILL	RICHLAND TOWNSHIP	F	N	Non-CC		2008			
03	VA	FORMER NANSEMOND ORDNANCE DEPOT	SUFFOLK	F	N	Non-CC		2010			Y
03	VA	KIM-STAN LANDFILL	SELMA	F	N	Non-CC	2002		2008	\$10,500,000	
03	WV	BIG JOHN SALVAGE - HOULT ROAD	FAIRMONT	F	N	Non-CC		2010		\$35,000,000	
03	WV	HANLIN-ALLIED-OLIN	MOUNDSVILLE	F	N	Non-CC		2009			Y
03	WV	RAVENSWOOD PCE	RAVENSWOOD	F	N	Non-CC		2008		\$3,500,000	
03	WV	SHARON STEEL CORP (FAIRMONT COKE WORKS)	FAIRMONT	F	N	Non-CC		2010			Y

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04	AL	AMERICAN BRASS INC.	HEADLAND	F	N	Non-CC	2006		2009	\$4,551,625	
04	FL	CALLAWAY & SON DRUM SERVICE	LAKE ALFRED	F	N	Non-CC		2008		\$2,000,000	
04	FL	ESCAMBIA WOOD - PENSACOLA	PENSACOLA	F	N	Non-CC		2007		\$31,000,000	
04	FL	FLORIDA PETROLEUM REPROCESSORS	FORT LAUDERDALE	F	N	Non-CC					Y
04	FL	HELENA CHEMICAL CO. (TAMPA PLANT)	TAMPA	F	N	Non-CC	1996		2009		Y
04	FL	LANDIA CHEMICAL COMPANY	LAKELAND	F	N	Non-CC		2007			Y
04	FL	MRI CORP (TAMPA)	TAMPA	F	N	Non-CC		2007			Y
04	FL	SOUTHERN SOLVENTS, INC.	TAMPA	F	N	Non-CC		2009		\$10,193,557	
04	FL	STAUFFER CHEMICAL CO. (TARPOON SPRINGS)	TARPOON SPRINGS	F	N	Non-CC		2011			Y
04	FL	TRANS CIRCUITS, INC.	LAKE PARK	F	N	Non-CC				\$8,667,700	
04	FL	UNITED METALS, INC.	MARIANNA	F	N	Non-CC	2006		2012		
04	GA	ALTERNATE ENERGY RESOURCES INC	AUGUSTA	F		Non-CC		2009			Y
04	GA	BRUNSWICK WOOD PRESERVING	BRUNSWICK	F	N	Non-CC		2011		\$35,308,196	
04	GA	CAMILLA WOOD PRESERVING COMPANY	CAMILLA	F	N	Non-CC		2009			
04	GA	LCP CHEMICALS GEORGIA	BRUNSWICK	F	N	Non-CC		2008			Y
04	GA	PEACH ORCHARD RD PCE GROUNDWATER PLUME SITE	AUGUSTA	F	N	Non-CC		2007		\$10,000,000	
04	KY	NATIONAL SOUTHWIRE ALUMINUM CO.	HAWESVILLE	F	N	Non-CC	2000		2009		Y
04	MS	AMERICAN CREOSOTE WORKS INC	LOUISVILLE	F	N	Non-CC		2007			
04	MS	DAVIS TIMBER COMPANY	HATTIESBURG	F	N	Non-CC		2007			
04	MS	PICAYUNE WOOD TREATING SITE	PICAYUNE	F	N	Non-CC		2007		\$20,000,000	
04	NC	BARBER ORCHARD	WAYNESVILLE	F	N	Non-CC				\$10,000,000	
04	NC	BLUE RIDGE PLATING COMPANY	ARDEN	F	N	Non-CC				\$375,000	
04	NC	RAM LEATHER CARE SITE	CHARLOTTE	F	N	Non-CC				\$2,000,000	
04	NC	REASOR CHEMICAL COMPANY	CASTLE HAYNE	F	N	Non-CC	2002		2008		Y

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04	NC	SIGMON'S SEPTIC TANK SERVICE	STATESVILLE	F	N	Non-CC					
04	NC	WARD TRANSFORMER	RALEIGH	F	N	Non-CC		2007		\$5,000,000	Y
04	SC	AQUA-TECH ENVIRONMENTAL INC (GROCE LABS)	GREER	F	N	Non-CC	2003		2011		Y
04	SC	BREWER GOLD MINE	JEFFERSON	F	N	Non-CC		2009		\$10,000,000	Y
04	SC	SHURON INC.	BARNWELL	F	N	Non-CC	1998		2008		Y
04	TN	SMALLEY-PIPER	COLLIERVILLE	F	N	Non-CC		2008			Y
04	TN	TENNESSEE PRODUCTS	CHATTANOOGA	F	N	Non-CC	2002		2008		Y
05	IL	ASARCO TAYLOR SPRINGS	TAYLOR SPRINGS	F	N	Non-CC					
05	IL	DEPUEN/NEW JERSEY ZINC/MOBIL CHEMICAL CORP.	DEPUEN	F	N	Non-CC		2008			Y
05	IL	HEGELER ZINC	DANVILLE	F	N	Non-CC		2008			Y
05	IL	INDIAN REFINERY-TEXACO LAWRENCEVILLE	LAWRENCEVILLE	F	N	Non-CC		2008			Y
05	IL	JENNISON-WRIGHT CORPORATION	GRANITE CITY	F	N	Non-CC	1999		2009	\$11,600,000	
05	IL	MATTHIESSEN AND HEGELER ZINC COMPANY	LA SALLE	F	N	Non-CC		2009			Y
05	IL	OTTAWA RADIATION AREAS	OTTAWA	F	N	Non-CC	2003		2015	\$51,001,000	
05	IN	CAM-OR INC.	WESTVILLE	F	N	Non-CC		2008			Y
05	IN	JACOBSVILLE NEIGHBORHOOD SOIL CONTAMINATION	EVANSVILLE	F	N	Non-CC		2008			
05	MN	BAYTOWN TOWNSHIP GROUND WATER PLUME	BAYTOWN TOWNSHIP	F	N	Non-CC	2000		2010		
05	OH	COPLEY SQUARE PLAZA	COPLEY	F	N	Non-CC		2007			
05	OH	LAMMERS BARREL FACTORY	BEAVERCREEK	F	N	Non-CC		2008			Y
05	OH	NORTH SANITARY LANDFILL	DAYTON	F	N	Non-CC		2011			Y
05	WI	ASHLAND/NORTHERN STATES POWER LAKEFRONT	ASHLAND	F	N	Non-CC		2008			Y
06	LA	MARION PRESSURE TREATING	MARION	F	N	Non-CC	2002		2011	\$24,230,000	
06	LA	RUSTON FOUNDRY	ALEXANDRIA	F	N	Non-CC					Y
06	NM	AT&SF (ALBUQUERQUE)	ALBUQUERQUE	F	N	Non-CC	2002		2012		Y
06	NM	FRUIT AVENUE PLUME	ALBUQUERQUE	F	N	Non-CC	2001		2007		

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06	NM	GRANTS CHLORINATED SOLVENTS	GRANTS	F	N	Non-CC	2006		2012	\$30,000,000	
06	NM	GRIGGS & WALNUT GROUND WATER PLUME	LAS CRUCES	F	N	Non-CC		2007			Y
06	NM	MCGAFFEY AND MAIN GROUNDWATER PLUME	ROSWELL	F	N	Non-CC		2008			
06	NM	NORTH RAILROAD AVENUE PLUME	ESPANOLA	F	N	Non-CC	2001		2008		
06	OK	HUDSON REFINERY	CUSHING	F	N	Non-CC		2008		\$10,050,000	
06	OK	IMPERIAL REFINING COMPANY	ARDMORE	F	N	Non-CC		2008			
06	OK	TULSA FUEL AND MANUFACTURING	COLLINSVILLE	F	N	Non-CC		2008			
06	TX	ALCOA (POINT COMFORT)/LAVACA BAY	POINT COMFORT	F	N	Non-CC	2002		2007		Y
06	TX	BRINE SERVICE COMPANY	CORPUS CHRISTI	F	N	Non-CC		2010			Y
06	TX	GARLAND CREOSOTING	LONGVIEW	F	N	Non-CC	2006		2008	\$400,000	
06	TX	GULF CO MARINE MAINTENANCE	FREEPORT	F	N	Non-CC		2010			Y
06	TX	HART CREOSOTING COMPANY	JASPER	F	N	Non-CC	2006		2008	\$13,900,000	
06	TX	JASPER CREOSOTING COMPANY INC.	JASPER	F	N	Non-CC	2006		2008	\$5,300,000	
06	TX	JONES ROAD GROUND WATER PLUME	HOUSTON	F	N	Non-CC		2008			
06	TX	MALONE SERVICE CO - SWAN LAKE PLANT	TEXAS CITY	F	N	Non-CC		2008			Y
06	TX	MANY DIVERSIFIED INTERESTS, INC.	HOUSTON	F	N	Non-CC		2008		\$4,500,000	Y
06	TX	PALMER BARGE LINE	PORT ARTHUR	F	N	Non-CC	2005		2008		Y
06	TX	PATRICK BAYOU	DEER PARK	F	N	Non-CC		2011			Y
06	TX	SANDY BEACH ROAD GROUND WATER PLUME	PELICAN BAY	F	N	Non-CC		2009		\$8,000,000	
06	TX	STAR LAKE CANAL	PORT NECHES	F	N	Non-CC		2009			Y
06	TX	STATE MARINE OF PORT ARTHUR	JEFFERSON COUNTY	F	N	Non-CC		2007			

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06	TX	STATE ROAD 114 GROUNDWATER PLUME	LEVELLAND	F	N	Non-CC		2007		\$20,000,000	
07	IA	MASON CITY COAL GASIFICATION PLANT	MASON CITY	F	N	Non-CC	2000		2008		Y
07	IA	RAILROAD AVENUE GROUNDWATER CONTAMINATION SITE	WEST DES MOINES	F	N	Non-CC	2006		2007	\$400,000	Y
07	KS	CHEMICAL COMMODITIES, INC. WRIGHT GROUND WATER CONTAMINATION	OLATHE	F	N	Non-CC	2005		2010		Y
07	KS		WRIGHT	F	N	Non-CC		2007		\$250,000	
07	MO	ANNAPOLIS LEAD MINE	ANNAPOLIS	F	N	Non-CC		2007		\$1,400,000	
07	MO	ARMOUR ROAD	NORTH KANSAS CITY	F	N	Non-CC		2012			Y
07	MO	BIG RIVER MINE TAILINGS/ST. JOE MINERALS CORP.	DESLOGE	F	N	Non-CC		2010			Y
07	MO	MADISON COUNTY MINES	FREDERICKTOWN	F	N	Non-CC		2012		\$5,750,000	Y
07	MO	NEWTON COUNTY MINE TAILINGS	GRANBY	F	N	Non-CC		2010		\$28,000,035	Y
07	MO	NEWTON COUNTY WELLS	JOPLIN	F	N	Non-CC	2004		2014		Y
07	MO	OAK GROVE VILLAGE WELL	SULLIVAN	F	N	Non-CC		2008		\$500,000	Y
07	MO	POOLS PRAIRIE	NEOSHO	F	N	Non-CC		2013			Y
07	MO	RIVERFRONT	NEW HAVEN	F	N	Non-CC		2009		\$250,000	Y
07	NE	GARVEY ELEVATOR	HASTINGS	F	N	Non-CC		2008			Y
07	NE	OMAHA LEAD	OMAHA	F	N	Non-CC		2008		\$91,349,998	
07	NE	PARKVIEW WELL	GRAND ISLAND	F	N	Non-CC		2007		\$2,900,000	
07	NE	WEST HIGHWAY 6 & HIGHWAY 281	HASTINGS	F		Non-CC		2008		\$2,000,000	Y
08	CO	CAPTAIN JACK MILL	WARD	F	N	Non-CC		2007		\$6,000,000	
08	CO	STANDARD MINE	GUNNISON NATIONAL FOREST	F	N	Non-CC		2009		\$7,000,000	
08	CO	SUMMITVILLE MINE	RIO GRANDE COUNTY	F	N	Non-CC				\$18,403,965	
08	CO	VASQUEZ BOULEVARD AND I-70	DENVER	F	N	Non-CC		2007		\$1,000,000	Y

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08	MT	BARKER HUGHESVILLE MINING DISTRICT	GREAT FALLS	F	N	Non-CC		2010			Y
08	MT	BASIN MINING AREA	BASIN	F	N	Non-CC		2008		\$10,000,000	
08	MT	CARPENTER SNOW CREEK MINING DISTRICT	NEIHART	F	N	Non-CC		2010		\$3,500,000	Y
08	MT	LIBBY ASBESTOS SITE	LIBBY	F	N	Non-CC		2010		\$84,000,000	Y
08	MT	LOCKWOOD SOLVENT GROUND WATER PLUME	BILLINGS	F	N	Non-CC	2005		2017		Y
08	MT	UPPER TENMILE CREEK MINING AREA	HELENA	F	N	Non-CC				\$12,355,000	
08	SD	GILT EDGE MINE	LEAD	F	N	Non-CC		2008		\$74,058,600	
08	UT	BOUNTIFUL WOODS CROSS 5TH S. PCE PLUME	BOUNTIFUL	F	N	Non-CC		2007		\$10,725,000	
08	UT	DAVENPORT AND FLAGSTAFF SMELTERS	SANDY	F	N	Non-CC		2008		\$3,300,000	Y
08	UT	EUREKA MILLS	EUREKA	F	N	Non-CC		2009		\$40,000,000	Y
08	UT	INTERNATIONAL SMELTING AND REFINING	TOOELE	F	N	Non-CC		2007			Y
08	UT	JACOBS SMELTER	STOCKTON	F	N	Non-CC		2007		\$11,100,000	
09	CA	ALARK HARD CHROME	RIVERSIDE	F	N	Non-CC		2008			
09	CA	AMCO CHEMICAL	OAKLAND	F	N	Non-CC		2008			
09	CA	CASMALIA RESOURCES	CASMALIA	F	N	Non-CC		2009			Y
09	CA	COOPER DRUM CO.	SOUTH GATE	F	N	Non-CC	2002		2010	\$4,000,000	
09	CA	DEL AMO	LOS ANGELES	F	N	Non-CC		2008			Y
09	CA	FRONTIER FERTILIZER	DAVIS	F	N	Non-CC	2006		2010	\$10,000,000	
09	CA	KLAUBUENA VISTA MINE	PASO ROBLES	F	N	Non-CC		2009		\$4,000,000	
09	CA	LAVA GAP MINE	NEVADA CITY	F	N	Non-CC		2009		\$6,250,000	
09	CA	LEVIATHAN MINE	MARKLEEVILLE	F	N	Non-CC		2012			Y
09	CA	MCCORMICK & BAXTER CREOSOTING CO.	STOCKTON	F	N	Non-CC	1999		2015		Y
09	CA	OMEGA CHEMICAL CORPORATION	WHITTIER	F	N	Non-CC		2009			Y
09	CA	PEMACO MAYWOOD	MAYWOOD	F	N	Non-CC	2005		2007	\$2,455,714	
09	HI	DEL MONTE CORP. (OAHU PLANTATION)	KUNIA	F	N	Non-CC	2003		2008		Y
10	OR	HARBOR OIL INC.	PORTLAND	F	N	Non-CC		2010			Y

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10	OR	PORTLAND HARBOR	PORTLAND	F	N	Non-CC		2010			Y
10	OR	TAYLOR LUMBER AND TREATING	SHERIDAN	F	N	Non-CC	2005		2007	\$6,379,532	
10	WA	BOOMSNUBAIRCO	VANCOUVER	F	N	Non-CC	2000		2031		Y
10	WA	HAMILTON LABREE ROADS GW CONTAMINATION	CHEHALIS	F	N	Non-CC		2007		\$5,000,000	
10	WA	LOWER DUWAMISH WATERWAY	SEATTLE	F	N	Non-CC		2010			Y
10	WA	MIDNITE MINE	WELLPINIT	F	N	Non-CC	2006		2017		Y
10	WA	MOSES LAKE WELL FIELD CONTAMINATION	MOSES LAKE	F	N	Non-CC		2008			Y
10	WA	OESER CO.	BELLINGHAM	F	N	Non-CC					Y
10	WA	QUENDALL TERMINAL	RENTON	F	N	Non-CC		2010			Y

SUPERFUND SITES—SHORT-TERM CLEANUPS

Question 20. Superfund limits EPA's use of short-term cleanup actions (i.e. removal actions) to 12 months from the date of the initial cleanup action or \$2,000,000, with certain exceptions. These limitations ensure that EPA uses its long-term cleanup authorities (i.e. remedial action), which may have more substantial safeguards than short-term cleanups. Please describe the: Number and location of short-term cleanups that EPA has conducted each year since 1996. Number of times that EPA has exceeded the statutory limitations described above on removal actions. Beginning and ending date, or the anticipated ending date, of all removal actions, and the amount of money that EPA spent on the removal action, or that the Agency anticipates spending on the removal action.

Response. The Agency short-term clean-up action (removals) sites quickly address those releases that pose a threat to public health or welfare or the environment. Yearly, EPA uses its CERCLA removal response authority, to respond to hundreds of sites which pose immediate and substantial threats, such as chemical fires and spills, as well as illegal dumps and abandoned chemical plants.

A removal action is generally short-term and addresses the most immediate site threats. Due to the nature of these responses and the unpredictability of the number, location and scope of those actions, the removal program is generally unable to predict the locality, duration, or total costs associated with a removal action, at the onset of the response action.

In response to this question, by July 31, we will provide a listing of all fund lead removal actions taken since FY 1996. The list will also contain the requested start and/or completion dates, obligated funding and any exceptions to CERCLA statutory limitations.

SUPERFUND SITES—CLEANUPS

Question 21. EPA's listing of new Superfund sites for cleanup has declined by 33 percent. Between 1995 and 2000, EPA listed an average of 27 sites. Between 2001 and 2006, EPA listed an average of 18 toxic waste sites each year. Independent experts and the EPA recognize that there are enough unaddressed toxic waste sites to maintain the historic pace of listing through the end of this decade. Please provide the following information on EPA's listing process since 2001:

All sites that EPA has requested a governor's concurrence to list under Superfund.

Response. EPA does not track its requests for concurrence letters. The Agency only documents the receipt of concurrence letters since a site is not listed without such a letter. EPA believes it is important to have the State concur in the listing to ensure State support for the cleanup of the site. For a Fund-lead remedial action, the State will need to sign a Superfund State Contract (SSC) committing to cost-sharing the construction of the remedy and operating / maintaining the completed remedy. Since 2001, EPA has received Governor/State concurrence letters requesting the listing of 115 sites from 32 different States.

Question 22. All sites that EPA has requested a governor's concurrence to list under Superfund but that EPA has not yet listed, including the reason for EPA's failure to list the site.

Response. Of the 115 sites for which EPA has received governor/state concurrence letters since 2001, only 8 have not been proposed to the NPL. See the table below for the reasons that the eight sites have not been proposed for listing.

SITE NAME	STATE	REASON NOT PROPOSED
Ramallo Brothers Printing	Puerto Rico	EPA Region 2 is currently partnering with the Puerto Rico Environmental Quality Board to conduct further investigation of the site. The investigation is still ongoing.
General Electric - Rome	Georgia	Concurrence letter from Governor Barnes in September 2003. In early 2004, newly elected Governor Purdue did not support listing. Site being cleaned up under the Resource Conservation and Recovery Act (RCRA).
Doe Run Smelter (Herculaneum Lead)	Missouri	As part of the Superfund Alternative approach, the PRPs have signed an Administrative Order of Consent to conduct the cleanup at the site. Therefore, EPA is not proposing to place the site on the NPL at this time since the cleanup is anticipated to be completed without listing on the NPL.
Town of Pines Ground Water Plume	Indiana	In January 2003, EPA and the responsible parties (NIPSCO, Brown Inc., Ddalt Corp., and Bulk Transport) reached an agreement to provide municipal water supply to the affected residents of the Town of Pines.
Sugar Creek Sediment Site	Indiana	In June 2003, the cleanup of contaminated soil and sediment was completed under an EPA Unilateral Administrative Order.
Washington Co Lead District, Old Mines	Missouri	Hazard Ranking System (HRS) package still under preparation because of the complex nature of the site.
Washington Co Lead District, Potosi	Missouri	HRS package still under preparation because of the complex nature of the site.
Washington Co Lead District, Richwoods	Missouri	HRS package still under preparation because of the complex nature of the site.

Question 23. All sites that State or local officials have formally or informally requested EPA to list for cleanup under Superfund.

Response. EPA tracks formal concurrence letters from governors requesting the listing of sites. Since 2001, EPA has received 115 of these letters. EPA does not track informal requests for listing.

Question 24. All sites that State or local officials have formally or informally requested EPA to list for cleanup under Superfund but that EPA has not yet listed, including the reason for EPA's failure to list the site.

Response. Of the 115 sites for which EPA has received formal concurrence letters since 2001, only 8 have not been proposed to the NPL. See the table above for the reasons that the eight sites have not been proposed for listing.

NATIONAL ADVISORY COUNCIL FOR ENVIRONMENTAL POLICY AND TECHNOLOGY
(NACEPT) REPORT

Question 25. A 2004 EPA National Advisory Council for Environmental Policy and Technology (NACEPT) report found that in 2002 the Agency began using a new and additional layer of evaluation prior to listing a site under Superfund. EPA officials told NACEPT that a panel of Agency officials now considers various factors, including potential Superfund costs, prior to listing a site. The NACEPT reported stated that this was the first time that EPA has considered cost as a factor for listing sites. Please provide information on this process that describes the:

Number of sites submitted to the panel on an annual basis.

Response. EPA considered 44 sites for proposal on the National Priorities List (NPL) in FY 2003, 16 sites in FY 2004, 21 sites in FY 2005, 22 sites in FY 2006, and 8 sites through March 2007.

Question 26. Number of sites listed on an annual basis since the panel began reviewing sites for potential listing.

Response. Sites proposed in any particular year may be added to the NPL in subsequent years. EPA added 20 sites to the NPL in FY 2003, 11 sites in FY 2004, 18 sites in FY 2005, 11 sites in FY 2006, and 5 sites to date in FY 2007. EPA generally develops rulemakings for NPL listing twice a year, in March and September.

Question 27. Name, location and contaminants of concern at sites that were submitted to the panel but that the panel did not recommend for listing, broken down annually.

Response. The panel does not make decisions or recommendations about listing sites to the NPL.

Question 28. Current status of sites that EPA decided not to list, including whether other State or Federal programs are actively cleaning up contamination at the site, including the name of the program currently conducting such cleanup activities.

SUPERFUND ALTERNATIVE APPROACH

Question 29. EPA's Use of the Superfund Alternative Site Process, signed by Chairman Boxer, Senator Clinton, Senator Baucus, Senator Lautenberg, and Senator Cardin. EPA describes its "Superfund Alternative" program as being designed to steer toxic waste sites away from being listed for cleanup under Superfund, even though they would normally qualify for listing. Please provide the following information on this program. A list of sites included within the program, including the number of sites added to the program annually, as well as each site's name, location (city and State), contaminants of concern, and the name of the party responsible for cleaning up the contamination at the site.

Response. The Superfund Alternative (SA) approach is consistent with EPA Superfund's mission and practices by providing one more enforcement option for securing cleanup commitments from private parties in appropriate circumstances. This approach may be appropriate at sites that meet the following criteria:

- require long-term response (i.e. remedial action [RA]),
- are eligible for, but not listed on, the National Priorities List (NPL), and
- a viable potentially responsible party (PRP) is willing to perform the RA.

EPA does not require EPA regions to negotiate SA agreements nor does it have any targets for using the SA approach. To date, EPA has identified 22 sites that are actively using the SA approach. Specifically, these are non-NPL sites where an agreement with a PRP has been finalized since publication of the guidance in June 2002. Please see Attachment A for detailed information on the 22 sites.

In addition, a PRP-lead RA has begun at 3 of the 22 sites. These sites (and PRPs) are:

- Weyerhaeuser Co. Plymouth Wood Treating Plant (Region 4; PRP: Weyerhaeuser Co.);
- Highway 71-72 (Region 6; PRP: Canadian Oxy Offshore Production Co.); and
- Kennecott (South Zone) (Region 8; PRPs: Kennecott Utah Copper Corp.).

Question 30. The number of sites eliminated from the program, including the year a site was eliminated, the reason for the site being eliminated, the name of the cleanup program that the site went into, if any, and any follow-up activity by EPA on the site.

Response. The SA approach is not a stand-alone "program"; rather, it is a settlement approach for use in appropriate circumstances. Sites are not "eliminated from the [SA] program" nor does EPA track the sites where a Region anticipated using the SA approach and then decided to pursue a different approach. However, EPA evaluated the data on sites with the SA "flag" in the Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS) as of February 2005 and found that there were a number of sites for which the SA flag should be removed. There were many reasons why these sites should not be flagged as SA, including, but not limited to, placement on the NPL listing path, plans to be addressed by the State, or were removal-only sites.

Question 31. The amount of money that EPA has spent on this program and on each site within the program annually.

Response. The SA approach is not a "program" along the lines of the removal or remedial programs. It is a settlement approach available for use in appropriate cir-

cumstances to help achieve the over-arching cleanup program's goals. Sites that currently have an SA agreement most likely had site screening and characterization activities that were initially paid for with Superfund money, but that are cost recoverable from the PRP. Some sites also had removal actions that were funded by Superfund; those funds are also cost-recoverable. The table in Attachment A has information on site expenditures.

Question 32. The source of EPA funds spent at these sites, including whether the Agency could have used these funds for cleanup activities at listed Superfund sites.

Response. EPA has spent appropriated funds at these sites. In some instances, EPA has supplemented this appropriated funding with PRP settlement resources (please see the table in Attachment A). Prior to entering an agreement with a PRP to do work at any site, EPA uses Superfund money to perform activities such as site screening and characterization, and PRP searches. All such expenditures are cost recoverable. A majority of the SA agreements to date are for Remedial Investigation and Feasibility Studies (RI/FS). Work under SA agreements is funded by the PRP.

The SA approach uses settlement authority to secure PRP-lead cleanups at sites that are eligible to be placed on the NPL. As PRPs pay for the work, the approach does not divert resources from other cleanup activities.

Question 33. The types of activities conducted by EPA personnel at each site.

Response. EPA personnel perform the same types of tasks at SA sites as at other Superfund sites. Activities include site screening and characterization, potentially responsible party searches, negotiations, and oversight.

Question 34. The date that cleanup work began at the site.

Response. Please see the table in Attachment A.

Question 35. The extent of cleanup work completed at the site.

Response. Please see the table in Attachment A.

Question 36. The date that construction needed for all cleanup activities is expected to be completed.

Response. EPA typically uses the planned construction completion date to estimate when all construction needed for cleanup activities will be completed. Since the programmatic measure of construction completions is only applied for Superfund sites listed as final or deleted on the NPL, information on planned construction completion dates for SA sites is not readily available.

Question 37. Any critique of the program provided by EPA's Inspector General, State or local officials, or EPA personnel, and the steps that the Agency took to make any changes to the program recommended by such individuals.

Response. There are four reports that have reviewed the SA approach:

1. June 2007 Office of Inspector General (OIG) Report—EPA Needs to Take More Action in Implementing Alternative Approaches to Superfund Cleanups (Report No. 2007-P-00026).

- A report on the SA approach by EPA's OIG was released on June 7, 2007.

2. 2007 Internal Superfund Evaluation.

- An internal evaluation of the SA approach, undertaken jointly by OECA and OSWER, will also be released soon (expect summer 2007). This internal evaluation examined if the approach was being implemented consistent with the SA approach guidance.

3. The April 2004 120-Day Study.

An internal review of the Superfund program culminated in an April 2004 report. The report included a few recommendations that addressed the SA approach. A copy of this report can be found at <http://www.epa.gov/superfund/action/120day/pdfs/study/120daystudy.pdf>. Since that time, the Revised Superfund Alternative Site (SAS) Guidance was finalized and a sample General Notice Letter was developed for Regions to send to potentially responsible parties at sites where the SA approach is being considered.

4. April 2004 Superfund Subcommittee of the National Advisory Council on Environmental Policy and Technology (NACEPT) Final Report

- The NACEPT report recommended that EPA's SA approach should remain a small pilot program until significantly more input is received from a broad range of perspectives. A copy of this report can be found at <http://www.epa.gov/oswer/docs/naceptdocs/NACEPTsuperfund-Final-Report.pdf>.

- Partly in response to the NACEPT recommendation, in June 2004 EPA announced an 18-month pilot of the SA approach. As stated above, EPA Superfund's subsequent internal evaluation examined if the approach was being implemented consistent with the SA approach guidance.

Attachment A Table: Superfund Alternative Sites (Whole Dollars)

Reg	Site Name	CERCLIS Site Name	City, State	SITE EPA ID	Total Direct Expenditures	FY2006 Direct Expenditures	Response Action Start (action)
4	61 Industrial	Sixty One Industrial Park	Memphis, TN	TND987790300	\$534,459	\$535	4/19/95 (Removal)
4	Anniston	Anniston PCB Site (Monsanto Co)	Anniston, AL	ALD000400123	\$6,788,143	\$866,257	4/9/01 (Removal)
4	Cascade Park	Cascade Park Gasification Plant	Tallahassee, FL	FLD981931959	\$217,885	\$63,576	12/31/05 (Removal)
4	Henry's Knob	Henry's Knob	Clover, SC	SCN000407376	\$307,806	\$60,649	9/24/04 (RI/FS)
4	Holtra Chem	Holtra Chem/Honeywell Inc.	Riegelwood, NC	NCD991278631	\$1,091,099	\$47,539	1/10/03 (Removal)
4	Illinois Central RR	Illinois Central Railroad Company's Johnston Yard Superfund Site	Memphis, TN	TND073540783	\$116,241	\$11,335	9/19/03 (RI/FS)
4	Lyman Dying	Lyman Dyeing and Finishing	Lyman, SC	SCD987584653	\$651,243	\$42,719	7/1/05 (Removal)
4	Orlando Gasification	Orlando Gasification Plant	Orlando, FL	FLD984169235	\$245,625	\$38,973	9/30/03 (RI/FS)
4	Sprague	Sprague Electric Company	Longwood, FL	FLD004072658	\$128,045	\$6,808	7/29/04 (RI/FS)
4	Weyerhaeuser	Weyerhaeuser Co Plymouth Wood Trng Pt	Plymouth, NC	NCD991278540	\$2,984,320	\$79,652	3/24/98 (RI/FS)
5	Cedar Creek	Cedar Creek	Cedarburg, WI	WID988590261	\$552,745	\$74,861	9/27/02 (RI/FS)
5	Ellesworth	Ellsworth Industrial Park	Downers Grove, IL	ILN000508246	\$2,844,803	\$75,361	4/14/03 (RI)
5	Evergreen Manor	Evergreen Manor Ground Water Contamination	Winnebago, IL	ILD984836734	\$3,509,920	\$27,298	10/23/98 (Removal)
5	Old American Zinc	Old American Zinc Plant	Fairmont City, IL	IL0000034355	\$475,378	\$85,658	6/24/02 (Removal)
5	Peters Cartridge	Peters Cartridge Factory	Kings Mills, OH	OHD987051083	\$344,687	\$71,476	7/7/04 (RI/FS)
5	Solvay	Solvay Coke and Gas Company	Milwaukee, WI	WIN000508215	\$550,292	\$113,061	8/25/03 (Removal)
5	Town of Pines	Town of Pines Groundwater Plume	Town of Pines, IN	INN000508071	\$664,063	\$51,080	3/21/01 (Removal)
5	Trenton Barrel	Trenton City Landfill	Trenton City, OH	OHD980612188	\$2,506,312	\$161,564	10/03/02 (RI/FS)
6	Falcon Refinery	Falcon Refinery	Inglestide, TX	TXD086278058	\$320,527	\$64,841	5/20/04 (Removal)
6	Highway 71-72	Highway 71/72 Refinery	Bossier City, LA	LAD981054075	\$4,412,917	\$48,571	7/31/96 (Removal)
7	Iowa City	Iowa City FMGP	Iowa City, IA	IAD984591172	\$406,116	\$38,584	12/22/03 (Removal)
8	Kennecott South	Kennecott (South Zone)	Copperton, UT	UTD000826404	\$1,805,681	\$121,745	9/22/93 (Rvl, RI/FS)

Question 38. EPA's Inspector General (IG) issued a report on December 5, 2006 that contained "significant issues" that are "critical to a successful cleanup" of asbestos at the Libby Superfund site in Montana. The IG concluded EPA had "not completed a toxicity assessment of amphibole asbestos necessary to determine the safe level of human exposure; therefore, EPA cannot be sure that the Libby cleanup sufficiently reduces the risk that humans may become ill or, if ill already, get worse." The Agency failed to conduct an assessment because "EPA did not approve the budget request and. . . [the Office of Solid Waste and Emergency Response] believed that they could obtain the information they needed to determine the toxicity of Libby asbestos based on other epidemiology studies. . . ." However, the IG disagreed with EPA's characterization of and reliance on epidemiology work as a substitute for a toxicological assessment. The IG also found that EPA's public information documents, "Living with Vermiculite" and "Asbestos in Your Home" are "inconsistent about safety concerns."

The IG recommended that the EPA "[f]und and execute a comprehensive amphibole asbestos toxicity assessment. . . [that includes] the effects of asbestos exposure on children. . . [and that the Agency] review and correct any statements that cannot be supported in any documentation mailed or made available to Libby residents regarding the safety of living with or handling asbestos until EPA confirms those facts through a toxicity assessment."

Please describe:

- a. The status of EPA's implementation of the IG's recommendations, including the status of any funding request for a toxicity assessment, and
- b. Whether EPA failed to approve the budget request for a toxicity assessment due to a lack of funds.

Response. In response to the IG report, EPA agreed to immediately review and revise materials provided to Libby residents regarding the safety of living with or handling asbestos. EPA had already discontinued use of the fact sheets dealing with what to do if you encounter vermiculite, including the fact sheet, "Living with Vermiculite". Our overall message remains consistent—asbestos repair and removal should be performed by a trained professional. The advice in this document is being updated, and EPA will continue to work to ensure our communications with the public are clear and consistent.

To ensure that EPA has all the information it needs to support a baseline risk assessment for Libby, in January 2007, EPA convened a group of more than 30 scientists from EPA, the Agency for Toxic Substances and Disease Registry (ATSDR) and the National Toxicology Program to identify data gaps and recommend additional studies. The meeting was hosted by EPA's Office of Research and Development (ORD) National Health and Environmental Effects Research Laboratory (NHEERL) in Research Triangle Park, North Carolina. The scientists also considered information from the Libby Technical Assistance Group.

Based on the recommendations developed from the January 2007 meeting, the EPA has identified and is implementing a comprehensive program of 12 studies to support the development of the Libby toxicity assessment. The description of these studies and the FY 2007 approved budget and projected funding needs for FY2008 are attached. Additional funding is anticipated for fiscal year 2009 to complete the studies. Detailed work plans are currently being developed and will include consultation with other agencies (e.g., the ATSDR, National Institute for Occupational Safety and Health (NIOSH), and the National Toxicology Program (NTP)) and external peer reviews.

The toxicity studies are anticipated to be completed by September 30, 2009; however, this date is tentative pending the completion of the detailed work plans. Results from the toxicity studies will be used to complete the baseline risk assessment, including the comprehensive toxicity assessment, by September 30, 2010.

The Office of Solid Waste and Emergency Response has approved a budget of \$2,581,750 in fiscal year 2007 for the Libby Action Plan. Additional funding is anticipated in fiscal years 2008 and 2009 to complete the studies.

With regard to the funding of the budget request mentioned in the IG report, EPA believes that the OIG may have been referring to a specific toxicological study of noncancer effects using rats. EPA decided to initiate the evaluation of epidemiological data which is soon going to be available for external peer review.

SUMMARY OF TOXICITY ASSESSMENT SUPPORT STUDIES

- a) Region 8/ORD National Center for Environmental Assessment (NCEA), Libby Amphibole Reference Concentration (LARC) Development. Region 8 is developing a

site-specific Reference Concentration (RfC, the non-cancer toxicity value) for Libby Amphibole based primarily on epidemiological information from the Marysville, OH cohort who were exposed to Libby Amphibole. NCEA will assist by evaluating options for quantitative analysis of the Marysville, Ohio cohort including additional statistical support. Additionally, a human dosimetry model, constructed by ORD's National Health and Environmental Effects Research Laboratory (NHEERL), will be used to predict internal dose and will be integrated into the site-specific RfC. This site-specific product will be subject to external peer review. NCEA will provide assistance with the peer review process.

b) NCEA, Libby Amphibole Cancer Assessment. NCEA will conduct a cancer assessment specifically for Libby Amphibole for the Integrated Risk Information System (IRIS). As with all IRIS assessments, available studies (epidemiologic and animal toxicity) will be considered, as well as models both for dosimetry and risk assessment. This effort will go through Agency and Interagency review as a standard assessment for the EPA's IRIS.

c) United States Geological Survey (USGS), Preparation of Libby Testing Material. USGS will collect, prepare, and thoroughly characterize material from the Libby mine (under an Interagency Agreement with Region 8). This material will be used in the NHEERL laboratory animal toxicity studies and the analytical method studies.

d) Region 8, Fiber Size Distribution in Libby Vermiculite. Region 8 will verify the fiber size distribution of Libby Amphibole fibers entrained from Libby vermiculite. This work is necessary to support the site-specific RfC in development.

e) NHEERL, Dosimetry Model Development and Simulation Studies. NHEERL will develop a dosimetry model using existing data and available equations for deposition and clearance based on general fiber dimensions. This model will allow for estimation of internal tissue dose (lung burden) in a generic sense but will need to be updated with Libby Amphibole-specific data. A dosimetry model will allow quantitative prediction of internal dose across species to facilitate improved understanding of the exposure-response in humans.

f) NHEERL, In Vitro Dissolution Assays. NHEERL will evaluate key physico-chemical parameters of clearance mechanisms to refine the dosimetry model predictions of retained dose. The study is designed to make use of a vast existing NHEERL database on the dissolution and potency of asbestos and other similar fibers.

g) NHEERL, In Vitro Toxicity Endpoints. NHEERL will evaluate potential key events and endpoints (e.g., cytotoxicity, oxidative burden, genotoxicity) for known asbestos samples of Libby Amphibole and other better studied fibers.

h) NHEERL, Comparative Toxicology in Mice and Rats. NHEERL will conduct animal studies to determine the relative potency of Libby Amphibole compared to other types of asbestos; evaluate non-respiratory endpoints; and evaluate the potential for an increased susceptibility for children by examining, in utero (infantile) and early lifetime dosing vs. adult animal treatment. These studies will be applied to the dosimetry model.

i) NHEERL, Inhalation Toxicology in Rats. NHEERL, through a contract with the Hamner Institutes for Health Science, will conduct a 90-day inhalation study (followed by various holding times) in the rat to examine a variety of toxicological endpoints. This study will also examine the relationship between duration of exposure and the nature and persistence of effects. The study will provide key data for the dosimetry model as well as long-term effects.

j) Region 8/NCEA, New Epidemiologic Information from Libby Montana Cohort. Region 8 and NCEA will review recently available WR Grace information concerning historical worker asbestos exposures and associated asbestos-related abnormalities (pleural plaques, diffuse pleural thickening, asbestosis). This information will be included in the ongoing and future National Institute of Occupational Safety and Health (NIOSH) cohort updates and may include extended morbidity investigation of former WR Grace workers to evaluate the exposure-response relationship; review and incorporate NIOSH mortality information; and evaluate biomarker data. Additionally, lung tissue collection will be pursued to improve the understanding of Libby Amphibole exposure and lung fiber deposition dosimetry and to support exposure-response modeling.

k) Region 8/NCEA, New Epidemiologic Information from Other Cohorts. Region 8 and NCEA will work with NIOSH and the Agency for Toxic Substances and Disease Registry (ATSDR) to develop epidemiologic information from other cohorts exposed to Libby Amphibole.

l) OSWER, Interim Risk Methodology for Quantification of Cancer Risk from Inhalation Exposure to Asbestos. OSWER is developing a methodology for estimating the risk of lung cancer and mesothelioma from inhalation exposure to different

forms of asbestos. This methodology combines data from epidemiological exposure response studies with surrogate estimates of exposure (based on Transmission Electron Microscopy, or TEM) that characterizes both the fiber type and dimensions. Use of this draft interim risk assessment methodology will allow for estimates of risks of these effects for a variety of complex mixtures of asbestos materials. A consultation with the EPA Science Advisory Board on the models is planned for FY 2007.

Fiscal Years 2007 and 2008 Budget for Libby Toxicity Assessment Support Studies

	FY 2007 Actual Budget	FY 2008 President's Budget	Total*
	\$	\$	\$
TOXICITY ASSESSMENT SUPPORT STUDIES			
<i>a. Region 8 Libby Amphibole RfC Development</i>	25,000	-	25,000
<i>b. NCEA Libby Amphibole Cancer Assessment</i>	180,000	180,000	360,000
<i>c. USGS Preparation of Libby Testing Material</i>	150,000	150,000	300,000
<i>d. Region 8 Fiber Size Distribution in Libby Vermiculite</i>	90,000	-	90,000
<i>e. NHEERL Dosimetry Model Development. Simulation Studies</i>	135,000	75,000	210,000
<i>f. NHEERL In Vitro Dissolution Assays</i>	137,000	137,000	274,000
<i>g. NHEERL In Vitro Toxicity Endpoints</i>	247,500	247,500	495,000
<i>h. NHEERL Comparative Toxicology in Mice and Rats</i>	382,250	382,250	764,500
<i>i. NHEERL Inhalation Toxicology in Rats</i>	-	1,112,000	1,112,000
<i>j. Region 8/NCEA New Epidemiologic Information from Libby Montana Cohort</i>	335,000	180,000	515,000
<i>k. NCEA New Epidemiologic Information from Other Cohorts</i>	250,000	250,000	500,000
<i>l. OSWER Interim Cancer Risk Methodology</i>	-	-	-
TOTAL	1,931,750	2,713,750	4,645,500
ANALYTICAL METHODS STUDIES			
<i>e</i>	650,000	-	650,000
<i>n. Region 8 Low-Level Soil Method Development</i>	-	230,000	230,000
<i>o. Region 8 Comparison Direct & Indirect Preparations</i>	-	350,000	350,000
<i>p. Region 8 Ambient Air Collection Method Verification</i>	-	450,000	450,000
TOTAL	650,000	1,030,000	1,680,000
May 31, 2007	GRAND TOTAL	2,581,750	3,743,750
			6,325,500

*Additional funds are anticipated in fiscal year 2009 to complete studies.

SUPERFUND CLEANUP—TROY, MT

Asbestos contamination affects areas throughout the Libby Superfund site. One such area is Troy, Montana. In 2006, EPA stated that it planned to cleanup Troy High School and then cleanup the residential and commercial areas of Troy. Please provide a description of EPA's cleanup activities in the Libby Superfund site, including but not limited to Troy, which describes:

Question 39a. The status of any EPA investigations or cleanup efforts involving areas where children may regularly visit or live.

Response. EPA completed a Time Critical Removal Action at the Troy High School during the summer of 2006, after suspected Vermiculite Attic Insulation was noted in the school. EPA initiated a comprehensive Troy Asbestos Property Evaluation (TAPE) effort within the City of Troy (OU 7) during the spring of 2007. This is being conducted in coordination with the State of Montana. One purpose of the evaluation is to conduct a comprehensive sampling and analysis program to determine the nature and extent of contamination of residential and public areas within Troy.

EPA estimates that approximately 1430 residences and commercial properties in the city of Libby, MT may require response actions. As of the end of May 2007, EPA has completed response actions at 828 of those properties.

The status of investigations and response activity for the rest of the Libby Superfund Site is presented in EPA's written testimony for the public hearing held by the Committee in Libby on April 5, 2007.

Question 39b. The number of residences and commercial buildings that need to be cleaned up,

Response. This number cannot be finalized for Troy until the TAPE is complete, specifically the sampling and analysis of specific properties to determine if contamination is present. At present, EPA expects to sample approximately 1200 residential properties. The EPA expects that the evaluation process will take about 2 years. Because the sampling and analysis of properties have just begun, at this time we have no definitive estimate of the number of properties requiring response actions for cleanup of Libby asbestos contamination in Troy.

In Libby, the estimated number of remaining properties that may require response action is approximately 602. The final number of properties that may require a response action is dependent on ongoing investigations and future Records of Decision.

Question 39c. EPA's timeline for completing necessary cleanups, including Agency records that pose several possible timelines based on potential funding levels and other factors,

Response. A timeline for completing the necessary response actions for residences in the City of Troy can not be determined at this time. Working with the State of Montana, the EPA has to complete its TAPE process. This will give EPA the number of residences that need to be cleaned up. EPA estimates that it will take approximately 2 years to complete the TAPE process.

EPA expects to complete the remaining removal actions for Libby properties at the rate of approximately 160 per year. Ongoing remedial investigations will be used to determine future remedial actions and their timelines. We are researching our records (both hardcopy and electronic) to determine if other possible timelines were considered. We expect to have this search completed by August 31, 2007.

Question 39d. The anticipated costs of completing these cleanups, and

Response. The EPA is still working to identify the total number of properties in the city of Troy that may or will need to be cleaned up. We do not have an accurate estimate. Between 2004 and 2006 in the town of Libby, EPA conducted between 170 and 225 removal actions per year at a variety of commercial, residential and public properties throughout various areas within the Libby Superfund site, budgeting \$17M annually.

The costs for completing all response actions at the site, including Troy, can not be determined until all of the Records of Decision are completed, which is tentatively planned for 2011.

Question 39e. All EPA records, including any memoranda, email, meeting notes, telephone logs or other EPA records that describe actual or potential funding shortfalls since 2005 for cleanup work at the Libby Superfund site, including but not limited to investigation, characterization, and cleanup activities.

Response. We are currently researching our records (both hardcopy and electronic) to identify all EPA Superfund records that may be responsive to this request. We expect to have this search completed by August 31, 2007.

PESTICIDES

Question 40. The budget proposes to cut more than \$7 million in funding that EPA needs to analyze and reduce the risks from pesticides. EPA's Congressional Justification document admits that reducing this funding may "delay" EPA's review of pesticide safety and impact the use of "safer alternatives." Describe the amount of money that EPA would need to promptly review all of the pesticides that need to be reviewed to ensure their safety by the end of 2009.

Response. The FY 2008 President's Budget provides sufficient funding to evaluate, assess and review new pesticides before they reach the market and ensures that pesticides already in commerce are safe. The \$7 million in reduced funding was distributed across the core pesticide program activities that are a result of streamlining and consolidating administrative management functions that maximize efficiency.

PESTICIDES—LEAD RULE

Question 41. EPA's Budget Justification says that the Agency is reducing funding to protect people from pesticides in order to fund work on a rule to reduce risks from

lead. It seems clear that EPA needs more money to do its job of protecting public health.

Describe the amount of money that EPA needs to both complete the lead rule and promptly review all of the pesticides that need to be reviewed to ensure their safety by the end of 2008.

Response. EPA has requested \$1,000,000 for the completion of the Lead Renovation and Remodeling (R&R) Rule in 2008. The FY 2008 President's Budget provides sufficient funding to protect human health and the environment by reviewing pesticides to ensure their safety by the end of FY 2008, as mandated by FQPA and PRIA.

TOXIC CHEMICALS REGULATION

Question 42. Polychlorinated biphenyls are known to cause cancer and other harmful health impacts. EPA's Congressional Justification document states, "Resources are not included in the FY 2008 budget for a major PCB rulemaking." Which "major PCB rulemaking" is EPA delaying because of this budget? Provide written details of this rulemaking, including the types of risks the upcoming regulation is focused on addressing and EPA's timeline for the completing the needed rulemaking. Please provide any EPA records, including any memoranda, email, meeting notes, telephone logs or other EPA records that describe concerns raised by Agency staff or other individuals or institutions over the delay or potential delay of this rulemaking.

Response. In the FY 2008 Annual Plan proposal to Congress, EPA wrote that "Resources are not included in the FY 2008 budget for a major PCB rulemaking." At various times, EPA has considered the need to revise the current PCB regulations. EPA included this statement in the Annual Plan proposal to make it clear that we do not intend to undertake a major rule in FY 2008 as part of the transfer of the disposal and remediation portions of the PCB program from the Office of Prevention, Pesticides and Toxic Substances (OPPTS) to the Office of Solid Waste and Emergency Response (OSWER). This does not preclude rulemaking, if desirable, in FY 2009 and beyond.

Effective October 1, 2007, the Agency expects to transfer the management of the PCB cleanup and disposal program to OSWER from OPPTS. OSWER is the office within EPA that manages cleanup and disposal activities related to the Resource Conservation and Recovery Act, Superfund and land revitalization. The transfer will group together similar activities in one office leading to greater overall efficiencies in EPA's cleanup and disposal activities. This transfer was referenced in the President's FY 2008 Annual Plan proposal to Congress.

To facilitate this transfer, effective October 1, 2007, EPA will publish a procedural rule to move the administration of the PCB cleanup and disposal program from OPPTS to OSWER. It is anticipated that OSWER will implement the TSCA PCB regulations as they currently exist, and that there is no need to change the PCB cleanup and disposal regulations immediately before or after the transfer. As stated above, any future changes to the PCB cleanup and disposal regulations, if found to be desirable, would not occur until after fiscal year 2008.

With regard to historical considerations of possible regulatory activities, in May 2004, the Utility Solid Waste Activities Group (USWAG) nominated the TSCA PCB remediation waste regulations for reform in a letter to OMB. In 2005, EPA consulted with USWAG and also held a public meeting to solicit input on this issue from stakeholders. The Agency submitted a response to OMB in September 2005. The Agency discussed the need to streamline the PCB regulations, in order to address, in particular, the differing provisions, which USWAG nominated for reform, relating to disposal requirements for PCB remediation waste at concentrations of less than 50 parts per million.

As a result of the transfer within EPA, we will explore how to gain efficiencies in the PCB remediation and disposal program through closer coordination with the hazardous waste programs, and we will certainly consider whether regulatory changes are appropriate. Stakeholders have not raised any concerns with the current approach to address their issues or the consideration of future regulatory activity.

It should be noted that OPPTS will retain management of PCB use and manufacturing issues.

ENDOCRINE DISRUPTORS

Question 43. Endocrine disrupting chemicals can affect health—including babies—at very low levels. The 1996 Food Quality Protection Act required EPA to implement an endocrine disruptor testing program by 1999. However, EPA has so far failed to

meet Congress's deadline. In 2005, EPA's Board of Science Counselors recommended that the Agency hire more people to work on endocrine disruptors. EPA's Science Advisory Board recommended more funding for such work in 2006. But, EPA's 2007 and 2008 budget proposes to cut funding to this program. The 2008 Congressional Justification document acknowledges the slow pace of action in language justifying the budget cut by saying, "This decrease reflects the historic pace of program research and a shift to other priority areas in the Agency. The cut may postpone the validation of mammal assays, interlaboratory trials and initial screening of the first set of potential endocrine-disrupting chemicals."

Please describe the amount of money that EPA needs to complete validation for endocrine disruptor screening and testing, and to completely implement the screening and testing program by the end of 2008.

Response. Money does not constrain full implementation of the program by the end of 2008. EPA anticipates initiating screening of approximately 73 pesticide chemicals using the Tier 1 battery in 2008. Depending on data generated in Tier 1, Tier 2 tests will be required, which will provide the Agency with a more definitive assessment of a chemical's endocrine effects as well as dose-response information needed for risk assessment. With the exception of the mammalian 2-generation tests (which the Agency considers validated), the other Tier 2 tests targeting fish and wildlife are still undergoing development and validation as required by the Food Quality Protection Act.

The validation process includes several steps, including test development, optimization, inter-laboratory comparisons, and finally peer review. This process takes time and must proceed sequentially because results from one study are used to formulate the design of the next study. Based on current laboratory progress, it is anticipated that the remaining Tier 2 assays will complete validation in the FY 2009/2010 timeframe. The President's budget request for FY 2008 supports this timeframe.

ENVIRONMENTAL JUSTICE—FUNDING

Question 44. The EPA is charged with ensuring environmental justice in its decisions and in the programs that it oversees. However, a 2004 EPA Inspector General (IG) report concluded that the Agency had not "consistently integrated environmental justice into its day-to-day operations, [and that the Agency had] not established values, goals, expectations, and performance measurements" for environmental justice. A 2006 IG survey "showed that EPA senior management has not sufficiently directed program and regional offices to conduct environmental justice reviews" in accordance with an executive order on environmental justice. The IG stated, "Consequently, the majority of respondents reported their programs or offices have not performed environmental justice reviews." Clearly, EPA should be doing more—not less—to ensure environmental justice in its decisions and programs. However, the budget proposes to cut funding for environmental justice by more than \$1.7 million, a 31 percent cut.

Please describe:

The amount of annual funding that EPA has provided to the National Environmental Justice Advisory Council (NEJAC) since 2001. Please also describe the level of Federal resources, measured by the number of fully staffed Full Time Equivalents, devoted to the NEJAC annually since 2001.

Response. We are pleased to update you on the progress the Agency has made in addressing the concerns raised by the IG concerning the environmental justice program at EPA. Recently, we convened the Agency senior managers to complete the plan for developing and conducting environmental justice reviews for selected programs and activities. The Office of the Inspector General accepted the Agency's plan stating that "we accept the proposed actions and appreciate your constructive approach to the issues raised in our report." Developing and conducting environmental justice reviews is one component of many that the Office of Environmental Justice is undertaking to promote the integration of environmental justice into the day-to-day operations of the Agency.

As indicated in the IG report, the ultimate goal is to integrate EJ into the Agency's core programs.

With respect to the budget for the EPA's Environmental Justice program, the environmental justice base program is being reduced by a modest 1.0 FTE in the FY 2008 budget request (from the FY 2007 Request). The reduction reflects efficiencies the program has been able to achieve from reducing the number of NEJAC subcommittees, requiring less Headquarters coordination and support. The decrease mentioned in your question refers to the earmark received in FY 2006, but not re-

quested in FY 2008. As a matter of policy, the Agency does not sustain Congressional earmarks in its budget request.

Although Congress did not provide an earmark in FY 2007, EPA increased funding by \$850,000 for the environmental justice grant program.

Staff support and funding for the NEJAC is provided by the Office of Environmental Justice as part of its mission. There is not a separate budget line item for the NEJAC activities. The following table provides funding for the Agency's Environmental Justice program project between FYs 2001 and 2008. FTE reductions in recent years are largely associated with a reduction in the number of NEJAC Subcommittees, requiring less Headquarters coordination and support.

With regards to NEJAC meetings, EPA anticipates there will be three meetings held in FY 2008.

Table: Environmental Justice program/project, dollar amounts in thousands

FY	FTE EPM	Dollars EPM	Dollars Superfund	Dollars Total
2001 Enacted	16.1	\$4,011.8	\$997.8	\$5,009.6
2002 Enacted	16.0	\$4,163.4	\$900.0	\$5,063.4
2003 Enacted	16.0	\$5,364.0	\$894.1	\$6,258.1
2004 Enacted	18.0	\$5,810.6	\$1,103.4	\$6,914.0
2005 Enacted	18.0	\$5,882.5	\$937.6	\$6,820.1
2006 Enacted	18.0	\$5,558.0	\$827.0	\$6,385.0
2007 Request	17.9	\$3,859.0	\$756.7	\$4,615.7
2007 Enacted	16.9	\$4,675.0	\$757.0	\$5,432.0
2008 Request	16.9	\$3,822.0	\$757.0	\$4,579.0

ENVIRONMENTAL JUSTICE—POLLUTION PREVENTION

EPA's process of reviewing Federal regulatory programs for pollution prevention opportunities by reducing the use and production of toxic chemicals as required the by the Pollution Prevention Act and endorsed by the NEJAC: Please provide a list of pollution prevention initiatives that seek to reduce the use and production of toxic chemicals in environmental justice communities that EPA has implemented since 2001. Please provide a description of initiative, its current status, and an assessment of its impacts in reducing the use and production of toxic chemicals.

Question 45. The Office of Pesticides, Prevention, and Toxics has taken numerous actions since 2001 to reduce the use and production of toxic chemicals in environmental justice communities. Examples include:

- In 2003, the Agency initiated a new program, Community Action for a Renewed Environment, or CARE, to assist communities—especially those with EJ concerns—to better understand risks of, and to utilize pollution prevention and other approaches to reduce exposure to toxic chemicals in their communities. This grant and technical assistance program helps communities build local partnerships to understand risks from all sources, set priorities, and take voluntary actions to reduce risks. Cross program, multimedia teams have been organized in the Agency to work with the CARE. The CARE program is now working with 51 communities in over 25 States.

- EPA has also been working with Tribes to address toxic chemicals concerns on tribal lands:

- EPA's Office of Pollution Prevention and Toxics (OPPT) participates in the Forum for State and Tribal Toxics Actions (FOSTTA), which has conducted approximately three meeting per year concerning its Tribal Project. Further, the Office of Prevention, Pesticides and Toxic Substances has developed and is implementing an OPPTS Tribal Strategic Plan for Fiscal Years 2004-2008.

- OPPT has also been engaged since FY 2002 with the Tribal Workgroup of the National Pollution Prevention and Toxics Advisory Committee (NPPTAC), chartered under the Federal Advisory Committee Act (FACA). The workgroup identified and framed two broad issues for consideration by the Committee: Green Buildings on Tribal Lands and Tribal Access to, and Utilization of, Publicly Available Chemical Hazard and Exposure Data. The Committee approved and provided to EPA two rec-

ommendations based on these issues. The Agency, in addition to supporting the Tribal workgroup, has begun to implement both of these recommendations.

-OPPT is also developing a Tribal Green Building and P₂ Technologies Guidance Document under a contract with a tribal owned business. The document seeks to provide information which can be used to guide decision-making for Tribal Governments in their business and economic development plans. This document includes a cost/benefit analysis on green building options and technologies, including rain-water run-off roofs, green landscaping, green building materials, etc. A draft of the document is currently being circulated for review among tribal communities, specifically seeking recommendations on its applicability in Indian County.

-OPPT is working with the Department of Housing and Urban Development (HUD) to incorporate green building guidance into the Indian Housing Block Grants (IHBG) Program and other Tribal programs. HUD has indicated that they would include green building information on their website; negotiations on changing their IHBG guidance to include an emphasis on green buildings are continuing.

-OPPT has initiated discussions with the Indian Health Service (IHS) to implement greener health care practices in Indian health clinics and hospitals. IHS has begun EMS pilot sites at two facilities - a hospital and a clinic. IHS has identified additional sites to implement the EMS program, and has asked OPPT and the Hospitals for a Healthy Environment (H2E) organization for technical assistance.

To ensure that pollution prevention approaches are considered in the development of regulations and major Agency actions, EPA's formal process for initiating and reviewing regulatory actions, known as the Action Development Process (ADP), includes a specific step to ensure that pollution prevention approaches are considered at the very beginning of the regulatory development process. The ADP includes the creation of a document known as an "analytic blueprint," or ABP, for guiding the development of a major regulation or Agency action. The analytic blueprint is meant to specifically address the topic of pollution prevention (P₂), and to examine potential P₂ approaches, or to explain why P₂ isn't an appropriate option for the particular regulatory action under development.

TITLE VI COMPLAINTS

Question 46. The number of Title VI complaints since 2001 that the Agency has received based on environmental justice concerns, the number of complaints investigated, the number of permits reviewed, and the outcome of such reviews. Please include a description of the type of investigation and review, and dates for the beginning and completion of each review process.

Response. Since 2001, the Agency has received 84 complaints based on environmental justice concerns. Of those 84 complaints, 26 complaints are undergoing jurisdictional review and eight complaints are under active investigation. Fifty of the complaints received since 2001 have been closed. Forty-one of the closed complaints were rejected on jurisdictional grounds. The most frequent grounds for rejection were untimeliness and lack of a financial assistance recipient. One complaint was referred to another Federal agency that likely had jurisdiction. Another complaint was informally resolved by the parties.

EPA's implementing regulations, found at 40 C.F.R. Part 7, state that it is EPA's policy to seek informal resolution of Title VI complaints whenever possible. EPA has employed alternative dispute resolution (ADR) techniques in several of our Title VI cases.

The informal resolution of a complaint has occurred when the parties (i.e. EPA, complainant, and recipient) involved have reached a resolution by informal voluntary negotiations.

Seven of the complaints received and reviewed since 2001 were dismissed after acceptance (see chart below). The withdrawal of a complaint has occurred when a complainant notifies EPA that it would like to withdraw their complaint. This withdrawal therefore dismisses the complaint and renders the case resolved. None of these seven complaints involved permit reviews.

From 2001 to the present, the Agency has closed a total of 103 complaints alleging discrimination by recipients of EPA assistance. Fifty-three of those complaints were received by the Agency prior to 2001, and 50 of the complaints were received since 2001.

Complaints Received since 2001, and Subsequently Dismissed

Date Received	Dated Close:	Issue	Outcome of Ruling
08/01	09/02	Public hearing	No discrimination
04/02	04/07	Public Access	Withdrawn— issue resolved
07/02	07/06	Proposed Landfill	Issue rendered moot due to court decision.
12/03	04/07	Retaliation	No Retaliation (Letter of Concern issued) EPA issued a Letter of Concern because the investigation, although finding that no violation of Title VI or EPA's implementing regulation occurred, raised concerns about specific procedural requirements, found at 40 C.F.R. Part 7, that must be implemented by all recipients of EPA financial assistance. EPA therefore made recommendations to the recipient based upon these concerns.
02/04	06/05	Public participation	Withdrawn— issue resolved
04/04	03/05	Regional Treatment Facility Design	No discrimination
10/05	08/06	Cleanup/Remediation	Withdrawn— issue resolved

CHILDREN'S HEALTH—STAFFING LEVELS

Question 47. EPA's budget proposes to consolidate EPA's Office of Children's Health Protection and the Office of Environmental Education, while reducing funding for the new, combined office. The Agency also proposes to undercut the original purpose of the Office of Children's Health Protection by diffusing its responsibilities to other EPA offices.

Please describe the actual or anticipated staffing levels, measured in staffed Full-Time Equivalents, for the Office of Environmental Education for 2005 and 2006, the Office of Children's Health Protection for 2005 and 2006, and the staffing levels for environmental education activities and Children's Health Protection activities, respectively in 2007 and 2008.

Response. The Office of Children's Health Protection and Office Environmental Education were combined as a result of a reorganization in 2006.

The organizational entity that was the Office of Children's Health Protection is currently the Child and Aging Health Protection Division (CAHPD) in the new office. The CAHPD FTE level for FY 2007 is 12.9 FTE. The proposed FTE level for FY 2008 is 13.9. The FTE for the Environmental Education Program was 19.7 (10 of which were 1 FTE per Region) for fiscal years 2005, 2006, and 2007. The Agency is not requesting any FTE or dollar resources for Environmental Education in the President's FY 2008 budget.

Program Project	FY 2005 Enacted	FY 2006 Enacted	FY 2007 Enacted	FY 2008 Pres. Bud.
Children & Other Sensitive Populations	13.0	13.0	12.9	13.9
Environmental Education	19.7	19.7	19.7	0.0*
Total	32.7	32.7	32.6	13.9

CHILDREN'S HEALTH PROTECTION ADVISORY COMMITTEE

The EPA established the Children's Health Protection Advisory Committee in 1997 to bring together representatives from industry, pediatric medicine, economists, community and environmental organizations, science and academia, nursing, Federal, State, local, and tribal Governments, and others to work on children's health issues. The Committee is part of EPA's Office of Children's Health Protection, and it provides EPA with expert advice on children's environmental health issues, including the evaluation of EPA standards, communications and outreach, and science.

Question 48. In the past, EPA has requested the Committee review and provide recommendations for re-evaluating EPA standards to ensure they protect children's health. However, in recent years EPA has issued regulations and guidance documents that fail to address issues raised by the Committee. Please describe:

1) The process that EPA uses to consult with the Committee:

Response. The Children's Health Protection Advisory Committee (CHPAC) is chartered under the Federal Advisory Committee Act (FACA). The Committee is managed by the Office of Children's Health Protection and Environmental Education, and is a valued resource for the entire Agency on issues relating to children's environmental health. The CHPAC often meets with Agency leaders and staff to discuss areas of concern.

The full Committee meets approximately three times a year, with numerous conference calls and email between meetings. The Committee has also formed a variety of working groups, both standing workgroups (e.g. Emerging Chemicals of Concern workgroup) and short-term workgroups addressing specific issues. The topics that the Committee take up may come from specific requests from EPA, be driven by upcoming Agency actions such as development of rules that affect children, or they may be initiated by the Committee.

2) The Committee's recommendations:

Response. The CHPAC recommendations are provided to the Agency via letters to the Administrator. All of the recommendations as well as the Agency responses are available on the Agency's website at:

<http://yosemite.epa.gov/ochp/ochpweb.nsf/content/whatwe—advisory.htm>.

3) Whether EPA has implemented any of the Committee's recommendations:

Response. Many, but not all of the CHPAC's recommendations have been implemented. As an advisory committee, the Agency welcomes the advice and insights of the Committee. However the CHPAC is only one of many groups whose recommendations the Agency uses and EPA must weigh those recommendations with many other considerations when making decisions.

For example, in response to the committee's December 2002 letter to Administrator Whitman on Smart Growth Efforts and children's environmental health, the Office of Policy, Economics, and Innovation's Smart Growth Office incorporated children's environmental health into its smart growth grants and has recently announced a request for proposals for reducing environmental and health impacts of school siting.

4) The reason for EPA's refusal to consult with or implement the Committee recommendations on the following decisions by the Agency:

- Merging the Office of Environmental Education and Children's Health Protection, including budgetary and staffing decisions,
- The Preliminary Remediation Goal for Perchlorate,
- The National Ambient Air Quality Standards for Particulate Matter,
- The National Ambient Air Quality Standard for Ozone,
- The National Ambient Air Quality Standard for Lead,
- The Agency's actions to address mercury air emissions since 2001,
- The Voluntary Children's Chemical Evaluation Program,
- The need to address children's environmental health concerns from global warming,

- i. The need to address children's environmental health concerns from pesticides, and
- j. The need to protect children from potentially dangerous exposures to toxic substances, including but not limited to polybrominated diphenyl ethers. Please limit response to this question to the years, 2001 through 2007.

Response. Again, there is never been a refusal by EPA to consult with or consider the recommendations of CHPAC. The recommendations of the committee must be considered and weighed against other, often competing opinions on how these various programs are to be managed. The Agency did consult with the Committee on several of the referenced topics, including perchlorate, mercury air emissions, the Voluntary Children's Chemical Evaluation program. All of the recommendations made by CHPAC, as well as the responses by the Agency, are available on website cited above.

INSPECTOR GENERAL—STAFF

Question 49. Please describe whether the IG, given the demographics of the Office, should be hiring and training staff now to ensure that it maintains its output and expertise as staff retire.

Response. The OIG maintains an ambitious level of technical and management training, as appropriate for its staff and in compliance with the rigors of Comptroller General's Government Auditing Standards, which is certified through an independent peer review. This training, along with assignments designed to provide staff with developmental experience, increasing levels of responsibility, and supervisory opportunities, prepare them for greater challenges to build organizational competence at all levels. While approximately 11 percent of the EPA OIG staff are currently eligible for retirement, the OIG has built a strong core of young managers and has been highly successful in attracting and developing outstanding candidates when positions are available. The OIG constantly explores staffing and skill needs in relation to its strategic goals, specific assignments, and available resources to consider all options for accomplishing its mission, through the most efficient blend of permanent staff and specialized contract services. Within this overarching framework, the OIG plans to hire 5-10 new trainees each year.

EPA ENFORCEMENT

Question 50. EPA proposes to cut \$1.3 million for the Superfund program's enforcement budget for forensic support to track polluters and make them pay. EPA also expects a decline in the money it recovers from polluters for past EPA cleanups. EPA should not be cutting enforcement resources at the same time that the Agency's budget proposed to provide fewer funds for cleanups and independent oversight activities by the Inspector General.

Please describe the forensic programs that could have their funding cut under the proposed budget, including any potential funding cuts for work that may be done by the National Enforcement Investigations Center.

Response. The Agency's FY 2008 request for the National Enforcement Investigations Center (NEIC), EPA's forensics laboratory, is sufficient to continue providing specialized scientific and technical support for the nation's most complex enforcement cases across all media. We are confident that the proposed FY 2008 budget achieves the appropriate balance between our programs.

Most of the budget changes to the Forensics Support Superfund program represent a realignment of resources between appropriations and not a reduction to the program. EPA proposes to transfer resources from the Superfund appropriation to the Science and Technology appropriation to reflect a shifting workload between Superfund and non-Superfund activities. This shift is based on workload data used to establish a charging methodology for Superfund and non-Superfund activities.

EPA LABORATORY FUNDING CUTS

Question 51. EPA's laboratories play a vitally important role in ensuring the Agency appropriately safeguards public health and facilitating enforcement actions against polluters that violate such protections. A March 30, 2006 EPA Science Advisory Board report concluded, "Between 2004 and the [budget] proposal for 2007, the inflation adjusted budget for EPA's Office of Research and Development has declined by just over 16 percent. . . . The erosion of research and development remains a serious impediment to the Agency's ability to meet its mission of protecting human health and the environment through science based initiatives. . . . It is the opinion of the Board that EPA's research and development resources are grossly inadequate to address the scientific complexities of the Nation's environmental protection needs."

1. A June, 2006 memo from EPA's Chief Financial Officer directs EPA staff to "consolidate" laboratories by developing "a plan for reducing the Agency's laboratory physical infrastructure costs by a minimum of 10 percent by 2009 and another 10 percent by 2011." The memo also directs Assistant Administrators to identify long-time, high-level employees for early retirement.

2. Please provide a written status update on the Agency's plans or actions to consolidate or reduce laboratory space or to reduce staff or freeze the hiring of new staff in the Office of Research and Development. Please include any draft or finalized reports that describe the steps that the Agency may take or has already taken to consolidate or to reduce staff in the Office of Research and Development.

Response. As part of the FY 2008 budget process, the Office of Research and Development (ORD) was asked to work with the National Program Offices (NPOs) and 10 Regional offices to develop a plan to implement a study of the Agency's laboratory infrastructure requirements, capabilities, and operations. Similar studies have been carried out by the Agency in the past, with the most recent comprehensive laboratory study completed in July 1994. The goal of this review is to improve the effectiveness and efficiency of EPA's laboratory network (i.e., 39 laboratories in 30 cities) in order to ensure our ability to meet the environmental challenges of the future. This review will not result in the creation or closure of laboratories during the Administrator's tenure.

In the near term, the study will focus on identifying efficiency and effectiveness opportunities at individual laboratories. Workgroups are working to more clearly frame and determine the scope of the laboratory infrastructure review and encourage each laboratory to brainstorm efficiency and cost saving measures. Savings and efficiency data are currently being requested from all the Agency's laboratories. A report from the near term study is anticipated in September of 2007.

For the long term study, the Agency plans to engage an outside expert panel that will assess and evaluate the ability of EPA's laboratory network to address the Agency's mission over the next 10 years. Efforts are underway to identify options for working with an outside expert panel.

In addition to the laboratory study, we have begun an effort to analyze administrative service delivery and identify ORD-wide organizational alignment options and implementation approaches to achieve efficiencies in administrative support costs.

We have not instituted a formal hiring freeze.

Question 52. Please provide a written description of each EPA laboratory's annual funding level and the amount of staff resources, measured in staffed Full-Time Equivalent, for 2004 through 2008.

Response. See following pages.

Illegible response received however, the submitted document may be found in Committee files.

CONCENTRATED ANIMAL FEEDING OPERATIONS

Question 53. EPA plans to exempt pollution releases from Concentrated Animal Feeding Operations from Superfund's reporting requirements. In 2005, EPA said that these facilities "can have a negative impact on nearby residents, particularly with respect to . . . odors and other nuisance problems. . . [and] that concerns have been raised recently regarding the possible health impacts from [these facilities'] emissions." EPA entered into a settlement agreement with 2,568 facilities that agreed to help determine how much air pollution they emit and to certify that they are complying with Superfund and other public health laws.

Exempting these facilities from pollution reporting requirements could reduce needed data on the nation's largest source of ammonia. Ammonia emissions contribute to the formation of smog and particulate matter pollution. Pollution from these facilities also facilitates the deposition of nitrogen into water bodies, which contributes to water quality problems.

1. The EPA's Office of Inspector General (IG) reported in February 2007 that the Agency will not meet its goal of cleaning up the Chesapeake Bay by 2010, potentially due to continuing nitrogen deposition from regional sources. The IG recommended that EPA "use the results of animal feeding operations emissions monitoring studies to determine what actions and strategies are warranted to address nitrogen deposition to the Bay from such operations." The IG noted that "EPA concurred" with this recommendation. Please describe whether exempting concentrated animal feeding operations from Superfund reporting could reduce or delay the creation of data on ammonia emissions nationwide by impacting the number of facilities that are working with EPA or other agencies to determine their levels of emissions and to certify that they are complying with all other public health laws.

Response. EPA's promulgation of an exemption from Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) section 103 and Emergency Planning and Community Right-to-know Act (EPCRA) section 304 notification requirements for releases to the air of ammonia and hydrogen sulfide from animal waste (manure) at animal agricultural operations will not reduce or delay the creation of data on ammonia emissions nationwide under the terms of the air compliance agreement. Any possible exemption will not impact the number of facilities that are working with EPA or other agencies to determine their levels of emissions. Facilities that chose to participate in the air compliance agreement with EPA are legally bound to the conditions in the agreement.

COAL COMBUSTION WASTE

Question 54. Each year, more than 120 million tons of waste is produced in the United States from the burning of coal. In 2000, EPA committed to creating regulatory safeguards to protect public health when this waste is disposed of in surface impoundments, landfills, and mines. In 2006, the National Research Council acknowledged that disposal of this waste had in many cases "caused considerable environmental damage." "The Council concluded "that the presence of high contaminant levels in many [coal combustion residue] leachates may create human health and ecological concerns..." Please describe the actions that EPA has undertaken to develop national regulations and the anticipated date for the Agency's issuance of the proposed protections, and

Response. EPA's primary efforts since the Regulatory Determination have been associated with development of additional information on the disposal of coal combustion wastes (CCWs) in landfills, surface impoundments, and mine lands.

To inform the public of this information on landfills and surface impoundments and its availability for their consideration, EPA is planning to issue a Notice of Data Availability (NODA) next month. The NODA will make the following information available for public review and comment:

- Joint U.S. Department of Energy (DOE) and EPA report entitled, Coal Combustion Waste Management at Landfills and Surface Impoundments, 1994-2004;
- Revisions to the Risk Assessment conducted by EPA on the management of CCW in landfills and surface impoundments; and
- An update to EPA's damage case assessment.

The NODA also will make additional information available for public comment. Specifically, a rulemaking petition submitted by citizens' groups and two possible approaches to address coal combustion wastes: one prepared by the electric utility industry and the other prepared by citizens' groups. The Agency is seeking public comment on how, if at all, this additional information should affect the Agency's decisions as it continues to follow-up on its Regulatory Determination for CCW disposed of in landfills and surface impoundments.

On the question of mine lands, EPA has been working with the Office of Surface Mining (OSM). OSM issued an Advanced Notice of Proposed Rulemaking on March 14, 2007. The comment period for the Advanced Notice closes on June 13, 2007.

Question 55. Please describe the meetings that EPA personnel have had on this issue with other Federal agencies, including but not limited to the Office of Management and Budget, and stakeholders, including but not limited to the Utilities Solid Waste Activities Group.

Response. Following the Regulatory Determination of May 2000, the Agency had a series of public meetings; meetings with the utilities industry to discuss their voluntary action plan; interaction with DOE to scope and then conduct a study on CCW management practices; meetings with OSM to coordinate and define the respective agencies' responsibilities in the wake of the National Academies of Sciences (NAS) report recommendations on minefilling of CCW; and meetings with citizen groups to discuss their concerns about CCW disposal. In addition, since the draft NODA was submitted to OMB for review, there have been conference calls to discuss OMB's review comments and proposed revisions. The substantive meetings are discussed in greater detail below.

The Interstate Mining Compact Commission (IMMC) conducted four meetings concerning the Mine Placement of Coal Combustion Waste among State and tribal mining regulators, Department of Interior and EPA representatives in order to collect and analyze technical and regulatory information related to minefilling of coal combustion waste. These meetings took place on the following dates:

- May 15 - 16, 2001
- November 14 - 15, 2001
- April 15 - 16, 2002

- October 29 - 30, 2002

Subsequent to the 2000 regulatory determination, EPA held a series of public meetings, attended by citizen groups, industry, and State representatives. These meetings provided opportunities for citizens, States, and industry to express views about coal combustion waste disposal practices. The meetings allowed stakeholders to express their concerns about damage cases associated with CCW management practices, and on the beneficial uses of coal combustion byproducts. Specifically:

A stakeholders' meeting took place at EPA headquarters in Washington, DC on May 19-20, 2003, to address Minefill Practices for Coal Combustion Residues. The meeting was attended by representatives from citizen and environmental interest groups, industry, States, and other Federal agencies.

Public meetings took place in Texas, Indiana and Pennsylvania (two meetings), on the following dates (Note: These public meetings were held specifically at the request of citizen's groups who wanted EPA to hear the concerns of citizens in various parts of the country):

- March 23, 2004 - Pennsylvania
- April 13, 2004 - Texas
- April 22, 2004 - Indiana
- May 5, 2004 - Pennsylvania

Two meetings took place between citizen groups and EPA's Assistant Administrator for the Office of Solid Waste and Emergency Response. In May 2003, there was a meeting of citizen groups with Marianne Horinko and on October 26, 2006 there was a meeting with Susan Bodine. The latter meeting was preceded by a meeting between the citizen groups and OSM representatives, where OSW staff and management also participated, to discuss their view on the rulemaking of CCW placement in mines.

In the development of the joint DOE/EPA report, between October 2004 and July 2006, there were about half-a-dozen meetings between EPA and DOE to scope the study, discuss its implementation, guide the contractor in its preparation and revision, and prepare a charge for peer review. The peer review process involved the following external experts:

- Keith Belton of the Office of Management and Budget (OMB);
- Lisa Evans of the Clean Air Task Force (CATF);
- Tim Lohner, Donna Hill and Elizabeth Aldridge of the Utility Water Act Group (UWAG); and
- K. Nelson, B. Docto, J. Myrom and R. Thompson of the Association of State and Territorial Solid Waste Management Officials (ASTSWMO).

With regard to the USWAG's voluntary plan, there were several meetings with the representatives of USWAG. Between 2003 and 2005, there were about half-a-dozen meetings between USWAG and EPA Office of Solid Waste (OSW) staff. EPA also met with a State official and had telephone conversations, email exchanges and written correspondence with citizen groups regarding this matter. In addition, USWAG representatives came in to discuss their voluntary plan, meeting once with each of the following Office of Solid Waste and Emergency Response (OSWER) Assistant Administrators (AAs): Marianne Horinko, Tom Dunne, and Susan Bodine.

On March 1, 2006, the National Academy of Sciences (NAS) issued a report on the placement of CCWs in coal mines. The work by the NAS was funded by EPA and involved public meetings which included representatives from industry, citizen groups, and states. OSW staffers and first line supervisors also met with the NAS and were present during many of the meetings NAS held during the development of the report. Since the report was issued, EPA has been working with OSM to better address minefilling in coal mines. The meetings took place as follows:

- July 26, 2006, OSM and EPA met with Interstate Mining Compact Commission representatives to hear IMCC comments on NAS minefill report
- Aug. 17, 2006, EPA and OSM staff met at OSM to discuss plans to coordinate the OSM ANPR and EPA NODA
- Jan 11, 2007, EPA staff and OSM staff met at OSM to discuss progress on the OSM ANPR and EPA NODA; and
- February 28, 2007, National Mining Association Meeting to discuss ongoing OSW activities regarding CCW disposal and Mine Placement.

Teleconferences with OMB and other agencies focused on two products: the joint DOE/EPA report on CCW management practices, in the context of which there were two teleconference meetings in early 2006 to discuss the first draft report and its revision. The second series of teleconference meetings has been associated with OMB's interagency review of the CCW NODA and its auxiliary documents. The three teleconferences to discuss the NODA took place as follows:

- April 13, 2007
- April 26, 2007
- May 9, 2007.

REPONSES BY STEPHEN JOHNSON TO ADDITIONAL QUESTIONS
FROM SENATOR INHOFE

AIR—PM STANDARD

Question 1. Administrator, last year, we heard testimony from a member of the Clean Air Science Advisory Committee, who essentially supported your decision for selecting a particular lower daily fine PM standard as part of the periodic national ambient air quality standards review. Please tell us why, in your discretion and judgment as Administrator, you selected that standard?

Response. EPA places great importance on the advice of the Clean Air Science Advisory Committee (CASAC). With regard to the 24-hour $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS), EPA revised the level of the standard to 35 $\mu g/m^3$, which was within the range recommended by CASAC (30-35 $\mu g/m^3$). The preamble for the final rule discussed in detail the rationale for the Administrator's final decision (71 FR 61144). Specifically, section II.F.1 discussed the selection of the level of the 24-hour $PM_{2.5}$ standard (71 FR 61168 to 61172).

In summary, EPA's final decision relied on an evidence-based approach that considered the much expanded body of evidence from short-term exposure $PM_{2.5}$ studies as the principal basis for selecting the level of the 24-hour standard, with such standard aimed at protecting against health effects associated with short-term exposures to $PM_{2.5}$. Based on the information presented in the PM Staff Paper and Criteria Document and in supporting analyses, EPA observed an overall pattern of statistically significant associations reported in studies of short-term exposure to $PM_{2.5}$ across a wide range of 24-hour average 98th percentile values. More specifically, EPA observed a strong predominance of studies with 98th percentile values down to about 39 $\mu g/m^3$ reporting statistically significant associations with mortality, hospital admissions, and respiratory symptoms. Within the range of 24-hour average 98th percentile $PM_{2.5}$ concentrations of about 35 to 30 $\mu g/m^3$, EPA no longer observed this strong predominance of statistically significant results. Rather, within this range, one study reported statistically significant results, while other studies reported mixed results in which some associations, reported in the study, were statistically significant and others were not. Other studies reported associations that were not statistically significant.

Further, EPA concluded that the very limited number of studies in which the 98th percentile values were below this range do not provide a basis for reaching conclusions about associations at such levels. Thus, in our view, this body of evidence provided confidence that statistically significant associations are occurring down close to this range, and it provided a clear basis for

concluding that this range represents a range of reasonable values for a 24-hour standard level.

It was further noted that focusing on the range of 35 to 30 $\mu g/m^3$ was consistent with the interpretation of the evidence held by most CASAC Panel members as reflected in their recommendation to select a 24-hour $PM_{2.5}$ standard level within this range. EPA recognized, however, the separate point that most CASAC Panel members favored the range of 35 to 30 $\mu g/m^3$ for the 24-hour $PM_{2.5}$ standard in concert with an annual standard set in the range of 14 to 13 $\mu g/m^3$, as discussed in section II.F.2 of the preamble to the final rule (see 71 FR 61172 to 61177).

EPA viewed the quantitative risk assessment as providing supporting evidence for the conclusion that there was a need to revise the current suite of $PM_{2.5}$ standards, but judged that it did not provide an appropriate basis to determine which specific quantitative revisions were appropriate.

EPA carefully considered comments from CASAC and others, received during the public comment period, for the proposed decision and decided to set the level of the primary 24-hour $PM_{2.5}$ standard, as proposed, at 35 $\mu g/m^3$. In our judgment, based on the currently available evidence, a standard set at this level will protect public health with an adequate margin of safety from serious health effects, including premature mortality and hospital admissions for cardiorespiratory causes that are likely causally associated with short-term exposure to $PM_{2.5}$. A standard set at a higher level would not likely result in improvements in air quality in areas across the country in which short-term exposure to $PM_{2.5}$ can reasonably be expected to be associated with serious health effects. A standard set at a lower level would only result in significant further public health protection if, in fact, there is a continuum of

health risks down to the lower end of the ranges of air quality observed in the key epidemiologic studies and if the reported associations are, in fact, causally related to PM_{2.5} at those lower levels. Based on the pattern of results observed in the available evidence, EPA is not prepared to make those assumptions.

On balance, EPA does not believe that a lower standard is necessary to provide the requisite degree of public health protection. This judgment appropriately considered the requirement for a standard that is neither more nor less stringent than necessary for this purpose and recognized that the Clean Air Act does not require that primary standards be set at a zero-risk level, but rather at a level that reduces risk sufficiently so as to protect public health with an adequate margin of safety.

CHILDREN'S HEALTH

Question 2. Administrator Johnson, can you please clarify for the Committee what changes EPA has made to the Office on Children's Health? Is there still such an office?

Response. The Office of Children's Health Protection, which was established in 1997, was merged into a new Office of Children's Health Protection and Environmental Education as a result of a 2006 reorganization. The organizational entity that was the Office of Children's Health Protection is currently the Child and Aging Health Protection Division in the new office.

HUMAN HEALTH RISK ASSESSMENT

Question 3. This budget includes an increase for Human Health Risk Assessment. Last year, the GAO issued a report, upon my request, regarding risk assessment practices at EPA in which it was recommended that EPA "enhance early planning of each risk assessment" and "identify and communicate data needs to the public and private research community." I would like your commitment that some of the increase be dedicated to ensuring a more open, transparent, and participatory risk assessment process at EPA and that EPA seek out, early in the process, information and data from academia, researchers, other Federal agencies, environmental groups, industry and any other interested parties, as recommended by the GAO. Will you make that commitment?

Response. Yes. EPA commits to dedicating some of the proposed budget increase to ensuring a more open, transparent, and participatory risk assessment process and to seeking out, early in the process, information from academic researchers, other Federal agencies, environmental groups, industry and other interested parties. EPA has initiated a series of enhancements and activities with those objectives in mind. For example, EPA contracted for expert consultations with the National Academy of Sciences on issues affecting risk assessment, such as interpretation of data from studies in animals. These panels have included input from scientists working in the public and private research communities. This kind of outreach to academic, public and private sector researchers ensures open, transparent, and broad participation in the evaluation of scientific evidence.

EPA LIBRARIES

At an Environment and Public Works Committee hearing held on February 6, 2007, I highlighted some items that EPA needs to weed from its library collection. I also referred to a substantial decline in the numbers of people actually walking into any of the EPA network of libraries in Washington, DC and throughout the country such as three people walking into the EPA Regional library in Dallas per month over the past three years, 20 people walking into the EPA Regional library in Kansas City over a seven month period last year, reportedly most people walking into the EPA Regional library in Chicago were simply looking for direction to other offices, and that at the library here in Washington, EPA's own employees use has dropped 71 percent over the past two years simply because more of the information the public or EPA employees use is now online. However, it is necessary to clarify some remaining issues from the February 6 hearing.

Question 4. EPA maintains large amount of scientific and environmental information. What information does not continue to be available to EPA employees or the public online, through interlibrary loan, or otherwise upon the request of EPA employees or the public?

Response. The Agency does not believe any information has been lost through our process to transform EPA's libraries. Materials held by libraries in the EPA Library Network continue to be available to EPA employees and the public. Digitized EPA documents can be accessed via National Environmental Publications Internet Site (NEPIS) <http://epa.gov/ncepihom/>, and hardcopy materials will continue to be acces-

sible through interlibrary loans via any of the 57,000 libraries in the US and abroad which participate in the Online Computer Library Center (OCLC). EPA continues to offer core library services to all employees.

EPA LIBRARIES-LIBRARY PLANS

At the February 6 hearing, you were asked to respond to a few emails, that you had not had the opportunity to review, the majority had received from EPA employees critical of EPA's library plan. To clarify two more specific issues raised:

Question 5. Is the Regional library located in Atlanta closed, and what library services remain available at the Region 4 library?

Response. The Region 4 library in Atlanta, GA. is open. Library services (inter-library loans and reference/research) are being provided to Region 4 staff by the on-site library contractor staff and supplemented by the OARM Cincinnati Library, which is one of the Centers of Excellence in the EPA Library Network. In addition, Region 4 staff have full access to the online services (OLS, NEPIS, and Desktop Library) provided by the EPA Library Network

Question 6. You were also asked about the closing of the EPA lab library at Fort Meade. However, is it not true at this particular "library" is simply a 10ft. by 20ft. reference room, and all reference information remains available through the Region 3 library?

Response. The Ft. Meade Library collection remains intact and onsite in this small reference room, and is available to Ft. Meade staff on a walk-in/self-service basis. However, all EPA staff in Ft. Meade and Region 3 are being provided with core library services, such as research and document delivery, by the Region 3 Library staff in Philadelphia.

LABORATORY INFRASTRUCTURE REVIEW

Question 7. We understand that the Agency is conducting a Laboratory Infrastructure Review. This review is of great interest to me because EPA has a lab in Ada, Oklahoma called the Kerr Lab. I believe they do excellent work and have become a vital part of Ada. Can you tell the Committee more about the review?

Response. As part of the FY 2008 budget process, the Office of Research and Development (ORD) was asked to work with the National Program Offices (NPOs) and 10 Regional offices to develop a plan to implement a study of the Agency's laboratory infrastructure requirements, capabilities, and operations. Similar studies have been carried out by the Agency in the past, with the most recent comprehensive laboratory study completed in July 1994. The goal of this review is to improve the effectiveness and efficiency of EPA's laboratory network (i.e., 39 laboratories in 30 cities) in order to ensure our ability to meet the environmental challenges of the future. This review will not result in the creation or closure of laboratories during the Administrator's tenure.

In the near term, the study will focus on identifying efficiency and effectiveness opportunities at individual laboratories. Workgroups are working to more clearly frame and determine the scope of the laboratory infrastructure review and encourage each laboratory to brainstorm efficiency and cost saving measures. Savings and efficiency data are currently being requested from all the Agency's laboratories. A report from the near term study is anticipated in September of 2007.

For the long term study, the Agency plans to engage an outside expert panel that will assess and evaluate the ability of EPA's laboratory network to address the Agency's mission over the next 10 years. Efforts are underway to identify options for working with an outside expert panel.

CLEAN WATER FUNDING

Question 8. I appreciate EPA's effort to reduce some of the burden from the Clean Water106 account through its recent proposed rule to create a State incentive fund. However, I have significant concerns about the proposal. The answer to the financial pressures on the program is not just raising fees but providing other incentives and most importantly reducing the regulatory burden on the States and the permittees. There is much more than can be done without requiring States to tax municipal Governments in order to pay for mandates imposed by the Federal Government. I would like to work with you and your staff on finding other solutions to the financial pressures on the 106 account. I have a few questions about the proposal:

Why did you settle on requiring States to tax municipal Governments as the only option to relieve these financial pressures?

Response. The permit fee incentive program is not a tax on municipal Governments, it is a voluntary program; no State is mandated to change its business prac-

tices to retain Section 106 base funding. A modest incentive pool will be created from Section 106 grant fund increases. The President's FY 2008 Budget provides an increase in 106 funds to ensure that the incentive pool does not reduce States 106 base funding. In developing our FY 2007 Operating Plan, we also ensured 106 funds increased sufficiently to protect base funding. It is not EPA's intention to reduce 106 funding as a result of increased State NPDES revenues.

Encouraging States to use strong business practices, including the leveraging of all available revenue streams, is consistent with the Agency's approach to sustainable infrastructure management. EPA continually emphasizes the four pillars of water infrastructure—Better Management of Water and Wastewater Utilities, Rates that Reflect the Full Cost Pricing of Services, Efficient Water Use, and Watershed Approaches to Protection. The establishment of a permit fee program incentive is just one of a number of actions the Agency is taking to promote sustainability.

States will need to meet designated thresholds based on the percentage of permit program costs recovered through permit fee collections in order to receive funding through this incentive program. EPA has taken several steps to ensure that base funding is protected. These include: creating the incentive pool only from new funding; limiting the incentive pool to approximately \$5.2 million; redistributing unearned incentive funds through the existing distribution formula; and maintaining the current formula ceilings on incentive program increases (no State may receive a one-year increase of more than 50 percent of its previous year's allocation).

Question 9. What other options were considered before you published your proposed rule?

Response. During the development of this rule, EPA took steps to engage the States, including soliciting input on other options beyond financial incentives to reduce program burdens. States identified the reduction of reporting and regulatory flexibility as alternatives. While much more work will need to be done by the States and EPA to develop viable options for regulatory flexibility, EPA currently is engaged in discussions with the States regarding opportunities to reduce reporting requirements.

Question 10. Do you plan to finalize the rule and why?

Response. The Agency held a public meeting in February 2007. In addition, EPA extended the comment period an additional 60 days (through May 5, 2007) to allow additional opportunity for comments. After considering the comments, EPA expects to issue a final rule. Through the use of fees, States may generate revenue streams, other than taxpayer general revenues, to support water quality program implementation. Maintaining sustainable programs enables both EPA and the States to achieve our environmental goals.

PERCHLORATE

Question 11. You explained during the hearing that EPA has enough data on the presence of perchlorate in drinking water and so as to avoid any future delays, you opted not to include perchlorate on the UCMR2 which will not be completed until 2011. If you have enough drinking water data, what other data does EPA need? Is there evidence that people are being exposed to perchlorate from sources other than water? Why is that information important to your decision whether or not to establish and MCL under the Safe Drinking Water Act for perchlorate?

Response. EPA believes more data are needed to fully characterize perchlorate exposure to determine whether regulating perchlorate in drinking water presents a meaningful opportunity for health risk reduction in accordance with Section 1412(b)(1)(A) of the Safe Drinking Water Act (SDWA). EPA believes that currently available data show that food may be an important source of human exposure to perchlorate. EPA believes that current data are not adequate to estimate perchlorate exposure from food versus drinking water. EPA continues to work with both the Food and Drug Administration and the Centers for Disease Control and Prevention to obtain data regarding human exposure to perchlorate from food.

ASIA-PACIFIC PARTNERSHIP

Question 12. EPA has budgeted \$5 million for the Asia Pacific Partnership. As I understand it, through technology transfers and information sharing, this partnership will work with other major developed and developing nations in the Asia-Pacific and through technology transfers and information sharing -foster energy growth within the context of reduced air pollution and even greenhouse gases. Is this correct?

Response. Yes. EPA is working with the other U.S. Government agencies to support six of the eight technical Task Forces under the Asia Pacific Partnership (APP). In each case, EPA is building on expertise developed through its public private

partnerships, such as ENERGY STAR and our domestic methane and industry programs, and is focused on sharing our experience and technologies internationally. We expect that these efforts will lead to reductions in greenhouse gas emissions, improvements in air quality, as well as economic and energy benefits.

REGIONAL ENFORCEMENT

Question 13. Region 9 has been misusing an MOA between the Corps and the EPA regarding Aquatic Resources of National Importance (ARNI). This abuse has been stopped but, in the future, how can you prevent a Region from misusing their authorities? Further, how can you ensure that similarly situated businesses are treated similarly across the nation?

Response. In order to address potential concerns with implementation of the Memorandum of Agreement (MOA), EPA issued a memorandum in October 2006 requiring improved coordination between Regions and Headquarters on actions taken under the MOA. Pursuant to the memorandum, EPA Regional offices must provide Headquarters staff with a copy of all 404(q) letters prior to issuance pursuant to the provisions of Part IV of the Section 404(q) MOA. Headquarters review is intended to ensure that the MOA is being used in a predictable, transparent, and consistent manner nationwide. We believe this process has improved the use of the MOA in providing greater certainty and predictability for the regulated community. We expect to extend this coordination between Headquarters and the Regions for as long as is necessary to ensure these improvements continue.

REGIONAL ENFORCEMENT-REGION 9

Question 14. As you know, by design, the EPA is divided into ten different regions to implement and enforce our environmental laws. Regions often abuse this design to advance their own agendas. Region 9, for example, is notorious for trying to manage the Region as if they only answer to the San Francisco liberals where it is located.

What will you do to ensure that States like Arizona and New Mexico, which are in Region 9 and have much different environmental concerns and solutions than San Francisco, are not penalized because they are overseen by an office with little understanding of their needs?

Response. EPA is committed to ensuring compliance with the nation's environmental laws and to improving public health and the environment. The Agency's goal is fair and consistent enforcement of Federal environmental laws as balanced with the flexibility to respond to region and State-specific environmental problems.

To ensure EPA Regional Offices conduct consistent oversight of States, and that States are consistently implementing environmental enforcement programs, OECA has implemented the State Review Framework (SRF).

The SRF is a tool developed in collaboration with the Environmental Council of the States (ECOS) to promote consistency and a level playing field for the regulated community. The Framework was developed in 2003 and piloted in 10 States. A FY 2004 evaluation validated the basic foundation and protocols of the Framework. Based on the results of the evaluation, the Framework was revised and, since June 2005, is being implemented in all States.

The process of evaluating all States for the first time under the Framework will be complete by the end of FY 2007. Upon completion, another evaluation will be performed to identify whether the Framework was successful in improving the level of consistency in enforcement programs across States and in the regional oversight of State programs. This evaluation is expected to lead to additional improvements in the SRF before initiating the next round of reviews.

LEAD RENOVATION, REPAIR, AND PAINTING PROGRAM PROPOSED RULE

Question 15. Early last year EPA proposed the Lead Renovation, Repair, and Painting Program rule with the goal of reducing exposure to lead hazards created by renovation, repair, and painting activities that disturb lead-based paint. EPA has demonstrated that disturbing lead-based paint can generate large amounts of lead dust. However, the clearance test requirement in the proposed rule would seemingly impose liability for any lead paint regardless of its origin solely on the professional conducting the home remodeling work. How will EPA consider this imposition of liability in the proposed rule and still ensure that trained professionals conduct remodeling work and avoid the health hazards contemplated in the proposed rule?

Response. EPA conducted extensive outreach with the renovation community prior to the publication of the Renovation, Repair, and Painting Program proposed regulation. During public meetings in 1998 and 1999, as well as during the SBREFA panel process, contractors pointed out that, if post-renovation dust clear-

ance sampling were required, the contractors would have to protect themselves by collecting pre-renovation dust samples, to ensure that they would not be held liable for pre-existing hazards. To address this concern, EPA's proposal includes an innovative cleaning verification process rather than dust clearance sampling. The proposed cleaning verification process involves wiping surfaces with disposable cleaning cloths and comparing them to a cleaning verification card.

On the one hand, while not quantitative, EPA studies indicate that in the great majority of cases when following this protocol, a contractor would achieve the level required to pass dust clearance sampling. On the other hand, the cleaning verification protocol puts reasonable limits on the amount of cleaning required of the renovator. On balance, EPA believes that this cleaning protocol is a safe, reliable and effective system of ensuring that renovation activities do not result in an increased risk of exposure to lead-based paint hazards created by renovation activities while at the same time not increasing renovators' liability for the removal of all lead-based paint hazards.

Again, EPA believes that adherence to this post-renovation cleaning verification protocol, in combination with the proposed training, containment, and cleaning requirements, is a safe, reliable and effective system of ensuring that renovation activities do not result in an increased risk of exposure to lead-based paint hazards. Further, the Agency believes that contractors will embrace these practices because they should be easy to implement, and because consumers will appreciate the results and come to expect a clean work area following all renovation activities.

RESPONSES BY STEPHEN JOHNSON TO ADDITIONAL QUESTIONS
FROM SENATOR VITTER

LANDFILLS—OLD GENTILLY

Question 1. In regard to hurricane debris at the Old Gentilly Landfill, at what point will standard requirements for disposing of asbestos containing material be required as outlined by RCRA?

Response. There are no specific requirements for disposal of asbestos containing material in the Resource Conservation and Recovery Act. Rather, disposal is regulated under the Clean Air Act National Emissions Standard for Hazardous Air Pollutants (NESHAP) regulations. Following the devastation from Hurricanes Katrina and Rita, the Louisiana Department of Environmental Quality (LDEQ) allowed the option for landfills receiving clean-up debris to apply for a permit to "enhance" specific cells within the landfills to receive Regulated Asbestos Containing Waste material from residential clean-up only. These LDEQ permitted "enhanced" cells must meet all the requirements in the Louisiana Emissions Standards for Hazardous Air Pollutants (LESHAP) asbestos landfill section, as well as the EPA's NESHAP asbestos landfill requirements section at 40 CFR 61.150.

LANDFILLS—MISSISSIPPI RIVER GULF OUTLET (MRGO) LEVEE

Question 2. Who has the liability if Old Gentilly Landfill does undermine the MRGO levee as suggested by the FEMA study and all the national experts who have reviewed the situation?

Response. The United States Army Corps of Engineers (USACE) is the lead Federal agency on the safety of the MRGO levee. On November 15, 2006, EPA's Region 6 Office facilitated a meeting that included the Louisiana Department of Environmental Quality (LDEQ), the Federal Emergency Management Agency, USACE, the Louisiana Environmental Action Network, and several consultants. The purpose of this meeting was to discuss levee stability issues. It was agreed that USACE would work with LDEQ on the issue. The USACE has stated that it will conduct an analysis to assure stability of the MRGO levee.

LANDFILLS—NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) ALTERNATIVE
ARRANGEMENTS

Question 3. NEPA alternative arrangements are being developed for activities related to levees. Why are there no NEPA alternative arrangements for debris disposal?

Response. Debris disposal is being undertaken under the Stafford Act, which waives the applicability of National Environmental Policy Act (NEPA). In contrast, levee construction will take place under the authorities of the US Corps of Engineers. The NEPA alternative measures for activities related to levees are designed and intended to allow early and expedited consideration of segregable portions of levee improvements so that construction work can commence on such portions with-

out awaiting completion of NEPA review on entire levee systems. Those alternative arrangements have been approved by the President's Council on Environmental Quality.

Question 4. At what point will the agencies evaluate the consequences of debris disposal with a rigorous alternative analysis such as a NEPA or an IT analysis for activities in Louisiana?

Response. The Louisiana public trust doctrine, a.k.a., IT Doctrine, arises under the Louisiana Constitution. Its application to emergency debris disposal actions undertaken or authorized by State agencies is a matter of State law on which EPA has no particular expertise.

EPA's Region 6 office is aware of no Federal agency planning to evaluate the consequences of debris disposal with a rigorous alternative analysis such as a NEPA analysis.

LANDFILLS—HURRICANE DEBRIS

Question 5. For hurricane debris should agencies use emergency powers to dispose of waste in environmentally-less preferable alternatives when other alternatives exist?

Response. EPA has the authority under 42 USC Section 6973, in general, to respond to solid waste releases that may present an imminent and substantial endangerment to human health or the environment. In an appropriate case, when all of the elements of liability and the existence of an endangerment can be demonstrated, EPA may exercise this or other Federal authorities to abate an endangerment. Such action would have to be protective of human health and the environment. As a general matter, States regulate non-hazardous solid wastes under their own standards. Federal regulations set minimum performance standards for municipal solid waste (including household wastes), but these are implemented by approved State programs. States generally regulate non-hazardous construction and demolition debris under their State standards. EPA is coordinating with the Louisiana Department of Environmental Quality, the US Corps of Engineers and the Federal Emergency Management Authority to ensure that the environmental safeguards are set in place to enable the proper disposal of hurricane debris.

LANDFILLS—DEBRIS REMOVAL

Question 6. Compare the use and bounds of emergency powers as applies to the waiver of State and Federal environmental laws for debris removal in the following situations: Katrina and Rita in Louisiana, Mississippi, Alabama and September 11th in New York. Which laws governing debris removal were waived, to what extent, and for how long?

Response. EPA did not offer any waivers of Federal or State law for debris removal in response to the collapse of the World Trade Center, or Hurricanes Katrina and Rita. However, on October 21, 2005, February 3, 2006, February 24, 2006, and April 28, 2006, EPA issued No Action Assurance letters to provide flexibility under the Federal asbestos National Emission Standards for Hazardous Air Pollutants program to address the widespread devastation from Hurricanes Katrina and Rita. The No Action Assurances dealing with demolition practices were extended on February 2, 2007, February 23, 2007, and March 9, 2007 to be effective through September 30, 2007. These actions allow Louisiana and Mississippi to move forward more expeditiously with certain residential demolition and disposal activities, while still protecting public health and the environment.

The No Action Assurances provide flexibility to:

- allow limited residential demolition to proceed without inspections and asbestos removal prior to demolition, as long as emission control practices remain in place,
- allow the State or local Government to issue demolition orders for groups of residences, and
- evaluate possible regulatory flexibility for burning or grinding of residential demolition debris prior to disposal.

LANDFILLS—NEW ORLEANS

Question 7. How much debris, and of what types, is estimated to remain in Louisiana?

Response. The United States Army Corps of Engineers and the Louisiana Department of Environmental Quality (LDEQ) maintains this data and would have the best estimates of the quantity and type of waste remaining.

Question 8. What is the current capacity of area landfills for debris disposal in New Orleans?

Response. Information of the current capacity of New Orleans area landfills may be available from LDEQ.

LANDFILLS—TYPE III LANDFILLS

Question 9. List the standard requirements and procedures for permitting a Type III landfill and compare to the requirements and procedures followed for the Gentilly Type III landfill.

Response. While Federal law addresses solid waste management generally, and EPA approves State municipal solid waste programs, the permitting and direct regulation of solid waste landfills are primarily State responsibilities to be conducted pursuant to State law. Consequently, the requirements and procedures for permitting landfills vary from State to State.

The Gentilly landfill is a Type III solid waste landfill pursuant to Louisiana's solid waste regulations and laws. As a result, EPA's Region 6 office did not participate in the Gentilly permit application process.

Question 10. Address all aspects of the permitting and operating process including: public involvement; permit requirements including design requirements, landfill operations and financial assurances; and all other potentially applicable permits such as water discharge.

Response. In terms of National Pollutant Discharge Elimination System (NPDES) discharge permitting requirements, Louisiana Department of Environmental Quality (LDEQ) has a general permit to authorize discharges from Construction and Debris landfills. This permit expired in August 2006, but has been administratively continued; landfills that were covered under this permit prior to its expiration remain covered. In the meantime, a new permit has undergone public notice and should be reissued soon.

New landfills that started operations after the hurricane have been operating under LDEQ's emergency order, which requires that they meet the general permit requirements. Some of these facilities have already terminated operations and no further NPDES coverage is needed. Facilities that remain in operation are required to seek coverage under the soon-to-be-reissued landfill general permit.

We are advised that LDEQ will be issuing individual permits to some facilities, like the Gentilly Landfill. For facilities that have ceased operations but have not been officially closed by LDEQ's Solid Waste Permitting Section, Multi-Sector General Permit coverage is required until the time that official closure is approved.

In terms of CWA Section 404 permitting requirements, the U. S. Army Corps of Engineers is the permitting authority. However, it is our understanding that the Gentilly Landfill did not require a Section 404 permit.

Question 11. For the Gentilly Type III landfill, list the original date the process or permit requirement was proposed, any changes that were made to the process or requirement, and the date the process or requirement was completed.

Response. In 2002, the City of New Orleans submitted an application to the LDEQ for a Type III landfill. After an opportunity for review and public comment, LDEQ issued the permit in December 2004. Groundwater monitoring and geotechnical monitoring is being performed at the Gentilly site; the State does not usually require this monitoring at Type III landfills. The old landfill predated the current State rules that established Type I, II and III landfills.

Question 12. Also provide the same comparison for the closure process and monitoring requirements for a standard Type I landfill and for the process as originally proposed, any changes that were made, and the actual arrangements and completion date of the activity for the Gentilly Type I landfill.

Response. In Louisiana, a Type I landfill is used for disposing of industrial solid wastes. A Type III landfill is used for disposing or processing of construction/demolition debris or woodwaste, composting organic waste to produce a usable material, or separating recyclable wastes (a separation facility). The LDEQ reported that the old Gentilly landfill was not a Type I landfill. For more details regarding the permit conditions for the Gentilly landfill, please contact the LDEQ.

LANDFILLS—CHEF MENTEUR LANDFILL

Question 13. How will closure on the Chef Menteur landfill proceed?

Response. The closure plan for the Chef Menteur site is currently being reviewed by the Louisiana Department of Environmental Quality (LDEQ). Once a closure plan is approved, LDEQ will be responsible for monitoring the closure. EPA will provide technical assistance upon request by LDEQ.

LANDFILLS—NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) ANALYSIS

Question 14. Do you believe that a NEPA analysis should be required for debris disposal when Federal funds are paying for all work after Hurricanes Katrina and Rita? If so, why has this not applied to certain landfills in the New Orleans area?

Response. Debris removal actions funded or undertaken under Section 407 of the Stafford Act are excluded by Section 316 of the National Environmental Policy Act (NEPA) from review. Presumably, this represents a Congressional determination that such actions should be performed without the delays inherent in NEPA review.

LANDFILLS—CHEF MENTEUR LANDFILL CLOSURE

Question 15. The closure of the Chef Menteur landfill is a first step; however, dangerous waste is potentially being stored there and a threat to the community and environment. What steps will EPA take to ensure the testing, protection and clean closure of this waste field?

Response. States have the primary responsibility to implement the regulations for the disposal of solid waste. Thus, the closure plan for the Chef Menteur site is currently being reviewed by the Louisiana Department of Environmental Quality (LDEQ). Once a closure plan is approved, LDEQ will be responsible for monitoring the closure. EPA has no direct responsibility to ensure the testing, protection and clean closure of this waste field.

Question 16. Can you explain what other steps and enforcement actions the EPA has taken to address these problems?

Response. Upon request by LDEQ, EPA will provide technical assistance.

POST KATRINA NPDES SECTION 402 PERMITS

Question 17. What is the status of Section 402 (point source pollution) permits on the various landfills being used for hurricane debris?

Response. The Louisiana Department of Environmental Quality (LDEQ) has issued a general permit to authorize discharges from construction and debris landfills. The permit expired on August 2006, and was administratively continued. Landfills that were covered under this permit prior to the expiration remain covered. New landfills that started operation after the general permit expired have been operating under an emergency order issued by the LDEQ. This order requires facilities to meet the same requirements that are in the expired landfill general permit. LDEQ will be issuing individual permits to some facilities.

Facilities that have terminated operations, installed a final cover, and have been officially closed by LDEQ no longer need coverage under the permit. Facilities that have ceased operations (including a final cover), but have not been officially closed by the LDEQ are required to be covered by a general permit for industrial storm water discharges until official closure is approved. A new draft permit has undergone public notice and should be reissued soon.

In Mississippi, emergency landfills used for disposal of debris from Hurricane Katrina are not allowed to discharge contaminated storm water, and hence, and NPDES permit is not required. The Mississippi Department of Environmental Quality (MDEQ) worked with local Governments in the coastal counties and approved 13 temporary emergency disposal sites in addition to 6 permitted landfill sites that existed prior to the hurricane. All but one debris disposal site have been closed.

MDEQ implemented a number of policies to manage the debris to protect groundwater quality, wetlands and nearby surface water quality. In addition, the State worked to segregate improper wastes from debris. MDEQ worked with FEMA to install a groundwater monitoring system at each of the 13 emergency disposal sites.

RURAL WATER FUNDING

Question 18. With over 1,800 rural water systems in Louisiana, funding for rural water assistance is very important to me. After Hurricanes Katrina and Rita, Louisiana Rural Water Association assisted 700+ water systems in ensuring that safe drinking water was provided to the affected communities in a short period of time. These communities would not have been able recover if it would not have been for rural water.

Small communities in Louisiana rely on rural water assistance to comply with the EPA rules and regulations, and for maintaining the required training (which rural water provides for free.) For complying with the complex regulations at the local level, rural water provides assistance to help small communities comply. There is no one else in the State offering this assistance, and as far as the small communities are concerned, this is very helpful and a beneficial use of EPA spending at the local level. Rural water represents less than one percent of the EPA's environ-

mental programs management spending that was provided to EPA in the Continuing Resolution. It is \$11.0 million for rural water's 3 environmental initiatives (source water protection, ground water protection, and training and technical assistance).

Would you comment on what the EPA thinks about the importance of rural water funding and the value in what the National Rural Water Association does for providing assistance at the local level?

Response. EPA agrees that small drinking water systems require training and technical assistance to ensure that they are able to comply with standards under the Safe Drinking Water Act. We are aware that, in many States, technical assistance providers (including State Rural Water affiliates) play an important role in supporting small public water systems. States can use 2 percent of their Drinking Water State Revolving (DWSRF) fund allotment within the State and Tribal Assistance Grants (STAG) appropriation to provide technical assistance to small systems. Since the program began, the State of Louisiana has reserved 1.2 percent for small system technical assistance. In FY 2006, more than \$156,000 was expended in technical assistance to small systems. The State also expended more than \$360,000 for other DWSRF set-aside activities that benefit small systems.

In addition, the Agency's FY 2007 Enacted Operating Plan includes \$8.0 million for competitive grants to support technical assistance for rural water systems.

RESPONSES BY STEPHEN JOHNSON TO ADDITIONAL QUESTIONS
FROM SENATOR VOINOVICH

GREAT LAKES—INTERAGENCY TASK FORCE

Question 1. Under the President's 2004 Great Lakes Executive Order, the EPA was designated as the lead agency of the Great Lakes Federal Interagency Task Force. The Interagency Task Force includes 9 cabinet departments as well as the Council on Environmental Quality. However, there have been 2 Federal actions in the last few months that have undermined the purposes of this Interagency Task Force. The first action was the proposal by the U.S. Coast Guard to establish live-fire testing areas throughout the Lakes, and the second action was the order from the USDA's Animal and Plant Health Inspection Service (APHIS) which suspended the interstate movement of certain species of Great Lakes fish. It is my understanding that neither the Coast Guard nor APHIS consulted with the Interagency Task Force before acting. How does the EPA intend to address this problem in the future?

Response. The Interagency Task Force (IATF), through the efforts of the Regional Working Group (RWG), is actively coordinating and discussing issues such as these. Whenever possible and appropriate, the IATF/RWG discusses such issues in advance. As the chair of the Interagency Task Force, EPA will continue to work as part of the IATF/RWG to improve Federal coordination, and to implement all requirements of Executive Order 13340 on the Great Lakes.

WATER INFRASTRUCTURE

Question 2. How do you expect cities like Akron, Cleveland, Columbus, Cincinnati who are under enforcement actions from the EPA—to spend millions of dollars for water infrastructure upgrades when the Administration proposes to cut funding for the Clean Water SRF program?

Response. In 2004, the President's budget presented a long-term plan to address national water infrastructure needs which included an extension of Federal funding of the Clean Water State Revolving Fund (SRF) through 2011. The Administration continues to reinforce this Federal commitment to provide \$6.8 billion over 2004-2011 so that the Clean Water SRFs will provide an average \$3.4 billion a year in financial assistance over the long term.

For nearly 20 years the Clean Water SRF has played a significant role in helping to finance wastewater infrastructure. Over this time period, EPA has provided more than \$24 billion to help capitalize the State-operated programs. By combining the Federal funds with State monies and recycled loan repayments, Clean Water SRFs have been able to fund \$61 billion in crucial water quality projects. As intended by Congress, the revolving nature of the programs has established the Clean Water SRFs as self-sustaining entities that will continue to be an important source of funding long into the future.

While the Clean Water SRF is now and will continue to be a critical tool, it was never intended to be the only source of funds for addressing the nation's wastewater infrastructure needs. The nation's success in addressing our wastewater infrastruc-

ture needs will also depend on contributions of other financing vehicles, rates that reflect the full cost of services, and sustainable practices that reduce the costs and lessen the burden on the utility sector. EPA's Sustainable Infrastructure Strategy, developed in collaboration with communities, utilities, and other stakeholders, represents a suite of approaches that are an important part of the solution to the infrastructure needs of communities like Akron, Cleveland, Columbus, and Cincinnati. These program areas focus on the means by which we can reduce: 1) the demands placed on infrastructure, 2) the need for new infrastructure, and 3) the total cost of maintaining infrastructure over the long term.

To provide additional opportunities to communities for financing needed wastewater infrastructure, Congress should enact the Administration's FY 2008 Water Enterprise Bond proposal, which would provide an exception to the unified annual State volume cap on tax-exempt qualified private activity bonds for wastewater and drinking water projects. To ensure the long-term financial health and solvency of these drinking water and wastewater systems, communities using these bonds must have demonstrated a process that will move toward full-cost pricing for services within five years of issuing the Private Activity Bonds. Consequently, this proposal will attract more private capital to meet the infrastructure needs of these sectors, help water and wastewater systems become self-financing, and minimize the need for future subsidies.

WATER INFRASTRUCTURE—AFFORDABILITY

Question 3. Two years ago, the EPA announced that affordability is an issue for communities facing the costs of significant capital improvements, why has EPA enforcement failed to consider affordability issues in their approach to achieving compliance?

Response. EPA has always included affordability issues in the consideration of timing of expenditures for municipalities needing to make significant capital improvements in order to comply with environmental laws. Both CSO (Combined Sewer Overflow) and SSO (Sanitary Sewer Overflow) enforcement cases frequently require remedies with significant capital improvements. The Agency's approach for evaluating such affordability issues in the context of municipal wastewater compliance costs is specifically addressed in the 1997 "Combined Sewer Overflows-Guidance for Financial Capability Assessment and Schedule Development." This Guidance addresses how to determine the financial capability of a municipality and how to adjust the implementation schedule in situations where the CSO control measures will result in a high financial burden.

In addition, the Enforcement Management System guidance for Clean Water Act violations directs that schedules of compliance which require addressing significant capital investments should take into account the financial capabilities of the specific municipality. (The Enforcement Management System, National Pollutant Discharge Elimination System (Clean Water Act), "Chapter X: Setting Priorities for Addressing Discharges from Separate Sanitary Sewers," page 2). EPA has and will continue to apply these concepts to adjust the length of implementation schedules in the CSO and SSO judicial and administrative enforcement actions taken by the Agency.

WATER INFRASTRUCTURE—SSO ENFORCEMENT

Question 4. Why has the EPA allowed the Regional EPA offices to initiate SSO enforcement when there are no national SSO regulations, policy or standard?

Response. There are a number of Agency policy statements that articulate the Agency's longstanding position that Sanitary Sewer Overflows (SSOs) are illegal and that enforcement to address SSOs is appropriate. In 1989, EPA published the "National Combined Sewer Overflow Control Strategy," in which the Agency unequivocally stated that "[d]ischarges from separate sanitary sewer systems with less than secondary treatment are prohibited." 54 Fed Reg. 37,370 (EPA Sept. 8, 1989).

In a March 7, 1995 policy statement issued by Steven A. Herman, Assistant Administrator, Office of Enforcement and Compliance Assurance, and Robert Perciasepe, Assistant Administrator, Office of Water, entitled "Enforcement Efforts Addressing Sanitary Sewer Overflows," the Agency reiterated this position and the need to continue SSO enforcement. This policy statement provides that: "SSO discharges to waters of the United States are prohibited by the Clean Water Act." In addition, the policy statement addressed the question of what EPA should do regarding enforcement of SSO violations in light of a then ongoing SSO Federal Advisory Committee that was assisting in the developing of a proposed SSO rule. The policy statement declared: "The EPA believes that a delay in enforcement is unwarranted because of the seriousness of many of these discharges to public health and water quality." In 1996, EPA revised "The Enforcement Management System, Na-

tional Pollutant Discharge Elimination System (Clean Water Act)” by adding “Chapter X: Setting Priorities for Addressing Discharges from Separate Sanitary Sewers.” This policy provides guidance on when and how to use enforcement actions to address SSO violations.

More recently, in an April 10, 2005 document entitled “Guidelines for Federal Enforcement in CSO/SSO Cases” developed jointly with the Environmental Council of States, the Agency reiterated that “[c]ombined sewer overflows (CSOs) and sanitary sewer overflows (SSOs) are national environmental problems with significant environmental impacts.” This document enumerated circumstances in which Federal enforcement would be appropriate to address CSO and SSO violations, and it encouraged EPA regions to work with States with approved NPDES programs whenever possible to leverage limited Federal and State resources.

EPA has continued to bring enforcement actions for SSOs to the extent that they constitute unauthorized discharges to waters of the United States or violations of permit conditions for proper operation and maintenance, in violation of Section 301 of the Act, or to the extent that they are presenting an imminent and substantial endangerment under Section 504 of the Act. The vast majority of judicial actions for SSOs have been brought jointly with approved States.

RESPONSES BY STEPHEN JOHNSON TO ADDITIONAL QUESTIONS
FROM SENATOR CARDIN

CHESAPEAKE BAY

Question 1. In October 2005, the Government Accountability Office (GAO) issued a report entitled: Chesapeake Bay Program: Improved Strategies Are Needed to Better Assess, Report and Manage Restoration Progress. The GAO report found, among other things, that the Chesapeake Bay Program did not have a comprehensive, coordinated implementation strategy to meet the goals of the Chesapeake 2000 Agreement. Does EPA now have a comprehensive, coordinated implementation strategy?

Response. The Chesapeake Bay Program Strategic Implementation Plan is in the final stages of development, with completion expected by the end of 2007. The Chesapeake Bay Program partnership completed outlining the overall framework, unifying five strategic focus areas—restoring healthy waters, restoring healthy habitats, ecosystem-based fisheries management, Bay friendly watershed management, and fostering Chesapeake Stewardship. At the same time, the leads for each strategic focus areas are working together to ensure coordination throughout the strategic focus areas. Fine-tuning of the strategy is underway, including identification of specific geographic focus areas in which complementary restoration efforts will be leveraged. The first draft of the strategies for each of the focus areas is expected in July, 2007. Descriptions of these focus areas and connections between them can be found at www.chesapeakebay.net/strategicimplementation.htm.

The Strategic Implementation Plan (SIP) is integrating all of the Bay Program’s activities into a realistic plan that targets resources to ensure that the most effective and realistic work plans are developed and implemented. Annual targets, outputs, and outcomes will be included in the SIP, which is organized into the five strategic areas, or pillars, based on the Chesapeake 2000 Agreement. With the SIP, the Program is changing the existing extensive tracking of restoration actions into a planning/tracking/and feedback system. Each year, as part of the SIP process, the program will provide annual reports that show yearly goals and progress made. Annual review and assessment of the effectiveness of the restoration partners’ activities will help the program modify its priorities and activities based on the feedback loop between targets and results.

CHESAPEAKE BAY—POLLUTION

Question 2. Pollution associated with the rapid population growth in the watershed, now more than 170,000 new residents annually, is actually increasing. What tools can EPA use to address this pollution sector?

Response. Human population growth long will continue to be a major driving force behind a wide range of challenging air, land, and water pollution problems in the Chesapeake Bay watershed. For example, while human population in the watershed increased by 8 percent between 1990 and 2000, the area of the watershed covered by impervious surface increased by 41 percent. As the population increases, urban stormwater is the only sector from which pollutant loads to the Bay are increasing. These loads constitute less than 30 percent of the total nutrient and sediment loads to the Bay; however, their continual increase puts at risk the overall effort to reduce and cap total loads.

To address these problems, EPA makes use of the full range of pollution control tools through the Clean Air, Clean Water and Safe Drinking Water Acts. In addition, the Chesapeake Bay Program partner States have designed management practices to achieve the reductions needed, relying on both regulatory and voluntary efforts.

The States' primary Federal regulatory program for achieving load reductions in the urban sector is the Municipal Separate Storm Sewer Systems (MS4) and construction sites stormwater component of EPA's National Pollutant Discharge Elimination System (NPDES). In addition, States' efforts to meet regulatory total maximum daily load (TMDL) allocations can also be applied to help achieve urban sector goals for restoring the Bay. To date, however, neither MS4 permitting nor local TMDL programs have yet evolved sufficiently to fully support achieving Bay restoration goals. A key missing piece, the ability to allocate Bay nutrient and sediment load reduction requirements to the local level—at a geographic scale appropriate for use in MS4 permitting and TMDLs, will be available in 2008.

To complement the NPDES regulatory tools, collaborative Chesapeake Bay Program partner efforts recently led to establishing Stormwater and New Development Task Group. Chesapeake Executive Council Directive 04-2 tasked the partners with developing a prevention and preservation-oriented approach to stormwater from new development. The Task Group is in the process of developing a set of guiding principles for effective local stormwater management, likely to include a policy of first attempting to maintain pre-development site hydrology, or second, employing offsets elsewhere to achieve no net increase in nutrient and sediment loads from new development. Through the collaborative efforts EPA will continue to build upon the best available technical information and regulatory approaches to design and implement collective solutions to the Bay watershed's stormwater pollution problems.

CHESAPEAKE BAY—CHESAPEAKE SMALL WATERSHED GRANTS PROGRAM

Question 3. The Chesapeake Small Watersheds grants program is authorized in Section 117 of the Clean Water Act. Since 1999, money has been appropriated annually, totaling more than \$17 million, to fund more than 500 grants. Grantees have leveraged more than \$45 million in additional funds to restore 4,500 acres of wetlands, 300 miles of forested stream buffers, and similar projects. In FY06 we appropriated \$2 million for this program. In the FY 2007 Operating Plan, what is the funding level that you are proposing?

Response. The FY 2007 Operating Plan does not provide funding for the Chesapeake Bay Small Watershed grants program. The total FY 07 enacted budget for the Chesapeake Bay Program is \$26.8 Million. This includes \$6 million for competitive grants for innovative, cost effective non-point source watershed projects, which reduce nutrient and/or sediment discharges to the Bay. The Federal cost share will not exceed 50 percent.

CHESAPEAKE BAY—NONPOINT SOURCE PROJECTS

Question 4. Page 951 of the Appendix to the President's budget submission states "... the President's Budget provides \$6 million for the Chesapeake Bay Small Watersheds Grant Program to implement innovative and cost-effective nonpoint source projects, which reduce nutrient discharges to the Bay." However, the Congressional Justification notes that the budget provides \$8 million for "... competitive grants for innovative, cost-effective non-point source watershed projects which reduce nutrient and/or sediment discharges to the Bay. The Federal cost share will not exceed 50 percent." Please explain why these descriptions and amounts differ and clarify the Administration's intent.

Response. The EPA's Congressional Justification contains the final version of the Administration's budget submission for the Chesapeake Bay Program. The FY 2008 budget provides for \$8.0 million for competitive grants for innovative, cost-effective non-point source watershed projects which reduce nutrient and/or sediment discharges to the Bay. The Federal cost share will not exceed 50 percent.

RURAL WATER PROGRAMS

Question 5. The National Rural Water Association is operating under a contract with EPA that expires next year. EPA was provided funding for this type of activity in the FY 2007 funding bill approved last month by the Congress. Is there any consideration by EPA not to continue the rural water contract through the rest of fiscal year 2007?

Response. In the past, appropriations committee report language has earmarked and EPA has awarded noncompetitive grants to the National Rural Water Associa-

tion (NRWA). In adhering with the FY 2007 Continuing Resolution (P.L. 110-5, Sec. 112), EPA has not funded this earmark in FY 2007. In addition to funds already available under the Drinking Water State Revolving Fund (DWSRF) set-aside, the Agency's FY 2007 Enacted Operating Plan includes \$8.0 million for competitive grants to support technical assistance for rural water systems.

EPA is aware that in many States, technical assistance providers (including State Rural Water affiliates) play an important role in supporting small public water systems. As mentioned above, States can also use 2 percent of their Drinking Water State Revolving (DWSRF) fund allotment within the State and Tribal Assistance Grants (STAG) appropriation to provide technical assistance to small systems. Since the program began, Maryland has reserved 1.8 percent for small system technical assistance. In FY 2006, the State of Maryland expended more than \$183,000 for technical assistance to small systems. In addition, the State also expended more than \$479,000 for other DWSRF set-aside activities that benefit small systems.

ENVIRONMENTAL EDUCATION

Question 6. It is my understanding that the Fiscal 2008 budget request terminates funding for EPA's environmental education program. I am a strong proponent of environmental education. In EPA's report *Everyday Choices: Opportunities for Environmental Stewardship*, the agency refers to environmental education as "an integral partnership" with environmental stewardship. Given this recognition of the benefits of environmental education to your Agency's mission, what is the rationale for not requesting funds for this program in Fiscal 2008?

Response. The Agency believes that environmental education is an integral part of its programs and mission and thus does not require a separate EPA program. Additionally, many States, local Governments and private organizations have developed their own environmental education programs.

LEAKING UNDERGROUND STORAGE TANKS

Question 7. Last month, the GAO released a report that noted it is going to take \$12 billion to cleanup just half of the remaining Leaking Underground Storage Tank sites in the U.S. Despite the fact that there is currently a \$3 billion trust fund specifically dedicated to these cleanups, the EPA FY08 budget only calls for \$72 million. In Maryland there have been more than 10,000 confirmed releases, and more than 900 of them require at least some public funding. In light of the new information about the need, do you think that EPA should reevaluate this request and ask Congress to consider adding more money?

Response. EPA commends GAO for a thorough analysis and sound recommendations. Most of the \$12 billion cleanup cost referred to in the GAO report will be borne by State financial assurance funds that were established by some States to help tank owners meet the financial assurance obligations of Subtitle I of the Resource Conservation and Recovery Act (RCRA). These funds are capitalized by State gas taxes and fees paid by tank owners and, in 2005, received approximately \$1.4 billion in revenue while paying out \$1.032 billion.

In States, such as Maryland, which rely on private insurance instead of a State fund, most cleanup costs will be borne by private insurance and tank owners. EPA generally agrees with most of GAO's recommendations and will work to carry them out as appropriate. The \$72 million requested from the Leaking Underground Storage Tank (LUST) Trust Fund in the FY 2008 President's Budget, which includes cooperative agreements with States, will enable EPA, States, and tribes to complete approximately 13,000 cleanups in FY 2008.

Between September 30, 1988, and March 31, 2007, there were more than 10,000 cumulative confirmed releases in Maryland. Each year Maryland has, on average, received more than \$1 million from EPA to achieve LUST cleanups. As a result, cleanups have been initiated at more than 98 percent of the sites with confirmed releases and completed at 92 percent, leaving a backlog of approximately 800 releases remaining to be cleaned up. Under the FY 2008 President's Budget, continued progress will be made to clean up LUST releases in Maryland. We are committed to evaluating program progress and program needs.

RESPONSES BY STEPHEN JOHNSON TO ADDITIONAL QUESTIONS FROM SENATOR CARPER

SMART GROWTH PROGRAM

Question 1. The EPA's Office of Smart is providing technical assistance to Sussex County, Delaware, about ways to pursue growth options that will lower the environ-

mental impact of this growth and reduce the infrastructure costs of this development. This is a fast growing county—growing by 12.7 percent between 2000 and 2005—that is looking for ways to accommodate that growth and still maintain its character. The Office of Smart Growth is able to offer this assistance in spite of a small budget and a staff of only 16 people. How many positions do you plan to cut? And which projects and technical assistance will be jeopardized as a result?

Response. The FY 2008 President's budget calls for a reduction of 10 FTE in regulatory innovation programs within the National Center of Environmental Innovation. The Smart Growth program would be reduced by 4.0 FTE, however extramural funding will increase slightly. In addition, Brownfields extramural resources used to support the Smart Growth program will be scaled back from \$554.8K to \$0. In the absence of the extramural funds, the Brownfields FTE will be working on policy analysis and outreach activities to improve the economic and regulatory environment for brownfield redevelopment.

With the reduced budget, the Agency will scale back its Smart Growth technical assistance programs, its Smart Growth awards, and its funding for Safe Routes to School and School Siting projects. In addition, the Agency will continue to support, at a reduced level, the Smart Growth program's information and education efforts.

Smart Growth Program Extramural Funding
(Dollars in Thousands)

Program Project	FY 06	FY 07	FY 08
Regulatory Innovation	\$930.9	\$930.9	\$939.9
Brownfields	\$527.3	\$554.8	0
Total Extramural	\$1,467.2	\$1,485.7	\$939.9

Smart Growth Program FTE

Program Project	FY 06	FY 07	FY 08
Regulatory Innovation FTE	14.0	14.0	10.0
Brownfields FTE	5.8	5.8	5.8
Total FTE	19.8	19.8	15.8

RURAL WATER

Question 2. The rural water associations have received a small earmark in the spending bill that funds EPA for years to help small communities protect their drinking water and comply with Federal mandates. For example, the Delaware Rural Water Association recently provided technical assistance to the City of Seaford when serious flooding resulted in problems with the wastewater treatment facility. This is another example of a program that takes a little bit of funding a long way. Please describe how you plan to address this issue in your FY07 funding?

Response. In the past, appropriations committee report language has earmarked and EPA has awarded noncompetitive grants to the National Rural Water Association (NRWA). In adhering with the FY 2007 Continuing Resolution (P.L. 110-5, Sec. 112) EPA has not funded this earmark in FY 2007. In addition to funds already available under the Drinking Water State Revolving Fund (DWSRF) set-aside, the Agency's FY 2007 Enacted Operating Plan includes \$8.0 million for competitive grants to support technical assistance for rural water systems.

EPA is aware that in many States, technical assistance providers (including State Rural Water affiliates) play an important role in supporting small public water systems. As mentioned above, States can also use 2 percent of their Drinking Water State Revolving (DWSRF) fund allotment within the State and Tribal Assistance Grants (STAG) appropriation to provide technical assistance to small systems. Since the program began, Delaware has reserved 2.0 percent for small system technical assistance. In FY 2006, the State of Delaware expended more than \$124,000 for technical assistance to small systems. In addition, the State also expended more than \$450,000 for other DWSRF set-aside activities that benefit small systems.

DERA FY07 APPROPRIATIONS

Question 3. The Diesel Emissions Reductions Act (“DERA”) was enacted 18 months ago as part of the Energy Policy Act of 2005. When will the regulations giving effect to DERA be issued? Do you intend to fund DERA at \$49.5 million as proposed by the President in his FY07 budget?

Response. Because, the provisions of the Energy Policy Act provide the necessary basis for implementing the Diesel Emission Reduction Program, EPA does not believe that it is necessary to issue any new regulations.

The FY 2007 reduction to the Diesel Emission Reduction Program, funding levels for almost all of our key programs within the STAG account were set by the bill language and cannot be altered. In the case of DERA, the 2006 Appropriations Law provides funding for diesel in STAG as follows: “\$7,000,000 for making cost-shared grants for school bus retrofit and replacement projects that reduce diesel emissions.”

The President’s FY 2007 budget proposed to change the legislative language so that there was an increase that corresponded with the Energy Policy Act of 2005. (“\$49,500,000 for grants under sections 791-797 of the Energy Policy Act of 2005.”) However, because the Clean School Bus Initiative language was written into the law in 2006 and picked up without change in the continuing resolution, we are unable to provide funding out of STAG under the broader Title VII authority.

DERA FY08 APPROPRIATIONS

Question 4. The President has proposed \$35 million in his FY08 budget proposal for DERA. Why did the President reduce his request from the \$49.5 million proposed last year?

Response. The FY 2008 President’s Budget Request reduction to the Diesel Emissions Reductions Program will continue to achieve significant reductions in PM emission levels and continue support for the Clean Diesel grants program. EPA estimates that the \$35 million for National Clean Diesel Campaign grants will leverage at least an additional \$72 million in funding assistance and reduce PM by approximately 5,040 tons.

Programs similar to the Diesel Grants have been adopted in California and Texas and are expected to achieve similar results.

RESPONSES BY STEPHEN JOHNSON TO ADDITIONAL QUESTIONS
FROM SENATOR SANDERS

LAKE CHAMPLAIN

Question 1. As you know, the Environmental Protection Agency has been directly involved in working to clean up and protect Lake Champlain in New York and Vermont for more than 15 years, as authorized by the Lake Champlain Special Designations Act of 1991, which was reauthorized in 2002. For many years there has been a Lake Champlain line item in the EPA budget, typically proposed at about \$950,000 and funded by Congress at \$2.5 to \$3 million, well under the authorized level of \$5 million. Will the EPA provide between \$2.5 and \$3 million again in FY 2007, as clearly authorized and intended by Congress, so that we do not lose ground as we work towards a cleaner, healthier Lake Champlain?

Response. EPA submitted an Operating Plan for FY 2007 to Congress on March 15, based on the Continuing Resolution passed by Congress in February. The Agency used the FY 2007 President’s Budget as the basis to build the Operating Plan for the Environmental Programs and Management (EPM) appropriation because this base reflects more recent policy choices. This includes funding for Lake Champlain. The Agency provided increases above this base for several areas where Congress increased EPA’s base funding in FY 2006. Activities supporting Lake Champlain received such an increase; the Operating Plan includes an additional \$500 thousand above the FY 2007 President’s Budget, providing a total of \$1.4 million for Lake Champlain. The Agency will award the Lake Champlain grants in consultation with the Lake Champlain Basin Program in accordance with the relevant statutes (section 120 of the Clean Water Act), appropriate Agency policy, and Congressional directives.

RURAL WATER PROGRAMS

Question 2. Rural water programs are operating under a contract with EPA that expires next year. Our Vermont systems, as well as thousands of other systems across the country, need the rural water programs to continue. Will EPA fulfill its

obligation to continue funding of these programs through the rest of fiscal year 2007?

Response. In the past, appropriations committee report language has earmarked and EPA has awarded noncompetitive grants to the National Rural Water Association (NRWA). In adhering with the FY 2007 Continuing Resolution (P.L. 110-5, Sec 112), EPA has not funded this earmark in FY 2007. In addition to funds already available under the Drinking Water State Revolving

Fund (DWSRF) set-aside, the Agency's FY 2007 Enacted Operating Plan includes \$8.0 million for competitive grants to support technical assistance for rural water systems.

EPA is aware that in many States, technical assistance providers (including State Rural Water affiliates) play an important role in supporting small public water systems. As mentioned above, States can also use 2 percent of their Drinking Water State Revolving (DWSRF) fund allotment within the State and Tribal Assistance Grants (STAG) appropriation to provide technical assistance to small systems. Since the program began, Vermont has reserved 2.0 percent for small system technical assistance. In FY 2006, the State of Vermont spent more than \$138,000 for technical assistance to small systems. In addition, the State also expended more than \$150,000 for other DWSRF set-aside activities that benefit small systems.

Mr. Johnson, so often I get frustrated with your presentations because they are very eloquent, and then you get behind it and the reality doesn't match the words. Nothing could be more true for me than today. Your words were great. Your budget hurts the environment.

Let me be specific. You are cutting this budget by 4 percent. You are reducing clean water funding for the clean water State revolving loan fund by 37 percent. You are cutting the Superfund by \$7 million. You are cutting \$35 million that helps fund the State and local air quality management programs, and my people are up in arms about it. You have decided to do away with the Children's Health Office. Your brownfields budget, and brownfields was the most bipartisan thing we ever did up here because, guess what, it has payback. You can use land that has been polluted. We authorized \$250 million a year, but you asked for \$112 million, leaving \$87 million unrequested.

You cut environmental justice efforts by \$1.7 million. For toxic chemical regulation, it looks like you are making cuts there. Global warming and all the talk about how great the President is doing, he is cutting \$1.7 million from that effort. Environmental protection on the U.S.-Mexico border, which is very important to the western States, a cut of more than \$40 million.

So talk is cheap. You can say whatever you want. I have the numbers, and the American people are going to have to know that when we bring this to the floor of the Senate.

Now, I am going to show my colleagues something that, if this doesn't shock you, I don't know what will. I got visited yesterday by the South Coast Air Quality Management Board. They told me about what is happening with air quality and how things have stalled out; and how they need help; and why they are so shocked you are cutting a program that helps them. I think Senator Voinovich alluded to that with water districts. This is air districts.

This is a filter, a pure white filter from an air quality monitor. This is how they monitor the air. They place these at various sites. This is how it starts, pure white. The monitor I am going to show you is a filter from an air quality monitor in a school. The monitor is located at a local elementary school near a high school. The

school is also nearby the Port of Los Angeles and Long Beach and near a major highway.

The filter, pure white, was inserted into the monitor and was in the monitor for 24 hours, my friends. The monitor processed as much air as a human could breathe in three-and-a-half-months, so whatever you see here isn't breathed in a 24-hour period, it is breathed in a three-and-a-half-month period. I am going to show you this. This is from the Hudson School.

The black collar represents the toxic air that the students in the local schools and the local residents breathe. It is primarily caused by diesel exhaust, a known carcinogen, as well as particulate matter PM₁₀. This isn't even the worst sample ever found at the school.

So what this filter shows, and this came to me yesterday, young schoolchildren and others that breathe this air are exposed to toxic pollution consistently. The EPA does not provide sufficient regulation to control the emissions that contributed to this pollution, mainly from trains, ships and trucks burning diesel fuel, and that the help that you were giving to the local districts has now been cut.

So I think, again, actions speak louder than words. The numbers speak louder than your words. And so I just need to ask you how you could make this rosy scenario presentation to us, knowing all the facts that I just said, coming to us with these cuts. You are not saying, you know, I had a little fight with OMB, but they said I had to take these cuts. You know, then I would say fine, you stood up for the environment.

Instead, you come up here as the Administrator of the Environmental Protection Agency. You have told me how much you are excited and want to help clean up the environment, and you just make this rosy scenario speech and don't even address the fact that maybe you lost out on some of these fights. And if you didn't, that you just rolled over and let them do it.

So if you could explain to me, in light of the cuts, how did you give this wonderful rosy story about this great EPA and what you are doing.

Mr. JOHNSON. Madam Chairman, thank you.

This budget does continue to deliver environmental results, while meeting a balanced budget for our Nation.

You mentioned diesel and the regulations that we have put in place to regulate diesel emissions from around the country. I just proposed one regulation last week and when you combine them with our clean air interstate rule, they are among the most health-protective rules in the agency's history, probably only second to getting lead out of gasoline. Speaking of diesel, the President has included \$35 million to help with retrofits of legacy diesel engines ranging from school buses to port equipment and things like that.

Senator BOXER. Let me say this, Mr. Johnson.

Mr. JOHNSON. Yes?

Senator BOXER. I can't make any headway. There is no point in it, because I say one thing and you answer how ever you want to answer. It doesn't help us.

So I am not going to ask any more questions. What I am going to tell you is, I am going to fight with members of this committee

on both sides of the aisle to look at these cuts. If members of this committee feel it is good to cut Superfund by 70 percent, so be it. But we are going to fight hard. Some of us are going to work together.

We may not agree across the aisle on everything, but I think we are going to take these battles to the people. I hope we will have a bipartisan battle on this, because I believe that you, just to be honest, and I said this to the head of NHTSA yesterday, and even Olympia Snowe chimed in and Senator Stevens chimed in, you are champions of the status quo, period, and worst than the status quo.

If you had an employee who you really wanted to keep and you thought was doing a great job, and you called him and said, you are doing a great job and I am cutting your salary by 4 percent. And he said, well, I thought I was doing a great job; I had an offer and another place to go. You know, you would be foolish, wouldn't you, to let that person go, but yet you sit here and defend this kind of a budget.

To me, I don't want to say shocking because this isn't the first time you have disappointed me, and I am sure this isn't the first time I have disappointed you, but I am going to take this budget. We are going to fight for these programs because we are fighting for the people, for the children, for their lungs, for their water quality, and for economic growth, because to be honest with you, when you cut brownfields, you are just cutting economic growth.

That is penny-wise and pound-foolish, as Senator Voinovich said, totally. Because if you take one of these brownfields sites, and again Senator Chafee and I worked very hard with Senator Jeffords, and Senator Inhofe was extremely involved in this. We are now bringing back to life these sites. Congress in a bipartisan way, in a Republican Congress, funded this, and you have cut it dramatically.

What is stunning to me is not that we are fighting this battle, but that you will not concede that this budget is cut, and those cuts are going to have real bad impacts on the people.

And now, for another perspective, we turn to Senator Inhofe.

[Laughter.]

Senator INHOFE. No, I don't think so.

It is stunning to me is, we have heard a lot of criticism of you, Mr. Administrator, and of the EPA, but at the same time this new majority has denied the Administrator, you, and many of the leadership team, including Roger Martella, Alex Beehler, and Bill Wehrum. We had the hearings before, and in the case of the General Counsel nominee Roger Martella, he is a career employee who was favorably reported by this committee in the last Congress; renominated on January 9. It is very unusual to leave somebody out there who has been renominated for that length or period of time for this committee. It doesn't happen. So I would hope that we could give him some of his team so he can get things done that he can't get done now.

First of all, on the fuels, the President referred in his State of the Union message to very ambitious alternative fuel standards. I recognize you don't have all the answers. I am concerned, as I said in my opening statement, is it your understanding that motor fuels policies will still be regulated by the EPA and within the jurisdic-

tion and the oversight of this committee? And then I would ask also, when do you anticipate that the Administration will share their proposal with us on these standards?

Mr. JOHNSON. Senator Inhofe, with regard to the timing, I expect that we will be sending legislation up in the coming weeks, not months, weeks. That is the time frame I expect. With regard to the jurisdiction issue, we will leave to you, the Congress, to decide. Clearly, we are looking forward to working with you.

Senator INHOFE. Okay. But the way I worded the question was, is it your understanding that the motor fuels policies will still be regulated by the EPA? I know you don't have control over that.

Mr. JOHNSON. As I said, the jurisdictional issue will be left for you, the Congress. Our focus, and certainly my focus, is steady progress toward cleaner air by having this alternative fuel standard.

Senator INHOFE. That is right. You heard in my opening statement my comments about Tar Creek.

Mr. JOHNSON. Yes.

Senator INHOFE. That thing has been lingering for 25 years, and about \$25 million, I might add, nothing being done, and now everything is working. It is working not just because of the EPA, but partly. It is the team, the EPA, the DOI. It is the Indian tribes, the State of Oklahoma, our Democratic Governor. I give him a lot of credit. We worked this thing out together, the University of Oklahoma.

But in so far as you are a part of that, you are a piece of that, do we have your commitment that you will continue the fine work that you have been doing up to this point to see this to its conclusion? As you know, right now we are going through kind of a quasi-buyout period, but there are some things we don't know yet, so we don't know to what extent that will take place.

Mr. JOHNSON. Senator, we are committed to working with all the parties to restore this land, and you have my commitment.

Senator INHOFE. Okay, good. I appreciate that.

Now, there is some confusion, some contradictory thing that have been brought to our attention from the State of Oklahoma concerning what they are getting out of the two organizations, the Office of Water and the Office of Enforcement and Compliance.

The Office of Water appears to be trying to work with the States to promote a general permitting process and lessen some of the administrative costs. At the same time, OEC is coming from the other end, and I think quite frankly they don't know who to listen to. But there are two conflicting instructions. Can you help clarify that and help us out with those two?

Mr. JOHNSON. Senator, our interest is helping the community to achieve their clean water goals. Our interest is also making information available to the State and to those who are regulating. I look forward to working with your State to help make sure that this is not a burdensome requirement and, that in fact if there is any conflict, that it is resolved. We want to help. Our goal is to help the State achieve their clean water goals.

Senator INHOFE. With as much of the administrative streamlining as possible? I am sure that Senator Voinovich and maybe even some others might want to address this small water system,

but you heard some of the comments that we made and the situation that we faced with in Oklahoma. In the 2006 appropriations bill, Congress provided \$280 million in earmarks. In the CR, Congress has directed that \$197 million of that be given to the clean water State revolving fund. The remainder was given to EPA to do with however EPA chooses.

I understand that some of the funds will be used for fixed costs like payroll and building costs. Many members, I believe as many as 200 over in the House, have asked that the EPA also use some of these funds to provide technical assistance to small systems, the small systems that we have been talking about through the National Rural Water Association, the rural waters operators with the daily operations for their facilities, as well as regulatory compliance.

Now, we talked about this extensively last year, and it is one that has been a great concern of mine. I think it is probably more of a unique problem for my State of Oklahoma than many other States, although I am sure others have the same problems, too. What do you think about that, and that type of help?

Mr. JOHNSON. Senator, we want to help the small community water systems, and you have my commitment we are going to continue to help through technical assistance, providing training, and providing assistance. We, as part of the drinking water State revolving loan fund, up to 2 percent of that can be used for small community water systems. In fact, in 2006 a number of communities took advantage of that and used \$14 million to help.

We are in the process of putting together an operating plan for 2007. We are looking at all of the issues that are before us. So as we make our final decisions on our operating plan, you will be among the first to know.

Senator INHOFE. Thank you. I appreciate that. There are three of us on this panel that have either been Mayors or Governors, and unfunded mandates is something that we are very, very sensitive to. Thank you.

Senator BOXER. Thank you, Senator.

Senator Lautenberg.

Senator LAUTENBERG. Thank you very much, Madam Chairman.

I understand your ire, because I have the same thing. Mr. Johnson, it totally perplexes me, and not to insult your wordsmithing, but to try to understand what the message is here. You say over 36 years, EPA has a strong foundation to shift America into a green country. Today, instead of having just 17,000 EPA employees to protect the environment, we now have 300 million Americans as environmental partners.

Now, does that mean that the 17,000 before were doing the work of 300 million? How do you square it? These answers, I am sorry, have to be relatively short. What assignment did we give to the 300 million Americans? Do they drive less? Do they emit less pollution? What has happened in this miracle of yours that permits this to be judged with any degree of credibility, Mr. Johnson?

Mr. JOHNSON. We have a premier world agency in the U.S. Environmental Protection Agency, continuing to accelerate environmental success.

Senator LAUTENBERG. Without enough money. We have heard that.

Mr. JOHNSON. With sufficient funds to deliver results. Think about Energy Star. By Americans buying Energy Star product—

Senator LAUTENBERG. Will they start that tomorrow? When do they start? When does the signal go that says that 300 million are now wearing the EPA uniform and they are going to go out and do the job?

Mr. JOHNSON. Senator, Americans all around the Nation are paying attention to the environment.

Senator LAUTENBERG. Yes, I think they are really angry if they know what the truth is, that there is going to be less attention to things. I read your statement. I see that our Nation is committed to balancing the budget. Is DOD committed to balancing the budget?

Mr. JOHNSON. Yes, they are.

Senator LAUTENBERG. They are? Here ye, here ye, I want the Chairman's attention. DOD is committed to balancing the budget. Mr. Johnson, I don't whether EPA, in your view, is now a branch of OMB, but that is what I am looking at. That is the first thing. Instead of talking about the results of these cuts, you are trying to persuade everybody and it just isn't working, that balancing the budget by taking away health protections, whether it is Superfund or water or clean air or what have you, is good for America. If you have to tell that story to 300 million Americans on a direct basis, I am sure you wouldn't like the response.

I looked at what is happening here, decreasing funding of the clean water revolving fund. I looked at the States that are represented here. Georgia, for instance, will take a \$6 million cut in the revolving fund, from 2007 to 2008. Ohio will go down \$22 million. New Jersey will go down \$16 million. Oklahoma will go down \$3 million.

I want everybody to know that this is good for you. You just don't understand it, but it is really good for you. The fact of the matter is that EPA had for years improved its performance, and now what we are being told is that cutting budgets is really good for America. I don't believe it, and I don't know how you can believe it, Mr. Johnson. Honestly, to come here and say everything looks better now than it did before as we cut programs and as we hire 300 million Americans, my 10 grandchildren I assume will be included. Do you consider it environmental progress to finalize the toxic right-to-know rule? It is a law that I authored. According to GAO, it will allow 33,500 chemical facilities to cease reporting to the public all of the details of their chemical releases and waste management.

Is that helping clean our environment?

Mr. JOHNSON. Senator, the TRI rule that I signed actually makes a good program better. It encourages reductions in emissions. It encourages recycling. Facilities still have to report. Chemicals still have to be reported. There are no chemicals being—

Senator LAUTENBERG. But 3,500 said that they don't have to report the details to the public.

Mr. JOHNSON. Well, they still have to report. Those chemicals still have to be reported. And in fact, our TRI—

Senator LAUTENBERG. Who are the 3,500 that don't have to report?

Mr. JOHNSON. They all have to report. They all have to report under TRI. The President's budget request this year of \$15.7 million is actually the largest in 5 years.

Senator LAUTENBERG. Yes, we know that we are short on details. I close with this, Madam Chairman. I am sorry.

Senator BOXER. Senator, others have gone over 2 minutes. I can give you another minute.

Senator LAUTENBERG. Well, they are cutting the Energy Star program by \$1.7 million. That is supposed to be good for us. It is a program that was devised by EPA. The statements are painful. I see it in terms of lack of progress. Our pace for cleaning up Superfund sites has slowed substantially. And for you to say things are better really, I think, challenges what is being proposed by you and your department. And you are part of it. And I don't know how hard you fought to say no, don't do that, don't make me part of OMB; my mission is not primarily to save the dollars; it is to save the people. And that is where you ought to be going.

Thanks very much.

Senator BOXER. I think that was well said, Senator. Thank you. Senator Voinovich.

Senator VOINOVICH. I would like to repeat that the EPA's budget is woefully inadequate to take care of the Nation's pressing water and wastewater infrastructure needs. We have a ticking time bomb ready to blow up if we continue to ignore these nationwide needs.

Billions of dollars have already been spent and billions more are needed to upgrade the Nation's aging wastewater infrastructure. I firmly believe the Federal Government is responsible for paying its fair share. As I mentioned, the city of Akron, for example, has proposed to spend \$426 million over 30 years to fix the city's combined sewer overflow problems. The city of Cleveland must spend \$4 billion over the next 30 years to meet Clean Water Act requirements.

These city and State officials are concerned that the Federal Government is pressuring them to do the work in half the time, and suggesting enforcement action. We have an epidemic, and I am sure it is not just in Ohio, of small sewage systems that are up in arms over the demands of the Environmental Protection Agency and their threatened enforcement actions.

I want you to know it is my intention, I am going to invite all those small cities to Washington and we are going to have a rally to underscore the fact of the unreasonableness of what your folks are asking them to do. Two years ago, the EPA announced that affordability is an issue for communities facing the cost of significant capital improvements. I want to know why has EPA enforcement failed to consider affordability issues in their approach to achieving compliance? And second, why does the EPA allow the regional EPA offices to initiate sanitary sewer overflow enforcement when there are no national sanitary sewer overflow regulations, policy or standard?

Mr. JOHNSON. Senator, with regard to the SSO enforcement, discharges of untreated sewage are in fact violations of the Clean Water Act. Going back to the State revolving loan fund, what is included in the President's budget meets the present commitment to

help achieve a sustainable infrastructure. The infrastructure challenge is everyone's challenge. Of course, as part of the budget—

Senator VOINOVICH. I want to know why you are not considering affordability. You said two years ago you were. Why aren't you?

Mr. JOHNSON. We are beginning to. Our affordability guidance is in place. We are working with communities to help deal with affordability. Our goal is to provide a sustainable infrastructure protecting public health and the environment. Right now the revolving level is over \$3 billion. That is the highest it has ever been.

In addition, we have some innovative pieces that we believe will help dealing with the sustainability issue. One of them is private activity bonds. One is a program we have launched for water efficiency called Water Sense. We think these will also help.

We are committed to helping communities meet their clean water objectives. Obviously, it is important for their health and it is important for the environment.

Senator VOINOVICH. Why has the EPA allowed the regional offices to initiate sanitary sewer overflow enforcement when there are no national sanitary sewer overflow regulations, policy or standard?

Mr. JOHNSON. Again, it is a violation of the Clean Water Act. We understand that discharges of untreated sewage, result in beach closings. Contaminants can also get into intake valves for drinking water.

Senator VOINOVICH. I am asking you, are there national sanitary sewer overflow regulations, policy or standard? I understand that they have not been adopted.

Mr. JOHNSON. May I ask Ben Grumbles, the head of our water program?

Mr. GRUMBLES. Thank you.

Senator, a couple of points on the sanitary sewer overflow issue. While we did not follow through and finalize comprehensive proposed sanitary sewer overflow regulations from the previous Administration, we have adopted several things. One thing is we have embraced across the country a "CMOM" approach which emphasizes the sustainable targeting of capacity, management, operation and maintenance. The first step is to recognize the way the Clean Water Act is currently written, sanitary sewer overflows are illegal.

You ask how do you make progress on reducing those overflows, acknowledging the practicalities and the costs of reducing that to a zero discharge. Our policy and that of the Enforcement Office is to focus on the "CMOM."

We are also Senator, on the affordability issue and these long-term control plans for sewer overflows, we recognize very much that there is a need to update the financial capability analysis, which is a key part of establishing a standard and a schedule. We are committed to working on that. The Administrator has said focus on affordability on drinking water, and also the financial capability analysis on clean water. So we are in the midst of working on that additional updated guidance on the economics and the practicalities of meeting the Clean Water Act requirements for no discharge.

Senator VOINOVICH. I can tell you one thing, it is not being communicated out into the areas of my State. I literally mean we are

having an epidemic. We have people coming in every day in the office and they are just up in arms about this, and saying you are asking us to do these things where it is absolutely impossible for us to afford it.

I know what OMB is basically saying is let them eat it. They can raise the rates and they will take care of it, and we are not going to give you that much money to help with that State revolving loan fund. Every year, we have increased \$20 billion. Last year, we provided \$20 billion each year for it. They have never funded it. They are just going to have to understand that we are going to have a walk on Washington. They just cannot completely ignore the fact of what is going on out there, or you better come back with some different ideas about how to do this.

I know several years ago, we amended the Clean Water Act. There was a requirement then that small systems had every three years to add 25 new pollutants. The legislation was changed. It also said that you had to use the highest and best technology, and the law was passed that said that you didn't have to use that best technology. You could just use technology that works.

I am saying that you have a major problem and it is going to be really tough. It is not only Ohio. It is going to come across the country. Somebody better in your shop figure out how you are going to deal with this.

Senator BOXER. Senator, thank you very much.

Senator Carper.

Senator CARPER. Thank you, Madam Chair.

Mr. Johnson, welcome. It is good to see you. Thank you for joining us today.

I understand that Senator Voinovich earlier asked a question about the budget likely funding for fiscal year 2008 for the Diesel Emission Reductions Act, something that he worked very hard on, and others of us were pleased to work with him. I don't know that anybody has asked you about the appropriations monies that are available for 2007.

I would just like to hear from you. As I recall, the Act was enacted about a year-and-a-half ago as part of the energy bill in 2005. In fact, it was one of the fastest I have ever seen a bill go from introduction to adoption in the Senate, to enactment in law. It was a record time. EPA was certainly very supportive, and a lot of States were very supportive of it as well.

I don't know that the regulations have been issued for the program, but I don't think they have. Do you have any idea? It has been about 18 months.

Mr. Johnson. We have been actively working on the regulations. Again, we want to see the renewable fuel standard put in place as quickly as possible because we see it as a great next step in that steady march toward cleaner air by the renewables.

I expect that literally within the coming weeks, you will see that final regulation entered.

Senator CARPER. Good. Okay, great.

A follow-up question is, do you intend to fund the Diesel Emission Reduction Act at about \$49 million or \$50 million, which I think is what the President had proposed in his fiscal year 2007 budget?

Mr. JOHNSON. For fiscal year 2007, we are in the process of putting together our operating plan, and sorting through the discussions and the direction of Congress as to what we should or should not do as part of our 2007 operating plan. I look forward to having that submitted to you all on time. That is certainly one of the issues that we are working our way through.

Senator CARPER. Good. Well, we hope you do and I would encourage you to do that.

There has been some discussion of the Energy Star program. I would just say as an aside to my colleagues that I was in Seaford, Delaware a couple of weeks ago, visiting the Seaford School District. It is a school district with only six schools. Seaford is the town where the first nylon plant in the world was built some 60 years ago. It is a very high-performing school district.

They went to work on the Energy Star program, and with the help of the Energy Star program have come up with energy savings that amount to about \$1 million a year. On an annual basis, that is \$1 million that they can spend on smaller class size, early childhood education, and after-school educational programs that otherwise they would be spending for electricity and for fuels to heat the schools in the winter.

I think they are one of three school districts in the country that are receiving the kind of recognition that they are. I have urged the other school districts in our State to take a page out of the chapter of the Seaford School District. I just want you to know it is terrific. I hope that, and you probably don't hear a lot from programs that are working well, but I have seen it with my own eyes.

Here is a school district where they have now put air conditioning in all 6 of their schools. They have year-round school in a couple of the schools. The weather gets pretty warm there in the spring and even in the fall. They put air conditioning in all the schools, and I think their use of electricity has actually diminished, even after air conditioning all of their schools.

So it is a program that certainly has my attention and my support. I hope it has yours.

Mr. JOHNSON. That is great. It is a great example of a partnership program delivering real environmental results.

Senator CARPER. I want to talk about, in the time that remains, and ask you two questions. One is on Smart Growth, the funding for Smart Growth. Seaford, DE is in a little county, actually a big county called Sussex County. We are a little State, but we have big counties. EPA's Office of Smart Growth is providing technical assistance to Sussex County, DE about ways to pursue both options that are expected to lower environmental impact of the growth that is occurring in our county and reduce some of the infrastructure costs of that development.

As I said, this is a fast-growing county. A lot of people are flocking there to retire. We have Rehoboth Beach and Bethany and Dewey Beach, and people just like to be close to the ocean. The county is growing by close to 15 percent over the last 15 years in terms of population. They are looking for ways to accommodate the growth and still try to maintain the rural character of our county.

The Office of Smart Growth is able to offer this assistance in spite of a small budget and staff I guess of about 16 people. Yet

I think your budget proposal seems to cut this program. You may not know this, but if you don't, then for the record I would ask you to let me know how many positions do you plan to cut in your Office of Smart Growth, and which projects and technical assistance will be jeopardized as a result. If you could do that for the record, I would be grateful.

Mr. JOHNSON. I would be happy to. I would just like to add that Smart Growth and our activities, both from our coordinating office as well as throughout our program, really are smart for the environment. It is smart economically and it is also quality of life.

So we have found the program to be very successful, both from our coordinating role in my office, the Administrator's office, as well as throughout our program. Because one of the things we found as we deal with water infrastructure, for example, is that Smart Growth becomes a component of how we deal with water, both quantity as well as quality, and how do we deal with infrastructure sustainability.

So we are now seeing the Smart Growth concept really infiltrate across all our programs.

Senator CARPER. All right.

Madam Chairman, I have one more question for the record, and I will submit that if I may.

Thank you, Mr. Johnson.

Senator BOXER. Thank you very much.

Senator, we have done some research on how many cuts there are at EPA. We are trying to track down the answer for you now. We do know that if you look at the previously authorized full-time equivalents, there are 300 cuts of previously authorized full-time equivalents. In other words, we don't know how many of those were filled or not, but that is the reduction in staff. We don't know in your particular office your staff level, but we will find that out.

So we are continuing to go back and forth in order of arrival. So Senator Isakson, you are next.

Senator ISAKSON. Thank you, Madam Chairman.

As the head of an agency, you have to play the hand that is dealt you and you have been dealt a pretty tough hand. I appreciate the job that you are doing.

I want to amplify a couple of things that really have already been mentioned. Number one, Senator Inhofe mentioned the Rural Water Program funding for a second. I called a week or so ago and talked to your office because it has been brought to my attention that there is a contract to provide rural water assistance through June of 2008, but that it is anticipated that is going to be terminated. As I understand it, the budget request for 2008 does not include any money for the Rural Water Funding Program. Can you elaborate on that?

Mr. JOHNSON. The National Rural Water Association has been an earmark through the years. As you are well aware, earmarks are not carried forward by any Administration. We are now looking at additional ways that we can help the small community water systems. That is what we are looking at right now, both in terms of training, technical assistance, as well as whether or not additional resources may be available as part of our 2007 operating plan.

Senator ISAKSON. I appreciate that answer, and I would like the Chairman, if Chairman Boxer would listen to this comment I am going to make, I appreciate that answer because you brought up earmarks. Now, the Rural Water Assistance Program is not for one specific rural water community. It is a rural water program for the United States. Is that not correct?

Mr. JOHNSON. The National Rural Water Association was a specific earmark. That Association did serve the entire Nation, but specific grant was earmarked by Congress.

Senator ISAKSON. One of the things that I am having a real difficult time with is this term "earmark" has taken on a life of its own in terms of its application. I think the intent of all of us is to not have earmarks that specifically benefit an individual location, or even worse an individual. But to designate appropriations, which is the preferred term in my vocabulary, for a program that is available to the entire United States of America is not an evil earmark. Most things that we do begin that way.

So for the record, Georgia, because we have a great metropolitan city in Atlanta, but our State is a rural State. Agriculture is a huge business, with land management and the management of our water, etc. So that is a very valuable program to the communities of our State, in particular our smaller rural communities. I would hope that it was not cut because it was perceived to be an earmark that was bad. Instead, I think it was a designated appropriation for a legitimate need in terms of clean water in the country.

Secondly, you and I had a conversation about MSMA.

Mr. JOHNSON. Yes.

Senator ISAKSON. Just for the record, I have a lot of cotton farmers in Georgia. I realize there was a registration on that product because of alleged levels of arsenic in the drinking water, but other studies have shown that was just not any more than the naturally occurring arsenic. This particular herbicide is absolutely critical to cotton in the southern United States of America. You are doing an IRIS study. I would like to know how that is going and if you are going to suspend any registration until that report is fully in.

Mr. JOHNSON. Our goal is to make all of our licensing decisions, to make sure that they meet the standard of protecting public health and the environment. We are finishing up the public comment process for the cancellation of that pesticide. I have asked our Assistant Administrator Jim Gulliford to actually visit your State, to see first-hand and to talk to growers who are using that product, to help better inform our deliberations with regard to the benefit side of the equation.

Our IRIS process is looking at the risk side, as is Mr. Gulliford. They are very closely cooperating on the potential health effects, trying to determine does it or does it not cause a particular health effect.

We are working very closely among our programs, and very much trying to find the science, the best available science, so that where the science is clear, we can make a clear decision.

Senator ISAKSON. For the record, thank you very much for sending him to Georgia. It is a critical issue in the State. I completely respect the protection of the environment and would never want us to license or impose upon people things that are bad for them, but

there is a risk-benefit analysis which the IRIS study I think is, and it should be completed before that registration takes place.

Thank you.

Senator BOXER. Thank you, Senator. Senator Isakson, you raise an important issue, which Senator Inhofe and I would like you to stay for just a minute. He is going to take a minute and I am going to take a minute to address the issue of these earmarks.

Senator.

Senator INHOFE. Thank you, Madam Chairman.

I am glad you brought this up. I think perhaps you have a little better answer than we got, Mr. Administrator. When he talked about earmarking, we are talking about a block of money that is going to go for certain designated purposes. Now, that money is going to go for those purposes whether we on this committee and people who are elected make the designation as to where it is going to go. If that doesn't happen, it is going to be done by someone who is unelected.

I think we need to redefine "earmark" because it is something that has taken on a connotation that doesn't serve the electorate as well as it should. I just think that we need to talk about that a little bit more. Those of us on this side need to do that, because I have always felt that we can do a better job of understanding the needs of our constituency than some of your management can do who has never been to my State of Oklahoma.

Senator BOXER. I just want to associate myself with those remarks because it is really amazing. We do about 3 percent of the earmarks of the Administration, this one and others, Democratic or Republic, it does about 97 percent or 98 percent. So somehow when you do it, you call it good Government, and when we do it somehow it is bad.

The fact is, we are closer to the people because we come from them. They elect us to represent them and their needs. We know their needs. When Senator Vitter talks about a toxic waste dump, he sees it. He is there. He walks it. When Senator Isakson talks about his rural needs, he is there. He sees it. He knows it. And it goes for me, when I see what happens in a community when the air turns this way in a 24-hour period, I know it because my people come and show me this, and they tell me this. So it is just something that I think we have to work on.

Now, we have to be clear, you have to be clear. I say you, Administrations, this one and next ones, need to be clear that there is no conflict of interest when they make their decisions and we have to be very clear about that, and we are moving with ethics reform to go there, where we will have to certify.

But the fact is I frankly, and this is my own opinion, would trust my colleagues, who come to me and say, Barbara, you can't believe what happened; I just went down to the local farm, and this is what is going on; this is what is happening when the city Mayor comes in to see me, and he can't meet the needs because there is an unfunded mandate.

I would trust that more, just simply because I know when you are close to the people, you get the message. So I am glad you raised the issue. I know you didn't intend to spark a debate on it,

but since Senator Inhofe and I both are on the same side of this, we wanted to be heard.

Senator Whitehouse.

Senator WHITEHOUSE. You brought about harmony.

[Laughter.]

Senator BOXER. See, there is the possibility to have harmony.

[Laughter.]

Senator BOXER. Mark it down.

Senator WHITEHOUSE. Thank you, Chairman Boxer.

I am going to get to my benzine question in one second, but this is the first time we have had the chance to have an exchange. I am new here and I wanted to ask you something. You are obviously a good manager, perhaps even a great manager. You have received the highest management awards the Federal civil service has to offer. You are a scientist.

But coming from a relatively experienced background as a U.S. Attorney and as an Attorney General, and as somebody relatively active in the environmental community, the reputation that I come to that this new EPA has is of a place where industry operatives have been allowed to infiltrate into positions of influence within the administration of EPA; where science is too often given a back seat to politics; where enforcement is allowed to dwindle; and where the environmental community feels very left out, and indeed very often has its engagement with you litigating to make your agency follow rules, including the benzine example.

What I see is there is sort of a struggle going on for the soul of EPA right now. In that, I would like to get a personal sense of where you stand. Setting aside the fact that you are a great manager, setting aside the fact that you are a scientist, what can you tell me that will give me a sense that you have some passion for the purpose of this agency?

Mr. JOHNSON. Thank you very much for asking that question. As a career veteran, I am celebrating my 26th year in the Environmental Protection Agency. I have devoted my adult life to helping protect the environment. When becoming Administrator of EPA, I took that oath with a great deal of fore-knowledge, with a lot of years of experience, and with a passion and a commitment to improving the environment.

Since becoming Administrator, I have signed the Clean Air Interstate Rule, affording hundreds of billions of dollars of health benefits to the American people. I have signed diesel rules, again affording hundreds of billions of dollars of health benefit to the American people. I signed the regulation putting in place changes to the window sticker for fuel economy, something that had been woefully lacking for over 20 years. Consumers could not make an informed decision as to what automobiles to buy because the previous fuel economy standard window sticker information was based upon a 20-year-old standard. Nobody wanted to take that on before.

So am I passionate? Absolutely, Senator. Am I committed to delivering environmental results? Absolutely. My track record over the past 2 years is evidence that we have made tremendous progress. I am sprinting to the finish line as Administrator, wanting to do more to continue to accelerate environmental progress.

So thank you so much for asking me the question.

Senator WHITEHOUSE. Let me follow up, because these beliefs that I have elucidated are not ones that I have just made up. They are not new. They are widely held. They have been widely reported. Many people shake their shoulders and give up when you talk about EPA these days. How does it make you feel when that is the reputation that the office has in so many communities, and what can you do about it? What do you want to do about it?

Mr. JOHNSON. My focus is delivering results, Senator. You mentioned enforcement. From your own experiences, our enforcement program over the past 3 years we have had the most success in delivering environmental results. Nearly 3 billion pounds of pollution have been avoided because of our enforcement actions. Because of our investments over the past three years, we have now in place at least \$20 billion of pollution control equipment in place.

So when you look at the investment of about a half- billion dollars each year over the last few years in our enforcement program, the result is nearly \$20 billion in pollution control. Through our partnership programs, Energy Star for example, Americans saved \$12 billion in energy costs in 2005. If you want to put that in greenhouse gas terms, that is saving America 23 million cars-worth of greenhouse gas equivalents. Those are significant results. My focus is continuing to deliver results to the American people.

Senator WHITEHOUSE. My time has expired. I will wait for another round and ask about benzene.

Senator BOXER. Absolutely.

Senator KLOBUCHAR, welcome. We are so happy you could join us.

Senator KLOBUCHAR. Thank you, Chairwoman Boxer.

Welcome again, Administrator Johnson.

I wanted to follow up on, you were just talking about Energy Star. I know that Senator Lautenberg had mentioned it, but didn't have quite enough time to finish up some questions. You just talked about how effective this program has been in reducing greenhouse gas emissions and improving energy and efficiency.

I am still trying to figure out, given that, the last time Congress appropriated money I think it was \$49.5 million in fiscal year 2006, but this year the budget only seeks \$43.9 million. Could you explain why you are seeking less money for the program?

Mr. JOHNSON. We believe that this budget will continue to deliver results, while meeting a balanced budget, and that it is a mature program that we have a lot of great stakeholders who are continuing to invest in. Most important is it is going to continue to deliver environmental results.

Senator KLOBUCHAR. When something is working, and you just talked about getting results, usually you don't cut back on it. I think in your own annual performance plan, which was submitted to Congress, you stated that you plan to expand the Energy Star Program as outlined in the Administration's national energy policy. The national energy policy talked about how Energy Star should, first of all, include a broad range of products, appliances and services, and then secondly expand beyond office buildings to include schools, retail buildings, health care facilities, and homes. Has that been done? Are there ways to expand this? And should we consider this as we look at the budget?

Mr. JOHNSON. In fact, we are expanding in our Green Buildings Program. I just got back from Denver, where we opened up our new Denver Region VIII headquarters facility, which is a green building. We are in the process of going through the LEED certification. We expect that it will likely be a gold certification.

So we are not only talking the talk, we are walking the walk of promoting energy efficiency. We are the first Federal agency to now go to 100 percent, or certainly 100 percent-equivalent of green energy. We are the first Federal agency in the Federal Government to do that.

We are continuing to push on to help not only promote green buildings.

Senator KLOBUCHAR. I congratulate you for that. But understand why I am grappling with this, is when the President has made energy a major part of what he wants to do, and we have a program that is working, and we know that there is more that we can do with reducing greenhouse gas emissions and conservation, why we wouldn't be looking to at least keep this program with its funding, or perhaps expand it. There must be other ways that we can extend this program beyond where we are now.

Mr. JOHNSON. Senator, we believe we have sufficient funds to be able to meet our fiscal year 2008 goals and objectives in Energy Star and in all of our other program areas as well.

Senator KLOBUCHAR. Okay. I just wanted to follow up as well Senator Isakson's questions, and then the follow up by our Chair on the rural water issues. We talked about how there wasn't any specific funding for this program. I know that in Minnesota our Rural Water Association provides vital technical assistance and protection to small rural communities in Minnesota, as across the country. They have helped communities with their environmental protection efforts for drinking water, wastewater, ground water and source water.

I can tell you, we have gotten a lot of calls about this. They want to make sure that they can keep providing assistance. I would just echo the discussion that we have had here that this is a nationwide program. It doesn't seem to fall into the category of what we are talking about with earmarks here. Even when we have earmarks, not every earmark is bad. I think we need to reduce the amount of discretionary spending in the Government. I have said that, but I also said stand by your pork. People are willing to say this is a good program, as I think you are hearing across the aisle here from both Republican and Democratic Senators that this is a good program.

I guess my question of you is whether that is going to make a difference to you as you, in your words, look for money for this program.

Mr. JOHNSON. As I said, we are in the process of sorting through our operating plan and sorting through what you, Congress, has directed us to do or not to do with regard to this year-long continuing resolution. As we sort through this and a number of other programs, we continue to provide support to small water systems through education and outreach and training.

As I mentioned as part of the State revolving loan fund, there is up to a 2 percent set-aside in 2006. In fact, communities took ad-

vantage of that, and \$14 million was devoted out of that fund to help small water systems. We will continue to provide support. In the meantime, we are sorting through your directions with regard to the continuing resolution and with regard to earmarks. We will have an operating plan to you on time.

Senator KLOBUCHAR. When that will be, being a new person here?

Mr. JOHNSON. I will have to ask our CFO. March 15.

Senator KLOBUCHAR. Excellent. Thank you very much.

Mr. JOHNSON. Thank you.

Senator BOXER. Thanks, Senator.

Senator, go ahead. I will do the closing round. Why don't you ask about your benzine?

Senator WHITEHOUSE. Thank you.

This is the beginning of a discussion that we are going to continue to have, but while I have you here, I wanted to raise it and you can respond either now or at greater length later.

My understanding is that lead was an early addition to gasoline in order to improve octane and engine performance. It quickly became apparent that the lead that was being spread into the environment as a result of that was dangerous, and we took lead out and cleaned that up. As somebody who has had a lot of work dedicated to the lead issue, that was a very significant achievement.

The lead was then replaced by benzine, toluene, and xylene for the same purpose. And now it is very apparent that those are three very dangerous chemicals. You have just begun a process to limit the benzine. Toluene and xylene remain, as far as I can tell, without regulatory activity.

What I further understand is that ethanol, which we are hearing about as a good fuel alternative or fuel supplement additive in a lot of different respects, could displace those aromatics. If so, it seems to me that that is one of these kind of wonderful win-win-wins in which we increase our use of ethanol, we lower our use of three very dangerous chemicals. I think benzine has been banned in paint. Toluene went to a great effort to get out of the dry cleaning industry. This is serious stuff.

There is this alternative waiting right there, which for other reasons relating to the greenhouse effect, have their own added independent value. (A), am I wrong, and if I am not, why aren't we going at this just full blast?

Mr. JOHNSON. Senator, you correctly characterize the wonderful advantages of renewable fuels, ethanol in particular. That is precisely why the President is aggressively pursuing, and certainly wants Congress to aggressively pursue, the alternative fuel standard of 35 billion gallons, because not only is it good for energy security, it is also good for the environment.

Greenhouse gases is one. Another is, as you point out, replacement for a number of these other aromatic compounds, benzine being certainly, from what we know, the most hazardous. That is why we put in place the regulation that we did.

We, the President and EPA; are very aggressively urging Congress to move as quickly as we can to implement this very aggressive—

Senator WHITEHOUSE. Has there been legislation proposed that would do that?

Mr. JOHNSON. We will be sending up legislation in the coming weeks.

Senator WHITEHOUSE. Could you notify me about it?

Mr. JOHNSON. Excuse me?

Senator WHITEHOUSE. Keep in touch with me on it.

Mr. JOHNSON. I will be happy to. Absolutely, yes, sir.

Senator WHITEHOUSE. Good.

Thank you.

Senator BOXER. Thank you very much, Senator.

I would point out that there is a whole new world out there with cellulose, some of which even offer more advantages than corn ethanol, because you don't have to grow the crop and then toss the crop out. We are already getting people saying the price of corn is going up. So there are a lot of opportunities we have out there with cellulose.

I think the most important thing for us to remember is that all alternative fuels are clean, but renewables are. So that is important.

I just have two more questions, and then I will make my closing comments.

Administrator Johnson, perchlorate is a toxin found in tens of millions of Americans' drinking water. Most of our States have traces of perchlorate. Your agency said in 2001, "EPA will make a regulatory determination about whether to set a standard for perchlorate when data become available, not wait until 2006." It said the agency would decide whether to set a perchlorate standard by 2003.

So now it is 6 years since EPA made that promise. Have you decided whether perchlorate should be regulated in drinking water?

Mr. JOHNSON. Well, Senator, as you are probably well aware, our focus is to make sure that people are protected from perchlorate, whether it is a vapor intrusion, water or other sources. In fact, that is why we went to the National Academy of Sciences and sought their advice, which they came back.

Senator BOXER. I have to ask you a very simple question.

Mr. JOHNSON. Sure.

Senator BOXER. Have you decided whether perchlorate should be regulated in drinking water? That is my question.

Mr. JOHNSON. We have not decided, and not decided because we are in the process of evaluating the science, both the science associated with the RFD, as well as the science of what is the relative source contribution of perchlorate. Is it water which is the issue? Is it food which is the issue?

Senator BOXER. I am talking about water.

Mr. JOHNSON. Yes.

Senator BOXER. I am talking about perchlorate in drinking water. I am telling you that California is already moving on this, and the States are going to go right ahead of you. It is just like greenhouse gases. The lack of interest by this Administration in doing your job is leading to a patchwork quilt of regulations that is just going to be ridiculous.

When are you going to give us an answer?

Mr. JOHNSON. With due respect, we are aggressively looking at the science. There have been some recent studies done by the Centers for Disease Control. We are evaluating those.

Senator BOXER. With due respect, Administrator Johnson, in 2001 the agency said EPA will make a regulatory determination about whether to set a standard and we won't wait until 2006. And you decide in 2003. So this sense of frustration you hear is, this great EPA that you have been lauding since you walked in here has failed the people. And this perchlorate is all over the place. It is all over the place. And other States are moving ahead.

And then you say you are very concerned. Why did you stop testing drinking water for perchlorate?

Mr. JOHNSON. We stopped testing because we have sufficient monitoring information on which to base a decision, and I did not want to impose a monitoring requirement and have data not coming until 2010.

Senator BOXER. So you have enough information to stop the testing, but you don't have enough information to set the standard.

Mr. JOHNSON. I want to be in a position to make a decision before 2010.

Senator BOXER. Oh, that is the new date.

Mr. JOHNSON. That is precisely why I did not want to continue the monitoring.

Senator BOXER. Well, you are not going to be there in 2010. Maybe you will, but it is doubtful. So you are pushing this off on somebody else, and you are saying you have enough data, so you don't have to test, but you don't have enough data to set a standard. You fail my test of credulity.

I want to ask you something else, exemption for factory farm pollution from Superfund. It has been widely reported that EPA plans to exempt pollution from huge factory farms called concentrated animal feeding operations from Superfund's reporting requirements. In 2005, EPA said these facilities, "can have a negative impact on nearby residents, particularly with respect to odors and other nuisance problems that concerns have been raised recently regarding the possible health impacts from these facilities' emissions."

EPA entered into a settlement agreement with 2,500-plus facilities that agreed to help determine how much air pollution they emit, to certify that they are complying with Superfund and other public health laws. Does EPA plan to reverse course and now exempt those facilities?

Mr. JOHNSON. Senator, we do not intend to exempt those facilities under the Clean Air Act, and we do not plan to exempt them from the CERCLA-EPCRA liability or releases to water or their response authority. We are planning to propose a rule to exempt the air releases from CERCLA reporting as an emergency. Twenty-six State emergency planning commissions wrote into the agency. Of the 26 that wrote in to us on this issue, all 26 recommended that we exempt this reporting. Further, Congress in 2004, 2005 and 2006 asked us to take a look at this and sort this out. They did not want, as the members of the State emergency planning commissions, wasting time from our emergency response people in dealing with air releases from farms.

Senator BOXER. Okay. So the community will no longer have the right to know about this pollution is what you are telling me.

Mr. JOHNSON. The community still has the right to know because there are still potential releases to water. There are still potential authorities regarding liability, and this is not a termination of the Clean Air Act. So again, this is trying to have an efficient and effective response program that doesn't burden our emergency response personnel with this information. Oh, by the way, this also does not affect the GRI program either.

Senator BOXER. Okay. I am going to put in the record a letter that opposes what you are doing. I will tell you who signed the letter: the U.S. Conference of Mayors, National Association of Counties, National Association of City and County Health Officials, American Waterworks Association, American Metropolitan Water Agencies, Attorneys General from eight States, the Iowa Department of Natural Resources, the City of Waco, the City of Tulsa, which I think my Ranking Member would be interested in, and more than 20 national and State public health and environmental organizations.

Now, I haven't seen in writing what you are suggesting, but the community right to know is an American value. So I hope you reconsider this course. I am going to put in some questions into the record so you can get going and moving, and I am going to leave the record open for a week to get these questions in. Do you think you can get them answered in about 30 days? Would that be possible?

Mr. JOHNSON. We will do everything we can to achieve that, yes. Not knowing what the list of questions are or how many, but we will do everything we can.

Senator BOXER. I don't think they will be an over-burdensome number, but we will hope that you can get them in in 30 days.

So let me just sum up here. We always have these contentious debates. I think it is healthy for the country to see this debate. I think it is an important divide in our country now over what the community has a right to expect from its Government when it comes to the health of their families. To have the EPA Administrator talk about how he hasn't really fought these cuts is very disturbing to me. I think Senator Lautenberg was right on point when he said your job is to fight for the environment now.

In your rhetoric, it is beautiful. Your rhetoric is beautiful. But what you are doing is not beautiful. And let me tell you, you have said in answer to Senator Whitehouse, you have a passion to improve the environment, but your budget endorses cuts to the environment of \$421 million: cuts in personnel, cuts in the Clean Air Program; the Safe Drinking Water Program; aid to the cities and counties; the Brownfields Program.

I have gone through this. The list goes on and on. And all of these things have made our country a leader. So when we have the Administrator sit here and say, well, I didn't even sit and really make a fight for it. You take away a targeted Office of Children's Health that was set up for a purpose, so that the only issue there was children's health.

Now, knowing what EPA tried to do under your leadership with testing kids for pesticides, getting paid off, and their families called

the CHEERS Program in Florida, where the kids would be crawling around as pesticides were being sprayed, but the families got paid off with a videocam, I understand why you might not want an Office of Children's Health.

Mr. JOHNSON. Senator, we still have an Office of Children's Health. I have to correct the record.

Senator BOXER. Well, it is going to be combined with other functions, and we have it right out of your own budget. It is going to be combined with other functions.

Mr. JOHNSON. We have an Office of Children's Health. And, in fact, it is not just the Office of Children's Health, but it is our entire agency that is continuing to work to make sure that we are protecting our Nation's most vulnerable populations.

Senator BOXER. Well, I mean, the fact is we wanted an Office of Children's Health where the only thing done in that office is worrying about children's health.

Mr. JOHNSON. There still is an Office of Children's Health.

Senator BOXER. You have combined it, period, end of quote. That is a fact.

Mr. JOHNSON. It is still an Office of Children Health. That is a fact, Senator.

Senator BOXER. The fact is, and I don't need you to talk now because I will give you your chance in many other hearings.

Mr. JOHNSON. Okay.

Senator BOXER. But I have listened to you very carefully, and this is my turn to wrap up as far as what I know and what I believe and what I heard and what I read and what I have been briefed about.

You have cut funds for environmental justice, toxic chemical regulations, global warming, environmental protection at the U.S.-Mexico border, environmental education. I mean, the last time we sat here, we had arguments and you said the libraries were not shutting down, and I showed you the website that said they were closed. Oh, you didn't know. I trust you know what you are cutting, because if you listen to your words it sounds like you are not doing any damage.

So here is the deal, this is a great country. I hold the gavel now. You hold an office now. We will work together when we can. But we have a fundamental difference. I don't think an Environmental Protection Agency Administrator should sit back and take the kind of cuts in programs that you are taking, and you are in essence endorsing.

At the same time, when you testify, you don't even admit to that. This is the second time you have done this in a hearing. It is disingenuous. We had a hearing on rollbacks. You didn't talk about the rollbacks. You talked about how great everything is. We have a hearing on budget. The budget has been cut, huge numbers, everything. My colleagues on the Republican side are very unhappy with this, too.

And yet you don't even reference this, and it is a very disturbing trend here. It is almost like we are talking past each other. And so that is why I don't think it is useful for you to respond, then I will respond, then you will respond. We have done it enough today. We have done it enough. You are tired. I am tired.

But as long as I have this gavel and no one knows how long it will be, believe me. We don't know. I am going to press you on how you can sit there and say that what you are doing at the EPA, everything you are doing is so wonderful for the American people, when the facts belie it.

Now, I want to say something to the employees of the EPA, who may be in this room or who may hear the sound of my voice, or who may read an article. Thank you for helping me do my job. You send me letters. You call me up. You let me know what is going on. Keep doing it. Keep letting me know the truth of what is going on, because the truth shall set you free. We are learning that when you lie, it catches up with you. We are going to have truth-telling here. We are going to look at these cuts. We are going to look when you say how great we are doing on air, we are going to look at this, that I got from my local people who are apoplectic at the cuts that you are making to the Clean Air Program, just as Senator Voinovich was so upset about the cuts to the Safe Drinking Water Program.

This is not acceptable. Do you think I could go home with a straight face and look at these people and say, oh yes, this is what you are exposed to; in three and a half months, this is what your lungs are going to have to take. But we are doing everything we can do. And it is fine to cut the environmental budget; no problem.

It doesn't wash. So you and I go at it. It has sort of become now an expected duel. And all I can do is try to win you over to the side of what I think the EPA ought to be: a champion of the environment. And if you would sit there and say, Senator, I really want to tell you this, but the OMB told me this is what I have to take, and I am not happy, but I did it the best way I could do.

No, we don't hear that and it makes me very unhappy. But it is just the difference between the parties, I guess, or it is the difference between the way you see the world and the way I see the world. But here is the thing, I think the people are on my side. They want clean air. They want it.

And by the way, I don't agree with you that 300 million Americans are all environmentalists. Oh, no. I know a few right here who wouldn't call themselves environmentalists, let alone out there. A lot of them are too busy to even get into it. It is our job to keep them healthy, breathing clean air. It is our job to make sure their kids don't live next to a Superfund. It is our job to fulfill the requirements of the law. It is our job to let the community know if filth and dirt and pollution is coming over them.

This is serious stuff, serious stuff. And perchlorate, oh, we don't know now; well, we were supposed to know in 2001 if there was going to be a standard set. In 2001, they said you will know by 2003 whether we need to set a standard. And we will certainly do it before 2006. Oh, now we can't do it. Well, other States can do it, but we can't, but we know enough so that we can have a new rule from you saying no testing of perchlorate.

How outrageous is that? At least let's test it before we set a standard so people know.

So that is where we stand on different sides of this. Thank you for coming, and we will continue these debates as we move the budget to the floor.

Thank you.

Mr. JOHNSON. Thank you.

[Whereupon, at 4:56 p.m. the committee was adjourned, to reconvene at the call of the Chair.]

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