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4 THE FISCAL YEAR 2013 EPA BUDGET

5 TUESDAY, FEBRUARY 28, 2012

6 House of Representatives,

7 Subcommittee on Energy and Power

8 joint with the

9 Subcommittee on Environment and the Economy

10 Committee on Energy and Commerce

11 Washington, D.C.

12 The Subcommittees met, pursuant to call, at 10:05 a.m.,
13 in Room 2123 of the Rayburn House Office Building, Hon. Ed
14 Whitfield [Chairman of the Subcommittee] presiding.

15 Members present: Representatives Whitfield, Shimkus,
16 Walden, Terry, Burgess, Murphy, Bilbray, Cassidy, Scalise,
17 McKinley, Harper, Griffith, Gardner, Pompeo, Latta, Barton,
18 Upton (ex officio), Rush, Green, DeGette, Inslee, Markey,

19 Capps, Dingell, Pallone, Castor, Butterfield, Engel, and
20 Waxman (ex officio).

21 Staff present: Charlotte Baker, Press Secretary;
22 Caroline Basile, Staff Assistant; Ray Baum, Senior Policy
23 Advisor/Director of Coalitions; Anita Bradley, Senior Policy
24 Advisor to Chairman Emeritus; Maryam Brown, Chief Counsel,
25 Energy and Power; Allison Busbee, Legislative Clerk; Jerry
26 Couri, Professional Staff Member, Environment; Andy
27 Duberstein, Deputy Press Secretary; Cory Hicks, Policy
28 Coordinator, Energy and Power; Heidi King, Chief Economist;
29 Ben Lieberman, Counsel, Energy and Power; Dave McCarthy,
30 Chief Counsel, Environment and the Economy; Mary Neumayr,
31 Senior Energy Counsel, Andrew Powaleny, Deputy Press
32 Secretary; Tina Richards, Counsel, Environment; Krista
33 Rosenthal, Counsel to Chairman Emeritus; Chris Sarley,
34 Policy Coordinator, Environment and Economy; Peter Spencer,
35 Professional Staff Member, Oversight; Alex Yergin,
36 Legislative Clerk; Alison Cassady, Democratic Senior
37 Professional Staff Member; Jacqueline Cohen, Democratic
38 Counsel; Greg Dotson, Democratic Energy and Environment Staff
39 Director; Caitlin Haberman, Democratic Policy Analyst; and
40 Alexandra Teitz, Democrat Senior Counsel, Energy and
41 Environment.

|

42 Mr. {Whitfield.} I would like to call today's hearing
43 to order. This is going to be a hearing on the fiscal year
44 2013 budget request for EPA. We only have one witness today,
45 and that is the Hon. Lisa Jackson, who is Administrator of
46 EPA, and Ms. Bennett is there to provide additional
47 information if she needs it, which she probably won't, but we
48 are delighted to have you here as well. I am going to
49 recognize myself for 3 minutes for the purpose of making an
50 opening statement.

51 This is a joint hearing of the Energy and Power and
52 Environment and the Economy Subcommittees of the Energy and
53 Commerce Committee, and I think it is important that we have
54 this hearing because in Washington, it seems like we do
55 become anesthetized to dollar amounts, and when we go home
56 and we attend civic clubs and have town hall meetings, people
57 inevitably get upset about the many dollars that are being
58 spent in Washington, D.C. President Obama's fiscal year 2013
59 budget request is for \$3.7 trillion, and there is \$350
60 billion in new program requests or new initiatives.

61 We are going to be focused only on the budget of EPA and
62 the EPA fiscal year 2013 budget request is \$8.3 billion, and
63 that is less than last year and certain that is moving in the
64 right direction. I might add that I think all government

65 agencies at this particular time when we have a \$16 trillion
66 federal debt do have to be cognizant and aware of how we are
67 spending these dollars, and as a result of that, I might just
68 pat Congress on the back because last year, fiscal year 2012,
69 Congress reduced its own budget by 6.4 percent and we
70 anticipate that our budget this year is going to be reduced
71 by an equal amount or very close to it.

72 So on that front, I know EPA's budget request for 2013
73 is 1.2 percent less than last year, so I am going to urge
74 them to try to be more like Congress on being prudent with
75 these dollars.

76 But we look forward to this hearing. It is very
77 important and we look forward to exploring in more details
78 the five specific goals that EPA has set out for fiscal year
79 2013.

80 [The prepared statement of Mr. Whitfield follows:]

81 ***** COMMITTEE INSERT *****

|
82 Mr. {Whitfield.} So with that, I would like to
83 recognize the ranking member of the Energy and Power
84 Subcommittee, Mr. Rush, for 3 minutes for an opening
85 statement.

86 Mr. {Rush.} Thank you, Madam Administrator, for being
87 here today, and I want to thank you for all your hard work,
88 your exceeding dedication on behalf of the American people to
89 protect public health. I do not envy your task to try to do
90 your job and try to protect the Nation's air and water supply
91 when I understand that the President's fiscal year 2013 EPA
92 budget calls for \$105 million less than the \$8.4 billion that
93 Congress appropriated to the agency last year.

94 And on top of these budgetary constraints, you have to
95 deal with the constant partisan demonizing that is going on
96 in this Congress about the work that your agency does so
97 valiantly in protecting our Nation's most vulnerable
98 populations.

99 Madam Administrator, I want to just commend the EPA on
100 your recently issued Mercury and Air Toxic Standards, the
101 first national standards to protect American families from
102 power plant emissions of mercury and other toxic air
103 pollutants like arsenic and acid gas. These rules will
104 protect millions of vulnerable children and millions of

105 families from harmful and costly air pollution and provide
106 the American people with health benefits that far outweigh
107 the cost of compliance. It must be noted that the EPA worked
108 consistently with stakeholders including industry and others
109 to minimize costs and maximize flexibility before finalizing
110 these standards, and I would also note, Madam Administrator,
111 some companies are already scaling back their estimated
112 compliance costs as a result of the MACT standards.

113 While the MACT rule and other environmental regulations
114 have been blamed for potentially causing wide-scale plant
115 retirements, upon careful notice, we see the limited
116 facilities that are indeed being retired are among the oldest
117 and the dirtiest and the most inefficient facilities that are
118 no longer economically feasible in light of cheaper and
119 abundant supplies of natural gas and low energy demand.

120 So Madam Administrator, I strongly support the work you
121 are doing. I look forward to your testimony today and I
122 congratulate you for being at the helm of one of the better
123 agencies in the government and for the work that your agency
124 does. Thank you.

125 I yield back my time.

126 [The prepared statement of Mr. Rush follows:]

127 ***** COMMITTEE INSERT *****

|
128 Mr. {Whitfield.} You will notice that our clock is not
129 working up on the wall, and they are in the process of fixing
130 that, but in the meantime, we do have this one that is
131 working, and at this time I would recognize the chairman of
132 the Environment and Economy Subcommittee, Mr. Shimkus, for 3
133 minutes for an opening statement.

134 Mr. {Shimkus.} Thank you, Mr. Chairman. I would just
135 note for my colleagues that the green light does go on and
136 the yellow does go on when you are getting close to time, so
137 the numbers aren't but the lights are working, and I would
138 just like to welcome the Administrator, and to my friend, Mr.
139 Rush, good thing we have drilling and fracking to recover all
140 that natural gas that is going to help us move to a cleaner
141 future. Without that, we couldn't access these natural gas
142 reserves, and I hope that the Administration with its
143 newfound love for natural gas will not inhibit drilling,
144 fracking and also regulate the flaring issues to try to stop
145 natural gas.

146 Your request is for \$8.3 billion to fund the EPA in
147 2013. I have been quoted as saying we wanted to go as a
148 committee line by line, and unfortunately, the documents that
149 we have been provided so far don't give us a lot of detail
150 about where the money is planned to go and how it is to be

151 spent, so hopefully this hearing will help us flesh some of
152 that out and hopefully the follow-up documents that we
153 request will be provided so we can have an analysis of where
154 the money you are requesting is actually designed and
155 destined to go.

156 Based upon what I see, only about 1 percent less
157 spending is proposed from last year. With such a minimal
158 decrease from an EPA whose funding has skyrocketed under this
159 Administration, I am concerned we are not committing our
160 maximum effort towards scaling back wasteful spending.
161 Whether it is Clean Air, Drinking Water, Solid Waste Disposal
162 Act or Superfund, all these programs deserve a complete
163 review, and I hope this Administration is committed to
164 working with us to promote a transparent look into where by
165 statute the dollars and cents flow at the EPA. This help will
166 go a long way toward assisting our efforts to give confidence
167 to the American public that we are protecting human health
168 and the environment, trimming unnecessary spending where
169 appropriate, and eliminating duplicative programs.

170 Equally as important as the money we are spending is the
171 leftover money we are not spending. In this case, I am
172 referring to billions of dollars EPA has that it will carry
173 over from prior year appropriations, about \$3.3 billion, some
174 of it not obligated, and the question is, why can we only

175 find \$100 million in savings when we have billions of dollars
176 that are not spent in this current year. That is not talking
177 about the billions not spent in the obligated funds. Rather
178 than sitting on these funds, the EPA should bring down
179 spending requests in its budget or work to spend down these
180 funds in areas where it makes sense.

181 Lastly, activities by this agency, both regulatory and
182 non-regulatory, incur public and private costs. This
183 committee needs to know what all EPA activity is costing
184 taxpayers directly from funding we authorize and appropriate
185 in Congress. Even more important, especially during these
186 economic times, is what those actions could mean in terms of
187 jobs and the economy.

188 Our economy continues to struggle and one of the fastest
189 ways for us to get back on course is by providing commonsense
190 regulatory certainty by eliminating unnecessary and
191 burdensome regulations. This will spark American job
192 creators and help develop the conditions essential for
193 economic growth and job creation in the United States. These
194 companies that want to stay here or come back need to be
195 assured that we understand how to balance oversight and
196 public health regulation with innovation and growth.

197 Again, I do appreciate Administrator Jackson being here
198 to help our understanding as we move forward with this

199 budget. I look forward to having an open dialogue, and we
200 will see how today goes. Thank you for coming.

201 [The prepared statement of Mr. Shimkus follows:]

202 ***** COMMITTEE INSERT *****

|
203 Mr. {Whitfield.} At this time I would like to recognize
204 the gentleman from Texas, Mr. Green, who is ranking member of
205 the Environment and Economy Subcommittee, for 3 minutes for
206 an opening statement.

207 Mr. {Green.} Thank you, Mr. Chairman. By not having a
208 light, I thought maybe we had changed the rules that would
209 allow us to go under Senate rules so we could make these
210 hearings last all day. I am sure our Administrator would
211 love that.

212 I want to thank you for holding this important hearing
213 on the EPA's 2013 budget request. It takes care of our
214 jurisdiction with our committee that all of us are concerned
215 about and the oversight of EPA.

216 This year, the Administration and Congress will once
217 again be forced to make some tough choices when it comes to
218 our budget. The task of choosing which programs to fund is
219 an unenviable position and I understand it is not an easy
220 task. I reviewed the EPA's request, and I must say, I am
221 extremely concerned and disheartened by the decision to fund
222 many of their programs by drastically cutting funding for the
223 Superfund program and the Drinking Water State Revolving
224 Fund.

225 In our 29th district in Houston, we have two Superfund

226 sites that are in close proximity to our district, the San
227 Jacinto Waste Pits and U.S. Oil Recovery. San Jacinto Waste
228 Pits was added to the National Priorities List in 2008. The
229 EPA has been conducting studies and begun the very early
230 stages of cleaning up the site. The U.S. Oil Recovery site
231 was listed as a proposed addition to the National Priority
232 List in 2011. From what I witnessed at the San Jacinto Waste
233 Pits, I believe the EPA is making great strides in the
234 Superfund program, yet at \$1.176 billion that Superfund
235 requests for 2013 is the lowest request for the program in
236 the last 10 years. According to EPA's Congressional
237 justification, this funding level is so low, it would not
238 allow for any new construction projects in fiscal year 2013
239 and would constrain new construction projects in fiscal year
240 2012. My fear, which I think is very clearly shown in the
241 Administration's budget for the Superfund sites, Superfund
242 sites across the country will be abandoned and left to
243 contaminate our environment or left for our State agencies to
244 remediate.

245 In 2011, only 11 new sites were proposed for inclusion
246 on the National Priorities List but 15 were added and only
247 seven were deleted. These are small numbers, and even if
248 they are an improvement over the past year, the EPA can still
249 do better and should be placing a priority on very long-

250 distance Superfund sites that continue to need to be cleaned
251 up even if the EPA does not request the funds, and I hope
252 other members with Superfund sites in their districts will
253 share my concern with the massive cut in Superfund.

254 I yield back my time.

255 [The prepared statement of Mr. Green follows:]

256 ***** COMMITTEE INSERT *****

|
257 Mr. {Whitfield.} The gentleman yields back. Thank you.

258 At this time I recognize the gentleman from Texas, Mr.

259 Barton, for 3 minutes for an opening statement.

260 Mr. {Barton.} Mr. Chairman, could I defer for a few

261 minutes? I want to give it, I just got through with the

262 doctor's office and I want to--

263 Mr. {Whitfield.} Okay. But you do want to talk?

264 Mr. {Barton.} I do, but if you could let somebody else

265 go.

266 Mr. {Whitfield.} Mr. Waxman has been very courteous and

267 said he is willing to go now, so I would like to recognize

268 Mr. Waxman from California for a 3-minute opening statement.

269 Mr. {Waxman.} Thank you, Mr. Chairman.

270 Administrator Jackson, thank you for being here today

271 and thank you for your outstanding leadership that you have

272 provided to the Environmental Protection Agency. Under your

273 leadership, EPA is making our air safer to breathe and our

274 water safer to drink, and you are doing so in a way that will

275 strengthen our economy and create jobs.

276 Congress should be your partner in these efforts, but

277 since Republicans took control last January, the House of

278 Representatives has tried to undermine your efforts every

279 step of the way.

280 The EPA budget represents a small portion of the overall
281 federal spending. Under the President's proposal for fiscal
282 year 2013, EPA funding would be less than one-quarter of 1
283 percent of the federal budget, and EPA would share over 40
284 percent of these funds with the States and tribes to help
285 implement federal environmental laws and achieve national
286 goals.

287 But today we will hear that your budget is too big. We
288 will be told that we can't afford investing in clean air and
289 water. These attacks are really part of a broader agenda.

290 This has been the most anti-environmental House of
291 Representatives in history. House Republicans have voted
292 over 200 times to undermine basic environmental protections
293 that have existed for decades. They have voted to block
294 actions to prevent air pollution; to strip the EPA of
295 authority to enforce water pollution standards; to halt
296 efforts to address climate change. Cutting EPA's funding is
297 just another way to limit the agency's effectiveness.

298 This is an extreme agenda. American families want clean
299 air and clean water. They don't want their health put at
300 risk by exposure to toxic chemicals. They understand that
301 stalling action on climate change means more intense and
302 frequent heat waves, more droughts, more flooding, most loss
303 of coastline.

304 According to the IEA, delaying action until the end of
305 the decade will quadruple the costs to the global economy.
306 They understand inadequately funding cleanups of Superfund
307 sites will increase their complexity and costs.

308 One-quarter of 1 percent of our budget is not too much
309 to spend on clean air and clean water and a healthy
310 environment. In fact, I believe it may not be enough.

311 Thank you, Mr. Chairman.

312 [The prepared statement of Mr. Waxman follows:]

313 ***** COMMITTEE INSERT *****

|
314 Mr. {Whitfield.} Thank you.

315 Mr. Barton, are you ready now?

316 Mr. {Barton.} I am ready.

317 Mr. {Whitfield.} The gentleman from Texas is recognized
318 for 3 minutes for an opening statement.

319 Mr. {Barton.} Thank you. I want to give the
320 Administrator an A for attendance at our hearings. She has
321 always been gracious about appearing. I cannot give you an A
322 for your performance because I think you have tended to evade
323 some of more direct questions but we do appreciate your
324 attitude and willingness to appear before us.

325 Today, Chairman Whitfield, Chairman Shimkus and their
326 two subcommittees are going to conduct a hearing on the EPA's
327 2013 EPA budget. EPA has over 17,000 employees. They have a
328 budget of over \$8 billion. You would think that with that
329 much manpower and that many dollars, they would be able to
330 answer some of the questions that this Congress and this
331 committee and this subcommittee has been asking them for the
332 past year.

333 You have to comply with the President's Executive Order
334 13563, which requires that regulations promote economic
335 growth, innovation, competitiveness and job creation. That
336 order further requires federal agencies to employ the least-

337 burdensome tool for achieving regulatory ends, taking into
338 account benefits and costs, both quantitative and
339 qualitative. Repeatedly, the EPA under your direction has
340 said that they don't have to comply with this Executive Order
341 or have done so in a most perfunctory way.

342 This committee has written letters requesting specific
343 health benefits and monetary losses and gains from each and
344 every regulation that you have proposed. To the extent that
345 your agency has attempted to answer these letters, they have
346 been evasive and have not responded to the specific request.

347 In terms of the science and research funding and support
348 activities such as quality assurance supervisory budget and
349 things of this sort, your agency has been funding research
350 with grants to people who serve on the review committees. Is
351 this a conflict of interest? Almost every single member of
352 the Clean Air Science Advisory Committee has been directly or
353 indirectly funded for research. This would be similar to
354 myself counting my votes my reelection. It wouldn't be a
355 surprise if I won if I am counting the votes. Members that
356 serve on these advisory panels are often asked to review
357 other research that they themselves were a party to or were
358 on the original research team. Is this the only way or the
359 best way to do so-called peer review?

360 There is a manual called the Reference Manual on

361 Scientific Evidence. This is published by the Federal
362 Judicial Center as a guide to research for the reasons to
363 propose new regulations. These guidelines are followed by
364 the world's leading toxicologists and epidemiologists on how
365 to study the health effects for pollution. Your agency has
366 refused to follow some of the basic standards in this manual.

367 For example, it requires that you would justify your
368 studies to be unbiased and not include so-called confounding
369 factors. A confounding factor is when another causal factor
370 confuses the relationship between the agent of interest of
371 and the outcome of interest such as the utilization of
372 particulate matter PM2.5 instead of mercury to justify the
373 Utility Mercury Air Toxic Standard, or MATS standard.

374 The EPA has not been able to find an ambient air
375 causation for toxicity so you use manipulated studies on
376 precautionary principles that this Congress and no other
377 Congress has ever agreed to. The EPA has taken it upon its
378 own authority to set energy and manufacturing policy by way
379 of manipulated studies, again, overruling the Congress. In
380 my opinion, this is unacceptable and should be stopped.

381 I could go on and on but my time is expired. Suffice it
382 to say that you can look forward to an exciting hearing today
383 and a dialog when we get to the Q&A period, but thank you for
384 being here.

385 Thank you, Mr. Chairman.

386 [The prepared statement of Mr. Barton follows:]

387 ***** COMMITTEE INSERT *****

|
388 Mr. {Whitfield.} At this time I recognize the gentleman
389 from Michigan, Mr. Dingell, for a 3-minute opening statement.

390 Mr. {Dingell.} Mr. Chairman, I thank you for your
391 courtesy and for recognizing me, and I commend you for
392 holding this hearing.

393 First, Administrator Jackson, I want to thank you for
394 visiting the North American International Auto Show in
395 Detroit last month with me. I hope you enjoyed your tour and
396 the exciting new fuel-efficient and advanced-technology
397 vehicles coming from Detroit. I think there was a high level
398 of energy at the show, and I thank you for taking the time to
399 attend. It was most helpful to our people, and I hope the
400 experience was valuable to you and to the EPA in
401 understanding all of the problems we in Michigan have.

402 The EPA was also kind enough to allow me to testify at a
403 field hearing in Detroit regarding the 2017 fuel efficiency
404 standards, which I support, for which I commend you. I
405 appreciated the opportunity, and I am encouraged that EPA and
406 NHTSA held these field hearings across the country asking for
407 input from the public. Not everyone can testify in
408 Washington because the travel costs and other difficulties
409 that are imposed on them, and so I believe it is important to
410 get feedback from as many Americans as possible on issues

411 affecting their day-to-day lives back where they live.

412 I hope that my colleagues on this committee will review
413 the President's budget proposal for EPA as a working document
414 that includes programs that may need more funding and a few
415 that perhaps could deal with less. Just because members
416 disagree with some of the actions taken by the EPA recently
417 doesn't mean we need to defund nor to dismantle EPA.

418 As I have said a number of times, the Clean Air Act
419 alone has reduced key pollutants by 60 percent since 1970
420 while at the same time we saw the economy grow by over 200
421 percent. I believe we can maintain a healthful environment
422 while creating jobs and growing businesses without going back
423 to the days of mercury-tainted lakes or smog-filled air.

424 I hope that we will have today in this committee a civil
425 discussion where we can find ways to continue growing the
426 economy while taking steps to preserve the environment
427 without resorting to demagoguery and saber rattling and other
428 similar unfortunate behavior.

429 I would like you also to know that I do have a few small
430 remaining concerns in that I have requested from EPA and
431 others an explanation of why it is that we have that nice
432 little problem where FERC may order people to produce
433 electricity for which EPA will then fine them for violating
434 the law. I hope that this is a matter that you will give

435 some attention to when you get back down to EPA and will look
436 at the questions that I was asking earlier in this committee
437 so that you can give us some answers as to why we have this
438 curious, unfortunate and I think obviously unfair event going
439 forward.

440 In any event, I want to tell you how much I appreciated
441 the way that you have handled the fuel efficiency standards
442 and the uniform standards for the United States and the
443 agreement that we have with California. I believe it has
444 been very helpful to all of us, and I thank you for your
445 courtesy in being here this morning.

446 Thank you, Mr. Chairman.

447 [The prepared statement of Mr. Dingell follows:]

448 ***** COMMITTEE INSERT *****

|
449 Mr. {Whitfield.} Thank you, Mr. Dingell.

450 Our clock is still not working, but now our red light is
451 working also, so we have green light, yellow light and red
452 light, and Mr. Upton is not here this morning so I am going
453 to recognize Mr. Murphy of Pennsylvania for a 3-minute
454 opening statement.

455 Mr. {Murphy.} Thank you, Mr. Chairman. I appreciate
456 that, and welcome here, Administrator Jackson.

457 One of the things that I wanted to make a statement had
458 to do with how Pennsylvania is doing with natural gas. It is
459 an abundant clean fuel, and we are excited about this
460 opportunity. Of course, we want to make sure we do it right,
461 that it is done in a way that respects the environment, that
462 it is done in a way that makes sure we are protecting the air
463 and the land and the water.

464 Along those lines, slightly more than a year ago last
465 March, I had asked the EPA if they thought that Pennsylvania
466 laws were adequate in their strength and adequately enforced.
467 Maybe things slipped by. I still think it is important that
468 the EPA does give information on what the States are doing
469 and to give recommendations. I must admit, I am not one that
470 favors that the EPA tells every State what to do, but given
471 that many States are involved with this, I think it is

472 valuable that the EPA can play a role in reviewing what
473 States are doing with fracking and I know that investigations
474 are taking place but also to make recommendations on the laws
475 and the regulations of the various States.

476 All of us would like us to have some energy independence
477 and certainly have clean air and certainly we recognize that
478 natural gas is an abundant, clean fuel resource but we also
479 want to make we do it right, and I am still hoping that that
480 is something that can come out of the Environmental
481 Protection Agency as you work with us.

482 One other thing that is worth noting, that many of the
483 farms that I have visited in my district over the years, I
484 noticed some years ago there were certainly ones that in many
485 cases were rundown, with old barns, old tractors, fence lines
486 that were broken and farms that were struggling along.
487 Certainly now that they have found natural gas on their
488 property from the Marcellus shale and Utica shale, I have
489 noticed consistently that these are farmers who have been
490 able to buy new tractors, put a fresh coat of paint on their
491 barn, build greenhouses so they can grow plants all year
492 long, hydroponics and other modern farming techniques and
493 really work up to clean their farms on multiple levels. So
494 it has had a benefit for the economy with \$2 billion of new
495 investment taking place in Pennsylvania.

496 But above all, I would like to emphasize again, it is
497 important that the States and EPA work in partnership on
498 this, and I am still hoping that over time we will be able to
499 hear from the EPA on their recommendations of State standards
500 with a very specific review of the laws, the regulations
501 States have on the books and recommendations that are being
502 adequately enforced.

503 [The prepared statement of Mr. Murphy follows:]

504 ***** COMMITTEE INSERT *****

|
505 Mr. {Murphy.} With that, I would like to yield the
506 remainder of my time to the gentleman from California, Mr.
507 Bilbray.

508 Mr. {Bilbray.} Thank you very much.

509 Administrator, one of the concerns I have had as
510 somebody who has been involved in the environmental review
511 and regulatory oversight is that too often we take the
512 mentality of a cop of looking to give tickets rather than as
513 a fire inspector who helps, works and is proactive. I would
514 just like to point out items that really I am concerned about
515 is how much the EPA can be proactive working with other
516 agencies and actually helping people get to an environmental
517 better option rather than always saying what they can't do
518 and what they must do rather than creating opportunities.

519 A good example I think that when we get down to it is
520 that we may be talking about nuclear reactors causing harm to
521 invertebrates and aquatic life, but how often do we talk
522 about asking the regulatory agencies to take a look at gas-
523 cooled reactors, which totally eliminate that problem, but we
524 take the attitude, well, that is not our department, we are
525 just basically on the other side. These kind of proactive
526 approaches, things like looking at why we don't open up more
527 lands for rare earth extraction is going to be important if

528 we are going to talk about clean, efficient electrical energy
529 too.

530 I yield back, Mr. Chairman.

531 [The prepared statement of Mr. Bilbray follows:]

532 ***** COMMITTEE INSERT *****

|
533 Mr. {Whitfield.} Thank you, Mr. Bilbray.

534 I think that concludes today's opening statements, so I
535 will recognize myself for 5 minutes for the purpose of asking
536 questions. I am so anxious to ask questions, I guess I
537 should let you testify first, Ms. Jackson. So I would like
538 to recognize you for 5 minutes for an opening statement.

|
539 ^STATEMENT OF HON. LISA JACKSON, ADMINISTRATOR, U.S.
540 ENVIRONMENTAL PROTECTION AGENCY

541 } Ms. {Jackson.} Thank you, Mr. Chairman, and thank you
542 for inviting me to testify on the President's fiscal year
543 2013 budget for the Environmental Protection Agency. I am
544 joined by the agency's Chief Financial Officer, Barbara
545 Bennett.

546 EPA's budget request of \$8.344 billion focuses on
547 fulfilling EPA's core mission of protecting public health and
548 the environment while making the sacrifices and tough
549 decisions that Americans across the country are making every
550 day.

551 EPA's budget request fully reflects the President's
552 commitment to reducing government spending and finding cost
553 savings in a responsible manner while supporting clean air,
554 clean water and the innovative safeguards that are essential
555 to an America that's built to last. In some cases we have
556 had to take a step back from programs. This budget reflects
557 a savings of \$50 million through the elimination of several
558 EPA programs and activities that have either met their goals,
559 or can be achieved at the State or local level or by other
560 federal agencies.

561 Let me spend a moment discussing major elements of EPA's
562 budget request. This budget recognizes the importance of our
563 partners at the State, local and tribal level. As you know,
564 they are at the front lines of implementing our environmental
565 laws like the Clean Water Act and the Clean Air Act. In
566 fact, the largest portion--40 percent of EPA's funding
567 request--is directed to the State and Tribal Assistance
568 Grants appropriation to support their efforts.

569 Specifically, this budget proposes that \$1.2 billion--
570 nearly 15 percent of EPA's request--be allocated back to the
571 States and tribes through categorical grants. This includes
572 funding for State and Local Air Quality Management grants,
573 Pollution Control grants and the tribal general assistance
574 program.

575 The budget also proposes that a combined \$2 billion--
576 another 25 percent of EPA's budget request--also goes
577 directly to the States for the Clean Water and Drinking Water
578 State Revolving Funds. This funding will help support
579 efficient systemwide investments and development of water
580 infrastructure in our communities. We are working
581 collaboratively to identify opportunities to fund green
582 infrastructure, projects that can reduce pollution
583 efficiently and less expensively than traditional grey
584 infrastructure.

585 Additionally, EPA's budget request would fund the
586 protection of the Nation's land and water in local
587 communities. Reflecting the President's commitment to
588 restoring and protecting the Great Lakes, this budget
589 requests that Congress maintain the current funding level of
590 \$300 million for the Great Lakes Restoration Initiative.
591 This support will continue to be used for collaborative work
592 with partners at the State, local and tribal level, and also
593 with nonprofit and municipal groups. The budget also
594 requests support for protection of the Chesapeake Bay, and
595 several other treasured and economically significant water
596 bodies.

597 The budget reflects the importance of cleaning up
598 contaminated land in our communities by requesting \$755
599 million for continued support of the Superfund cleanup
600 programs and maintains the agency's emergency preparedness
601 and response capabilities.

602 EPA's budget request makes major investments in its
603 science and technology account of \$807 million, or almost 10
604 percent of the total request. This request includes \$576
605 million for research, including \$81 million in research
606 grants and fellowships to scientists and universities
607 throughout the country for targeted research as part of the
608 Science to Achieve Results, or STAR program, including

609 children's health, endocrine disruption, and air monitoring
610 research. Also, as part of this request, EPA includes
611 funding increases into key areas that include green
612 infrastructure and hydraulic fracturing.

613 As I have mentioned before, natural gas is an important
614 resource which is abundant in the United States, but we must
615 make sure that the ways we extract it do not risk the safety
616 of public water supplies. This budget continues EPA's
617 ongoing congressionally directed hydraulic fracturing study,
618 which we have taken great steps to ensure is independent,
619 peer-reviewed and based on strong and scientifically
620 defensible data. Building on these ongoing efforts, this
621 budget requests \$14 million in total to work collaboratively
622 with the USGS, the Department of Energy and other partners to
623 assess questions regarding hydraulic fracturing. Strong
624 science means finding the answers to tough questions, and
625 EPA's request supports that work.

626 We are making investments to support standards for clean
627 energy and energy efficiency. Specifically, this budget
628 supports EPA's efforts to introduce cleaner vehicles and
629 fuels and to expand the use of homegrown biofuels. This
630 includes funding for EPA's Vehicle and Fuel Standards and
631 Certification program to support certification and testing
632 for all emissions standards. This also includes

633 implementation of the President's historic agreement with the
634 auto industry for carbon pollution and fuel economy standards
635 through 2025 for cars and light-duty vehicles, including
636 testing support for NHTSA's fuel economy standards. Taken
637 together, the Administration's standards for cars and light
638 trucks are projected to result in \$1.7 trillion of fuel
639 savings, and 12 billion fewer barrels of oil consumed. This
640 funding will also help support implementation of the first
641 ever carbon pollution and fuel economy standards for heavy-
642 duty trucks.

643 Mr. Chairman, I thank you for the opportunity to testify
644 today. While my testimony reflects only some of the
645 highlights of EPA's budget request, I look forward answering
646 all of your questions. Thank you.

647 [The prepared statement of Ms. Jackson follows:]

648 ***** INSERT 1 *****

|
649 Mr. {Whitfield.} Thank you very much, Ms. Jackson, and
650 now at this time I will recognize for 5 minutes for the
651 purpose of asking questions.

652 The first thing is really not a question, but on
653 February 23rd, we sent a letter to the Hon. Jeffrey Zients,
654 Acting Director of Office of Management and Budget, and when
655 I say ``we'', 221 Members of Congress, requesting that EPA
656 stop its greenhouse gas rulemaking. So my question is, have
657 you seen this letter, Ms. Jackson?

658 Ms. {Jackson.} Yes, sir.

659 Mr. {Whitfield.} And so you will take that into
660 consideration as you move forward. Is that correct?

661 Ms. {Jackson.} Well, the letter is not to me but
662 certainly I have seen a copy.

663 Mr. {Whitfield.} And you have read it, correct?

664 Ms. {Jackson.} Yes, sir.

665 Mr. {Whitfield.} Now, your number one goal in the
666 budget, it states very clearly that the number one goal is
667 taking action on climate change and improving air quality,
668 and yet in your opening statement you didn't really mention
669 climate change, and I was just curious, why not?

670 Ms. {Jackson.} I actually did, sir. I mentioned it in
671 relationship to the clean car standards, and as I said at the

672 end of the statement, there is much in the budget that I
673 don't have time to highlight, mindful of the clock.

674 Mr. {Whitfield.} But that still is the number one goal
675 for EPA?

676 Ms. {Jackson.} Well, we have actually seven goals, but
677 we have five that we outlined and it is listed first, and it
678 is certainly one of our top priorities.

679 Mr. {Whitfield.} Now, I know that transparency is very
680 important for all government agencies and for the benefit of
681 our constituents, and we have actually, my staff and others,
682 spent a lot of time just looking at the grants made by EPA,
683 and it is extremely difficult to determine the total amount
684 of grants issued by EPA. My question to you this morning
685 would be, do you know the total amount of the grants given by
686 EPA to foreign entities, foreign companies, foreign
687 charitable organizations, NGOs? Do you know the dollar
688 amount of those grants?

689 Ms. {Jackson.} I believe we have--give me one second,
690 please, Mr. Chairman. I know it is less than two-third of 1
691 percent of our funding for grant making in fiscal year 2011.

692 Mr. {Whitfield.} But do you have a dollar amount?

693 Ms. {Jackson.} Well, I can give you the amount for
694 foreign activities because very little of what is foreign
695 activity actually goes outside the country. That is

696 \$844,985.

697 Mr. {Whitfield.} Repeat that. Eight hundred and forty-
698 four thousand is what now?

699 Ms. {Jackson.} For activities that have to do with our
700 international programs, sir. That includes--

701 Mr. {Whitfield.} That is okay. The reason I am asking
702 this question is when we have a \$16 trillion federal debt and
703 most economists believe that it is going to be a serious
704 obstacle for economic development in the future, you said
705 that eight hundred and some thousand for international, and
706 we have found, for example, that EPA gave a \$718,000 grant to
707 the China State Environmental Protection Administration to
708 help China comply with some of the Stockholm Convention
709 agreements. We found that you gave \$700,000 to the Ministry
710 of Thailand related to methane gas at 12 pig farms in
711 Thailand. We found that you gave money to Indonesia and so
712 forth. Were you aware of this \$718,000 given to the
713 government of China?

714 Ms. {Jackson.} Sir, I am aware that for many years EPA
715 has funded grants that are international or trans-boundary in
716 nature. We have an international office. As I mentioned to
717 you, I am not sure of the year of the particular grants you
718 are citing but oftentimes the proportion that goes outside to
719 outside entities is very small.

720 Mr. {Whitfield.} For one, I don't think it is
721 appropriate at this time when we have the debt that we have
722 that we would be giving money, for example, to China, of
723 which we owe them more money than any other country, and yet
724 we are borrowing money from them and then turning around and
725 giving it back to them to help them with their environmental
726 issues. So I hope that you would look into that and take
727 some consideration about that.

728 One other question I want to ask real quickly. I saw
729 your presentation to the UC Berkley Law Institute on
730 environmental issues, and in that presentation, you made the
731 comment that this allegation that two hundred and thirty-some
732 thousand additional people would have to be hired by EPA to
733 implement its greenhouse gas regulations if they are
734 implemented. You said that that was--you summarily dismissed
735 that and said that is not going to happen because of our
736 tailoring rule, and as you know, there have been lawsuits
737 filed questioning the validity of the tailoring rule. So if
738 it is determined that the tailoring rule is not legal, it is
739 invalid, do you have money in this budget to hire those two
740 hundred and thirty-some thousand people that you yourself
741 said you would need to enforce the greenhouse gas
742 regulations?

743 Ms. {Jackson.} No, sir, because the number you are

744 referencing was put forth in arguments by the government to
745 show why the tailoring rule is so necessary, why it would be
746 an unworkable result. That case of course is being argued, I
747 believe, this morning.

748 Mr. {Whitfield.} Well, it is very clear, the Department
749 of Justice submitted this, but anyway, I do think that you
750 can't just summarily dismiss that you are going to win these
751 lawsuits on the tailoring rule.

752 So my time is expired, and Mr. Rush, I recognize you for
753 5 minutes for the purpose of asking questions.

754 Mr. {Rush.} Thank you, Mr. Chairman.

755 Administrator Jackson, as I indicated earlier, and you
756 know this, I am a big fan of the work that you are doing, and
757 I want to commend for your stick-to-it-iveness in protecting
758 the public health and ensuring that all Americans have access
759 to clean air and water, especially in light of the relentless
760 attacks against you and the agency you represent, attacks
761 that I think we just heard a few minutes ago.

762 One issue that was recently brought to my attention is
763 the 316(b) rule that protects against the impingement and the
764 entrainment of fish in cooling water intake structures that
765 EPA is in the process of finalizing, and I don't want to get
766 too much in the weeds on this but I do want to make sure that
767 the EPA is working with industry and listening to their

768 concerns and recommendations before finalizing this rule. As
769 you know, my main priority is protecting the public health
770 and welfare, and I want to make sure that the EPA gets this
771 right and finalizes a rule that we all can live with. I
772 think it is very important that we remain mindful of the
773 cost-benefit analysis when issuing a final 316(b) rule to
774 make sure that we are not imposing undue costs that will in
775 turn customers by unnecessarily raising energy prices.

776 So again, Madam Administrator, I just urge you to work
777 with industry and make sure that in the end your agency
778 finalizes a rule that makes sense and is fair to all of the
779 relevant stakeholders, especially the human stakeholders
780 first and foremost. I think you understand what I mean.

781 We have been hearing over and over again from my
782 colleagues on the other side of the aisle about the undue
783 costs associated with MACT rules, and I think that they are
784 beginning to sound like a broken record over there.

785 Madam Administrator, one increase in this year's request
786 that I would like for you to discuss during the remainder of
787 my time is your Community Action for Renewed Environment, the
788 CARE program. This is a very, very important and vital
789 program to allow communities living in environmental hotspots
790 to come together to work and address the dangers in their
791 neighborhood. It is a small program, but it makes a real big

792 difference, a small program that carries a big punch.
793 Unfortunately, last year the appropriators defunded the
794 program, and I am glad to see that the EPA is working to
795 continue this vital program and is included in this year's
796 request. Can you explain briefly what the CARE program is,
797 who benefits and what will the communities be able to do with
798 the \$2.5 million?

799 Ms. {Jackson.} Thank you, Mr. Rush. The Community
800 Action for Renewed Environment grants are small grants. They
801 go to community organizations to assist them in activities
802 such as monitoring, community education and awareness,
803 assistant. Much of environmental protection now is
804 individual protection, actions that individuals take to
805 either understand threats to their environment or to change
806 their own actions, and so they have gone to a variety of
807 groups, but they are pretty small grants and they go to
808 nonprofit organizations, community groups around
809 environmental issues.

810 Mr. {Rush.} These grants to local community-based
811 organizations, what has been the history, if you can, of the
812 results of these programs?

813 Ms. {Jackson.} Yes, sir. The community groups are
814 extremely fond of them. I have been asked several times
815 about why they are being zeroed out. As you mentioned, they

816 were zeroed out by the appropriators and so in this cycle, we
817 are attempting to put the money back in. We have had several
818 examples of beautification projects that people undertake to
819 address local environmental issues. That can be things like
820 training people to be aware of litter, which is still a
821 persistent problem in many, many communities. It can also
822 mean understanding specific local issues, whether it be a
823 small business that may need some assistance to understand
824 that is having an impact on the community. We have lots of
825 people who come together around watershed issues, beloved
826 watersheds, pharmaceutical collection days or hazardous-waste
827 collection days, and efforts to encourage businesses to
828 separate waste. I have one from Marquette, Michigan. It is
829 a 2006 CARE level grant, Earthkeepers Partnership. It
830 included 140 congregations, 25 regional pharmacies, police
831 departments, the Keweenaw Bay Indian community, dental
832 offices and the financial community all coming together to
833 protect the environment.

834 Mr. {Rush.} A great program. Thank you.

835 I yield back the balance of my time.

836 Mr. {Shimkus.} [Presiding] The gentleman's time has
837 expired. I thought you may grab my question when you were
838 talking about the cooling tower, Bobby. Too bad it is not in
839 our committee of jurisdiction. Otherwise we could work

840 together on that.

841 I would like to recognize myself for 5 minutes for my
842 questions. Again, welcome, Administrator Jackson. I have
843 got four that I am going to try to rush through. It is very
844 difficult, as you know. Lynn Westmoreland, my colleague from
845 Georgia, is in the front row, and he and I were actually
846 emailing over the weekend based upon a budget submission, so
847 I represent rural America, he represents rural America. So
848 in your spending guidance for the \$212 million, it will
849 distribute \$15 million in drinking water tech assistance. Do
850 you agree that it does not include the Congressional
851 directive to prioritize funding that is most beneficial to
852 small communities?

853 Ms. {Jackson.} I don't agree, sir, but I would have to--
854 -

855 Mr. {Shimkus.} It is a small amount. I know it might
856 be difficult, so if you would get back to us on that because
857 the Congressional intent was to make sure small communities
858 would find the technical assistance most beneficial, and we
859 think that if we--

860 Ms. {Jackson.} Actually, I have an answer.

861 Mr. {Shimkus.} Okay.

862 Ms. {Jackson.} EPA is not requesting funding in the
863 2013 budget for technical assistance because the agency

864 believes that the States are best positioned to develop the
865 technical assistance plans. The States are allowed to set
866 aside 2 percent of their Drinking Water State Revolving Fund
867 for small systems, and most states are using that set-aside.

868 Mr. {Shimkus.} Okay. Well, we are going to follow up
869 on this legislatively to implement a directive asking you to
870 consider small water applicants that demonstrate the level of
871 support or small communities. In small town rural America,
872 they don't have the ability of large municipal systems and
873 money, so if we can work on that, I think Mr. Westmoreland
874 would appreciate it. We would like to talk to you about
875 that.

876 Now I want to go Superfund cleanup speed and funding.
877 Sandoval Zinc Company was added to the National Priorities
878 List in 2011. It is my district. I have visited it. They
879 are lengthy delays obviously when something gets on the
880 cleanup list. Can you tell me what percent of remedial
881 budget do you spend on physical cleanup versus administrative
882 costs? My point is this--and that is something you can get
883 back with me too on. The point is, when we talk with the
884 region headquarters, I have been told numerous times, we can
885 clean this up rapidly when it is initially identified, but if
886 it is delayed, then it gets into the whole system. Then you
887 have litigation, and the cost-benefit analysis of moving

888 quicker versus later is great.

889 Let me move to the definition of solid waste issue.

890 Case law and State statute is pretty clear. Do you agree

891 that RCRA applies to discarded material disposed, abandoned

892 and thrown away?

893 Ms. {Jackson.} The RCRA statute, yes, the waste

894 disposal, I believe that is part of the definition.

895 Mr. {Shimkus.} Right. Do you agree that recyclable

896 material is not discarded for permanent disposal, it is

897 defined for beneficial refuse?

898 Ms. {Jackson.} Yes, although as you know, the

899 definition of recycled material is subject to certain

900 regulatory findings.

901 Mr. {Shimkus.} Well, that is where we are headed.

902 Since we agree case law and statute are clear, what specific

903 authority do you have to change the definition of solid waste

904 under RCRA?

905 Ms. {Jackson.} Well, we can't change any statutory

906 definition.

907 Mr. {Shimkus.} That is exactly what--that is good. We

908 can follow up with that. There is a fear that you are, and

909 it affects the recycling industry, the beneficial-use

910 section.

911 I still have a minute and a half left, and I want to get

912 to RCRA 2002 subsection B requires you to review all
913 regulations every 3 years. You are about to be sued by the
914 environmental community for failure to comply with this part
915 of the law. Do we really want an agency to go down a very
916 costly path reviewing regulations based on an arbitrary date
917 that will be impossible to meet? So the question is, in
918 reviewing all regulations--no, wait. Is reviewing all
919 regulations every 3 years even feasible? I mean, you have
920 been there. You are going in your fourth year. In this,
921 third year, the end of third, now your fourth year, have you
922 been able to review all EPA regulations?

923 Ms. {Jackson.} I think EPA has a statutory obligation
924 which we try to meet, but there are plenty of cases where we
925 are not--

926 Mr. {Shimkus.} It is actually not feasible.

927 And then the other issue, as we are trying to analyze
928 all these, can you give me a cost projection of what it is
929 just to try to evaluate all these regulations within a 3-year
930 time frame as statute requires?

931 Ms. {Jackson.} Well, it is not without cost and
932 resources. We are in the middle of a review that the
933 President ordered to look for outdated regulations.

934 Mr. {Shimkus.} And I think that is an important point.
935 So as we talk about this, whether you want to work with us or

936 not, I think it would be in both of our interests if we can
937 design a system that identifies science problems and then
938 reevaluate those rules versus just having an arbitrary 3-year
939 review process that we can never meet, that throws us in
940 litigation for not meeting, and it would help the
941 Administration try to put aside things that we can't do and
942 not try to accomplish all this stuff that we are never going
943 to be able to do.

944 I appreciate your time, and with that, I yield back the
945 balance of my time. The chair now recognizes the vice
946 chairman of my committee, Mr. Green, for 5 minutes.

947 Mr. {Green.} Thank you, Mr. Chairman.

948 Again, welcome, Madam Administrator. Like all of us, I
949 have a lot of questions in the 5 minutes. My first question
950 is, first of all, the sale of fraudulent biodiesel credits
951 has emerged as a serious issue affecting the motor fuel
952 sector, and these credits originally came from a company
953 called Clean Green Fuels that EPA had been investigating for
954 well over a year. It turned out the company was a sham and
955 could not produce any actual biodiesel but was making money
956 selling fake credits. The problem is, Clean Green Fuels was
957 an EPA-approved producer and its credits were listed in the
958 agency's automated transaction system so it looked like they
959 were legitimate. The EPA did not inform any of the potential

960 buyers of the investigation while it was underway, but rather
961 than treating the refiners who purchased these fraudulent
962 credits as victims, your agency decided to go after them with
963 notice of violation in November of 2011. Why did the EPA go
964 after the good-faith purchasers of these credits in November
965 of last year?

966 Ms. {Jackson.} Well, Mr. Green, we understand the
967 importance of the RIN market. It is a marketplace and it is
968 important to the marketplace that there be valid credits and
969 that those who are buying them, as we say in our rules,
970 ensure that they are buying valid credits. There is fraud
971 that is potential in the system, and although we look for
972 opportunities to crack down on fraud, part of the system in
973 this marketplace also requires that buyers be aware and that
974 they ensure that what they are buying, that they make some
975 effort to ensure that they are not being subject to
976 fraudulent credits.

977 Mr. {Green.} Well, obviously, I think that the EPA has
978 them listed on the automatic transaction system. You know,
979 punishing the good-faith purchasers may be a little over the
980 top instead of going after them. Could EPA have done a
981 better job of preventing the fraud and protecting those
982 companies who were required to buy these credits in order to
983 comply with the law?

984 Ms. {Jackson.} Well, you know, I think EPA did its job
985 in responding to a complaint. We went to the so-called
986 producer of this biofuel. There was nothing there in one
987 case. There are two cases. In one, there was literally
988 nothing there, and the other, they had shut down all the
989 equipment and were selling for fuel they weren't making. So
990 EPA did its job. It certainly had notified those who had
991 purchased and it made clear--you know, in order for the
992 marketplace to be fair for those who are doing the right
993 thing, there has to be a penalty for those who are not doing
994 the right thing, and people need to ensure that what they are
995 buying represents more than just a piece of paper.

996 Mr. {Green.} Well, I agree, we want to do that, but I
997 want to make sure that we don't end up punishing folks who
998 are trying to comply with the law based on the EPA system.
999 Is EPA considering changes to prevent similar instances of
1000 fraud from reoccurring, maybe more immediate investigation
1001 and more timely notice to the purchasers?

1002 Ms. {Jackson.} Sir, EPA's limited enforcement resources
1003 are spread pretty thin. When we found out about the case, we
1004 certainly went out and enforced against it, but our rules are
1005 very clear that it requires both parties, the buyer and the
1006 seller, to engage in ensuring that what they are doing is
1007 actually not fraudulent but real production of biofuels. It

1008 is important to the small producers and the large oil
1009 companies who are buying these RINs certainly have resources
1010 that they could bring to bear as well.

1011 Mr. {Green.} I know we have some large oil companies
1012 and large refiners, but again, in some cases they relied on
1013 information from the EPA.

1014 My next question is, the President's budget for fiscal
1015 year 2013 includes an interagency study that the DOE, EPA and
1016 the U.S. Geological Survey are partnering on to examine
1017 environmental and health effects of hydraulic fracking. Can
1018 you explain the purpose behind the study and how this is any
1019 different and what the EPA has been currently doing?

1020 Ms. {Jackson.} Certainly, Mr. Green. The study is an
1021 expansion. Right now EPA is doing a Congressionally mandated
1022 study to look at the impact of hydraulic fracturing on
1023 drinking water supplies that has been publicly scoped and
1024 independently reviewed as we are beginning it. This is
1025 additional money to work with our partner agencies, as I said
1026 in my opening remarks, to look at air quality, water quality
1027 and ecosystem impacts, to ask the hard questions to ensure
1028 that fracking remains safe.

1029 Mr. {Green.} I understand that independent peer review
1030 will be incorporated. Will there be stakeholder input to be
1031 incorporated?

1032 Ms. {Jackson.} Well, we are just beginning to scope it
1033 out with our federal agencies, and obviously we have to wait
1034 for budget approval, but I think we would look to do a
1035 transparent and valid study and look for public input as
1036 well.

1037 Mr. {Green.} And I know you and I have discussed in the
1038 past. Would you agree that there is no way we can develop
1039 our vast natural gas resources without the use of hydro
1040 fracking?

1041 Ms. {Jackson.} That is right. The natural gas
1042 resources that the country has are in shale rock, and
1043 fracking is the way to release those resources. It needs to
1044 be done safely and responsibly but it would need to be done.

1045 Mr. {Green.} And I think we agree responsibly, but we
1046 still need the natural gas.

1047 Mr. Chairman, I don't know how much time I have, but one
1048 last question. Not everything is cut in the budget, and I
1049 said earlier this request included some important programs
1050 like the Electronic Manifest System. The current system of
1051 paper manifest is outdated and labor-intensive and simply not
1052 as safe as it should be. Administrator Jackson, what is the
1053 purpose of the Electronic Manifest System?

1054 Ms. {Jackson.} Well, to move to a paperless system. It
1055 is easier for record generation, record retrieval,

1056 transparency of information. It is about \$2 million in our
1057 budget, and we think that it would be a giant step forward
1058 and mindful of the times we are in, sir.

1059 Mr. {Green.} The cost of the system is \$2 million, and
1060 did you receive that amount? And I know I am out of time.

1061 Ms. {Jackson.} None, sir.

1062 Mr. {Green.} Mr. Chairman, I have run out of time, but
1063 I know Chairman Shimkus and I have talked about some of the
1064 things we can do with this, and so I look forward to working
1065 with you on it.

1066 Mr. {Whitfield.} At this time I would like to recognize
1067 the gentleman from Texas, Mr. Barton, for 5 minutes for
1068 questions.

1069 Mr. {Barton.} Thank you, Mr. Chairman.

1070 Madam Administrator, back in October, I think October
1071 12th, you appeared before a hearing of this committee, and I
1072 asked you a question about the number of credit cards at the
1073 EPA and what the limits were and how much money was spent and
1074 what is the criteria. We put that in a follow-up letter to
1075 your Administration on November 1st. We have still not
1076 gotten an answer. Can you enlighten us on the status of that
1077 query and what the response is going to be to it?

1078 Ms. {Jackson.} I think you have your EPA women mixed
1079 up. I think that was Ms. Bennett's hearing, and we will

1080 certain endeavor to get you an answer as soon as we can.

1081 Mr. {Barton.} Do you know where it is? Do you know
1082 anything about it other than we haven't got any response at
1083 all?

1084 Ms. {Jackson.} I know we are preparing a response and
1085 you will be getting a response soon.

1086 Mr. {Barton.} Okay. You have been doing quite a bit of
1087 travel, which is a good thing, I think. I don't have a
1088 problem with Administration officials traveling. But some of
1089 the locations seem a little bit, I won't say puzzling but
1090 interesting. You were recently down in Brazil at a
1091 conference on urban sustainability. Can you tell us what
1092 urban sustainability is?

1093 Ms. {Jackson.} I accompanied the President of the
1094 United States when he visited Brazil to meet with President
1095 Rousseff and there the two presidents decided to focus on
1096 sustainability issues in advance of Rio+20 conference, which
1097 is a U.N. conference to be held in Brazil. Urban
1098 sustainability is an issue facing Rio de Janeiro as they look
1099 at the gains that are coming in the next several years and as
1100 the large influx of people into cities in much of the
1101 developing world, they asked us for information on what
1102 cities here are doing that help them to be green, to help
1103 them to save energy, to feed their people, to provide energy

1104 and water and waste for all those people who are moving in.
1105 We are working with the city of Philadelphia and they are
1106 doing some very innovative wastewater work.

1107 Mr. {Barton.} Can you tell us what that trip cost?

1108 Ms. {Jackson.} Not off the top of my head, sir.

1109 Mr. {Barton.} Can you tell us what your travel budget
1110 is?

1111 Ms. {Jackson.} We can certainly get you the
1112 information.

1113 Mr. {Barton.} Can you tell us who sets your travel
1114 budget?

1115 Ms. {Jackson.} Our overall travel budget is down and
1116 has been decreased every year. I set our agency's budget by
1117 asking our folks to as much as possible--

1118 Mr. {Barton.} Would you say your personal travel budget
1119 is several million a year, several hundred thousand a year,
1120 tens of thousands?

1121 Ms. {Jackson.} I don't know. We are happy to get you
1122 the numbers.

1123 Mr. {Barton.} You don't have any idea, and you don't
1124 have any idea who sets your budget? Is it just up to you?

1125 Ms. {Jackson.} Well, I am the head of the agency. I
1126 take responsibility for the reductions in travel that have
1127 happened every year that I have been here, yes, sir.

1128 Mr. {Barton.} I want to ask about your nonprofit
1129 grants. We went to your website, and some of them seem to be
1130 absolutely total sense--the Air and Waste Management
1131 Association, the American Lung Association--but some of them
1132 are a little bit puzzling. You have got a thousand friends
1133 in Iowa that you gave \$30,000 to. You are better off in
1134 Pennsylvania. You have 10,000 friends that you gave \$85,000
1135 to. Alabama People against a Littered State got \$75,000.
1136 But then we come to some that I am very confused. The Bible
1137 Baptist Church got \$200,000. Why would EPA give money to a
1138 Baptist Bible church for \$200,000?

1139 Ms. {Jackson.} Why not, sir?

1140 Mr. {Barton.} How about Camp Kumbaya? Your
1141 Administration gave \$20,280 to Camp Kumbaya. Can you tell me
1142 what that is about?

1143 Ms. {Jackson.} I am happy to get you information on any
1144 of our small community grants.

1145 Mr. {Barton.} I mean, what is the environmental core
1146 mission of Camp Kumbaya?

1147 Ms. {Jackson.} I don't personally know Camp Kumbaya,
1148 sir, I have never been there, but I am happy to get you
1149 information.

1150 Mr. {Barton.} How about Art from Scrap?

1151 Ms. {Jackson.} Art from Scrap?

1152 Mr. {Barton.} Art from Scrap. You gave \$18,000 to Art
1153 from Scrap.

1154 Ms. {Jackson.} Yes, sir.

1155 Mr. {Barton.} Not you personally. Do you know what the
1156 nonprofit budget is for the EPA?

1157 Ms. {Jackson.} We give several grant programs. I am
1158 guessing, but it is simply an uneducated guess, which you are
1159 not supposed to do in a hearing. Many of these are under--

1160 Mr. {Barton.} Is it hundreds of millions? Is it tens
1161 of millions?

1162 Ms. {Jackson.} It is more than millions. It is
1163 probably several million because the CARE grant program in
1164 the past has been about 2 to 2-1/2 million a year. It was
1165 zeroed out this year so we are not giving those grants.

1166 Mr. {Barton.} I would be interested in at least in why
1167 Camp Kumbaya. That just seems to me to be a little bit
1168 difficult to justify.

1169 Anyway, my time is expired, Mr. Chairman.

1170 Mr. {Whitfield.} Thank you. At this time I will
1171 recognize the gentleman from Michigan, Mr. Dingell, for 5
1172 minutes of questions.

1173 Mr. {Dingell.} Thank you for your courtesy.

1174 Madam Administration, yes or no, I see that the
1175 President's fiscal year 2013 budget request for CERCLA, or

1176 Superfund, is \$35 million less than the current fiscal year.
1177 Are you comfortable that CERCLA can continue to carry out its
1178 responsibilities in the current cleanup obligations without
1179 slowing down current efforts this reduction in spending? Yes
1180 or no.

1181 Ms. {Jackson.} Yes, but we cannot start any new
1182 cleanup, sir.

1183 Mr. {Dingell.} So that may very well slow you down, and
1184 I am referring to cuts here in both Superfund in general and
1185 in enforcement.

1186 Now, next question. I along with two of my colleagues
1187 from the Great Lakes region will request the Appropriations
1188 Committee maintain level funding for the Great Lakes
1189 Restoration. I know that you have been supportive in the
1190 past restoration efforts in the Great Lakes. Do you believe
1191 that level funding will adequately support Great Lakes
1192 restoration and invasive species prevention and control
1193 efforts? Please answer yes or no.

1194 Ms. {Jackson.} Yes.

1195 Mr. {Dingell.} Madam Administrator, as you are aware,
1196 the State of California is moving forward with a level III
1197 tailpipe emission standard for carbon monoxide, NOX and
1198 hydrocarbons. What is the status regarding equivalent
1199 standards?

1200 Ms. {Jackson.} EPA has undertaken a look at reducing
1201 the level of sulfur. Those are the so-called tier III
1202 standards. They are essentially similar to California's, and
1203 that rulemaking continues. We are working still in-house on
1204 proposals.

1205 Mr. {Dingell.} Thank you. Madam Administrator, what is
1206 EPA doing to ensure that American manufacturers, more
1207 specifically, American auto manufacturers, will not have to
1208 worry about a patchwork of regulations on these requirements.

1209 Ms. {Jackson.} Sir, the national car standards, clean
1210 car standards, which EPA is proud to have partnered with the
1211 Department of Transportation on, give one national standard
1212 for vehicles for both fuel economy and greenhouse gas
1213 emissions from now until the year 2025. We have been told
1214 over and over again that those reasonable commonsense
1215 standards give automakers the ability to innovate, to move
1216 forward with a clear set of standards so that they go about
1217 their business and grow manufacturing and we hope grow
1218 exports of their product.

1219 Mr. {Dingell.} Regarding the Mercury and Air Toxic
1220 Standards, if utilities need a 1-year extension, they need to
1221 request it from their local permitting authorities, in my
1222 case, the Department of Environmental Quality of the State of
1223 Michigan. What assurances can you provide that EPA will not

1224 override the permitting authority's decision to grant that 1-
1225 year extension?

1226 Ms. {Jackson.} Well, first, I believe very strongly
1227 that State permitting agencies, having run a permit agency
1228 myself on the front line and know their individual permittees
1229 best, but second, the President of the United States at the
1230 time that we issued those standards ordered an Executive
1231 Order for EPA to give the additional year to be lenient and
1232 to work to ensure that States did it. It is still their
1233 ultimate authority as to whether or not to give the year but
1234 EPA is certainly not posed or poised to override the
1235 President's Executive Order.

1236 Mr. {Dingell.} Now, Madam Administrator, utilities in
1237 the State of Michigan are concerned that they will first have
1238 to be in violation of the Mercury and Air Toxic Standards
1239 before requesting a second-year waiver to comply with the new
1240 standards. Is that the case? Yes or no.

1241 Ms. {Jackson.} No, it is not, but it does bear a little
1242 explanation, sir.

1243 Mr. {Dingell.} Would you give us some more comment on
1244 this for the purposes of the record, if you please?

1245 Ms. {Jackson.} Yes, sir. What we have asked utilities
1246 to do, and which I believe they are doing, is working with
1247 their public utility commissions and State regulators now to

1248 look forward and put forth their plans for their fleets on
1249 how they are going to comply with the standards. If in doing
1250 so they identify plans that they believe need to go longer
1251 than that fourth year, then--

1252 Mr. {Dingell.} Now, we have this concern. If not, what
1253 do the utilities in Michigan or elsewhere need to do in order
1254 to be given that second 1-year extension? That is a matter
1255 of great concern to our people.

1256 Ms. {Jackson.} I think the earlier that they can come
1257 forward, sir, and let us know that they believe they are
1258 going to need that second year, not waiting until the end
1259 when they do face noncompliance, they can and we can work
1260 with the State to ensure that through an agreement they have
1261 additional time. They will have to show that they need the
1262 time and that there is no other power, but those are findings
1263 they need to make.

1264 Mr. {Dingell.} Now, Madam Administrator, I understand
1265 that the New Source Performance Standards are currently being
1266 reviewed by OMB. Can you tell me if the standards will apply
1267 to modified sources? Yes or no.

1268 Ms. {Jackson.} Sir, it is not a good idea for me to
1269 speculate on rules that are still in review. So I would
1270 prefer, respectfully, to ask that we wait until those rules
1271 are out for public comment. They will go through a full

1272 public comment. But I can tell you that we have endeavored
1273 to be reasonable and to reflect the fact that technology is
1274 limited for existing sources.

1275 Mr. {Dingell.} You can understand that our people have
1276 a great deal of concern on this matter.

1277 Mr. Chairman, I thank you for your courtesy.

1278 Mr. {Whitfield.} Thank you.

1279 At this time I recognized the gentleman from Nebraska,
1280 Mr. Terry, for 5 minutes.

1281 Mr. {Terry.} Thank you, Mr. Chairman.

1282 Madam Administrator, I am concerned about the efforts
1283 being undertaken at U.S. EPA to supplant State regulators as
1284 the primary regulators on a number of environmental issues,
1285 particularly in areas where the States have been sole
1286 regulators for decades. Quite frankly, I am very proud of my
1287 folks in Nebraska and think they have done a fine job.

1288 Since this is a budget hearing, it strikes me as if the
1289 federal government were going to push the States aside so it
1290 can occupy the regulatory field in a way it never has, that
1291 you are going to need lots of new bodies in your regional
1292 offices and D.C. headquarters as well as new budget authority
1293 to pay for these people and programs. So I would appreciate
1294 it if you would please state, the first part of the question,
1295 the additional budget authority EPA needs to increase its in-

1296 house expertise and expand its programmatic and enforcement
1297 reach to carry out these authorities, especially as it
1298 relates to permitting, inspections, technical compliance
1299 assistance and regulatory enforcement.

1300 Ms. {Jackson.} In fact, Mr. Terry, in general, the
1301 budget goes in a different direction. I used to run a State
1302 program, and I have committed that while I am here we are
1303 going to increase grants to the States and the tribes so that
1304 they can do permitting and enforcement. There is a net \$113
1305 million increase in what we call the State-tribe categorical
1306 grants, even in a tough budget year. It is one of the few
1307 places we are plussing up--air quality, water pollution
1308 tribal grants, information management. Those are computers
1309 and public water supply. There are a few places where we are
1310 cutting, for example, beaches, not a huge concern, I know, in
1311 your State, but certainly I have heard from some of your
1312 colleagues. But the money is up because we believe that
1313 never should the federal government supplant the States.

1314 Mr. {Terry.} So the budget increases will be grants
1315 part, not the personnel within the EPA, particularly in
1316 Region 7?

1317 Ms. {Jackson.} Well--

1318 Mr. {Terry.} Is that a yes or no? I only have 5
1319 minutes.

1320 Ms. {Jackson.} We are not looking--we are looking at
1321 overall personnel decreases, I believe, sir.

1322 Mr. {Terry.} Well, I think it is an increase of 25.

1323 Ms. {Jackson.} It is an increase of 25 people across
1324 our 17,000-plus agencies, so we are not talking about--

1325 Mr. {Terry.} Now, what would be the impact to
1326 regulatory uncertainty between the States and the EPA and
1327 State primary delegations?

1328 Ms. {Jackson.} Could you repeat the question?

1329 Mr. {Terry.} I am going to go on to the next one. I am
1330 sorry.

1331 In fiscal year 2013, are you planning to propose
1332 revisions to the National Ambient Air Quality Standards for
1333 Particulate Matter? If so, when?

1334 Ms. {Jackson.} Yes, probably. They are due by statute.
1335 We have not announced a date, and that date has not been set.

1336 Mr. {Terry.} Can we be assured that the EPA will not be
1337 proposing any change to the current PM10 coarse particulate
1338 standards?

1339 Ms. {Jackson.} Yes, I have so stated, sir. We do not
1340 anticipate based on the science that we have seen so far that
1341 a change will be warranted, but again, the proposal--

1342 Mr. {Terry.} Okay. Does the EPA publish in one
1343 publicly accessible place a list of all the petitions for

1344 rulemaking that are submitted to the agency?

1345 Ms. {Jackson.} I do not believe so, sir, but we will
1346 double-check the answer to my question.

1347 Mr. {Terry.} All right. We haven't found one if there
1348 is. So when you check and confirm that there is not one
1349 place that the public or Members of Congress can go to, will
1350 you commit to posting that information on the EPA's website
1351 starting this year?

1352 Ms. {Jackson.} Of petitions, sir?

1353 Mr. {Terry.} Yes.

1354 Ms. {Jackson.} I think that is a fair request, sir.

1355 Mr. {Terry.} All right. I yield back.

1356 Mr. {Whitfield.} Thank you, Mr. Terry.

1357 At this time I recognize the gentleman from New Jersey,
1358 Mr. Pallone, for 5 minutes.

1359 Mr. {Pallone.} Thank you, Mr. Chairman.

1360 I want to welcome Lisa Jackson before our committee. I
1361 worked with her for many years dating back to her time as the
1362 commissioner of the New Jersey Department of Environmental
1363 Protection. Since you have been at the helm of the EPA, I
1364 believe our country has made great strides in improving air
1365 quality, protecting America's waters and cleaning up our
1366 communities, and these accomplishments are crucial to
1367 protecting human health and the environment.

1368 Unfortunately, the Republicans in Congress and on the
1369 campaign trail in particular are attempting to argue that
1370 protecting our environment is somehow hurting our economy. I
1371 don't think that is true. I don't think you need to choose
1372 between a strong economy and a clean environment. I think
1373 they bolster each other, and I think oftentimes my colleagues
1374 on the other side made broad generalizations without looking
1375 at the facts. According to the nonpartisan Economic Policy
1376 Institute, EPA's toxics rule will lead to the creation of
1377 84,500 jobs between now and 2015, and I just mention that as
1378 one example about safeguarding our environment can help
1379 bolster the economy. I know in tough economic times, it is
1380 difficult, choices have to be made, but I have confidence,
1381 Lisa, that your agency will continue its success in
1382 protecting human health and the environment.

1383 I wanted to ask a couple questions specifically about
1384 New Jersey. As you know, in the State of New Jersey, we have
1385 the most Superfund sites in the Nation. We are the most
1386 densely populated State, and it is crucial that these sites
1387 be cleaned up. The President's budget proposes the lowest
1388 level for Superfund cleanup in the last 10 years, and that is
1389 going to make it difficult to expedite cleaning up these
1390 sites. I think it also states in the budget that there will
1391 be no new construction protections, and this goes back to the

1392 issues of jobs again. Cleaning up Superfund sites provides
1393 quality jobs in local communities.

1394 Before it expired in 1995, the money to clean up the
1395 Superfund sites came from taxes on polluters but
1396 unfortunately, because Congress has not reauthorized the
1397 taxes, the burden of funding cleanup now falls on the
1398 shoulders of taxpaying Americans. I have introduced a bill,
1399 the Superfund Polluter Pays Act, which would reinstate the
1400 taxes on oil and chemical companies, and I just wanted to ask
1401 you, given the fiscal austerity in our current budget, do you
1402 agree that reinstating the Superfund taxes would enable EPA
1403 to clean up these toxic sites faster and create more jobs?

1404 Ms. {Jackson.} Yes, sir. The Administration has come
1405 out in favor of reinstatement of that tax.

1406 Mr. {Pallone.} Now, I heard you mention the elimination
1407 of the BEACH grants in the President's budget proposal. That
1408 program--actually I was part of the original authorization of
1409 the BEACH grants and the reauthorization. It was funded at
1410 only \$10 million last year, but these grants have resulted in
1411 a number of monitored beaches tripling nationwide since the
1412 program started, and States utilize these funds to monitor
1413 water quality, notify the public when the coastal waters are
1414 not safe. I am just afraid that without these grants, the
1415 trend will reverse itself and many states will just choose to

1416 stop monitoring many of their beaches. So I wanted to ask
1417 you if you think that EPA's BEACH grants have been successful
1418 over the years in expanding the number of beaches tested and
1419 keeping swimmers out of contaminated waters. Comment on the
1420 program, if you would.

1421 Ms. {Jackson.} Yes, sir. As I said, I knew some of the
1422 colleagues wouldn't be happy here.

1423 Mr. {Pallone.} I would have asked it anyway, even if
1424 you hadn't brought it up.

1425 Ms. {Jackson.} BEACH grants have been very successful,
1426 sir, and this is one of the tough choices, but it is mindful
1427 of the past success, which is what influences our decision.
1428 For most of the history and thanks to your leadership, the
1429 grants helped establish monitoring programs and systems and
1430 teams of people who now do that work, and this is simply the
1431 federal government saying that this really is a State or
1432 local function. It is best done that way. I certainly know
1433 that that is how it is done primarily in New Jersey and our
1434 time for funding this, the seed funding, is over and it is
1435 time for those communities to take over.

1436 Mr. {Pallone.} See, the reason I disagree, and I really
1437 think it is important for us to restore the funds, is because
1438 you are right that when New Jersey had it on its own and you
1439 were the commissioner at the time, that we did a lot to fund

1440 the program and we did all the things that we were supposed
1441 to do, but the problem is, other States were not doing it,
1442 and then it becomes an unfair advantage. In other words, you
1443 know, we are closing our beaches when they should be closed;
1444 other States are not because they don't do the testing and
1445 the monitoring, and I really think that the program right
1446 now--we have a reauthorization bill to expand it to a lot
1447 more things than are actually being done now, tests for
1448 different chemicals and compounds that aren't tested for now
1449 looking for sources of pollution. So my fear is that if we
1450 eliminate the federal dollars, a lot of States won't do it
1451 and we won't really know--the whole idea is right to know and
1452 we won't really know which beaches should be open and which
1453 are not. In fact, a lot of States don't even want to do it
1454 because they don't even want to admit they have dirty
1455 beaches. In addition to that, I think that the federal
1456 dollars can leverage more State dollars to do more things
1457 with the program. So I am going to fight hard to try to get
1458 that money reinstated, and I appreciate your acknowledging
1459 that it is really money well spent. Thank you.

1460 Thank you, Mr. Chairman.

1461 Mr. {Whitfield.} Thank you, Mr. Pallone.

1462 At this time I recognize the gentleman from Michigan,
1463 Mr. Upton, the chairman of the full committee, for 5 minutes

1464 of questions.

1465 The {Chairman.} Thank you, Administrator Jackson, for
1466 being here this morning. I do have a couple questions. I
1467 apologize for being in and out. There is lots of different
1468 things going on.

1469 I appreciated the letter that I think Gina McCarthy sent
1470 yesterday to Chairman Whitfield, and in that letter on the
1471 first page, you write in the last paragraph in that first
1472 page, ``That is why EPA conducted extensive refinery modeling
1473 to understand the cost impacts of a variety of fuel
1474 requirements. As a result the only fuel requirement we are
1475 considering for tier III is one that would lower the amount
1476 of sulfur in gasoline.'' So my question is, does that mean
1477 that you will not look at the Reid Vapor Pressure or the
1478 octane components of a final rule? Is that what I read
1479 between the lines?

1480 Ms. {Jackson.} Yes, I think that is pretty much--yes,
1481 sir, I agree with that.

1482 The {Chairman.} Good. Now, we are all concerned about
1483 job losses across the country, and I know there was a study
1484 that came out showed a number of refineries that are closing
1485 from California, New Mexico, New Jersey, Virginia,
1486 Pennsylvania and the Virgin Islands that total 5,500 jobs,
1487 and they are closing for a variety of different reasons, and

1488 one of the reasons is the regulatory burden that many of
1489 these have, and I know that with the refineries that are
1490 closing, particularly in Marcus Hook, Pennsylvania, as well
1491 as in Philadelphia, the Sunoco refineries there, totaling
1492 about 2,000 jobs, there is a concern that the fuel for those
1493 areas will be coming in from overseas and will be refined,
1494 losing those jobs.

1495 The question is, have you taken a look, as we all are
1496 concerned about the planet, have you taken a look at the
1497 regulations that our refineries currently have versus what
1498 they are in some of the new refineries that have been built
1499 in the world such as China and in the Caribbean? Have you
1500 actually looked at the difference in the regulations between
1501 what we have when we close those refineries, what in fact
1502 that refined oil will have in terms of the regulations
1503 impacting them?

1504 Ms. {Jackson.} Well, generally, yes, I think the
1505 program specialists have an understanding of the differences
1506 between our regulations and maybe other countries. Of
1507 course, the Virgin Islands we regulate and have regulated for
1508 years and the Virgin Islands government.

1509 You know, I have to say that those private sector
1510 decisions about refineries and their decisions to close, I
1511 have not seen any of them pointing directly to regulatory

1512 burdens in their decision making, and I think the
1513 Administration is going to look carefully, especially at the
1514 recent decisions and keep an eye on them and also hope that
1515 they work with local and regional parties to address any
1516 shortages that might cause.

1517 The {Chairman.} Well, as I understand it, one of the
1518 main reasons that the refineries are closing in the
1519 Philadelphia area is that they are now going to refine that
1520 in Nigeria rather than in the United States, and it was in
1521 large part because the cost differential between the two.

1522 Ms. {Jackson.} Sir, again, it is a private sector
1523 decision. I don't--I will not speak for them. I will tell
1524 you that my understanding has been about supply, but I only
1525 know what I read of their decision-making process.

1526 The {Chairman.} EPA was recently criticized in the
1527 magazine The Economist for how it measures benefits from the
1528 expensive MACT rules. I don't know if you saw the story or
1529 not. It was just recently here, the February 18th issue.
1530 The article explains that when analyzing the costs and
1531 benefits of the rules, most of the benefits come from co-
1532 benefits, and the question that I have, why doesn't the EPA
1533 take the time to analyze the public health benefits
1534 associated with most of the pollutants actually being
1535 regulated and wouldn't that much more sense?

1536 Ms. {Jackson.} I personally believe that the co-
1537 benefits and the economic benefits of those are valid and
1538 important, but to answer your question more directly, in the
1539 case of mercury, for example, which is a neurotoxin, the
1540 social science of economics simply isn't to the point where
1541 EPA can put a number on the value of lost IQ points or some
1542 of the things we would be asking to try to value. We
1543 certainly know and have good science and data to do things
1544 like premature deaths from soot pollution or asthma attacks
1545 from smog-forming pollutants but mercury is admittedly more
1546 difficult and so we do the best we can on mercury but we
1547 don't ignore the co-benefits as well.

1548 The {Chairman.} As you know, we passed legislation in
1549 the House to try and extend the time for these boiler MACT
1550 rules to be put into effect to allow you more time. The
1551 federal court made the decision that they did in January.
1552 Are you still--are you at all interested in the House or
1553 Senate moving such legislation for a delay to give you the
1554 time to do these right?

1555 Ms. {Jackson.} We are certainly mindful of the work
1556 that has been done here, sir, and I do hope that you know
1557 that we have been working in our repropoed rules. The cost
1558 of compliance went down by 50 percent, mainly because we are
1559 taking into account the importance of biomass and

1560 acknowledging that that is going to be important feedstock.
1561 So we are looking at--as you know, right now the boiler MACT
1562 is set for finalization in late spring of this year.

1563 The {Chairman.} I see the red light on. I yield back.

1564 Mr. {Whitfield.} Thank you.

1565 At this time I recognize the gentlelady from Florida,
1566 Ms. Castor, for 5 minutes of questions.

1567 Ms. {Castor.} Thank you, Mr. Chairman, and welcome,
1568 Madam Administrator and Ms. Bennett.

1569 Citizens across America value clean air and clean water,
1570 so I want to thank you and everyone at EPA for what you are
1571 doing to protect our air and our water and for your
1572 partnership with the States and local communities. Now, two
1573 of the most important partnerships with our local communities
1574 involve the State clean water and safe drinking water loan
1575 programs. These are the vital dollars that help with
1576 stormwater infrastructure, replacing old pipes, wastewater
1577 infrastructure. It is not real exciting but they are
1578 important when it comes to keeping our neighborhoods clean
1579 and our water bodies clean all across the country. They are
1580 also important job creators too, and the Recovery Act gave us
1581 a nice shot in the arm to help create jobs while at the same
1582 time leaving us with a lasting legacy of important
1583 infrastructure improvements.

1584 The issue is that the needs all across the country
1585 outweigh the resources. How would you characterize the
1586 backlog right now in stormwater, wastewater infrastructure?
1587 What is the magnitude?

1588 Ms. {Jackson.} Independent estimates have put it at
1589 around \$300 billion, I believe.

1590 Ms. {Castor.} Three hundred billion dollars, and I
1591 would guess in my home State of Florida, it is well beyond a
1592 single billion. It is probably much more than that. We have
1593 these aging water pipes. They need improvements. So I am
1594 troubled that the budget request actually provides a haircut.
1595 How do you explain this?

1596 Ms. {Jackson.} Tough choices, Ms. Castor. You know, we
1597 balance it by the fact that we have--because as you noted,
1598 the Recovery Act gave such a shot in the arm to these
1599 programs. It is been around \$18 billion during this
1600 Administration put into water infrastructure programs, and it
1601 is another cut, tough, tough choices, but we are at the point
1602 where we don't really have many places we can cut except in
1603 these infrastructure investments. We are also mindful that
1604 we would like to get to a place where these are loan programs
1605 for the most part, where is a revolving, almost self-
1606 sustaining point, but we are years away from what.

1607 Ms. {Castor.} Well, I hope the Congress will respond

1608 overall by giving a boost to these vital clean water and
1609 drinking water initiatives that are important partnerships
1610 for our local communities and the States and find savings
1611 elsewhere in the budget.

1612 Next I would like to ask you about the good news out of
1613 the Administration on more fuel-efficient cars. I think this
1614 is great news for American families and businesses. It
1615 appears that you all are building on the success that the
1616 Congress in 2007 passed the first increase in automobile fuel
1617 economy in 32 years. That was since 1975. We boosted
1618 mileage to 35 miles per gallon by 2020, and I have to tell
1619 you, I have a member of the family who last year bought one
1620 of these fuel-efficient cars. He is getting 50 miles per
1621 gallon, and he really enjoys driving past these gas stations
1622 no matter what their signs have posted.

1623 Can you summarize for us what next steps are? What is
1624 EPA doing to work on even more fuel-efficient vehicles?

1625 Ms. {Jackson.} As you noted, Ms. Castor, and thank you,
1626 the final rules for 2012 to 2016 light-duty vehicles were
1627 finalized in April of 2010. We have proposed rules for
1628 light-duty vehicles--those are cars--2017 to 2025. Those
1629 were proposed in November. We anticipate finalizing those
1630 later this year. We signed and published rules for heavy-
1631 duty vehicles. Those are large trucks. They were published

1632 in the Federal Register in September of 2011.

1633 Ms. {Castor.} And put it in terms of the average
1634 American family and business. What does it mean? Cash back
1635 in their pocket?

1636 Ms. {Jackson.} Absolutely. This means more money in
1637 your pocket and less trips to the gas station. It means that
1638 \$1.7 trillion saved over the lifetime of the cars going all
1639 the way to 2025. Twelve billion barrels of oil will never
1640 have to be imported to this country. So for the average car
1641 owner, as the cars get more and more efficient, up to \$8,000
1642 in fuel savings over the life of the car, more than made up
1643 for a little additional price up front. So we are very proud
1644 of it because we feel as though it is part of the President's
1645 approach, which is we need to have energy but we also need to
1646 conserve the energy we have, and it is positioned our
1647 automakers to compete with automakers around the world.

1648 Ms. {Castor.} I think it is making a real difference.
1649 Thank you.

1650 Mr. {Whitfield.} The gentlelady's time is expired.

1651 At this time I recognize the gentleman from Oregon, Mr.
1652 Walden, for 5 minutes.

1653 Mr. {Walden.} Thank you very much, Mr. Chairman.

1654 Ms. Jackson, it is good to have you back before the
1655 committee. I wanted to follow up on something that my

1656 colleague from Nebraska, Mr. Terry, had raised regarding
1657 putting things on the website, and it is my understanding
1658 that, you know, you are an advocate for transparency in the
1659 process as I am, having chaired the transition for the
1660 Speaker here in the House trying to open up our process, make
1661 it more transparent to the public because that is who we both
1662 work for at the end of the day. My understanding is that
1663 there are situations where groups file suit against your
1664 agency, and literally on the same day they are settlements
1665 entered into by your agency with those groups, and I guess
1666 what we are trying to get at here is trying to make sure that
1667 the public has an awareness of that sort of litigation and so
1668 when it is filed against your agency, are you willing to
1669 notice that on your website in a very timely manner? This
1670 would be the notice of intent to sue so you get a notice of
1671 intent to sue.

1672 Ms. {Jackson.} Yes, sir.

1673 Mr. {Walden.} When you get those, is there a way you
1674 could just put those up on the website so that the American
1675 taxpayers would know? Would that be a hardship on the
1676 agency?

1677 Ms. {Jackson.} It would require some minimal resources.
1678 We are happy to do it. I am not aware of any settling the
1679 same day. Usually when we receive a lawsuit, we are almost

1680 always called by the press and we simply say that we are
1681 reviewing it.

1682 Mr. {Walden.} But when you get the notice of intent to
1683 sue?

1684 Ms. {Jackson.} Right. Those are not actual lawsuits.
1685 Those are 60-day notices.

1686 Mr. {Walden.} Right. Can you put those up on your
1687 website?

1688 Ms. {Jackson.} I think so, absolutely, sir. I will
1689 look into the resources that are required to put that up, but
1690 it seems like a fair request.

1691 Mr. {Walden.} People are interested in that, obviously.

1692 Ms. {Jackson.} My 16-year-old can probably figure out
1693 how to do it.

1694 Mr. {Walden.} There you go, and fix the flashing clock
1695 on the--well, we don't even have VCRs anymore, do we?

1696 So I guess that is the part, and when are going to enter
1697 into a settlement, is there any noticing that can be done for
1698 the public to know about that? Because there is this concern
1699 that--and it can happen on the right, it can happen on the
1700 left if you get a notice, you know, some day after you are
1701 gone and somebody else is there. It doesn't seem fair that a
1702 group can threaten to sue, notice of intent to sue, and the
1703 agency can then sit down and make it almost a friendly

1704 lawsuit and reach a settlement and agreement and the public
1705 really never sees that in a transparent way.

1706 Ms. {Jackson.} I can assure you, sir, EPA does not
1707 enter into sweetheart settlements, and so if there is
1708 information that we can provide--when we enter into consent
1709 decrees, of course, those are subject to public comment
1710 before the consent decree is lodged with the court, and if
1711 there is an administrative settlement, oftentimes those are
1712 discussed but not subject to public comment.

1713 Mr. {Walden.} But they could be made public.

1714 Ms. {Jackson.} Well, I do not know that, sir, but I do
1715 think that the agency needs to preserve its right to discuss
1716 whether it is industry or an environmental group. We get
1717 sued by State and local governments as well. We need to
1718 preserve our right to enter into discussions to try to avoid
1719 court costs.

1720 Mr. {Walden.} No, I don't think anybody disagrees with
1721 that. It is just when I think the taxpayers feel they may be
1722 shut out of any of that, and so you get a notice of intent to
1723 sue. They don't know that really happens unless you make it
1724 public.

1725 Ms. {Jackson.} Usually the group suing us does.

1726 Mr. {Walden.} Right, but not necessarily everybody else
1727 knows. That is why this thing with modern technology is

1728 putting it on the--

1729 Ms. {Jackson.} I don't see any concerns with putting
1730 notices that we receive up and I am happy to look into it.

1731 Mr. {Walden.} I return my time.

1732 Mr. {Whitfield.} Thank you.

1733 At this time I recognize the gentleman from California,
1734 Mr. Waxman, for 5 minutes of questioning.

1735 Mr. {Waxman.} Thank you, Mr. Chairman.

1736 Administrator Jackson, the House Republicans have urged
1737 you not to issue pending proposed New Source Performance
1738 Standards under the Clean Air Act to reduce carbon pollution
1739 from new power plants. They argue that the regulations will
1740 hurt the economy and are not necessary. I could not disagree
1741 more strongly. Climate change is the greatest environmental
1742 threat we face. Although these standards will have a modest
1743 impact on the overall problem, they are critical as a first
1744 step in tackling carbon pollution. They will boost the
1745 economy but providing certainty to the power sector, allowing
1746 investment decisions to be made and new generation to be
1747 built.

1748 Administrator Jackson, you are an engineer, a practical
1749 problem solver. Does it make any sense to pretend climate
1750 change isn't happening and hope we can deal with it later?

1751 Ms. {Jackson.} No, sir, it doesn't.

1752 Mr. {Waxman.} Denying the science and the facts is, I
1753 think, indefensible and putting off action until later is
1754 utterly irresponsible. According to the highly regarded
1755 International Energy Agency, if the world doesn't change
1756 course on climate now, within just 10 years, we will have
1757 built enough high-carbon energy infrastructure to lock our
1758 planet into an irreversible and devastating amount of global
1759 warming.

1760 Administrator Jackson, making smart choices, building
1761 new infrastructure is precisely what these regulations are
1762 all about. Isn't that right?

1763 Ms. {Jackson.} That is right, sir, and giving standards
1764 so people have certainty. That is an important part of the
1765 regulatory process.

1766 Mr. {Waxman.} These New Source Performance Standards
1767 would set limits for carbon pollution that would apply when
1768 we invest billions of dollars in new power plants that would
1769 be around for half a century or more. That seems to be
1770 common sense. The reality is that the market is already
1771 driving these choices. The development of huge low-cost
1772 natural gas supplies plus uncertainty about inevitable future
1773 carbon concern requirements is deterring investments in new
1774 coal plants without carbon controls, but we are hearing the
1775 same old claims that EPA's proposed regulations would drive

1776 up energy prices and destroy the U.S. economy. That is what
1777 Republicans said in 2010 about the requirements for Clean Air
1778 Act new source review permits for carbon pollution.

1779 Administrator Jackson, the carbon pollution permitting
1780 requirements have been in place for over a year now. Is
1781 there any evidence that they are harming the economy?

1782 Ms. {Jackson.} None, sir, not that I am aware of,
1783 certainly. I believe people are getting permits and applying
1784 for them and moving forward.

1785 Mr. {Waxman.} In fact, these requirements are
1786 encouraging new sources to be more energy efficient in a
1787 cost-effective manner, and I think that is going to be good
1788 for the economy overall.

1789 Every week, we see new published scientific studies
1790 finding that climate change is already occurring, finding new
1791 threats to ecosystems, food supplies and human health from a
1792 rapidly warming planet. Finding the time to avoid a
1793 disastrous degree of warming is rapidly running out and yet
1794 this Republican Congress does worse than fiddling while Rome
1795 burns; they are actually trying to stop anyone else from
1796 fighting the fire, and I want to commend your efforts to
1797 fight this fire and I urge you to take the critical steps of
1798 issuing carbon pollution standards from power plant as soon
1799 as possible.

1800 Administrator Jackson, EPA is responsible for protecting
1801 our air, our water, our land. In the next fiscal year, the
1802 Administration is proposing to achieve mission with a measure
1803 of one-quarter of 1 percent of the federal budget. This
1804 equals 81 percent of the agency's fiscal year 2010 budget, 56
1805 percent of the agency's fiscal year 2009 budget. Clearly,
1806 the President is proposing a funding level that the agency
1807 has to make difficult choices, cut funding for valuable
1808 programs and start funding priority goals. I would like to
1809 ask you about some of these tough choices.

1810 In the 2013 budget, we have significant budgets to the
1811 drinking water program. Just yesterday, the American Water
1812 Works Association released a new assessment of state of
1813 drinking water infrastructure in this country, and they said
1814 in this report our drinking water infrastructure needs a \$1
1815 trillion investment over the next 25 years if we are to
1816 maintain current levels of water service. The AWWA concludes
1817 that ``The more we delay, the harder the job will be done.''

1818 Administrator Jackson, has the agency determined that
1819 funding drinking water infrastructure is no longer important?

1820 Ms. {Jackson.} Certainly not, sir.

1821 Mr. {Waxman.} Does EPA still believe that state
1822 revolving loan funds are important tools for delivering safe
1823 drinking water and protecting public health?

1824 Ms. {Jackson.} Certainly, sir.

1825 Mr. {Waxman.} I have other questions along these lines
1826 about Superfund and radon programs and others but my time is
1827 over. I would like to submit these questions to you in
1828 writing and get a response in writing.

1829 Ms. {Jackson.} Thank you, sir.

1830 Mr. {Waxman.} Thank you, Mr. Chairman.

1831 Mr. {Whitfield.} Thank you.

1832 At this time I recognize the gentleman from
1833 Pennsylvania, Mr. Murphy, for 5 minutes of questions.

1834 Mr. {Murphy.} Thank you. I appreciate you being here,
1835 Administrator Jackson.

1836 When you were here last year, and I had asked for a list
1837 of concerns with Pennsylvania's oil and gas production. I am
1838 disappointed I haven't heard back and I hope that that is
1839 something you can still contact people with in your agency to
1840 be back in touch with us.

1841 But since this time, Pennsylvania has also made some
1842 changes to regulations. I am not sure if you read
1843 Pennsylvania's Act 13, which just passed into law, so you may
1844 not have, but it contains a number of provisions in there
1845 including ways to handle violations. It has a requirement
1846 that unconventional well operations must have DEP-approved
1847 water management plans for water withdrawals and a whole host

1848 of other regulation changes that Governor Corbett signed into
1849 law. Now, I would ask, as I don't know if you actually had a
1850 chance to read that, I hope so, but what concerns me is I
1851 still would like to hear from you with regard to if anything
1852 remains for Pennsylvania. I won't put you on the spot right
1853 now, but if you could get back to me. Would you be able to
1854 do that?

1855 Ms. {Jackson.} We are happy to. Just keep in mind,
1856 sir, we are in the middle of a 2-year study that is
1857 specifically to look at the impact of fracking on drinking
1858 water, and so what I have said is anything we learn from that
1859 study, the first audience will be the States because they are
1860 really on the front lines of trying to protect their people
1861 and regulate these industries to keep them safe and
1862 responsible.

1863 Mr. {Murphy.} I appreciate that. Well, given that you
1864 are still in the middle of a study, a February article in the
1865 Pittsburgh Post Gazette, your agency said you began a
1866 multimedia investment of air and water hazards, material
1867 impacts which you had not previously acknowledged. In late
1868 September when onsite testing was done, and according to the
1869 paper it said you were in the ``initial stage of possible
1870 enforcement actions,'' so I am concerned about a couple of
1871 things. So you are in the middle of enforcement actions but

1872 you have not yet completed a study, and I also question, is
1873 there a statute that gives the EPA authority to regulate oil
1874 and gas production or is it water and air? I am confused
1875 here.

1876 Ms. {Jackson.} Certain aspects of production are
1877 regulated under a number of statutes, whether it is the Clean
1878 Air Act, the Clean Water Act, general duty clause under the
1879 Clean Air Act. There is still prevention and containment
1880 regulations that are separate, so there a number of statutes.
1881 I cannot comment on the validity of--

1882 Mr. {Murphy.} But not specifically to gas production?
1883 You are saying it has to do with the water on site or the air
1884 on site?

1885 Ms. {Jackson.} It has to do with the environmental
1886 impacts of certain operations that might be associated with
1887 the drilling, but the actual drilling and, as you know, the
1888 actual injection of fracking fluid are not--are generally
1889 exempt from--

1890 Mr. {Murphy.} As you go through this, do you have
1891 petroleum engineers working on this study for you and
1892 reviewing these things in Pennsylvania?

1893 Ms. {Jackson.} Yes, sir. The study and its scope was
1894 peer-reviewed. We put together panels. We had public
1895 meetings.

1896 Mr. {Murphy.} I am aware of that. I am just wondering
1897 if you have on your own employed petroleum engineers who have
1898 some expertise in this area.

1899 Ms. {Jackson.} We can certainly get you the list of
1900 folks, but the study is being done by our Office of Research
1901 and Development, so I believe there are engineers of all
1902 types involved in the study.

1903 Mr. {Murphy.} I would appreciate knowing that.

1904 As you know, in fiscal year 2010, Congress directed the
1905 EPA to carry out a study on the relationship between
1906 hydraulic fracking and drinking water using a credible
1907 approach that relies on the best available science with
1908 independent sources. Now, I have been looking at your fiscal
1909 year 2013 budget, and you want an additional \$14 million to
1910 expand the scope of your study to cover potential ecosystem
1911 issues. Now, on this study you spent \$1.9 million in fiscal
1912 year 2010, \$2.5 million in fiscal year 2011, \$9.7 million in
1913 2012. In 2013, you want to spend another \$14 million. It
1914 puts the cost of this whole study at \$28.1 million and expand
1915 it beyond the original scope.

1916 I want to comment here. A recent study in Pavilion,
1917 Wyoming, linked groundwater contamination to a well site that
1918 used hydraulic fracturing but there has been a number of
1919 scientific concerns among them on that. Among them have to

1920 do with the pH level of the water involved there. Are you
1921 familiar with that question about the pH values in that
1922 study?

1923 Ms. {Jackson.} Generally.

1924 Mr. {Murphy.} There wasn't going to be math today, so
1925 don't worry.

1926 Ms. {Jackson.} I am sorry?

1927 Mr. {Murphy.} I said there is no math questions
1928 involved. But one of the issues here has to do--and I would
1929 appreciate you getting back to me on this. But I understand
1930 in the case of drilling, there was some test wells drilled.
1931 This was not the actual water wells but they were test wells
1932 drilled by EPA and so it wasn't actually testing the water
1933 there but there was concern about a high recorded pH level of
1934 11.5 in these monitoring wells. But the soda ash that is
1935 used in the drilling has a very high pH level of 11.5, and I
1936 wonder also if you can get back to us if you are not aware
1937 today if even the process of drilling your monitoring wells,
1938 if chemicals were added in that process which may have
1939 influenced that.

1940 Ms. {Jackson.} Yes, sir, I am happy to. Two things.
1941 As far as the study, it really is an expansion of the
1942 Congressionally mandated study. We are going to include
1943 additional scientific questions, working with USGS, with the

1944 Department of Energy. That is our response to the
1945 President's call that we not shy away from investing in good
1946 science. We believe that will make the natural gas industry
1947 more robust if we look to answer these questions.

1948 As far as Pavilion, I have spoken to the Governor
1949 several times. We have agreed to review and move forward
1950 together on additional investigation. Certainly, the use of
1951 some caustics like soda ash could raise pH but we believe
1952 that when you look at the blanks and duplicate samples that
1953 our work is valid, but we are also agreeing to move forward
1954 collaborative to take additional samples.

1955 Mr. {Murphy.} I yield back. Thank you.

1956 Mr. {Whitfield.} The gentleman's time is expired.

1957 At this time I recognize the gentlelady from California,
1958 Ms. Capps, for 5 minutes.

1959 Mrs. {Capps.} Thank you, Mr. Chairman, and thank you
1960 for your testimony, Administrator Jackson.

1961 I want to begin with a brief comment. I was
1962 disappointed with the decision to eliminate BEACH Act grants,
1963 and I find EPA's justification absurd. Without funding,
1964 county environmental health officials will have to drop
1965 testing. In San Luis Obispo County, we have seen 11
1966 occasions when conditions were so bad that officials closed a
1967 stretch of shoreline to all contact. The possibility of

1968 cutbacks is not good news. We can't assume local
1969 jurisdictions will be able to replace lost grant funding.
1970 EPA needs to partner with our local communities, not leave
1971 them out to dry.

1972 Now onto questions. Last year when you appeared before
1973 us to discuss the Administration's 2012 budget request, you
1974 noted that adaptation to changing hydrological conditions is,
1975 and I quote, ``a significant issue faced by the Nation's
1976 drinking water and wastewater utilities.'' Unfortunately,
1977 the cost of these adaptation needs is not currently included
1978 in EPA's infrastructure replacement cost estimates for water
1979 and wastewater systems, and since that time, EPA's budget has
1980 further experienced cuts but data continues to accumulate
1981 demonstrating the scope of adaptation challenges faced by
1982 water systems. For example, a report recently released by
1983 the Johnson Foundation at Wingspread, American Rivers and
1984 Ceres concluded that our Nation's drinking and wastewater
1985 infrastructure is not prepared to deal with extreme weather
1986 events including persistent drought, shifting precipitation
1987 patterns and declining snow pack. More frequent occurrences
1988 of these events will strain water systems to previously
1989 unknown levels and impose drastic costs on local communities
1990 across the country.

1991 However, since last year I have taken steps to address

1992 this issue by introducing the Water Infrastructure Resiliency
1993 and Sustainability Act. This legislation would offer
1994 competitive matching grants to help local water systems build
1995 their resiliency to these changing hydrological conditions
1996 and I am pleased that this legislation enjoys wide support in
1997 the water utility community. My question, given these well-
1998 documented challenges facing the Nation's water and
1999 wastewater systems, do you think this type of cooperative
2000 approach to promoting infrastructure adaptation and
2001 resiliency among federal, State and local stakeholders can
2002 become an effective first step to address this issue?

2003 Ms. {Jackson.} Thank you, Ms. Capps. Although I can't
2004 speak on the specifics of that legislation, I think that you
2005 bring up a good point. Adaptation and the issues it is going
2006 to mean for our infrastructure are significant and are going
2007 to require a collaborative approach in terms of engineers as
2008 well as folks who are interested in providing water but also
2009 folks who are interested in lower costs and in community and
2010 public health protection.

2011 Mrs. {Capps.} And is there a structure within the
2012 budget to deal with this?

2013 Ms. {Jackson.} I don't believe so. I don't believe we
2014 have anything in the current budget.

2015 Mrs. {Capps.} So we will have to be innovative in

2016 figuring out ways to be cooperative in this area.

2017 Ms. {Jackson.} We are happy to work with your staff.

2018 Mrs. {Capps.} I would be happy to do that to.

2019 I want to turn to your work in advancing the Sustainable
2020 Communities Initiative, which is something I commend, and I
2021 was pleased to see the President again made this important
2022 initiative a priority in this budget. This funding helps
2023 empower local communities to plan more sustainable
2024 communities with more housing and transportation choices so
2025 that families can live close to where they work, shop and go
2026 to school. This dramatically reduces commuting times, which
2027 is not only good for economic growth but also for energy
2028 independence. Do you see this type of sustainable
2029 development as an effective way for communities to help
2030 insulate themselves even from the rising gas prices?

2031 Ms. {Jackson.} Yes. As communities choose, and it is a
2032 voluntary program, but for those communities who are choosing
2033 to look at those issues of transportation, energy, water and
2034 efficiency and environment all together, they are finding
2035 win-win solutions.

2036 Mrs. {Capps.} And are there some examples just for the
2037 record of how this type of development impacts a community's
2038 energy independence?

2039 Ms. {Jackson.} Oh, absolutely. You know, it can be a

2040 large city like Philadelphia where we are working with them.

2041 I should probably pick one in California. I apologize.

2042 Mrs. {Capps.} That is okay.

2043 Ms. {Jackson.} But they are in my mind because of a
2044 previous question. Or it can be a smaller community or even
2045 a rural community who are looking at issues associated with
2046 development or potential new development as their economy
2047 improves and making choices about locations, transit, roads,
2048 siting that would help them be more sustainable over time by
2049 cutting their energy use and their carbon footprint.

2050 Mrs. {Capps.} So as communities are anticipating this
2051 kind of planning and development, you offer yourselves as
2052 partners available to be in consultation with them as they
2053 make these changes?

2054 Ms. {Jackson.} Yes. It is HUD and DOT and EPA, and the
2055 technical assistance we can provide along with some meager
2056 financial assistance, but of course, HUD and DOT in their
2057 road planning efforts can be of great assistance and
2058 sometimes funding to help these communities maximize
2059 increasingly limited dollars.

2060 Mrs. {Capps.} Thank you very much. I look forward to
2061 working with you on this.

2062 Mr. {Whitfield.} Thank you.

2063 I would like to remind everyone again that we still

2064 don't have a clock but we do have the lights and just
2065 periodically look if their red light is going and your time
2066 is up.

2067 At this time I would like to recognize the gentleman
2068 from Texas, Mr. Burgess, for 5 minutes.

2069 Dr. {Burgess.} Thank you, Mr. Chairman, and thank you,
2070 Administrator Jackson, for being here again.

2071 I have got a number of things I want to get through. If
2072 I don't get to them all, I will submit questions for the
2073 record. I would appreciate a response. We are still waiting
2074 on some responses from your last trip here.

2075 But we hear from your agency, from yourself, from Gina
2076 McCarthy in your agency how you care so much about people in
2077 this country with asthma, and as an asthmatic, I appreciate
2078 that concern, but I have to tell you, I mean, the EPA is the
2079 one federal agency that is standing between a lot of
2080 asthmatics and an over-the-counter asthma treatment,
2081 Primatene Mist, that has been available for forever. I get
2082 the fact that the Food and Drug Administration plays a role
2083 in the approval of the new HFA propellant in Primatene. I
2084 get that. But your agency has the ability to provide a
2085 waiver so that the existing stock of CFC-containing Primatene
2086 Mist could be sold to asthma patients in this country, and it
2087 is not a small issue.

2088 The prescription HFA-containing compound costs about
2089 three times what the over-the-counter CFC propellant
2090 Primatene costs, but the big issue is availability. If you
2091 get in trouble in the middle of the night and you don't have
2092 a prescription, you have to go to the emergency room, and
2093 that really costs patients. So I am just asking, will you
2094 grant a waiver so the existing stock of Primatene containing
2095 CFC can be sold? It is a yes or no question.

2096 Ms. {Jackson.} No, sir, we have not granted the waiver.

2097 Dr. {Burgess.} Will you? Will you grant a waiver so
2098 that asthma patients in this country who depend upon this
2099 product can at least have the availability of the stuff that
2100 is already made? It is in warehouses and something is going
2101 to happen to it at some point. The CFC is not going to stay
2102 bottled up forever. Could you not just make that available
2103 to patients in this country?

2104 Ms. {Jackson.} Sir, I am happy to look into but I will
2105 not answer yes or no. In 2008, the FDA set out a rule
2106 letting folks know, including the makers of Primatene Mist,
2107 that they needed to phase out of the CFC.

2108 Dr. {Burgess.} I have to tell you, I am so frustrated
2109 with the circuitous nature of this. It goes back and forth
2110 between your agency and the FDA. I am just asking for some
2111 help here for the patients who are asthma sufferers in this

2112 country. You have the ability to provide that help.

2113 Ms. {Jackson.} There are 19 safe and effective asthma
2114 treatment alternatives, though, sir, 19.

2115 Dr. {Burgess.} Let us move on. I have some questions
2116 about Title 42. You know, you and I have talked about this
2117 in the past. Now, are you aware that the Government
2118 Accountability Office has recently put out a study and HHS
2119 has put out some new guidelines on advisory on Title 42? Are
2120 you aware of that GAO work in progress?

2121 Ms. {Jackson.} I have not seen it personally, sir, but
2122 thank you.

2123 Dr. {Burgess.} Well, they have put out some advisories,
2124 and they have asked that there be a cap placed on Title 42
2125 positions in their agency. Have you discussed this with
2126 anyone at HHS?

2127 Ms. {Jackson.} I have not personally. I did when I
2128 became Administrator asked to understand our Title 42 hiring
2129 process. Congress had raised it as an issue. In fiscal year
2130 2011, I believe we had 17 and hired a total of five more.

2131 Dr. {Burgess.} And these are designed to be temporary
2132 employees. Are they temporary employees on your balance
2133 sheet?

2134 Ms. {Jackson.} I believe that they are designed to meet
2135 certain needs. We have them mainly as heads of our national

2136 labs. Those national centers are state-of-the-art research
2137 and oftentimes we are looking for people with very
2138 specialized--

2139 Dr. {Burgess.} But by definition, these are designed to
2140 be time-limited and HHS has now agreed to a cap on Title 42
2141 employees. Are you looking at providing a similar sort of
2142 cap in your agency?

2143 Ms. {Jackson.} We don't have a tremendous number of
2144 Title 42 employees, and I am happy to provide the
2145 justification to you, Mr. Burgess.

2146 Dr. {Burgess.} Well, I have been waiting again on some
2147 of those questions that we submitted last time, and I will
2148 resubmit some today and I am looking forward to that. Since
2149 we have the CFO with you today--

2150 Ms. {Jackson.} I am sorry. We have authority for 30
2151 positions, so we do have a cap, Dr. Burgess. I am sorry.
2152 And so we are using 17 out of the 30, which is our cap.

2153 Dr. {Burgess.} And are you going to adhere to the fact
2154 that those are to be temporary and time-limited positions?

2155 Ms. {Jackson.} I will look into the issue, sir. I will
2156 not concede it.

2157 Dr. {Burgess.} Clearly, Mr. Chairman, this is the
2158 reason why this authorization committee needs to take a
2159 greater role in the oversight of the money spent by the

2160 Environmental Protection Agency.

2161 Ms. Bennett was kind enough to be here and talk to some
2162 of the issues related to line items in the EPA spending last
2163 year. I am so glad that she is here today. Last October, I
2164 think we had a hearing here and there was concern because of
2165 unobligated funds that were sitting in the EPA's bank
2166 account. Just purely as an example, we had--I think we had
2167 \$15.6 billion and we have been provided a little bit of
2168 granularity from the Office of Management and Budget on this,
2169 but are you going to provide us detail on what you are doing
2170 to unwind those unobligated funds? I mean, you are asking
2171 for the same amount of money you got last year and yet the
2172 American people look at your budget and see this money just
2173 sitting in limbo in your account and it is hard to justify
2174 expending the same amount of money when you have got money
2175 sitting there.

2176 Ms. {Jackson.} Yes, the vast majority of those
2177 unexpended funds, the majority of them are in Superfund
2178 balances. They are construction funds. And as you know,
2179 when you run a construction account, you have to have the
2180 money in place so you can bid the job, complete the job, and
2181 you don't always expend it or obligate it on a precise fiscal
2182 year.

2183 Dr. {Burgess.} Some are in Superfund but not all, and

2184 again--

2185 Mr. {Rush.} Point of order, Mr. Chairman.

2186 Mr. {Whitfield.} The gentleman's time has expired.

2187 At this time I recognize the gentleman from
2188 Massachusetts, Mr. Markey, for 5 minutes of questions.

2189 Mr. {Markey.} Thank you, Mr. Chairman.

2190 A little bit of history. Back in 1995, Newt Gingrich
2191 took over as Speaker. The first thing the Republicans did
2192 was attach a rider to the budget each year prohibiting an
2193 increase in fuel economy standards, prohibiting it, 1995,
2194 1996, 1997, 1998, 1999, year after year. Then George Bush
2195 took over as President and they did not add the rider anymore
2196 because Bush wasn't going to do it anyway, and so we go all
2197 the way to 2007 and you have a case, Massachusetts versus the
2198 EPA, and you have my language, which is going to increase
2199 fuel economy standards to 35 miles to the gallon within this
2200 decade and then increase it dramatically beyond, which gives
2201 the joint authority to EPA and NHTSA to now announce that the
2202 new standard is 54.5 miles per gallon for our country by
2203 2026, which by the year 2030 will back out 3.4 million
2204 barrels of oil a day. We are in a mess because the
2205 Republicans were prohibiting that increase from 1995 until
2206 after they finally lost the Congress, and if they had not
2207 prohibited it but put stronger standards on the books, we

2208 would be telling Iran right now, would be telling the Saudi
2209 Arabians we don't need their oil any more than we need their
2210 sands, but they prohibited it.

2211 So they get back in power again. It is 2011. What is
2212 the first thing they do? They pass legislation through this
2213 committee on the House Floor stripping EPA of their authority
2214 to look at increases in the efficiency of the vehicles that
2215 we drive, of the boats, of the planes, of the trains, of
2216 everything. They go right back to business as usual digging
2217 this hole, violation of the first law of holes, which is,
2218 when you are in one, stop digging. So that the mess, the
2219 mess, the technological mess that the Republicans have put us
2220 into historically.

2221 Then we say we have a Strategic Petroleum Reserve. Let
2222 us start to deploy it so we can tell Iran as they are holding
2223 this oil weapon over our head, you know, that we mean
2224 business and we are going to be tough going back at you, they
2225 say, oh, don't deploy the Strategic Petroleum Reserve. Then
2226 they want to pass the Keystone pipeline bill, and I bring out
2227 my amendment on the House Floor and say well, that oil has to
2228 United States, and they go, oh, no, it doesn't have to stay
2229 in the United States. Then we have a vote out on the House
2230 Floor 2 weeks ago that says that they can drill, the oil
2231 companies, off the coast of New England, Florida, California.

2232 And so I have an amendment that says if we have got oil and
2233 natural gas, it has to stay inside of the United States, and
2234 all the Republicans vote no, it doesn't have to stay in the
2235 United States, it can go overseas. This is a dream scenario
2236 for Saudi Arabia, for Iran, for these countries. It is a
2237 dream. It is beautiful for the American Petroleum Institute,
2238 but it is anything that placates Iran, you know, in terms of
2239 what the message is we are sending in terms of the amount of
2240 oil that we are going to say we don't need from them anymore.

2241 So let me ask this of you: what would that mean if
2242 there was a repeal, Madam Administrator, of your authority to
2243 look at how to increase the efficiency of the vehicles which
2244 we drive in the United States?

2245 Ms. {Jackson.} Our estimate of the savings of oil
2246 because of the National Clean Cars program is 12 billion
2247 barrels, Mr. Markey.

2248 Mr. {Markey.} And what would happen to--what is the
2249 total per day? What does that translate into in terms of
2250 per-day consumption of oil in the United States?

2251 Ms. {Jackson.} I actually don't have that number right
2252 in front of me, sir, but we know that one of the reasons that
2253 we are at the lowest level of imports in recent history is
2254 because of the efficiencies of these automobiles. The Energy
2255 Information Administration assumes that our use of oil will--

2256 Mr. {Markey.} The average consumer today as to spent
2257 about 7 percent of their income on gasoline. Now, if the
2258 tough standards stay on the books, the increased efficiency,
2259 there is a dramatic reduction in the amount of oil that
2260 people have to purchase to put into their gasoline tanks in
2261 the years ahead, and that is a big tax break for ordinary
2262 consumers if they have to purchase less gasoline at the tank
2263 because of the increased efficiency in the vehicles which
2264 they drive. What would this do in terms of your ability to
2265 be able to protect those consumers from that dramatically
2266 higher oil price that they would have to pay?

2267 Ms. {Jackson.} Without a national standard, we would
2268 lose the benefits. We assume those to be \$1.7 trillion over
2269 the life of the program.

2270 Mr. {Markey.} So from the perspective of this debate,
2271 the Republicans want to keep the oil tax breaks, \$4 billion a
2272 year, on the books for oil companies, even though they made
2273 \$137 billion last year, and you can put an infinity sign next
2274 to what the oil companies are going to make this year, but
2275 those tax breaks stay on the books. They are advocating an
2276 expiration of the tax breaks for wind industry this year,
2277 which is going to lead to its collapse, and it is all part of
2278 an ongoing profile that basically is a rearview mirror view
2279 of how powerful America can be technologically in telling

2280 Saudi Arabia and OPEC, we don't need their oil anymore.

2281 Mr. {Whitfield.} The gentleman's time is expired.

2282 Mr. {Markey.} Thank you.

2283 Mr. {Whitfield.} At this time I recognize the gentleman
2284 from California, Mr. Bilbray, for 5 minutes of questions.

2285 Mr. {Bilbray.} Thank you, Mr. Chairman.

2286 Quickly, the gentleman from Massachusetts was giving us
2287 a history lesson. I would like to remind him in 1995, I
2288 introduced a bill that was to eliminate the mandate that
2289 ethanol had to be in the fuel stream, and his own State of
2290 Massachusetts supported the California reformulated gasoline
2291 as cheaper and cleaner than the federal mandate. Every
2292 member of the California delegation, every member supported
2293 that legislation except for the ranking member of this
2294 committee because the deals that were cut in Washington were
2295 more important than energy independence or about clean air.

2296 But going back to what is the percentage of the CAFE
2297 standard increase have we mandated in the last few years?

2298 Ms. {Jackson.} Well, we doubled the fuel economy under
2299 President Obama.

2300 Mr. {Bilbray.} In what period of time?

2301 Ms. {Jackson.} Well, it will be between 2012 and 2025
2302 model year cars.

2303 Mr. {Bilbray.} How much in your budget today, how much

2304 is committed to requiring governments to do more traffic
2305 management and fuel efficiency through traffic control?

2306 Ms. {Jackson.} We don't have any requirements on
2307 traffic control.

2308 Mr. {Bilbray.} So in other words, it is easy for those
2309 of us in government to point fingers at the private sector
2310 and say you have to make your cars more fuel efficient and we
2311 have studies coming out of places like University and Kansas
2312 that shows 22.6 percent of all emissions and fuel consumption
2313 is inappropriate traffic control, stop signs that could be
2314 yield signs, roundabouts that would replace stop signs and
2315 traffic control. But in your budget, you are walking away
2316 from the opportunity of reducing fuel consumption and
2317 pollution by 22.6 percent because we are focused on mandate
2318 on the private sector but not asking those of us in our
2319 fellow government agencies to clean up our act and stop
2320 requiring consumers to stop every two blocks because we just
2321 find it easier to do that. I mean, my God, ma'am, you can't
2322 even get the blinking lights in Congress out here to be
2323 turned to amber behind this building. You have to go stop
2324 sign just because it is easier for government to say no, you
2325 have to stop here rather than being intelligent.

2326 Now, don't you think, Administrator, especially coming
2327 from your local government background, that isn't it time we

2328 asked government to start participating in the answer? Isn't
2329 it time that we start requiring the local government and the
2330 States and the counties to start looking at how we are doing
2331 business and start changing the way we are doing it and going
2332 to smart traffic management as much as requiring the private
2333 sector to go to smart cars?

2334 Ms. {Jackson.} But I think, Mr. Bilbray, that is
2335 happening. In the Recovery Act, I have spoken to--

2336 Mr. {Bilbray.} Wait a minute. You think it is
2337 happening voluntarily?

2338 Ms. {Jackson.} It is happening because local
2339 governments are looking at their energy impact and using
2340 investments like in the Recovery Act to make investments in
2341 smart--

2342 Mr. {Bilbray.} Ma'am, I am going to stop you right
2343 there. A city council member pointed out, he said there is
2344 no financial reason for our city to do that. Give us a
2345 financial incentive, pay us to do this. And all I am saying
2346 is, we pay the auto industries to go to a more fuel efficient
2347 standard or did we tell them they have to reduce their
2348 emissions and their fuel consumption. And if we do that with
2349 the private sector, then damn it, then why do we hold cities,
2350 counties and federal government immune from it? Why don't we
2351 set the same standards for those us in government that we are

2352 setting on our private sector and how can you say that we are
2353 doing everything we can to have fuel efficiency and clean air
2354 when we allow the government to take a free ride on this one?

2355 Ms. {Jackson.} Sir, I would you refer to the Department
2356 of Transportation, who I think in their smart transportation
2357 and planning do encourage local governments to put in place
2358 ordinances and smart traffic controls.

2359 Mr. {Bilbray.} Administrator, I have administered the
2360 Clean Air Act just like you have. You know in non-attainment
2361 areas, isn't it true that when you allow one group in a non-
2362 attainment area to pollute, somebody has to offset it, right?

2363 Ms. {Jackson.} A new source has to offset its
2364 emissions.

2365 Mr. {Bilbray.} I am saying when government is allowed
2366 to force cars to pollute, usually it is the stationary
2367 sources that take the biggest hit because they are the
2368 easiest to regulate, aren't they?

2369 Ms. {Jackson.} No, sir. I think that--

2370 Mr. {Bilbray.} Are you trying to tell me that mobile
2371 sources are as easy to regulate as stationary sources?

2372 Ms. {Jackson.} Well, we just did. I mean, the National
2373 Clean Car Standards are regulation of mobile sources: light-
2374 duty vehicles, heavy-duty--

2375 Mr. {Bilbray.} Ma'am, you were in Connecticut, weren't

2376 you? Didn't you do the air strategies?

2377 Ms. {Jackson.} I was in New Jersey, sir.

2378 Mr. {Bilbray.} New Jersey. Excuse me. All those
2379 little States get mixed up for us out in the West.

2380 Ms. {Jackson.} You have a big one, sir.

2381 Mr. {Bilbray.} You know, I am sorry, I am just telling
2382 you, I just can't believe anybody that has done air
2383 regulation to say that mobile sources are as easy. All I am
2384 saying is, we still have a major source of pollution and it
2385 is government. When we will finally, Democrats and
2386 Republicans, come together and say we need to lead through
2387 example, not point fingers at everybody else. We are talking
2388 about spending taxpayers' money but we are not willing to
2389 change regulations that government is operating. Rather than
2390 throwing money at the problem, why aren't we getting smarter
2391 as government to reduce the emissions and extend the fuel
2392 efficiency in our operations? Why can't we do that much?
2393 The cities and counties have too much control?

2394 Mr. {Whitfield.} The gentleman's time is expired.

2395 Ms. {Jackson.} Well, they are balancing safety
2396 considerations, sir. You know, the traffic signals and stop
2397 signs are for safety and they are balancing their needs to
2398 ensure public safety.

2399 Mr. {Bilbray.} Excuse me. I heard that about--

2400 Mr. {Rush.} Point of order, Mr. Chairman.

2401 Mr. {Bilbray.} Excuse me. I heard that about cars--

2402 Mr. {Rush.} Point of order, Mr. Chairman.

2403 Mr. {Bilbray.} --the fact that safety meant you had to
2404 be fuel efficient.

2405 Mr. {Rush.} Regular order.

2406 Mr. {Whitfield.} Let me just say that I am trying to be
2407 fair as chairman. We don't have a clock. I have let some
2408 people on your side go a minute and a half over. Some of
2409 this side have gone a minute or so over. So we are just
2410 trying to be as fair as we can be.

2411 At this time I would like to recognize the gentleman
2412 from North Carolina, Mr. Butterfield, for 5 minutes of
2413 questions.

2414 Mr. {Butterfield.} Let me thank you, Mr. Chairman, and
2415 thank you for your evenhanded leadership of this
2416 subcommittee. When I was a trial judge for 15 years back in
2417 North Carolina after a session of cross-examination like
2418 this, I would simply tell everybody just to take a deep
2419 breath and count to 10, so I am certainly going to do that
2420 and ask others to do the same.

2421 Let me thank you, Administrator, for coming forward
2422 today with your budget and thank you for all that you do for
2423 our country. As the President has said now for years and I

2424 am sure that he tells all of you this every day, that we have
2425 got to make some tough choices. We have got to make tough
2426 choices in our budgets, and clearly today you have given us a
2427 budget that in my opinion seeks to protect our communities
2428 and promote sound science and so I support your efforts and I
2429 believe in what you are doing, to say the least.

2430 However, on a brief note, I am a little concerned about
2431 the impact to critical infrastructure that will be caused by
2432 the proposed cut of \$359 million from state revolving funds.
2433 The Drinking Water State Revolving Fund, Mr. Waxman spoke to
2434 that earlier, has provided States with the authority to give
2435 extra assistance in the form of extended loan terms and lower
2436 interest rates or principle forgiveness to disadvantaged
2437 communities, and I live in a disadvantaged community and you
2438 know that very well.

2439 Because of that, the SRF has been essential source of
2440 financing for small and disadvantaged community water systems
2441 that are unable to finance infrastructure projects at market
2442 rates, but until the passage of the Recovery Act, States had
2443 complete discretion to decide whether to exercise their
2444 authority and provide disadvantaged communities with such
2445 assistance. Fourteen States have decided not to provide the
2446 assistance. An additional six States reserve less than 4
2447 percent of their funds over the life of the program for these

2448 disadvantaged communities. Recovery Act funding of the SRF
2449 made a significant difference for millions of Americans, and
2450 you know that record very well. In fact, according to EPA,
2451 Recovery Act funds provided through the Drinking Water SRF
2452 brought 693 drinking water systems serving over 48 million
2453 Americans back into compliance with the Safe Drinking Water
2454 standards. Forty-eight million Americans got safer water.
2455 And at the same time, good-paying construction jobs were
2456 created. There is still a significant need for this funding
2457 to improve drinking water quality and spur job growth. These
2458 cuts will be hard on all water systems but particularly small
2459 and underserved communities who need the funding the most.

2460 Question: The budget in brief express the intent of the
2461 Administration to target SRF assistance to small and
2462 underserved communities. How will you do that?

2463 Ms. {Jackson.} It will require us to work with the
2464 States, as you know, Mr. Butterfield, and thank you for your
2465 comments. I agree that the Recovery Act changed the world
2466 for certain communities and we don't have the same legal
2467 authority to direct money. It goes to the States. So we
2468 will have to work through the States to change the
2469 prioritization system. We will do that collaboratively, but
2470 in a time of decreasing resources, we have to look at the
2471 systems which really could not through rate increases or any

2472 other way finance these infrastructure improvements.

2473 Mr. {Butterfield.} In the last Congress, this committee
2474 passed bipartisan legislation to reauthorize the SRF. That
2475 legislation would have required States to provide some
2476 additional assistance to disadvantaged communities.
2477 Unfortunately, that bill did not become law. States once
2478 again have discretion to choose not to provide special
2479 assistance to small and rural systems and cuts in SRF funding
2480 may discourage States from providing that assistance because
2481 returns on loans made by State funds will become more
2482 important.

2483 Second question. Do you foresee these cuts to the SRF
2484 having an impact on the amount of assistance States make
2485 available to small and underserved communities?

2486 Ms. {Jackson.} It likely will, sir. In all honesty,
2487 they are revolving funds so the amount that a State has
2488 available in any given year depends on what loans are repaid
2489 so from, you know, how much of the principle they are getting
2490 back. But less money we believe will potentially impact
2491 their ability to make these loans and/or grants.

2492 Mr. {Butterfield.} All right, Mr. Chairman, I see the
2493 amber light on. I suppose means that we are winding down, so
2494 I am going to yield back the remainder of my time.

2495 Mr. {Whitfield.} Thank you, Mr. Butterfield.

2496 At this time I recognize the gentleman from Ohio, Mr.
2497 Latta, for 5 minutes of questions.

2498 Mr. {Latta.} Well, thank you, Mr. Chairman, and
2499 Administrator, thanks for being with us today.

2500 I would like to talk about ozone for a little bit here.
2501 In your fiscal year 2013 budget when you are looking down the
2502 road, do you intend to propose revisions to the National
2503 Ambient Air Quality Standards for Ozone, and if not in 2013,
2504 what is the EPA's current schedule?

2505 Ms. {Jackson.} The current schedule, sir, is to make a
2506 proposal in calendar year 2013. It will probably be towards
2507 the end of the calendar year so I believe that is fiscal year
2508 2014.

2509 Mr. {Latta.} Let me ask this then. Does the EPA expect
2510 to propose a rule that is similar to the rule that was
2511 withdrawn last year?

2512 Ms. {Jackson.} I can't speak to what we will do in the
2513 end of 2013. We are waiting on the science. As you know, we
2514 have to wait for a scientific review.

2515 Mr. {Latta.} Well, because it is very, very important
2516 because, you know, with the rule that was proposed last year
2517 that was withdrawn, you know, the estimated costs out there
2518 are between \$19 billion to \$90 billion annually. In a State
2519 like Ohio, we would have had a great number of counties go

2520 into noncompliance. So when are you considering these
2521 standards, it is very, very important to people like me who
2522 represent 55,000 manufacturing jobs, which is the largest in
2523 the State, and by coincidence, the largest number of
2524 manufacturing jobs on this committee. You know, we have to
2525 have some kind of an idea what that sticker price will be out
2526 there, especially because when I am home, one of the things I
2527 hear from my constituents is what is happening here,
2528 especially with the EPA, is the number one driver of the cost
2529 to them back home. But you have no idea where you are going
2530 to be going with that?

2531 Ms. {Jackson.} Yes, I can't speak to it. I can say
2532 that it is proposed, we take public comment on it, so there
2533 will be ample opportunity for folks to see it, comment and
2534 offer--

2535 Mr. {Latta.} Let me just switch gears a little bit
2536 then. You know, in looking at your budget, it says here that
2537 you plan on spending about another \$830 million more in
2538 enforcing environmental laws. That raises a couple
2539 questions. One is, where does the money go that the EPA
2540 collects in fines?

2541 Ms. {Jackson.} Fine money goes into the Treasury, sir.

2542 Mr. {Latta.} It goes right back to the Treasury? Okay.
2543 Let me go back to where Dr. Burgess was, if I could,

2544 going back into the question about release of deobligated
2545 funds, and I assume that you as you are here today that, you
2546 know, it is for our benefit, your benefit, there is this
2547 total transparency in the budget planning and that we need to
2548 have the EPA and your plans and your spending. The GAO
2549 testified before this committee that EPA receives a sizable
2550 amount of funds that has deobligated from past years but does
2551 report this reuse in its budget justifications. In 2010, the
2552 unreported reuse of funds amounted to \$160 million more than
2553 EPA's spending cuts proposed this year. At present, since
2554 the EPA is not reporting how much money it plans to
2555 deobligate and reuse next year, were you aware that the EPA
2556 is not reporting this information?

2557 Ms. {Jackson.} I am sorry, sir. I was trying to get
2558 background. Please forgive me. We do report our
2559 deobligations in our financial statements, so I am happy to
2560 take a look at the issue, but when we deobligate money,
2561 obviously we are reporting that.

2562 Mr. {Latta.} Okay. Well, because again, what the GAO
2563 was telling us is that, you know, especially with the release
2564 of these funds being reported to Congress, EPA budget
2565 justifications, that we need to--you know, that is supposed
2566 to be reported. So if you could get back to us on that in
2567 written comment, I would really appreciate that.

2568 Ms. {Jackson.} Yes, sir. I believe they are reported
2569 in our financial reports but we will be happy to get back to
2570 you.

2571 Mr. {Latta.} Okay. Switching gears real quick here,
2572 because I see the clock is on, I am trying to be cognizant
2573 and helpful to the chairman--

2574 Mr. {Whitfield.} The yellow light comes on when you
2575 have a minute left.

2576 Mr. {Latta.} I understand that. Time is running down.
2577 Do you know how much of the money that is grant money for
2578 States that have not yet been distributed? Any idea on that?

2579 Ms. {Jackson.} There are large unobligated balances and
2580 unliquidated balances. They are two different things in the
2581 State revolving funds. The States, we give them money once a
2582 year, I think on time to the States, but then how quickly
2583 they draw that money down is a different question.

2584 Mr. {Latta.} And real briefly, do you have any idea how
2585 much money was budgeted for State grants?

2586 Ms. {Jackson.} Well, there is a number of grants. The
2587 State revolving funds are about \$2 billion. We have the
2588 categorical grants, which are \$1.2 billion. About 40 percent
2589 of our budget goes to State and tribal grants.

2590 Mr. {Latta.} Thank you very much, Mr. Chairman. My
2591 time is expired and I yield back.

2592 Mr. {Whitfield.} Thank you.

2593 At this time I recognize the gentlelady from Colorado,
2594 Ms. DeGette, for 5 minutes.

2595 Ms. {DeGette.} Thank you so much, Mr. Chairman, and
2596 Administrator Jackson, thank you for coming here today to
2597 talk to us.

2598 As you know, there been a little discussion about this,
2599 we have had great advances in horizontal drilling and
2600 hydraulic fracturing over the last few years, which have
2601 enabled us to have oil and gas production in many, many new
2602 areas of the United States, and as a consequence, many of us
2603 have been hearing from our constituents about issues like
2604 impacts on the air, water and soil quality of hydraulic
2605 fracturing and they want to know whether the local and
2606 federal laws and regulations are sufficient to protect their
2607 families. And so I want to focus my questioning on the funds
2608 proposed in the EPA's fiscal year 2013 budget for
2609 understanding and minimizing potential environmental health
2610 and safety impacts of this really promising shale gas
2611 development. So if you can keep your answers brief, I would
2612 appreciate it. I have got a lot of questions.

2613 The first question is, do we know for certain whether or
2614 not shale gas development through hydraulic fracturing poses
2615 an increased risk to human health or the environment over the

2616 risks associated with conventional oil and gas development?

2617 Ms. {Jackson.} Not for certain. That is why we are
2618 doing the studies.

2619 Ms. {DeGette.} Thank you. Is it known for certain
2620 whether or not shale gas development through hydraulic
2621 fracturing poses no risk to the environment or health?

2622 Ms. {Jackson.} No, the same answer. That is why we are
2623 studying it.

2624 Ms. {DeGette.} And so what you are doing, you referred
2625 to the study, an objective science-based understanding of the
2626 potential risks is really going to be the first step for
2627 Congress to figure out how we can develop unconventional
2628 shale gas resources. So last year, as you know, Congressman
2629 Hinchey and I requested the EPA to do a study to determine
2630 the potential impacts of hydraulic fracturing on drinking
2631 water. Now, due to the extent and complexity of these
2632 studies, the EPA established quality assurance plans to
2633 ensure the validity of the data. Is that correct?

2634 Ms. {Jackson.} That is correct.

2635 Ms. {DeGette.} And the studies currently underway, as I
2636 understand, with the report on preliminary findings due at
2637 the end of this year and another one due in 2014. Is that
2638 correct?

2639 Ms. {Jackson.} Correct.

2640 Ms. {DeGette.} Now, under your new budget request, the
2641 current study will be expanded to address the broader
2642 environmental impact of hydraulic fracturing including
2643 ecological impacts as well as waste to minimize any negative
2644 impacts, not just the chemical composition of the fracking
2645 fluid. Is that right?

2646 Ms. {Jackson.} That is right. They may be separate
2647 studies but there will be additional studies.

2648 Ms. {DeGette.} And you think that you need to do that
2649 as an agency to get an understanding as to the environmental
2650 impacts of hydraulic fracturing?

2651 Ms. {Jackson.} Air quality, water quality, ecosystem
2652 impacts are of concern.

2653 Ms. {DeGette.} Okay. And now, can you comment briefly
2654 on the scientific review process for the extended effort that
2655 you are talking about, Administrator Jackson?

2656 Ms. {Jackson.} Well, obviously we would be scooping it,
2657 and it is all contingent on getting the money in the budget,
2658 but we would work with the USGS, we would work with the
2659 Department of Energy to scope studies that are not redundant.
2660 They will do some as well. And we would look for the same
2661 level of rigor as what we are looking for--

2662 Ms. {DeGette.} Thank you. Now, Mr. Murphy asked you
2663 about the cost of the study, and I want to get some

2664 clarification to those numbers. The EPA budget requests a
2665 total of \$14 million dedicated to studying shale gas
2666 development through hydraulic fracturing. Is that correct?

2667 Ms. {Jackson.} That is correct.

2668 Ms. {DeGette.} Now, of that, \$6 million is dedicated to
2669 completing the reports promised for 2012 and 2014. Is that
2670 correct?

2671 Ms. {Jackson.} I believe that is correct as well.

2672 Ms. {DeGette.} And then the \$8 million increase will go
2673 towards what you just described, better understanding of the
2674 ecological effects of wastewater discharge and the potential
2675 impacts on air quality resulting from hydraulic fracturing.
2676 Is that correct?

2677 Ms. {Jackson.} That is correct.

2678 Ms. {DeGette.} So I want to point out, the total
2679 funding of \$14 million for the hydraulic fracturing studies
2680 comprises 0.169 percent of EPA's fiscal year 2013 budget.
2681 The \$14 million is EPA's contribution to a coordinated \$45
2682 million effort between the EPA, the Department of Energy and
2683 the U.S. Geological Survey. Is that correct?

2684 Ms. {Jackson.} That is correct.

2685 Ms. {DeGette.} Now, can you explain the benefits of
2686 coordinating the effort between the USGS and the DOE?

2687 Ms. {Jackson.} Well, we have overlapping

2688 responsibilities but we also don't want to be stovepiped. We
2689 want to ensure that we are only doing one study to address
2690 one issue so we are not doing redundant studies, and we also
2691 want to make sure we are looking at issues collaboratively.

2692 Ms. {DeGette.} Thank you.

2693 Now, Mr. Chairman, with respect to hydraulic fracturing,
2694 this is something--we have all these new advances in the way
2695 that we are doing oil and gas exploration, and certainly for
2696 a State like Colorado, it can be very, very positive for
2697 domestic energy production and for our economy, but we really
2698 don't have a lot of data on the environmental effects of
2699 hydraulic fracturing because while the technique has been
2700 around for a long time, these new ways that they are doing it
2701 brand new. And so I really think that this study is
2702 important and I would just continue to urge you,
2703 Administrator Jackson, to make sure that the studies that the
2704 agency conducts are done with the highest degree of
2705 scientific standards and impartiality.

2706 Thank you. I yield back.

2707 Mr. {Whitfield.} At this time I recognize the gentleman
2708 from Mississippi, Mr. Harper, for 5 minutes of questions.

2709 Mr. {Harper.} Administrator Jackson, welcome, and good
2710 news, you are almost done. I think we are getting close.
2711 You have been very patient and I appreciate your attendance

2712 here and your insight as we look at this issues.

2713 You know, one of the things that is very important to my
2714 State and my district certainly is the technical assistance
2715 grant program that Chairman Shimkus referred to earlier. I
2716 had filed a bill on that. Some of the language that is in
2717 there is of great importance to our State as we look at that
2718 and how it affects small communities, and what I want to do
2719 is make sure I think to follow up on what he said, which is
2720 to make sure that the criteria that are set forth by the EPA
2721 actually track that appropriations language and we are
2722 actually covering all those bases. So your agreement, as I
2723 understood it, would be to work with him, check with him on
2724 those issues to be sure?

2725 Ms. {Jackson.} This is on the rural water--

2726 Mr. {Harper.} Yes.

2727 Ms. {Jackson.} Yes, sir.

2728 Mr. {Harper.} And I just want to make sure we take a
2729 double check at that criteria to make sure we are in
2730 compliance with that language.

2731 Looking at this, and I believe this is a budget hearing,
2732 I know we talked about many other things, and we are glad to
2733 have you here too, Ms. Bennett, as we look at these figures.
2734 These are difficult times, as you know, and as we look at
2735 this, and I know you have discussed tough choices and things

2736 that have be done, but we look at the overall budget on this.
2737 It is difficult for people across the country to say that we
2738 have done all that we can on tough choices when the overall
2739 budget cut I am showing as only 1.2 percent. Is that the
2740 correct figure I am showing, that the budget for this year is
2741 \$8.344 billion, which is \$105 million below the 2012 figure?
2742 I want to make sure I am using the correct figures. Is that
2743 right?

2744 Ms. {Jackson.} Yes, sir, but I would be remiss if I
2745 didn't--you know, we took a 13 percent cut in 2011, 2.6 in
2746 2012, so now this is the 1.8. You are correct.

2747 Mr. {Harper.} One point two.

2748 Ms. {Jackson.} Sorry, 1.2.

2749 Mr. {Harper.} I know we have approximately 17,000
2750 employees. Has there been a reduction or increase in the EPA
2751 workforce?

2752 Ms. {Jackson.} It is essentially static. We have had
2753 small increases but we have had no--excuse me. My CFO tells
2754 me that we are down this year from 2012.

2755 Mr. {Harper.} Now, when we are looking--I know you are
2756 set up with 10 regions across the country. Have you looked
2757 or are you looking at ways to perhaps consolidate, redirect
2758 the mission to where you don't lose what you consider to be
2759 effective but you continually look at ways to save money?

2760 Ms. {Jackson.} Yes, sir, I can assure you, we have
2761 looked at ways to maximize and ensure that we remain
2762 effective. Each one of those regional offices deals with
2763 several States, and those relationships tend to be extremely
2764 important.

2765 Mr. {Harper.} You know, the environmental education
2766 grants, how much is in the budget for that? Are you able to
2767 tell me that?

2768 Ms. {Jackson.} So in the President's 2013 proposal, we
2769 have actually proposed to, I think, zero out environmental
2770 education grant funding. I can grab you the number.

2771 Mr. {Harper.} But you expect in this it is zeroed out?
2772 Okay.

2773 Ms. {Jackson.} Yes, because many of the programs do
2774 education as a component of what they are doing already.

2775 Mr. {Harper.} You know, it is unfortunate sometimes
2776 when we come in here and when there is a discussion on
2777 issues, it seems to be particularly for some of my friends
2778 across the aisle that they want to in effect trash the other
2779 party, trash the Republicans. I think it is pretty clear
2780 that everybody in this room, Republicans and Democrats, all
2781 believe, you know, in taking care of the environment and we
2782 all want clean air and clean water. You would agree with
2783 that, wouldn't you?

2784 Ms. {Jackson.} I believe that the American people
2785 generally do. I have gone on record as saying that the
2786 voting record of this House has been several votes led by the
2787 party that is in the majority right now against and to turn
2788 back environmental statutes.

2789 Mr. {Harper.} And of course, you believe that that is
2790 turning back some of the things that you believe in, but are
2791 you looking at what the cost is? I know you receive many
2792 letters from many business groups too that believe that we
2793 have gone--you know, that we are actually hurting the economy
2794 in the process.

2795 Ms. {Jackson.} Sir, when we do our regulatory work, we
2796 are careful to do analysis of cost, analysis of benefits,
2797 analysis of jobs we have had added in several cases to try to
2798 be sensitive to people's concerns about our rules but we also
2799 get as many letters from citizens who want to ensure that EPA
2800 is doing its job to keep the air clean and--

2801 Mr. {Harper.} Last quick question, yes or no, do you
2802 believe that the Keystone XL pipeline should be approved?

2803 Ms. {Jackson.} Sir, that is not my jurisdiction. I
2804 don't have any personal belief.

2805 Mr. {Harper.} A good non-answer. Thank you.

2806 Mr. {Whitfield.} The gentleman's time is expired.

2807 At this time I recognize the gentleman from Washington

2808 State, Mr. Inslee, for 5 minutes.

2809 Mr. {Inslee.} Thank you, Madam Administrator. I wanted
2810 to first thank you for your work. I have a new
2811 granddaughter, a 3-week-old granddaughter, Zoe Inslee, and I
2812 don't think there is anybody in this town doing more to make
2813 sure that she has clean air to breathe and clean water to
2814 drink and swim in. I just want to thank you for your work.
2815 And I want to ask you a question about the RFS2 proposal in
2816 relationship to trying to get cellulosic biofuels into the
2817 market. I know this is something you have been wrestling
2818 with and I just wonder if you have any thoughts about how we
2819 could help the industry expedite the entry of those products
2820 into the market either by rulemaking or otherwise. Any
2821 thoughts about that?

2822 Ms. {Jackson.} Well, I do believe that EPA is through
2823 most of its required work on the Renewable Fuel Standard,
2824 setting the required volumes for various fuels from various
2825 feedstocks. We have also processed and I think are through
2826 reviewing a request to increase the amount of ethanol blended
2827 into gasoline, the E15 waiver. You know, the actual
2828 marketing of gasoline is beyond simply the scope of our
2829 agency. We have labels to ensure that people don't misfuel.
2830 There is lots of working happening at the U.S. Department of
2831 agriculture to encourage not only the current generation of

2832 biofuels but I know the Secretary, he and I have spoken many
2833 times about his plan. It is a comprehensive plan for the
2834 next generation of biofuels to keep that industry alive and
2835 well.

2836 Mr. {Inslee.} Thank you for your work.

2837 Ms. {Jackson.} Thank you, and congratulations.

2838 Mr. {Inslee.} Thank you.

2839 Mr. {Whitfield.} At this time I would like to recognize
2840 the gentleman from West Virginia, Mr. McKinley, for 5 minutes
2841 of questions.

2842 Mr. {McKinley.} Thank you, Mr. Chairman, and
2843 Administrator, thank you very much. I am sure it has been
2844 grueling to go through 3 hours of this.

2845 First question I have, if I maybe get through a couple
2846 quick questions with yes or no to the extent that we can.
2847 Have you ruled out regulating coal ash as a hazardous
2848 substance under subtitle C of RCRA?

2849 Ms. {Jackson.} We have not made a final rule, so that
2850 would have to be a no.

2851 Mr. {McKinley.} Second, with this notice of intent from
2852 Headwaters Resources in filing an action, and I guess some
2853 environmental groups are also doing the reverse, they are
2854 also taking an action against the EPA on some of the
2855 hazardous waste perhaps, can you give us for the record a

2856 commitment that you will take this into consideration if you
2857 were to settle that you will consider the fact that
2858 Headwaters has also put in a concern and that they will be
2859 included in the settlement?

2860 Ms. {Jackson.} I am not familiar with this letter, but
2861 this is on coal ash?

2862 Mr. {McKinley.} It was filed in your office on--it was
2863 addressed to you on February 9th and it was their notice that
2864 they want equal protection under this, so are you saying you
2865 will?

2866 Ms. {Jackson.} In our regulatory actions, in our
2867 rulemaking, we will look at all information presented to us.
2868 I think public comment period is closed. We now have a
2869 notice of data availability out, and I am aware that
2870 environmental groups are suing to try to get--

2871 Mr. {McKinley.} The third question is, the EPA is
2872 apparently in funding with Vanderbilt University and perhaps
2873 others this new LEAF environmental assessment framework
2874 program that they are doing down there. I can't find the
2875 amount in there. From what I understand, that may be an
2876 alternative to the TCLPs. So if you are looking at that, I
2877 would like to understand how much money you are putting into
2878 that.

2879 Ms. {Jackson.} We will get that for you, sir.

2880 Mr. {McKinley.} Okay. And then lastly, more
2881 importantly is a question. I don't know if you are familiar
2882 with this report that was presented, Indoor Air Quality,
2883 Indoor Air Pollution in California, 2005, a very
2884 authoritative document in which it points out much of the
2885 problems that we are dealing with air quality is indoor since
2886 we are spending approximately 90 percent of our time indoors.
2887 So when all the folks are talking about asthma attacks,
2888 premature deaths, heart attacks or whatever, I think very
2889 well could be traced back to conditions inside since they are
2890 spending 90 percent of their time indoors. But I don't see
2891 anything--I can't find in your budget a priority for where
2892 the EPA could be stepping up and really dealing with children
2893 in schools. Fifty-six million children are in classrooms
2894 every day and I don't see a prioritization in your budget for
2895 what you are spending in education and mitigation and
2896 labeling of products and others so you can help. If
2897 California is right, they are saying in their own report, it
2898 is costing the State of California \$45 billion a year. Now,
2899 I don't know how the folks on the other side of the aisle
2900 keep arguing about all these. I don't know how they can
2901 differentiate between getting sick from indoors versus
2902 outdoors but it is a convenient thing to challenge us on.
2903 But I am curious, what can we do on that? And

2904 especially given the fact that you are spending \$28 million
2905 last year giving grants to foreign governments instead of
2906 using that to help educate our States in ways to mitigate our
2907 indoor air quality problems. Can you help explain that?

2908 Ms. {Jackson.} I am happy to. The President's budget
2909 increases our children and sensitive populations by \$3
2910 million. It is not true that we gave \$28 million to foreign
2911 governments in grants last year, and we have a program that
2912 works with school districts, many of them underfunded, to try
2913 to help them address issues of public health for children.
2914 Many of them are not mandatory so these are voluntary
2915 programs. Education is important as well as things like
2916 siting guidelines. We were asked to put forth school siting
2917 guidelines and other technical assistance to help with things
2918 from radon to asbestos. So that is in addition to partnering
2919 with States who are often working as well.

2920 And I just have to remind us all that yes, indoor air
2921 quality is very important but outdoor air quality impacts
2922 indoor air quality quite significantly as well and so we look
2923 at air as a whole, not simply one versus the other.

2924 Mr. {Whitfield.} The gentleman's time is expired.

2925 Ms. Jackson, one thing that Mr. McKinley brought up and
2926 a number of people have brought up is the amount of grants
2927 that are given by EPA to foreign entities directly or

2928 indirectly. I would just ask that you all provide us with a
2929 list of those over the last 3 years.

2930 At this time I recognize the gentleman from Virginia,
2931 Mr. Griffith, for 5 minutes.

2932 Mr. {Griffith.} Thank you, Mr. Chairman.

2933 Ms. Jackson, today the D.C. Circuit is hearing oral
2934 argument in the greenhouse gas litigation and that involves
2935 the tailoring rule, and in your brief that has been filed on
2936 behalf, it indicates in that brief that there would be a need
2937 to hire 230,000 full-time employees, that there would need to
2938 an additional 81,000 PSD permits per year, 6 million Title 5
2939 permits, and a cost to the EPA, on top of the current budget,
2940 \$21 billion per year. I am looking at the brief where I got
2941 these numbers, and then the sentence right after the
2942 paragraphs that lay out these number says ``Based on this
2943 analysis, EPA found that applying the literal statutory
2944 thresholds on January 2, 2011, would overwhelm the resources
2945 of permitting authorities and severely impair the functioning
2946 of the programs.'' You would agree with that assessment?
2947 Yes or no.

2948 Ms. {Jackson.} Yes, sir.

2949 Mr. {Griffith.} And that is why you all have defended
2950 the tailoring rule based on a theory of law that says if it
2951 is not practical, you don't have to do it. Isn't that

2952 correct?

2953 Ms. {Jackson.} No, sir. We say if the result is absurd
2954 or increases administrative burden where it really can't
2955 practically be implemented, then we were given relief. It is
2956 a rule designed to give relief.

2957 Mr. {Griffith.} But wouldn't you agree that the
2958 businesses of the United States of America find themselves
2959 when they are looking at Cement MACT, Boiler MACT, Utility
2960 MACT, that many of the businesses of the United States of
2961 America find themselves in exactly the same position that the
2962 EPA finds itself in on this case where you all have said the
2963 burdens are too great by our own rules to follow our rules,
2964 and don't you think that there ought to be a tailoring act
2965 for the job creators of America to assist them in creating
2966 jobs for the hardworking taxpayers of America? Don't you
2967 agree that that would be good policy? Yes or no.

2968 Ms. {Jackson.} I don't agree with your premise, sir, so
2969 I can't agree.

2970 Mr. {Griffith.} So it is okay to have one standard for
2971 the EPA and another standard for--

2972 Ms. {Jackson.} No, sir, the standard is not for EPA in
2973 the tailoring rules.

2974 Mr. {Griffith.} All right. You know, I do get
2975 passionate about this because my people are losing jobs, and

2976 let me say this as well. When we were here earlier this year
2977 and Ms. Bennett was kind enough to be with us, she indicated
2978 that some of the money that had already been committed but
2979 had not yet been spent, some of which was more than 5 years
2980 old, was there because of various reasons, perhaps even other
2981 permitting requirements or other requirements by the EPA or
2982 other agencies, but she indicated some of those were more
2983 than 5 years old. I asked her at the time, well, why
2984 wouldn't you all back the ability to move the 5 years for
2985 businesses in America because they need that and that is in
2986 the Boiler MACT bill, H.R. 2250. She said at that time that
2987 was not her position to make a statement as to whether or not
2988 she was supporting the bill or not, so I ask you because I
2989 believe it is within your prerogative, why wouldn't you adopt
2990 and accept the fact that the businesses of America can't
2991 comply with the time requirements, even if we can argue about
2992 regulations. There are numerous businesses in this country
2993 that cannot meet the 3-year plus one standard currently in
2994 the code. Why have we seen nothing from the EPA that says
2995 okay, you know what, maybe we need a longer timeline to get
2996 these things accomplished?

2997 Ms. {Jackson.} Mr. Griffith, it is not true that you
2998 haven't seen anything. EPA is reconsidering the Boiler MACT
2999 rule to give greater clarity, to reduce the cost of

3000 compliance--

3001 Mr. {Griffith.} But ma'am, I am correct that EPA is not
3002 backing any legislation to change the time limit in the law.
3003 Isn't that correct?

3004 Ms. {Jackson.} That is correct, sir.

3005 Mr. {Griffith.} Thank you. Let me talk about another
3006 subject briefly. You have, I believe and you would agree
3007 that you would feel that the EPA is doing a better job today
3008 than it did, say, in 2001?

3009 Ms. {Jackson.} I don't have any feeling on the subject,
3010 sir. I believe we are doing a good job today.

3011 Mr. {Griffith.} All right. Because I look at these, I
3012 have a chart here that says that you all have about 1,000
3013 less employees now than you had then, and I am wondering if
3014 there was ever a study done to show where there is a, it
3015 happens in many cases, a diminishing return on investment or
3016 at some point you just get too many folks and you can't be as
3017 efficient. I am wondering if any study has been done at the
3018 EPA of exactly how many employees you need to be most
3019 efficient in accomplishing your tasks.

3020 Ms. {Jackson.} There have been workload studies done in
3021 the past, sir, and we can certainly get those to you.

3022 Mr. {Griffith.} Okay. If you could get those to me
3023 because, you know, look, I know you can go to absurdity. You

3024 can't go down to one employee and be more efficient than you
3025 are with a certain number of employees but I do note that it
3026 appears you all are doing a lot more with a lot less already,
3027 and I am just wondering where the break point is because we
3028 are trying to find money, and I hope you appreciate that.

3029 And then--my time is up. I yield back.

3030 Mr. {Whitfield.} Thank you, Mr. Griffith.

3031 At this time I recognize Mr. Engel of New York for 5
3032 minutes.

3033 Mr. {Engel.} Thank you, Mr. Chairman.

3034 I want to reiterate and mention some of the topics that
3035 have been mentioned, but before I do that, I want to thank
3036 you for the job you have done, the excellent job you have
3037 done. You are on the hot seat. It is a tough job. But the
3038 work that you do is so important, and one of the frustrations
3039 that I have had with this majority in Congress is that the
3040 attacks on the EPA and the attacks on clean air and clean
3041 water and all these things are very, very frustrating to me
3042 because I believe that the role that you play is such an
3043 important role and that we ought to be facilitating the
3044 things that you do rather than impeding them. So I want to
3045 thank you personally for the job you have done, and I am glad
3046 that your agency is there and I am glad that you are doing
3047 the work the American people want us to do. People want

3048 clean air and clean water and all these other things, and I
3049 just wanted to state that.

3050 I wanted to add my voice to Ms. Castor, who spoke about
3051 the reduction in the 2013 budget of \$359 million for the
3052 Clean Water and Drinking Water State Revolving Funds. I hope
3053 there might be a way to try to restore some of that money
3054 because my State of New York has received many millions of
3055 dollars to protect our watersheds and make upgrades and
3056 repairs to our sewer systems, and EPA's most recent drinking
3057 water infrastructure needs survey indicates that New York
3058 will require \$29.7 billion over 20 years to ensure continued
3059 delivery of safe public drinking water. So I want to
3060 emphasize that and I hope you can find some way to restore
3061 those cuts.

3062 I want to talk about fracking because that is something
3063 in my State that is a hot topic. We have many, many people
3064 who are fearful of fracking. Obviously we don't want it to
3065 contaminate the drinking water or have fracking by the
3066 watersheds, and that is a concern that I have. On the other
3067 hand, it has the potential to create many jobs in western New
3068 York as it has been doing in Pennsylvania, and I know Ms.
3069 DeGette and Mr. Green had spoken with you about it with the
3070 study. I think the study is a good idea. I think that we
3071 have to know what we are dealing with. I think it is

3072 important to wean ourselves off of Middle Eastern oil and
3073 Venezuelan oil, quite frankly, with countries that don't wish
3074 us well but I do think that the fracking is something that
3075 many people remain fearful of. So I wish you well in your
3076 study and I hope we can have the results of that soon.

3077 Finally, I want to mention a topic that hasn't been
3078 mentioned, and that is PCBs in schools. Last February, New
3079 York City embarked on a 10-year, \$700 million plan to replace
3080 all the old lighting ballasts in all New York City schools
3081 over the next decade. Could you please EPA's role in that
3082 remediation project and provide for me an update on its
3083 status? And could you also please provide an update on
3084 efforts to address window caulking in schools as well?

3085 Ms. {Jackson.} Certainly, sir. In 2011, EPA inspected
3086 New York City schools for leaking. The lighting ballasts
3087 were leaking and they were leaking PCBs, and those
3088 inspections found numerous leaking ballasts with PCB
3089 concentrations some exceeding 600,000 parts per million. The
3090 city stepped up and announced a plan in 2011 to replace all
3091 PCB lighting ballasts in 772 schools. I believe it is part
3092 of their capital budget plan to make schools more energy
3093 efficient, the lighting being part of that. The city has
3094 allocated about \$708 million in its budget to implement their
3095 plan over 10 years. EPA has reviewed that plan and told city

3096 officials that 5 years would be a more reasonable time frame
3097 to address the ballast issue as part of the larger plan.

3098 Mr. {Engel.} Well, I know 5 years, I know New York
3099 layers for the public interest have recommended 2 years, and
3100 I know things are difficult to be done in 2 years. PCB
3101 contamination in our school, as you know, is widespread and
3102 threatens the health of hundreds of thousands of
3103 schoolchildren certainly in New York City and the exposure in
3104 children has been found to decrease IQs and increase risk of
3105 ADD, among other things.

3106 Again, I hope you will look into that, and again, I want
3107 to emphasize, thank you for your very, very good work.

3108 Mr. {Whitfield.} At this time I recognize the gentleman
3109 from Kansas, Mr. Pompeo, for 5 minutes.

3110 Mr. {Pompeo.} Thank you, Mr. Chairman, and thank you
3111 for being here today, Administrator Jackson.

3112 I want to talk about enforcement. We haven't had a
3113 chance to talk about that at all, and your enforcement
3114 policies. You have asked for an increase in your budget for
3115 the Office of Enforcement and Compliance. You asked for a
3116 \$33.5 million increase there. And I have heard lots of
3117 concerns from my district about enforcement policies at EPA,
3118 and I thought I would do it in the micro today. You
3119 mentioned something called the general duty of care a little

3120 bit earlier in answer to a question as part of the Clean Air
3121 Act. Can you tell me if you have adopted any EPA-wide
3122 policies or guidelines with respect to the definitions inside
3123 of the Clean Air Act related to the general duty of care?

3124 Ms. {Jackson.} I am not aware of any, sir, but we can
3125 certainly talk to the Office of Enforcement.

3126 Mr. {Pompeo.} There is a term in there called
3127 ``extremely hazardous chemicals'' and you have the risk
3128 mitigation plans which require that certain chemicals are
3129 stored at manufacturers or producers, but as I understand
3130 your enforcement policy, even if a chemical is not listed as
3131 one of those chemicals that requires a risk mitigation plan,
3132 you can ding the producer or the manufacturer under this sort
3133 of not very well defined general duty of care. Is that
3134 correct?

3135 Ms. {Jackson.} I believe that is right. It happened
3136 after Bhopal, I believe, that they added this idea that
3137 manufacturers have to be proactive in looking to have that
3138 extra duty of care.

3139 Mr. {Pompeo.} So this is a place I would love to work
3140 with you all. Really, and this is Congress's fault, they
3141 gave you these really undefined terms and very general
3142 authorities and said hey, you need to put some definitions to
3143 it. You have chosen not to do that by regulation or by

3144 policy memorandum so you have left this wide open and now
3145 whether it is acetone or whatever it may be, producers in
3146 warehouses have no idea which chemicals you may come after
3147 them for under this general duty of care standard. I would
3148 love to work with you to develop cleaner standards. Frankly,
3149 I would rather get rid of Section 112(r). I think you have
3150 got plenty of authority under the RMP program to decide which
3151 chemicals are truly dangerous.

3152 Ms. {Jackson.} Why don't we have our folks talk about
3153 that? If there are specific issues or in general, I would be
3154 happy to help.

3155 Mr. {Pompeo.} I would be happy to do that. Do you
3156 reward folks inside your agency for performance for how many
3157 fines they get or how successful they are at obtaining
3158 injunctive relief by value?

3159 Ms. {Jackson.} We do track fines and injunctive relief.
3160 I think large cases that are very difficult, it would not be
3161 unusual for a manager--I used to run an enforcement program
3162 at EPA many, many years ago--for a manager to note hard work
3163 and diligence but not specifically--you know, you are not
3164 tied to how much money you bring into the Treasury or how
3165 many actions you take.

3166 Mr. {Pompeo.} And all that money does go to the
3167 Treasury? The employees don't get it as an incentive

3168 compensation? You don't get it because you have done a good
3169 job?

3170 Ms. {Jackson.} No.

3171 Mr. {Pompeo.} EPA doesn't get it as part of their
3172 budget, it just goes back to general revenues for the
3173 Treasury? Is that correct?

3174 Ms. {Jackson.} Penalty money and fine money goes back
3175 to the Treasury. The exception is the Oil Pollution Act.
3176 There has been lots of discussion about that.

3177 Mr. {Pompeo.} I appreciate that. I will tell you that
3178 in region 7 at the end of 2010, there was a press release
3179 issued that sounded like--and I will read it to you. This
3180 was from region 7 on December 6, 2010, and it says,
3181 ``Departmental compliance and enforcement activities
3182 conducted by region 7 during FY 2010 sets a new record,
3183 securing more than \$3 billion in investments in pollution
3184 control and cleanup as a result of legal action taken against
3185 polluters.'' It then brags that it collected fully 31
3186 percent of EPA's fines all across the country. Two thoughts.
3187 One, is that the kind of press release you think is
3188 appropriate bragging how much money you have taken out of the
3189 United States economy. And second, 31p recent from a single
3190 region, region 7, do you think that suggests there is
3191 differential enforcement or the regions or just that

3192 different?

3193 Ms. {Jackson.} No, enforcement fines are oftentimes
3194 somewhat serendipitous. They depend on, one large case in
3195 one region could make all the difference. If there is a
3196 fine, for example, with respect to the BP incident, that
3197 could make one region's fines look huge.

3198 In terms of bragging on investment in cleanup and
3199 investments in--those are generally injunctive relief where
3200 we require a company not as much to pay the fine but to do
3201 the work to come into compliance, and we think it is
3202 important that the American people know that there is an
3203 environmental cop on the beat. It deters people from
3204 violating, and that is an important part of an enforcement
3205 program.

3206 Mr. {Pompeo.} I would suggest that when the agency uses
3207 the term ``polluters,' ' I guess that some of those were by
3208 agreement, some of that injunctive relief was probably with
3209 agreement with a particular business or individual. Is that
3210 probably right?

3211 Ms. {Jackson.} Yes, but they probably--but that
3212 agreement came as a result of an enforcement.

3213 Mr. {Pompeo.} And they probably in their agreement said
3214 this agreement doesn't indicate any wrongdoing, it simply
3215 says we are willing to cooperate with the EPA and yet you use

3216 the term ``polluters,' ' which I will you in Kansas, we view
3217 that as a negative term. We think of polluters as being
3218 folks that we don't think very highly of and yet your agency
3219 uses that kind of term in a press release for their neutral
3220 enforcement powers, and I would just suggest you ought to
3221 talk to folks about not using language like that.

3222 Ms. {Jackson.} Thank you.

3223 Mr. {Whitfield.} At this time I recognize the gentleman
3224 from Louisiana, Mr. Cassidy, for 5 minutes.

3225 Dr. {Cassidy.} Hi, Ms. Jackson.

3226 Ms. {Jackson.} How are you, sir?

3227 Dr. {Cassidy.} You are always well prepared and
3228 unflappable, so even though we often disagree, let me just
3229 compliment you on just how your kind of whole presence is,
3230 so--

3231 Ms. {Jackson.} I am worried about the other shoe that
3232 is about to drop.

3233 Dr. {Cassidy.} There is no other shoe. It is truly a
3234 compliment.

3235 Ms. {Jackson.} Thank you, sir.

3236 Dr. {Cassidy.} The CARE grants, I don't understand
3237 these well, but I am told that CARE grants which go to
3238 community organizations, the science that they generate or at
3239 least the press releases they generate is not peer-reviewed

3240 science. The State's DEQ does not look at it, you do not
3241 look at it, but I can tell you they get headlines, and
3242 sometimes in our kind of media-driven society, that headline
3243 has an impact. So, one, is that true, that when these
3244 community groups get grants from EPA, there is nobody at EPA
3245 responsible for vetting the validity of the claims? First,
3246 is that true?

3247 Ms. {Jackson.} Well, we certainly don't vet their press
3248 releases. We ask them to use sound science and we expect and
3249 hope they will, but because they are community groups, we
3250 don't hold them quite to the same standard we might a
3251 governmental entity or, I hope, ourselves.

3252 Dr. {Cassidy.} Now, I will tell you, that is a fair
3253 statement, but on the other hand, does anybody look at the
3254 responsibility of these community groups in general? Are
3255 they periodically audited to make sure that the science they
3256 are putting out or the claims they are making are actually
3257 justifiable or hyperbole?

3258 Ms. {Jackson.} I believe, sir, they are more audited to
3259 look at their fiscal responsibilities and taking--

3260 Dr. {Cassidy.} That is a fair statement, and I could
3261 believe that. On the other hand, I will tell you that when
3262 people put things out in the press, if it is read, people
3263 believe it sometimes even if there is no validity. Let me

3264 just suggest that if we are going to hold you or a State DEQ
3265 or an industry group responsible for the validity of their
3266 science, these groups should be as well. I mean, they
3267 certainly influence the debate as much as a major employer
3268 would who happens to have an emissions issue. Would you
3269 agree with that?

3270 Ms. {Jackson.} I think it is fair that if there are
3271 claims being made that someone could ask EPA whether or not
3272 we agree with that data, so in general, I see your point,
3273 sir.

3274 Dr. {Cassidy.} Thank you. Secondly, the President in
3275 his State of the Union speech spoke of natural gas being used
3276 as a transportation fuel and hoped to encourage such. I am
3277 not aware of any initiative, though, that he has proposed,
3278 certainly nothing legislatively. Do you know of such an
3279 initiative?

3280 Ms. {Jackson.} I don't believe there is a legislative
3281 initiative right now, sir.

3282 Dr. {Cassidy.} And is there an administrative
3283 initiative?

3284 Ms. {Jackson.} I seem to recall that he talked about a
3285 corridor in California that could be made to be natural gas
3286 friendly, and I thought that was voluntary with the State of
3287 California but I can check that for you.

3288 Dr. {Cassidy.} Now, one thing that has been proposed is
3289 a use of natural gas to create methanol from it to use it as
3290 a fuel additive, and so I really kind of pursued this because
3291 it seemed like it would be a wonderful way to come up with a
3292 low-cost way to supplement oil and gas, particularly with the
3293 ratio of cost of natural gas to oil, and I went so far as to
3294 meet with people from industry fairly high in research units
3295 at industry. They told me it will take 15 years
3296 conservatively for something such as methanol to be
3297 thoroughly vetted through EPA's regulations as to be safe for
3298 use, and it is not methanol per se but rather it was the
3299 agents to make it mixable within gasoline. Now, that said,
3300 and this is someone who has been currently working on ethanol
3301 and so he kind of knows of that which he speaks because this
3302 is the process they are going through with ethanol, if we are
3303 trying to use our natural gas as another way of
3304 transportation fuel, is there any way we can make that less?
3305 That is so daunting as to mean it is never going to happen.

3306 Ms. {Jackson.} Sure, it would be off-putting. I am
3307 happy to meet with or have my experts--you don't want them to
3308 meet with me but my experts in the fuels group talk to them
3309 about methanol in particular, and of course, natural gas in
3310 and of itself without a transformation is, I believe, what
3311 the President was more directly addressing in terms of a

3312 potential transportation fuel.

3313 Dr. {Cassidy.} But he has done--no offense, I am not
3314 being derogatory, he has just done no initiative on it, so it
3315 sounds really great and I actually think it is great, it is
3316 just nothing has happened. Now, the methanol could be a fuel
3317 additive just as ethanol is but again, I am told that the
3318 regulatory process is just so long as to mean it will never
3319 happen, which is a potential denial, if you will.

3320 Ms. {Jackson.} Well, I think it is worth having a
3321 discussion with those who are interested in pursuing
3322 methanol.

3323 Dr. {Cassidy.} You have been very responsive to me in
3324 the past on a certain issue. If you don't mind, I would like
3325 to meet with them just because frankly my industry groups are
3326 afraid of you.

3327 Ms. {Jackson.} Are afraid of me?

3328 Dr. {Cassidy.} Well, afraid of your agency. They are
3329 afraid they are going to be penalized by regulation.

3330 We are tight on time. I will yield back. And again,
3331 you are unflappable and prepared.

3332 Ms. {Jackson.} Thank you for your time.

3333 Mr. {Whitfield.} We do have one vote on the Floor, but
3334 400 people still have not voted, so Mr. Scalise, I am
3335 recognizing you for 5 minutes.

3336 Mr. {Scalise.} Thank you, Mr. Chairman.

3337 I want to thank the Administrator for coming, and I want
3338 to specifically thank you, Administrator Jackson, for your
3339 support of our efforts to restore the Gulf of Mexico as it
3340 relates to dedicating the BP fines to Gulf Coast States. As
3341 you know, we passed a portion of the RESTORE Act here out of
3342 the House just a few days and we are working with our Senate
3343 counterparts to try to get the entire piece of legislation,
3344 the RESTORE Act, truly bipartisan legislation, through the
3345 entire process. I don't know if you want to make any
3346 comments on the RESTORE Act but I want to thank you for your
3347 efforts.

3348 Ms. {Jackson.} I will simply say it is extremely
3349 important that those resources return to the Gulf of Mexico,
3350 so thank you for your leadership, sir.

3351 Mr. {Scalise.} Thank you. I want to talk about your
3352 budget. I know there has been some talk about what the
3353 President's proposal is and whether it is a reduction from
3354 current level. If you look at what we were given, the view
3355 over the 4-year period since you had come in, of course,
3356 there was a big spike through the stimulus bill in fiscal
3357 year 2010, which would represent about a 35 percent increase
3358 in your budget, and then it is tailored down a little over
3359 the years, but even with the President's budget request, it

3360 still would represent about a 9 percent increase from when
3361 you took office. I want to make sure that these numbers are
3362 the same that you are using because under these numbers that
3363 I am looking at, you started off with about a \$7.6 billion
3364 budget, you go to an \$8.3 billion budget, which represents
3365 still a \$700 million increase over that 4-year period. I
3366 just wanted to point that out and make sure that was an
3367 accurate number.

3368 Ms. {Jackson.} Just two things, or maybe three. We
3369 continually increased the amount of money that is going to
3370 States and tribes even in a budget that is down 1.2 percent.
3371 A large part of that big jump you saw was for SRFs, which
3372 goes directly to the tribes and States. That was \$2 billion
3373 and 475 for Great Lakes, so what has really happened is an
3374 erosion of those increases back, so we have heard a lot about
3375 infrastructure funding.

3376 Mr. {Scalise.} Right, but I just want to point out,
3377 some people are suggesting that there are big cuts. Actually
3378 there has been a \$700 million increase over the 4-year
3379 period. I don't know how some people characterize that as a
3380 cut around this time but I think that is an increase, in
3381 fact, a high percent increase.

3382 Ms. {Jackson.} Well, they are cuts in fact from prior
3383 year budgets, but it is also really important to point out

3384 that the agency itself, 40 percent of our dollars head
3385 straight out the door to State and tribal grant programs and
3386 we are preserving those, so we are doing that at the expense
3387 of other agency efforts.

3388 Mr. {Scalise.} Right, and again, when you look at when
3389 your agency started your second year, I guess, with a 35
3390 percent increase, that came at a time when many States and
3391 businesses were cutting back their budgets. So I just want
3392 to keep that in perspective.

3393 On the hydraulic fracturing issue, I know my colleague
3394 from Texas has brought this up with you. I would strongly
3395 encourage your agency to allow the States to do what they
3396 have been doing so well for decades, and that is to do State
3397 regulation of hydraulic fracturing. I know it has worked
3398 very well in Louisiana in protecting not only our aquifers
3399 but allowing for a dramatic increase with this new technology
3400 in the amount of natural gas that our country can provide not
3401 only to our States, which we are pretty much self-sufficient
3402 on natural gas production in America, but with all these
3403 fines, not only does it provide opportunity for us to pull
3404 other vehicles off of gasoline and increase America's energy
3405 security but it has created thousands of new jobs. And so
3406 there is a real concern among the community in the natural
3407 gas industry that EPA is looking at getting into an area

3408 where the States have been very successful in regulating that
3409 process, so I just wanted to mention that.

3410 On a local issue, I know you have worked with Nucor,
3411 which has built a plant in south Louisiana. They are
3412 currently pending a permit from the EPA, and that one permit
3413 alone would equate to about 700-plus jobs, and I wanted to
3414 know if you can give me the status of that permit. Do you
3415 have any kind of timeline of when that permit could be
3416 approved? Because about 750 jobs are waiting on it.

3417 Ms. {Jackson.} I believe we have approved the permit,
3418 and then there was litigation that was filed. I believe that
3419 is correct, Mr. Scalise, but I will check on that. I seem to
3420 recall that we actually issued the greenhouse gas permit for
3421 Nucor sometime last year.

3422 Mr. {Scalise.} I think there was one permit, but there
3423 is another permit that they are waiting on right now. That
3424 is my understanding.

3425 Ms. {Jackson.} I will check on that.

3426 Mr. {Scalise.} But I think there may be another one
3427 that they are waiting on right now that would be a second
3428 part of their expansion, which that alone would be over 700
3429 jobs. So if you could give me a timeline of what the
3430 likelihood of approval of that would be?

3431 I know my time is running short, so finally, on

3432 refineries, are you planning on regulating greenhouse gases
3433 at refineries?

3434 Ms. {Jackson.} There are no current rules under
3435 development on that issue. We have said in the past as part
3436 of our overall greenhouse gas strategy that the first big
3437 source is utilities, refineries are next, but we are not at
3438 this point--

3439 Mr. {Scalise.} As refineries are next, if you could
3440 just keep in mind, the Small Business Administration recently
3441 did a study that showed that the average cost per family of
3442 regulations as a whole comes out to about \$15,000 a year per
3443 family for the cost of regulations, and this isn't just your
3444 agency, but when I talk to small businesses, many of them
3445 cite EPA as the worst offender in essence of this \$15,000-
3446 per-family cost, so if you could keep that in mind as you--

3447 Mr. {Whitfield.} The gentleman's time--

3448 Mr. {Scalise.} --looking at these additional
3449 regulations, I would appreciate it. Thanks for coming, and I
3450 yield back the balance of my time.

3451 Mr. {Whitfield.} The gentleman's time is expired.

3452 Mr. Gardner of Colorado, you are recognized for 5
3453 minutes.

3454 Mr. {Gardner.} Thank you, Mr. Chairman, and thank you
3455 as well, Administrator Jackson, for your time and patience to

3456 be with us today. I appreciate that.

3457 And a question for you regarding regional haze, and I am
3458 sure you have heard this before from others either on this
3459 committee or other committees. Since the Clean Air Act
3460 authorizes each State to draft its own State-specific plan, a
3461 SIP, to address regional haze, do you foresee the EPA
3462 approving Colorado's SIP given that it has cross-spectrum
3463 support from electric utilities to environmental groups? It
3464 has been endorsed by Governor Hickenlooper, a Democratic
3465 governor. It has been approved by the split-control Colorado
3466 legislature, the Speaker of the House, split control and has
3467 the support in a letter that we went to the EPA of our two
3468 Democratic Senators, our three Democratic House members and
3469 four Republican House members.

3470 Ms. {Jackson.} I can't say yes or no but I will say
3471 this. I am aware that Colorado has done amazing work on
3472 looking at some of its haze issues, and I believe there are
3473 some issues on dates for certain units to put on controls
3474 versus shutdown. I think the region is working very closely
3475 with the State on that.

3476 Mr. {Gardner.} And I think right now the deadline is
3477 March 8th, I believe. Do you know if that going to be hit or
3478 miss at this point?

3479 Ms. {Jackson.} I don't have it in my notes, sir, but I

3480 will be happy to get back to you on that.

3481 Mr. {Gardner.} Thank you. And has the EPA used health
3482 standards to reject the SIPs of New Mexico and North Dakota?

3483 Ms. {Jackson.} EPA is still working with North Dakota
3484 and I believe a decision is due, if not today, tomorrow, and
3485 so we have--on regional haze, the issue is less about health
3486 but visibility.

3487 Mr. {Gardner.} So you are not using health standards on
3488 regional haze?

3489 Ms. {Jackson.} I am not aware that we are but I can
3490 certainly check. On North Dakota, I am more familiar because
3491 I have been dealing with that issue very recently with the
3492 delegation.

3493 Mr. {Gardner.} Thank you. And are you familiar with
3494 kinesthetic dance movements?

3495 Ms. {Jackson.} Kinesthetic dance movements? I know
3496 what the words may mean but I have never done them.

3497 Mr. {Gardner.} Kinesthetic learning?

3498 Ms. {Jackson.} Excuse me?

3499 Mr. {Gardner.} Kinesthetic learning. Are you familiar
3500 with kinesthetic learning?

3501 Ms. {Jackson.} No, sir.

3502 Mr. {Gardner.} One of EPA's primary activities is
3503 giving grants. Last December, EPA awarded \$25,000 to the

3504 Repertory Dance Theater in Salt Lake City to educate youth
3505 about the impacts of air pollution. On EPA's website, there
3506 is a document describing what this money will be used for.
3507 The projects intends to, and this is a quote, ``The project
3508 intends to produce innovative lectures, demonstrations and
3509 movement classes in 10 elementary schools. Kinesthetic
3510 learning will be used to examine air quality issues and
3511 encourage youth and their families to adopt healthy living
3512 practices.'' What is this program?

3513 Ms. {Jackson.} You know, I have read about it, and we
3514 are reviewing it. It is an Environmental Justice grant
3515 program in Utah, as you mentioned. It is with a very well-
3516 respected group, a repertory group that uses dance to
3517 educate. Apparently they have a long history of doing this
3518 and are quite well respected, but we are reviewing it at the
3519 request of I think one of the members.

3520 Mr. {Gardner.} Why is the EPA giving \$25,000 to a dance
3521 company?

3522 Ms. {Jackson.} Well, the Environmental Justice grant
3523 program is about educating communities about interventions in
3524 communities where there is large populations, for example,
3525 that may have asthma. I don't know if this is the case here.
3526 Self-education is an important part of getting those--

3527 Mr. {Gardner.} Given the testimony that you have talked

3528 about, funding shortages across the government, can you
3529 assure us that you are not going to make these kind of
3530 grants?

3531 Ms. {Jackson.} Well, as I said, we are reviewing the
3532 program because of when this came to light.

3533 Mr. {Gardner.} Perhaps we can talk a little bit further
3534 about kinesthetic dancing and whether EPA ought to be funding
3535 that.

3536 Ms. {Jackson.} I am certainly not the expert, but I do
3537 think that it is fair to say that we can review the program,
3538 and I will be happy to tell you what the results of that are.

3539 Mr. {Gardner.} Your budget proposal says EPA, and I
3540 know others have touched on this today, Latta and Burgess
3541 have touched on this, it says the EPA would reduce spending
3542 by \$105 million but in previous years EPA has reused
3543 deobligated funds to do so. If EPA deobligates and reuses
3544 funds approaching \$160 million amount like last year, EPA is
3545 really not reducing spending at all in 2013.

3546 Ms. {Jackson.} Well, this came up in an earlier
3547 question, Mr. Gardner. You know, we do deobligate funds. We
3548 report on those movements of funds and we are happy to follow
3549 up--

3550 Mr. {Gardner.} Do you report on those before you
3551 actually make the expenditure? Is it in the budget

3552 justification?

3553 Ms. {Jackson.} It is in the budget justification--in
3554 the financial statements. Excuse me, sir.

3555 Mr. {Gardner.} But not in terms of--I believe GAO
3556 actually said that Congressmen want EPA to submit information
3557 on recertifications in his budget justification documents.
3558 You are not doing in the budget.

3559 Ms. {Jackson.} We are doing it as part of our regular
3560 financial reporting.

3561 Mr. {Gardner.} So you are telling us that you spend it
3562 after you spend it?

3563 Ms. {Jackson.} I don't know whether it is after or
3564 before. I believe what we do is as we--

3565 Mr. {Gardner.} But would you agree as a matter of
3566 principle that we ought to know if you are reobligating funds
3567 that we know before you do that?

3568 Ms. {Jackson.} Well, in general, I think we have worked
3569 very well with Congress over the years to ensure that are
3570 spending the money as Congress intends.

3571 Mr. {Gardner.} So you agree that it is helpful for
3572 Congress to know about this use of funds in its
3573 justifications?

3574 Ms. {Jackson.} Sir, I am telling you that we deobligate
3575 money from time to time. I would bet all offices do. And

3576 when we do, we report it. We are not trying to hide
3577 anything.

3578 Mr. {Gardner.} But we would appreciate that getting
3579 that beforehand. Do you believe that this actually,
3580 deobligating these funds and reusing them actually decreases
3581 the need for new budget authority in the relevant accounts?

3582 Ms. {Jackson.} No, not necessarily, sir.

3583 Mr. {Gardner.} Do you think this money ought to be
3584 returned to the taxpayer if it is deobligated?

3585 Ms. {Jackson.} It depends on the issue, sir. I mean, we
3586 are living within the budget and obligations that we have but
3587 it depends on the issue.

3588 Mr. {Whitfield.} The gentleman's time is expired.
3589 Thank you.

3590 Mr. {Rush.} Mr. Chairman, I invite my friends to join
3591 me in doing the kinesthetic cha cha.

3592 Mr. {Whitfield.} When and where?

3593 Mr. {Rush.} We have a kinesthetic club in Chicago.

3594 Mr. {Whitfield.} Oh, okay.

3595 Ms. Jackson, thanks very much for being with us today.
3596 Before I let you go, I want to ask one additional question.
3597 Under the Renewable Fuel Standard law, EPA is required to
3598 publish the required volume obligations for certain fuel
3599 categories, and the proposed volume of biomass-based diesel

3600 specified in the June 2011 proposed rule was omitted from the
3601 final rule published in December, so what was there in June
3602 for the volume for diesel biomass was not in the final report
3603 in December, and I was just curious, was that an oversight or
3604 was there some other explanation for that?

3605 Ms. {Jackson.} Sir, I know I don't have a fact sheet on
3606 that. Can we get you an answer to your question after the
3607 hearing?

3608 Mr. {Whitfield.} Yes, I would appreciate that very much
3609 if we could get that answer.

3610 Thank you again for being with us. We appreciate you
3611 and Ms. Bennett taking the time to be here.

3612 With that, the hearing is adjourned, and the record will
3613 remain open for 10 days for any additional materials to be
3614 submitted.

3615 [Whereupon, at 1:20 p.m., the Subcommittee was
3616 adjourned.]