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ENVIRONMENTAL PROTECTION AGENCY'S FISCAL YEAR 2003 BUDGET

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

FEBRUARY 13, 2002

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ENVIRONMENTAL PROTECTION AGENCY'S FISCAL YEAR 2003 BUDGET

WEDNESDAY, FEBRUARY 13, 2002,

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

The committee met, pursuant to notice, at 9:30 a.m. in room 406, Senate Dirksen Building, Hon. James M. Jeffords (chairman of the committee) presiding.

Present: Senators Jeffords, Campbell, Smith, Crapo, Inhofe, Bond, Lieberman, Clinton, and Specter.

OPENING STATEMENT OF HON. JAMES M. JEFFORDS, U.S. SENATOR FROM THE STATE OF VERMONT

Senator JEFFORDS. The hearing will come to order.

There will be interruptions today because we have votes, so what we will be doing is to start as best we can and have as many opening statements from members and hopefully even the opening statement from the Administrator before we have to break for a number of stacked votes.

So with that, I will make my opening statement, and then we will move right on.

Good morning. The purpose of today's hearing is to examine the proposed 2003 budget for the Environmental Protection Agency. We are pleased to have the former Governor of New Jersey and able Administrator of the Environmental Protection Agency, Christie Todd Whitman here today to explain to us the finer points of the EPA's budget request. We are excited about that.

For the record, I also want to thank Administrator Whitman for all the work she and her staff have done recently to help the State of Vermont tackle some tricky budget problems. We appreciate that very much.

Testifying on the budget is admittedly rather a dry experience, but I hope that the Administrator enjoys herself more today than she does in the meetings with the Office of Management and Budget.

Now, to the subject before us. At a time when we should be striving for the gold, the EPA's budget for next year barely makes it through the qualifiers. The proposed budget request is a 3.5 percent reduction in spending from last year. However, when inflation is taken into account, this is more than 6 percent, even as we are asking the Agency to take on greater homeland defense responsibility. And while fiscal year 2006 is a long way away and not subject to today's hearing, I do wonder how the Office of Management

and Budget expects EPA to absorb about \$1 billion in budget cuts between now and then.

But first, let me start on a positive note. I am gratified that spending for the brownfields program has doubled and that a large increase goes directly to the States. On the air side, both the ozone and particulate matter programs are given increases. And speaking for myself and all of my colleagues in the Hart Building, I am pleased that the Agency will be spending \$75 million to conduct research on better ways to clean up contaminated buildings.

Most of the savings in the budget comes from the rather naive expectation that there will be no congressional earmarks in next year's budget. This is a battle I will leave the Agency to fight with the appropriators. However, when earmarks are added, I will fight to make sure that sufficient core program funds continue to be appropriated to reverse cuts in the clean water and climate programs and ensure continued progress in the Superfund and air programs.

While I am pleased that the Administration has substantially increased its budget request for clean water revolving funds from its request last year and level-funded drinking water revolving funds, I remain concerned that the proposed budget does not provide adequate funding for the replacement and maintenance of our Nation's aging water infrastructure.

Given the importance to public health and that all communities comply with the new arsenic standard in a timely manner, I am concerned that no new drinking water funds are being allocated for this purpose. Further, clean water revolving funds are cut 10 percent from last year's enacted level at a time when the water systems are coping with additional costs of security. I am sure that EPA is also aware that I am working with the members of this Committee on a bill to boost water infrastructure funding that will be introduced shortly.

Another issue I would like to highlight is the reduction to EPA enforcement efforts. Once again, EPA is proposing a new State enforcement grant program. How is this program different from the one that was proposed and shot down by Congress last year? It is my understanding that no cuts in existing enforcement personnel are planned, but that cuts of about 100 enforcement positions will be made through attrition and by not filling existing job openings. Just how many unfilled jobs exist in the enforcement division, and does this explain the continued lowering of performance goals for the inspections and investigations?

I believe there is a public education component to virtually every major environmental statute. I was therefore puzzled to learn that the EPA would like to move both its Environmental Education Division and STAR fellowship program to the National Science Foundation. I look forward to hearing EPA's view on this subject.

Finally, let me say that I am deeply skeptical of the Administration's governmentwide proposal to require each government agency to assume the costs of the Civil Service Retirement System and health care costs. As both a member of the Health and Finance Committees, I am troubled that mandatory spending will be shifted to discretionary accounts, potentially diverting these funds to purposes other than the funding of retirement and health care costs.

Furthermore, I am concerned that in future years, this change in accounting rules will penalize the operating budgets of programs with older employees.

Again, thank you for being here today, and we look forward to your testimony.

I now turn to Senator Smith.

Senator SMITH. Jim, you go first. Go ahead.

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

Senator INHOFE. OK. I will make it very brief.

It is my idea, Madam Administrator, to try to get out opening statements out so that hopefully you can get your opening statement out prior to our five stacked votes, so let me just mention two things.

I am hoping that sometime during the course of the hearing today or in your opening statement you can give us some comments on the worst Superfund site in the United States of America, which is Tar Creek, which happens to be in northeastern Oklahoma. It is something that we have talked about a number of times, and I would like to see how this budget might be addressing this and looking for some help on that.

The second one is in brownfields. As the Chairman said, we have I think doubled the amount of money that is going to be addressing these. You might recall that my amendment was one to include the petroleum-contaminated sites. Of the 450,000 sites, about 200,000 fell into this category. I am very interested, since the brownfields law was signed into law by the President with my amendment in it, what kind of help is on the way for these petroleum-contaminated sites.

So with that, I will just wait for the opening statement of our Administrator.

Senator JEFFORDS. Senator Smith?

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

Senator SMITH. Thank you, Mr. Chairman.

I will also be very brief and just ask that my statement be made a part of the record.

Good morning, Administrator Whitman. It has been a year since you have been here, when you were confirmed, and what a year that has been. There have been a number of challenges, and it does not seem like it is getting any easier. But I want to thank you personally for all your efforts over the past year. I think you have done an outstanding job.

I know we are here to discuss the 1903 budget. I see in this budget a partnership with the States that are achieving results through cooperation. I have a little bit of a different perspective on it than the Chairman just outlined, but as has been said, I certainly am grateful for the doubling of funds for brownfields. I think again pointing out that as far as brownfields are concerned, it is not the money from the Federal Government that really is the key here. That \$200 million won't go very far. It is the law change that

allows the private sector now to develop these, and I hope that does not get lost in the discussion.

It was just 1 year ago, actually, that Senators Reid, Chafee and Boxer and myself introduced the bill that was recently signed by the President. I know you were supportive of the bill throughout the process. It took a little while for the House to finally deal with it, but we did get it done and that is the important thing.

I am also pleased to see the new watershed initiative in the EPA's budget that is there. It is very similar to the community-based approach in a bill that I introduced with Senator Crapo in the last Congress. That created a pilot program that allowed local communities to experiment with different approaches to reach their own clean water goals.

Also worth noting is the State Enforcement Grant Program, again working with the States to help them enforce environmental laws and regulations. Over 90 percent of enforcement actions are carried out by the States, and this budget understands that and we appreciate that.

It also recognizes the new world that we have lived in since September 11. You have \$124 million in new funding for homeland security, including enhancing emergency response, conducting water system vulnerability assessments, and conducting research on better technologies and assessments to clean up some of these targets of the attacks.

On balance, I think this budget is one that sets a very strong pro-environmental, pro-State priority. It promotes partnership with the States, encourages cooperation over confrontation, and an Agency focus on efforts that will result in a cleaner, healthier environment. I look forward to hearing your discussion of your budget.

Thank you, Mr. Chairman.

Senator JEFFORDS. Senator Campbell?

**OPENING STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL,
U.S. SENATOR FROM THE STATE OF COLORADO**

Senator CAMPBELL. Thanks, Mr. Chairman.

Since we have stacked votes in about six more minutes, I think I will, with your permission, submit my opening statement for the record. I had a couple of questions that we might not get to, but I will submit those also in writing. I am just happy to see Administrator Whitman here. I am happy that she has recovered from her skiing accident a couple of years ago and seems to be walking with great vigor now. I am sorry if we contributed to that in our Colorado slopes. Hopefully, we can correct that in the future.

Administrator WHITMAN. Never.

Senator CAMPBELL. Thank you, Mr. Chairman.

Senator JEFFORDS. Senator Crapo?

**OPENING STATEMENT OF HON. MICHAEL D. CRAPO,
U.S. SENATOR FROM THE STATE OF IDAHO**

Senator CRAPO. Thank you very much, Mr. Chairman.

I will be very brief as well. In fact, in the short opportunity I have had to go over the budget, I have not really found any serious things, other than just one concern that I have, and I will just raise the concern, and that is that the clean water State revolving fund

is reduced by \$138 million. I am very concerned that we need to be increasing that fund, and we will be working legislatively to try to address that issue with you. I just wanted to highlight that concern at this point.

Thank you, Mr. Chairman.

Senator JEFFORDS. Senator Bond?

**OPENING STATEMENT OF HON. CHRISTOPHER S. BOND,
U.S. SENATOR FROM THE STATE OF MISSOURI**

Senator BOND. Thank you very much, Mr. Chairman.

It is a delight to have Administrator Whitman before us. We will have opportunities again to talk about this in the future on the funding. I have had the pleasure of knowing the Administrator for over 40 years, and I am sure that the last year seems like about 40 to her. But we appreciate this wartime budget. It shows the President and Administrator Whitman's strong commitment to the environment in the face of war homeland security needs. The Administration has shielded the EPA budget from deep cuts.

This is the highest request for EPA operating programs ever. It means record funds for day-to-day activities on health standards, conducting inspections, enforcement monitoring of the environment. We know that our water supply system can be subject to terrorist attacks, and there is \$124 million homeland security funding that I think is very necessary. The Administration would send nearly \$3.5 billion to the States for their State environmental programs. They propose doubling the \$200 million for brownfields cleanup.

At the same time, our communities are facing an overwhelming need for clean water and drinking water funding. Some private estimates put these figures at \$300 billion. We are going to hear from EPA on their GAP analysis. This is something we are going to have to address.

The last Administration supported only \$2 billion per year in revolving water funds. That just is not going to get the job done. Mr. Chairman, we are going to have to find a way to get more money, and merely authorizing it is not going to get it there under the current budget system. We will have to work on that.

And while we are working on things, Mr. Chairman and Madam Administrator, if I might put in a pitch for the Fishable Waters Act. Everybody seems to have forgotten about fishable waters with all the problems we have, but this is extremely important for the environment. It would be a voluntary effort to allow local stakeholders to undertake projects to make local waters fishable and swimmable, i.e. achieving very important environmental goals.

Finally, I am very pleased with the Administration's proposal to increase funding for research on the safety of genetically modified crops. Biotechnology is going to be the revolution of the 21st century that allows us to feed billions of people around the world more effectively, more efficiently, and in a more nutritious manner with less use of harsh chemical pesticides. The EPA's leadership is important to improve the environment in the United States and also show the way to clean up the world's environment by safe use of biotechnology products.

I appreciate the chance to work with this Committee and we will be working with you and EPA through the Appropriations Committee as well.

Senator JEFFORDS. Senator Lieberman?

**OPENING STATEMENT OF HON. JOSEPH I. LIEBERMAN,
U.S. SENATOR FROM THE STATE OF CONNECTICUT**

Senator LIEBERMAN. Thanks, Mr. Chairman.

I have a full statement that I would like to include in the record. I welcome Administrator Whitman. Let me see if I can draw briefly from my statement.

I must say that I am troubled by the Administration's 2003 EPA budget proposal. Overall, it proposes providing the EPA with about \$300 million less than the enacted level for the present fiscal year. That number, obviously, says a lot, but the decisions behind the dollars are also important. Let me just highlight a few.

I share with many of my colleagues a deep concern about the significant reduction in clean water funds of about \$525 million, which will seriously impact our State and local authorities' efforts to improve water quality.

In the area of clean air, the budget appears to dedicate about the same resources as last year, but the focus of the funding is, to me, suspect. I am troubled by the mere passing mention of multi-pollutant legislation in the budget justification document, which may be consistent with the Administration's position as it was changed last year, but nonetheless it is disappointing.

The budget justification also gives glancing treatment to new source review and does not offer much in the way of hope on climate change either. In the budget justification, the continuing absence of a proposal on climate change says a lot in its silence.

So I must say there is a statement in the budget justification which is a repetition of goals of the Agency, and I want to read it. It says the United States will lead other nations in successful multilateral efforts to reduce significant risk to human health and ecosystems from climate change—stratosphere, it goes on—pollution and other hazards of international concern. But with all respect, so far the actions of this Administration have not demonstrated any leadership on global warming.

I certainly do not mean this personally with regard to Administrator Whitman, because you displayed real leadership on this question when you were Governor of New Jersey. I understand that we may hear soon on these three issues of concern—climate change, multi-pollutant legislation, and new source review.

For my part, let me say I hope that the climate change program is a credible one that moves us toward real reductions in greenhouse gas emissions, with targets and time tables. I hope that the multi-pollutant proposal calls for significant cuts in sulfur dioxide, nitrogen oxides and mercury reductions, and forms the foundation for meaningful discussion on reconciling the Administration's proposal with the Clean Power Act of 2001, the multi-pollutant, four-pollutant proposal introduced by Senators Jeffords, Collins, and myself.

I also hope that the new source review proposal retains the critical health and environmental protections this program has af-

forded us over time. I am by nature an optimistic person. Hope spring eternal. So I look forward to these proposals. But for now, I must say with all respect that I think the Administration has not yet adequately fulfilled its responsibility to protect our environment, and this budget reflects that.

Thank you, Mr. Chairman.

Senator JEFFORDS. Thank you.

Administrator, I appreciate your being here. We are now going to have five votes scheduled to begin at 9:50 a.m. The Committee will return roughly at 10:50 a.m., but we will anxiously await your comments right now. We may have to run out if you go too long.

Administrator WHITMAN. I will go really fast.

**STATEMENT OF HON. CHRISTINE TODD WHITMAN,
ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY**

Administrator WHITMAN. Thank you very much, Mr. Chairman. I will have a longer statement for the record, if that is all right with you.

Senator JEFFORDS. Yes, please.

Administrator WHITMAN. I do appreciate this opportunity to appear once again before this particular Committee to discuss the President's budget for the Environmental Protection Agency for the next fiscal year.

I believe that the President's budget does provide the Agency with the funds that it needs to efficiently and effectively carry out our mandate to protect public health and the environment.

As you know, the requested total for fiscal year 2003 is \$7.7 billion, which represents more than a \$200 million increase over last year's request. Overall, our proposed budget reflects the goals that President Bush and I share for leaving America's water cleaner, its air purer, and its land better protected than when we took office.

I should also point out that EPA's proposed budget is part of the Administration's record overall request of \$44.1 billion for environment and natural resources. It is the highest such request ever, and represents a \$1.1 billion increase over enacted levels for the current fiscal year.

If I may, Mr. Chairman, I would like to discuss just some of the highlights of our proposals, and as I said, I will be submitting a longer statement for the record. I know there are, of course, specific questions once the votes are finished. We will be prepared for those.

First of all, almost half of our budget is for direct grants to State, local and tribal governments. This reflects our experience that many innovative, creative and effective environmental achievements are being made by States, county, local and tribal governments. As I have traveled around the country during the past year, whether it was seeing the citizens working in Kentucky PRIDE or the members of the Paiute tribe in Nevada, and countless other communities across America, we have seen extraordinary progress being made at the local level by local citizens.

EPA is building strong partnerships for environmental progress and the results speak for themselves. In this budget, we will build on those results to achieve even greater environmental progress.

Next, this budget more than doubles the funds available for brownfields reclamation, providing \$200 million, as has been mentioned earlier—funding that will lead to thousands of acres of better-protected land in the years ahead. I remember traveling to Winchester, New Hampshire last year with Senator Smith to see a great, wonderful brownfields project there. The success that we are seeing across the country can only be enhanced by the additional dollars in the new program that is now in place.

Third, this budget provides important funding for a new watershed initiative. We are requesting \$21 million for a program that will allow us to build effective public/private partnerships to restore and protect 20 of America's most precious watersheds. This initiative will show the real results that partnerships can achieve, how much partners can bring together in a unified program, including a non-point source grant program that we are proposing to fund at \$238.5 million. As a result, this budget will help improve water quality for drinking, boating, swimming and fishing in those watersheds that we target.

There are numerous other important initiatives in our proposed budget. They include funding to increase the development of new technologies for environmental progress, funding for research that could lead to significant curtailing of animal testing by building on discoveries in the Human Genome Project, and funding to increase our knowledge base about air quality challenges so we can help save lives and prevent illnesses such as asthma among America's children.

In addition, the combined funding we are proposing for the drinking water and clean water State Revolving Funds is the largest such combined request ever. Of course, our budget request also includes significant new money to help EPA meet its homeland security responsibilities. The \$124 million in new funding that we are requesting will support such important efforts as protecting the Nation's drinking water infrastructure by funding vulnerability assessments at the Nation's water utilities; securing additional personnel and equipment to expand our ability to respond to biological attacks; and investing in research designed to enable the Nation to better detect and respond to chemical and biological attacks.

I am pleased to say, Mr. Chairman, that taken together, the President's proposed EPA budget for fiscal year 2003 fully supports the work of this Agency. It will enable us to transform our 30-year mission to meet the challenges of the 21st century, and it brings us that much closer to realizing our goals of cleaner air, purer water, and better protected land so that we can all enjoy the kind of environment that we want for ourselves and for future generations.

Thank you very much.

Senator JEFFORDS. Well, thank you for an excellent statement.

We will now recess until approximately 10:50; that may be optimistic, the way things go around here.

[Recess.]

Senator JEFFORDS. Nice to be back with you again.

As I said in my statement, I am concerned that the proposed budget does not provide adequate funding for the replacement and maintenance of our Nation's aging water infrastructure. In light of

the proposed cuts in the water program funding, how does EPA's budget request address the backlog of water infrastructure needs?

Administrator WHITMAN. Well, Senator, as I mentioned in my testimony, the Agency is requesting \$1.2 billion in fiscal year 2003 for the clean water. When you combine that with the safe drinking water, that is a combined total that is greater than has been asked for before. But there is a recognition that these issues, as we discussed last year—the dollars potentially go way beyond anything that any one Agency or really branch of government is going to be able to deal with on its own. We really look forward to having a much more detailed discussion with the Hill on how we should go forward on this.

The Revolving Loan Fund will revolve at over \$2 billion, even if no more money goes in. And the numbers that you were talking about 5 years out or the way OMB does the budget, there is money for that obviously now.

That is robust. That is good. And we do believe that the Revolving Loan Program, it now is well over \$2 billion. It revolves at over \$2 billion and will continue to do so as far out into the future as we can see. It is still going to need much more than that, and I look forward to working with you, and I know your interest here is longstanding.

Senator JEFFORDS. Thank you, and I look forward to working with you.

And of course we have also the problems of terrorism, which lead to additional costs in those areas. And also, we are going to have to really spend some time working together. Thank you.

As I understand it, the Administration plans to announce its climate policy—a three-pollutant proposal—and changes to the new source review regulations sometime tomorrow. Could you tell us what will be included in that announcement, and how it will impact the Agency's budget and allocation of resources?

Administrator WHITMAN. Well, Senator, I can't give you the particulars. Obviously, that has got to be up to the President.

Senator JEFFORDS. I will try.

Administrator WHITMAN. I know. It was a nice try, and I appreciate that.

[Laughter.]

Administrator WHITMAN. Certainly, once the president has made an announcement, I will be happy to come back and discuss with you the particulars and how we achieve them. But I suspect that the Congress is going to have a great deal to say about this whole process as we go forward on these initiatives.

Senator JEFFORDS. Yes.

In 1991, in a document called America's Climate Change Strategy, President Bush described the sulfur dioxide cap in the 1990 amendments as "a powerful conservation stimulus, which should sharply reduce carbon dioxide emissions from this sector," end of quote.

Obviously, that has not happened and emissions are way up. What are we going to do to get a real reduction in the near term?

Administrator WHITMAN. We are continuing with our enforcement efforts under the current Clean Air Act. There is no plan at this point to reduce any of those efforts. We have, as you know, the

NOx SIP Call, the 126 Rule, BART, MACT—all those regulatory processes are in place and going forward. And it is our anticipation that they will continue to move forward and we will continue to focus on the enforcement in those areas while also trying to work in a more intelligent, perhaps innovative and collegial way with utilities and business to try to stop some of the problems before they start.

Senator JEFFORDS. The Hart cleanup—I hate to get back to that. Staffers in the 12 Senate offices that were treated with chlorine dioxide liquid and foam have complained of nausea, dizziness and shortness of breath. Some scientists have speculated that the chlorine dioxide residue is reacting with office furnishings and radiated mail. How is EPA monitoring the situation and what are the plans?

Administrator WHITMAN. Senator, we are doing regular monitoring up there on the Hill. We are continuing to sample and we have been working with the Sergeant-at-Arms to ensure that the protocol that we are using is one with which the Senators and the Architect of the Capitol are comfortable.

We have not gotten any hits on any of the samples that we have done on high levels of chlorine dioxide or any of the byproducts of chlorine dioxide. We are focusing and working with CDC and the labs that have been brought in to look at the potential that it is the mail, the irradiation of the mail that may be causing this problem, and we will continue to monitor that building for as long as we need to. But so far, we have not seen any indication that it is because of the chlorine dioxide.

Senator JEFFORDS. Thank you. We will followup on that.

Administrator WHITMAN. We will continue to have a presence there. We will continue to do what we need to do on air sampling and followup for as long as you want us there and as long as we need to do it. But as I say, we have done numerous samplings. The latest results, February 6, and again we still have not gotten any hits that would indicate that there is any residue from either the chlorine dioxide spray itself or the fumigation itself or any of the byproducts from chlorine dioxide.

Whatever issues are appearing, the focus at this point seems to be on the irradiation of the mail, and that is where the scientists are all looking right now, to see what that could possibly be.

Senator JEFFORDS. Thank you.

EPA's proposed budget includes the costs of additional retirement and health benefits. Do you think it is wise to shift these costs from the centralized mandatory spending accounts to the discretionary accounts?

Administrator WHITMAN. Senator, those costs have always been in the President's budget but they have been allocated in a different way. This is really more of a bookkeeping change to enable us to identify them clearly and to show the full costs of the overall EPA budget. They are, in fact, numbers that always have been in the President's budget. As you know, the Administration feels the proposed legislation is an administrative tool so that Federal agencies readily can account for the costs of these benefits.

Senator JEFFORDS. What happens if the legislation relative to does not get enacted? Will EPA have to return a chunk of its budget to the Office of Management?

Administrator WHITMAN. No, I don't believe that we would have to. I have my cheat sheet here. Yes, it would be funded. The Federal Government has been paying them right along. That's what I was saying initially, that the government has been paying them right along so that money was always there in the budget. This proposal is just a way of accounting for the costs so you see them differently, but the money has been there right along. Now, it has been incorporated into each Agency's budget.

This is just a shift in responsibility from a central management account in OPM to each Agency, so that each Agency accounts for those dollars. We assume that responsibility.

Senator JEFFORDS. EPA's proposed budget includes the cost of additional retirement and health benefits. Do you think it is wise to shift these costs from the central—that has been answered? OK. All right.

What is EPA doing to help communities comply with the new arsenic standard?

Administrator WHITMAN. As I indicated when we went forward with the standard, that we were going to identify \$20 million in the Agency's budget to help communities deal with this issue. We are doing that. We are also working with the Department of Agriculture on some rural funds that are available.

But more than that, we are looking at technology initiatives. We putting some money—as you know, there is some money in the budget for a heightened focus on technology, and part of that research, at least initially, the new program is going to be specifically directed at low-cost initiatives to remove arsenic from the water.

So we are looking to work with those small-and mid-size companies in a variety of different ways, beyond just providing dollars, but also to provide help with the research and the technical assistance to enable them to meet the standards, but not have to price themselves out of business or price people out of water.

Senator JEFFORDS. Why does EPA continue to lower its performance goals for inspections and investigations? Is it related to reductions in funding?

Administrator WHITMAN. Actually, if you look at the record last year, we did have a record year as far as what we were able to accomplish and what we were able to bring in in fines and penalties from those who were responsible parties, people who were responsible for doing it. We have in fact been able to see an increase with the staff that we have. We have been doing a good job and 90 percent of the enforcement does take place at the State level. What we want we are proposing to do with this budget is not to cut anyone from our enforcement staff and not to shift any positions there, but to give the States some more help to be able to do the job that they are already doing better and continue with a high level of enforcement.

Senator JEFFORDS. Now, the Superfund. Once again, EPA has lowered the targeted number of final Superfund cleanups. While I understand that some sites are more complex than others, this cannot possibly explain the over 100 percent drop in the targeted cleanups since fiscal year 2000. Why does EPA keep lowering its cleanup goals?

Administrator WHITMAN. I share your concern about cleanup goals, and there are a number of reasons for the drop. One in particular stands out, which is kind of the history that we are dealing with here. There was a decision made back a few years to concentrate funds on those Superfund sites that were closest to completion. And so, that is where the money was spent. There is where the effort went, and those sites that were very nearly finished were completed, but very little money was provided for other sites that were coming onto the list—the ones that still had significant work remaining.

And so that is what we are facing now—is dealing with those sites that have quite a lot of work. We had about three to 4 years of sort of a burst of high construction completions, but in doing that we created a greater backlog.

We are now in the process of what we are calling a pipeline review of the Superfund projects to make sure that we are listing the right ones, that we are prioritizing them the right way and addressing them the right way, and that we can ensure that we do continue to focus on those sites that pose the greatest public health risk, and that we deal with those first.

Senator JEFFORDS. Senator Clinton?

Senator CLINTON. Thank you, Mr. Chairman.

I apologize, Governor Whitman, for being late. We have had quite a morning of votes and running around like headless chickens, and I apologize for keeping you waiting.

I also am pleased that we had an opportunity to speak yesterday regarding the concerns that we have about air quality at the World Trade Center site and the surrounding area and indoors. And I thank you very much for the letter that you sent me late last evening which refers to the hearing that Senator Lieberman and I held on Monday. I want to thank the Chairman and the Committee and the Committee staff for its assistance in holding that hearing to hear from experts and those having first-hand experience with air quality problems and the related health impacts arising out of the disaster on September 11.

I think it was a very substantive and informative hearing and I thank EPA for testifying. I want to thank everyone associated with the Agency, and particularly Region Two for everything that you have done to respond to the September 11th attacks in New York, and for your offer of assistance that is contained in your letter and that we briefly discussed yesterday.

At the hearing, I laid out a five-point plan that responds to the concerns we have been hearing about for quite some weeks now, to address the air quality and public health concerns. The plan includes passing S. 1621, which is legislation to establish a permanent health monitoring system at disaster sites.

I would also include in that Senator Voinovich's deep concerns about the health impacts on his first-responders. We heard the firefighters and FEMA first-responders who came and testified before us, and it was extremely moving and quite disturbing. He told me yesterday that they are continuing to have serious health problems.

So we need a system that has a permanent health monitoring surveillance and response apparatus, however we decide to design it, that would followup not only on those directly associated with

the sites, but even people who came in response to calls for help, like Senator Voinovich's people from Ohio did.

Second, I think we should provide funding for the immediate establishment of a long-term comprehensive health registry, referral and monitoring system to Ground Zero workers. They are clearly the ones most at risk. Some people have suffered indirectly. More sensitive people have reported respiratory problems, allergic reactions, the onset of asthma.

But our chief medical officer of the New York Fire Department testified that 25 percent of the entire firefighter force, which has now been screened, reports respiratory problems. We have no idea what the long-term impact will be. The police testified that they had not had that kind of monitoring and screening. So we need a system and I hope we can look to do that.

Third, to establish a World Trade Center Indoor Air Program. That has turned out to be one of our biggest problems. I really believe that EPA's authority, direction and expertise with respect to monitoring outdoor air was very helpful. There are some remaining issues that we have to deal with, but the indoor air is what people are now focusing on.

So fourth, I think we should develop a World Trade Center site clear initiative which deals with the remaining outdoor air problems, principally from the diesel emissions, from the idling of trucks, from the barge traffic. We have all these trucks, Mr. Chairman, lined up carrying away the waste and debris. They are on all the time. And we know that the particulate emissions are some things we should be concerned about, particularly with respect to children or vulnerable people.

And finally, I think we should work to incorporate the lessons we have learned, and we all have learned lessons, into the homeland security plans that Governor Ridge is responsible for developing.

In respect to those points, Governor, I appreciate greatly that in the letter that you sent to me yesterday you committed to working with local, State and Federal partners to establish a task force on indoor air in lower Manhattan, and I thank you so much for that.

I look forward to working with you. I have a commitment from the Office of Emergency Management in the city to coordinate the city's response because there was some confusion about who really should be responsible within the city. I think we have got an opportunity to really translate this commitment into the kind of action that will reassure the public.

I think it is imperative that the task force conduct door-to-door inspections and indoor sampling within no less than a 10-block radius of Ground Zero, and that it should operate a centralized location where the public can get information on whether their building has been tested or inspected, the results of those tests and clear guidance on cleanup requirements, resources available to pay for cleanups, and certified cleanup companies in the area.

We heard, really, from two ends of the spectrum. There were those who did not feel that their landlords or the city had made their landlords do anything, really, to meet the most minimal standards. Then we had a witness who said she would do whatever she was told to do, but she got conflicting information and didn't know what she was supposed to do.

So somewhere in between there we know we have got to strike a balance, but I think starting with an inspection system of some kind in a centralized location will help to get the ball rolling.

As a first step, I would like to work with you to set up a meeting as soon as possible between EPA and the city to make sure that the task force is publicly under way and people know that we have all responded.

I thank you for your quick response to the concerns that were raised at the hearing on Monday and I look forward to working with you. I would be interested in any response or additional amplification that you might provide on this.

Administrator WHITMAN. Certainly, Senator.

First of all, I want to thank you for the suggestions, the time you have taken on this issue, the attention that you have given it. We share a real concern about what has happened up there and what will happen in the future. We have, and I believe that both the testimony that you heard on Monday and what we have seen in looking at and in dealing with this issue, we have been able to identify some areas where there are weaknesses. There are either overlaps or gaps in who is responsible for which.

When you are dealing with public health, when you are dealing with a crisis, it doesn't do any good to the public you serve to say, somebody else's job. You need to get the issue dealt with.

And that is why I believe the idea, as you had mentioned, of an indoor air task force is an important one because that is one of the areas where jurisdiction is not clear. It is an area just in general on indoor air that has been the subject of discussion for 10 years in Congress. I mean, it's not a simple task, but it is one that we have to deal with, particularly in light of the kind of challenge that we face now since September 11.

As you also know, in the letter I indicated that I, because it is another area where I feel it is very important to ensure the public get all the information, and I have asked the President's science advisor to put together a task force that will, at least for the Federal agencies, identify what kind of research is being done, what kind of information is being asked for, so we can coordinate that, and be able to communicate with the public in a coherent way, so that they have the information, they have the data they need to be able to make their own decisions.

Sometimes the web site that we have put up that has the information from all the data that we have received sometimes puts up some raw data that people don't have a context within which to judge that, but it is there. It is important that it be there.

I know that there are times when scientists are very discomfited by that because they like to be certain, and unfortunately they are not always certain about the implications of findings, but I believe it is important that we provide as much information as possible.

So I look forward to working with you and your office, and all of New York, to ensure that we cover this to the greatest extent possible, and that we come up with some answers, and that as we go through a lesson-learned process, which we are going through internally at the Agency, both on the September 11 and on the anthrax issues, that we are able to communicate those lessons learned to the public.

Senator CLINTON. Thank you very much, Governor. I have some additional questions which I would be happy to submit in writing, and get responses from the Agency in that way.

Senator JEFFORDS. Thank you very much. Those were very helpful questions.

Senator SPECTER IS HERE. I was aware of his coming in, and you are on. Do you want 30 seconds?

[Laughter.]

**OPENING STATEMENT OF HON. ARLEN SPECTER,
U.S. SENATOR FROM THE STATE OF PENNSYLVANIA**

Senator SPECTER. Thank you very much, Mr. Chairman.

If I had that much time, I don't know what I would do with it.
[Laughter.]

Senator SPECTER. I am pleased to see you here, Governor, and commend you for the job you are doing. The business of administering the environmental laws in the United States is a very, very tough job.

What I want to talk to you about this morning—there are a couple of parochial, but very, very important interests for Pennsylvania. There is a landfill known as Marjal near Scranton, Pennsylvania which has been a source of community agitation for many, many years. The issue boils down to whether the problems are going to be excavated or whether there is going to be a halfway job with a cover on top.

I know you have many, many projects you have to concern yourself about, but have you had an opportunity to get involved in any of the specifics of this Marjal matter?

Administrator WHITMAN. Well, Senator, as you know, the clean-up of the property surrounding the site has been completed. The Region Three office has selected a permanent remedy, but that was put on hold pending a review by the Ombudsman. That report, as I understand, was due to be given to the Region in December of 2001. I can't go into too much more detail because, as you may know, it is subject to litigation. But the surrounding properties have been cleaned up. Stabilization is complete. The implementation of the remedy chosen, though, is on hold until such time—we put it on hold initially to allow the Ombudsman to complete his review of the remedy. It is my understanding he has not yet completed that review.

Senator SPECTER. Well, who is undertaking the review at this time, Governor?

Administrator WHITMAN. The Ombudsman. There was a report due to the Region by December of last year, 2001, and that has not yet been submitted to them.

Senator SPECTER. When do you expect that to be submitted?

Administrator WHITMAN. I don't know, sir. That is up to the Ombudsman. I don't control his timing on anything or the issues that he undertakes to review.

Senator SPECTER. Well, what has been represented to me is that there has been a covering. There is very bad lead contamination. They have proceeded in a way which is least costly and inadequate. I would very much appreciate it if you would take a look at that.

Are you saying that you don't have the authority to do so when it's in the hands of the Ombudsman?

Administrator WHITMAN. I don't. The Ombudsman is, contrary to, I know, some concerns that have been raised, is in fact independent and has made a request. He has raised some concerns about this issue—and tell me when I am going too far as far litigation is concerned, because I am not sure about that. He has raised concerns about the remedy chosen by Region Three. The region obviously thinks, given all their work that they have done, that this is an appropriate cleanup of this site and that there is not a future health issue here for the people who live on the site.

The Ombudsman has a different feeling about it. We put implementation of the final solution on hold pending his review, and he has not yet completed it. But I can't direct him to complete it. I have no ability to have him write a report. Unfortunately, there has been no report written.

Senator SPECTER. If he delays indefinitely, is there no remedy?

Administrator WHITMAN. Well, the Region can go ahead with the selected permanent remedy. It is one that I think that you have a problem with because of the allegations that the Ombudsman has raised concerning the remedy. So it is only fair, would make sense, that he complete that study.

Senator SPECTER. Well, it is fine for him to complete it if it is done within a reasonable time.

Administrator WHITMAN. I would agree with you.

Senator SPECTER. But if it is not, it seems to me there has to be some remedy.

Administrator WHITMAN. I would agree.

Senator SPECTER. Doesn't the Administrator have the authority, if the Administrator is dissatisfied with the conclusions, the Administrator can make an independent determination that something more has to be done?

Administrator WHITMAN. I am recused from any of the decision-making in this site because of the litigation and because of the issues that have been brought up personally. What I would suggest is that we get back to you—I get others on the staff to get back to you who can talk about it.

Senator SPECTER. OK. The recusal I understand, but when the head of the Administration is recused, understandably, then the Administrator's duties devolve upon the next in the chain of command.

Administrator WHITMAN. Certainly, and as I say, this is one of the—well, I am in an awkward position. I can't say a lot more about trying to move this process forward. It is safe to say that I agree with you that in fairness to the people, in fairness to the Region, and in recognition of the seriousness of the issues being raised, there should be timely completion of reviews and there should be timely submission of documents.

Senator SPECTER. Well . . .

Administrator WHITMAN. I am allowed to say one other thing, which I was sort of dancing around, but frankly that is why I have recommended a movement of the Ombudsman's office to the Office of Inspector General. Once an issue is raised with the Inspector General, not only is the inspector general, who is entirely inde-

pendent, required to look into it, whereas the Ombudsman has the choice whether or not to look into an issue. They also have to write reports, and they are required to submit reports in a timely fashion. That, I think, is very important in these issues.

Senator SPECTER. Well, as you know, Governor, there is a lot of concern about—I have a personal concern about the decision to remove the Ombudsman to the Inspector General. I plan to take it up with you, and you mentioned that. You have an Ombudsman who has been very, very—how to put it?—he is had his own point of view. He has been very independent. He has said some things which have riled a lot of people. But it is exactly that kind of independence which has to be recognized and respected. That is the purpose.

The suggestion has been made that the Ombudsman has been shifted to the Inspector Generals because the Ombudsman is too independent and too effective. And if you stifle independence—look here, I know you very well. You want to find out what the right thing to do is. That is what Congressman Sherwood and Senator Santorum and I want to do. You have only had an investment in this issue for a year, Governor. We have had an investment in it for more than a decade. And the people up there are grossly dissatisfied and with cause.

I am going to diary it ahead to March 1 and see if we don't have a report by that time. So keep your incoming lines open for calls, Governor.

Administrator WHITMAN. Certainly—always for you, Senator. Lines are always open.

Senator SPECTER. OK. Let me ask you about another problem in the same vicinity called Tranguch, which involves a 50,000 gallon gasoline spill affecting approximately 250 families in the greater Hazleton area. And the residents are experiencing illnesses and are requesting for everyone in the area to be permanently located, or at least those directly over the plume, with documented contamination. What is possible to do here, Governor?

Administrator WHITMAN. As you know, the cleanup has—basically the cleanup has been completed and gone very well. The groundwater collection, soil vapor extraction and the groundwater collection and treatment systems are completed and operational. The first round of post-project sampling is going to take place in March of this year. The EPA is going to continue to work with the State to monitor the homes in the infected area to ensure that they are not getting levels above what we anticipated, what we think is safe for people.

The results of the last round of residential air sampling showed that 95 percent of the homes had benzene levels below the site's action levels. The homes that continued exhibit elevated levels of hazardous materials or hazardous air that could pose a threat to public health are being evaluated further, and we will take whatever further action is needed to ensure that people are safe. But there will be a formal post-residential, post-project residential sampling in March, next month.

Senator SPECTER. Do you expect the evaluations to be finished in March?

Administrator WHITMAN. We are going to take the sampling in March and we should get those results back pretty quickly, yes.

Senator SPECTER. Well, when you say 95 percent, leaving only a 5 percent problem area, that is at variance with what the people in the community say. But we are going to have to take those one at a time—evaluate which 5 percent are regarded as having problems and seeing what they have to say.

Administrator WHITMAN. And we have to figure out how it is getting there, too. If there are vapors that are escaping into the homes, we need to figure out what the route of that exposure is. So we will continue to work on that.

Senator SPECTER. Thank you very much for your attention to these matters and all the other matters.

Thank you, Mr. Chairman.

Senator JEFFORDS. Thank you for coming. Appreciate it.

I have still got 10 minutes. First of all, I want to let you know I support your efforts to move the Ombudsman's office. I think that is a good idea.

Now, I would like to go back to what some might consider it a controversial issue, but the 4-P proposal versus yours. I must reiterate my hope and firm belief that any 4-P proposal put forth must be able to show that it improves air quality. I also hope that it holds the electricity-producing sector responsible for achieving real reductions in carbon dioxide. Anything that falls short of these goals would be a disappointment to me and environmentalists across the Nation.

Has EPA provided to the President some proof that his proposal will improve air quality over and beyond what is on the books already?

Administrator WHITMAN. Senator, as I have said repeatedly, we want to ensure with any proposal that goes forward that it results in clean air, and cleaner air than we currently see today. I believe that anything that the President proposes will, in fact, show a real gain in air quality. There is going to be a lot of discussion around it, I know, but when the President has made his decision and announces it to the public, I know that you will see that there will be environmental benefits to what is being proposed.

Having said that, yes, we have obviously been working closely running numbers, looking at what we can accomplish, what makes sense to try to achieve. The other thing that we should not lose in this discussion, and I am always concerned that it does not get the kind of recognition that it should, is the amount of carbon reduction that we see through our voluntary programs.

When you consider that fully, more than 50 percent of the greenhouse gas emissions that we are going to see over the next 50 years are going to come from products that are purchased today, we need to ensure that we are giving consumers the right kind of information so that they can make intelligent decisions and help reduce the amount of carbon.

Energy STAR has been extraordinarily efficient and effective in reducing carbon. Last year alone, it reduced the equivalent—had the equivalent impact of the removal of 10 million cars from the road. It reduced carbon dioxide by 10 billion pounds. It is having a real impact. We need to remember that we do get ancillary bene-

fits from these other programs, and continue to recognize and support those, as we are doing this year at the Agency.

Senator JEFFORDS. I appreciate your answer. I want to work closely with you on these matters, and expect that we will be forthright in providing information.

I just want to add I support Mrs. Clinton's efforts to address the air quality questions at Ground Zero, and I hope the Agency takes those matters seriously. I know I don't need to say that.

I thank you for your testimony. We will leave the record open for followup questions, as we always do, and we will appreciate your prompt response to those questions.

Administrator WHITMAN. Thank you, Senator, very much.

Senator JEFFORDS. And with that, have lunch.

[Whereupon at 11:54 a.m., the committee was adjourned, to reconvene at the call of the Chair.]

[Additional statements submitted for the record follow:]

STATEMENT OF HON. CHRISTINE TODD WHITMAN, ADMINISTRATOR, U.S.
ENVIRONMENTAL PROTECTION AGENCY

Mr. Chairman and members of the committee, I am pleased to be here to discuss President Bush's budget request for the Environmental Protection Agency (EPA). The President's budget provides the necessary funds for the Agency to carry out our mission efficiently and effectively to protect human health and safeguard the environment. The fiscal year 2003 request is \$7.7 billion, which includes more than a 100 percent increase in funding for Brownfields, and significant increases for watershed protection.

I would like to begin, Mr. Chairman, by emphasizing that the President's budget request for EPA reflects the Agency's strong commitment to leaving America's air cleaner, its water purer, and its land better protected than it was when we took office. It promotes that goal in a manner consistent with our commitment to fiscal responsibility; by further strengthening our partnerships with State, local and tribal governments; by funding innovative new programs, and by strengthening existing programs that work.

I'd like to touch on a few of the highlights. Nearly half of EPA's budget request provides funding for State and tribal programs, including almost \$3.5 billion in assistance to States, tribes and other partners. The President and I both believe that much of the innovative, creative, and effective environmental progress being made comes from State, county and local governments and our budget request supports that.

As I have traveled around the country during the past year, I've seen some really exciting programs in action. From the people of Kentucky PRIDE to the members of the Paiute Tribe in Nevada, and in countless other communities across America, the EPA is building strong partnerships for environmental progress and the results speak for themselves. In this budget, we will build on those results to achieve even greater environmental progress.

Homeland Security

Since September 11, we have seen the traditional mission of our Agency safeguarding the environment and protecting the public health take on new meaning. We now play a critical role in preparing for and responding to terrorist incidents because of our unique expertise and experience in emergency preparedness and response to hazardous material releases. Our new role of supervising the decontamination of anthrax infected buildings has shown us that better information and new technologies are needed. To continue to do our part to ensure that the Nation is prepared to respond to terrorist incidents, we are investing an additional \$124 million for homeland security.

Included in this figure is \$75 million for research in technologies for decontaminating buildings affected by bioterrorists attacks. We will provide guidance, technical expertise and support to Federal, State and local governments in building contamination prevention, treatment and cleanup capabilities. Combined with resources provided in the Emergency Supplemental Appropriation Act of 2002, this represents a 2-year total of \$300 million in new resources. Also included in this figure is \$20 million to address threats to the nation's drinking water supply.

We, at EPA, play a significant role in working with State governments and local utilities to protect drinking water supplies. We have already begun working with States and local utilities to assess this vulnerability. The additional \$20 million being requested in fiscal year 2003 will augment \$88 million appropriated as part of the Emergency Supplemental Appropriation Act of 2002. Together, these funds will ensure that utilities have developed a comprehensive assessment of these vulnerabilities and emergency operations plans using the most current methods and technologies.

Brownfields

Our fiscal year 2003 budget more than doubles the funds available for brownfields reclamation by providing \$200 million. This money will allow States, tribes, and local governments to build on the work they've already done in turning thousands of neighborhood eyesores into community assets. Despite that progress, thousands of brownfields still mar America's landscape. That is going to change. Thanks to President Bush's commitment to brownfields, this money will help us get at some of the most difficult brownfields challenges that remain. Those reclaimed brownfields will provide their communities with new jobs, new places to play, and a new sense of optimism for the future.

Watershed Projects

By providing \$21 million for a new watershed initiative, our budget will target up to 20 watersheds around the country for improvement funding that will lead to millions of gallons of purer water in the years ahead. This initiative will allow us to build on existing public-private partnerships to restore and protect up to 20 of America's most threatened watersheds. When I visited Boston last year and saw first-hand the excellent work done by the Charles River Initiative, I knew we could use that effort as a model for other communities. I've heard a watershed defined as "communities connected by water." Well, with this initiative, we are connecting EPA with local watershed protection through the flow of Federal dollars. As a result, we will help improve water quality for drinking, boating, swimming, and fishing.

National Environmental Technology Competition

Of course, underlying everything we do is our commitment to partnership. One of the most exciting new partnerships this budget seeks to build upon is our proposed National Environmental Technology Competition. Over the past 30 years, advances in technology have helped us address some of our most pressing environmental challenges. I believe technology can play an even greater role as we seek to achieve the next generation of environmental progress.

That is why we are proposing \$10 million for our National Environmental Technology Competition. This program will use competition to foster technological innovation through public-private partnerships. It will promote the development of new, cost-effective environmental technologies that will help clean the air, water, and land. For example, in fiscal year 2003, EPA will solicit proposals related to arsenic removal in drinking water. This work will help further EPA's commitment to help fund, through research and development, cost-effective methods of arsenic removal for small systems.

Cleaner Air

Under the Clean Air Act, we continue work to make the air cleaner and healthier to breathe by setting standards for ambient air quality, toxic air pollutant emissions, new pollution sources, and mobile sources. In fiscal year 2003, we will assist States, tribes and local governments in devising additional stationary and mobile source strategies to reduce ozone and particulate matter, and other pollutants. A key component to achieving the Clean Air Goal for all citizens is the request for over \$232 million for air grants to States and tribes. In addition, EPA will continue to build upon its voluntary government/industry partnership efforts to achieve pollution reductions and energy savings. For example, as we continue our Energy Star Labeling and Building Program efforts, our goal is to reduce the emissions of greenhouse gases by more than 40 million metric tons annually, by 2010, while saving consumers and businesses an estimated \$14 billion in net energy bill savings when using energy-efficient products.

Purer Water

Over the past three decades, our nation has made significant progress in water pollution prevention and cleanup. While we have substantially cleaned up many of our most polluted waterways, and provided safer drinking water for millions of U.S.

residents, significant challenges remain. This budget request addresses the challenge to provide clean and safe water in every American community.

Protection from Drinking Water Contaminants. The fiscal year 2003 request supports our coordinated efforts with the States and tribes to implement new health-based standards to control for microbial contaminants, disinfectants and their by-products, and other contaminants.

Drinking Water State Revolving Fund. The Drinking Water State Revolving Fund (DWSRF) request of \$850 million will provide substantial funding to States and tribes to upgrade and modernize their drinking water systems. At this funding level, EPA will eventually meet its goal of providing an average of \$500 million annually in assistance.

BEACHES Grants. This budget includes \$10 million to support our implementation of the "Beaches Environmental Assessment and Coastal Health Act of 2000." The money will be provided in the form of grants to States to develop local monitoring and notification programs for coastal recreation waters.

New Watershed Investments. Our \$21 million Targeted Watershed Program is designed to support the need for additional funding for priority watershed restoration efforts. This request supports a range of water quality restoration tools to assist local communities in restoring their waterways. This Program would provide direct grants to watershed stakeholders to implement comprehensive restoration actions.

Helping States Address Run-off and Restore Polluted Waters. The President's fiscal year 2003 budget provides significant resources to States to build on successes we have achieved in protecting the nation's waters, by providing States and tribes with grants to address polluted run-off, protect valuable wetlands, and restore polluted waterways.

Clean Water State Revolving Fund. Our budget request includes \$1.212 billion for States and tribes for the Clean Water State Revolving Fund (CWSRF). States receive capitalization grants, which enable them to provide low interest loans to communities to construct wastewater treatment infrastructure and fund other projects to enhance water quality. This investment allows our Agency to meet the goal for the CWSRF to provide \$2 billion average in annual financial assistance over the long-term.

Protecting Human Health along the U.S.-Mexico Border. This budget includes \$75 million for water and wastewater projects along the U.S.-Mexico Border. These resources help our Agency to address the serious environmental and human health problems associated with untreated and industrial and municipal sewage on the U.S.-Mexico border.

Strong Science

The fiscal year 2003 budget supports our efforts to further strengthen the role of science in decisionmaking by using scientific information and analysis to help direct policy and establish priorities. EPA will achieve maximum environmental and health protections through our request of \$627 million for the Office of Research and Development to address both current and future environmental challenges. This Administration is committed to the incorporation of science into regulatory decisions by having scientists participate early and often in the regulatory development process. The budget request supports a balanced research and development program that addresses Administration and Agency priorities, as well as meets the challenges of the Clean Air Act (CAA), the Safe Drinking Water Act (SDWA), the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Food Quality Protection Act (FQPA), and other environmental statutes.

Environmental Information

In fiscal year 2003, we will further our commitment to providing assistance to States and tribes to develop and implement the National Environmental Information Exchange Network. The goal of this program is to advance collaborative efforts to integrate environmental data between and among EPA, States and the Agency's other partners. The ability to easily exchange up-to-date, accurate information is critical to meet today's increasingly complex environmental challenges. The grant program has several components, each of which is aimed at building on the growing success of States and tribes in finding smarter alternatives to the current approaches for exchanging environmental data. The grants being offered include grants to enable States and tribes to re-engineer their environmental reporting; grants to demonstrate progress in developing a joint EPA/State National Environmental Information Exchange Network, and grants that challenge State or multi-state or tribal efforts to integrate environmental information.

As EPA works with States and tribes to develop the National Environmental Information Exchange Network, we will also continue to build and institutionalize a Central Data Exchange (CDX) which will be EPA's focal point for securely receiving, translating, and forwarding data to EPA's data systems. In fiscal year 2003, the CDX will service 45 States and an assemblage of 25,000 facilities, companies, and laboratories. By widely implementing an electronic reporting infrastructure, this infrastructure will reduce reliance on less efficient paper-based processes, thereby improving data quality, reducing reporting burden, and simplifying the reporting process.

Enforcement Grant Programs

Most of our nation's environmental laws envision a strong role for State governments in implementing and managing environmental programs. The fiscal year 2003 request includes \$15 million in a new grant program to continue to support State agencies implementing authorized, delegated, or approved environmental enforcement programs. These funds will continue to afford States a greater role in the enforcement of environmental laws and regulations.

This budget request will allow our Agency to continue to support the regulated community's compliance with environmental requirements through voluntary compliance incentives and assistance programs. We will provide information and technical assistance to the regulated community through the compliance assistance program to increase its understanding of all statutory or regulatory environmental requirements. The program will also continue to develop strategies and compliance assistance tools that will support initiatives targeted toward improving compliance in specific industrial and commercial sectors or with certain regulatory requirements.

Safe Food

The fiscal year 2003 request includes \$142.3 million to help meet the multiple challenges of the implementation of the Food Quality Protection Act (FQPA) of 1996 so that all Americans will continue to enjoy one of the safest, most abundant, and most affordable food supplies in the world. FQPA provides for the expedited registration of reduced risk pesticides to introduce alternatives to the older versions on the market. EPA implements its various authorities in a manner to ensure that farmers are able to transition with a minimal disruption in production to safer substitutes and alternative farming practices. Expanded support for tolerance reassessments will reduce the potential risks to public health from older pesticides. Reassessing existing tolerances promotes food safety, especially for infants and children, while ensuring that pesticides meet the most current health and safety standards. This budget request also supports FQPA-related science through scientific assessments of cumulative risk, including funds for validation of testing components of the Endocrine Disruptor Screening Program.

Summary

Taken together, the President's proposed EPA budget for fiscal year 2003 fully supports the work of our Agency. It will enable us to transform the Agency's 30-year mission to meet the challenges of the 21st century. It brings us that much closer to realizing our goals of cleaner air for all Americans to breathe, purer water for all Americans to drink, swim and fish in, as well as safeguarding public health.

This concludes my prepared statement. I would be pleased to answer any questions that you may have.

RESPONSES OF HON. CHRISTINE TODD WHITMAN TO ADDITIONAL QUESTIONS FROM SENATOR BOXER

Question 1. Restoration of Contaminated Sites—The pace of clean-ups of contaminated sites has been declining. In Fiscal Year 2000, 87 NPL clean-ups were completed; In Fiscal Year 2001, 47 clean-ups were completed (In last year's budget proposal, the U.S. Environmental Protection Agency (EPA) estimated that 75 clean-ups would be completed in 2001.) In 2002, 40 clean-ups are projected to be completed. In 2003, 40 clean-ups are also projected.

Please explain why the pace of cleanup is slowing so dramatically? Why was there such a large discrepancy between estimated and actual cleanups?

Response. Entering into fiscal year 2001, the Superfund program had already anticipated a reduction in achieving site construction completions. This was a result of a variety of factors, including the legacy of past decisions on priorities for funding; the size and number of construction projects (operable units) for the remaining NPL sites still eligible for construction completion; and the need to balance a number of competing environmental priorities within the Superfund Program. In pre-

ceding years, the Agency had placed a priority on sites that were nearly complete, creating a backlog of sites with significant years of work remaining. This remaining universe of eligible sites includes area-wide groundwater sites, mining sites, sediment sites, and Federal facility sites.

Moving sites to completion remains an Agency priority. The Agency is launching a Superfund Pipeline Management Review to identify areas in the Superfund cleanup process that can be managed in a way to maximize the amount of resources available for cleanup construction and whether there may be alternative cleanup options available other than listing a site on the Superfund National Priority List (NPL).

Question 1(a). I understand that EPA has asserted that sites underway are more complex. Please provide a detailed explanation of what constitutes a more complex site. In addition, please explain how EPA is determining that it is the complexity of each site that is causing the slow down in clean-ups and how this assumption is being verified and documented.

Response. The remaining universe of NPL sites that are not construction complete are more complex than sites that have already achieved construction completion. Many factors are included in complexity, which affects the duration and cost of cleanups. Examples of some such factors include: contaminant characteristics, presence of multiple contaminants, area and volume of contamination, multi-media contamination, ecological issues, groundwater issues, remedial technology(ies) necessary, site location, proximity to populations, Potentially Responsible Party (PRP) cooperation, presence of multiple PRPs, and other stakeholder interests (States, Tribes, communities, natural resource trustees). While we have not attempted to assess all the characteristics that describe complexity on a site-specific basis, we have a few surrogate measures that demonstrate how the current universe of non-construction complete NPL sites differs from NPL sites that are construction complete.

Type of facility. 21 percent of the remaining non-construction completed universe of final NPL sites (675) are Federal facilities. Simply the nature of contamination at these sites and their vastness defines these sites as complex. Only 4 percent of construction completed sites are Federal facilities.

Mega-sites. Mega-sites, as defined by Resources for the Future, are non-Federal facility sites with total cleanup costs estimated at \$50 million or more. Of the 124 mega-sites that EPA has identified, 75 percent are not construction complete.

Number of operable units per site. In order to address the multiple aspects of site cleanup, EPA may divide sites into smaller scale units, called operable units.

There are an average of 4.2 operable units per final, non-construction complete, non-Federal facility mega NPL site, which is 1.5 times greater than the number of operable units at comparable construction complete NPL sites.

There are an average of 1.9 operable units per final, non-construction complete, non-Federal facility, non-mega NPL site, which is 1.3 times greater than the number of operable units at comparable construction complete NPL sites.

There are an average of 9.5 operable units per final, non-construction complete, Federal facility NPL site, which is 2.1 times greater than the number of operable units at comparable construction complete NPL sites.

*Question 2. Superfund Tax—*The Federal Superfund tax account is nearly exhausted due to the expiration of the Superfund tax. General revenues will soon fully replace the tax as a source of funding. The Superfund tax was paid by polluting industries throughout the country. They have experienced a tax holiday for more than 5 years.

Does EPA support the reauthorization of the Superfund tax or do you support shifting the full burden of the federally funded portion of the Superfund program to the general taxpayer?

Response. A number of years have passed since the Superfund taxes expired. Although the Superfund taxes expired, the annual appropriations for the program have remained relatively steady. It is important to note, that the expiration of the taxes has not affected the appropriated funding for the Superfund program. EPA is confident that Congress and the Administration will continue to work together to provide appropriate funding for the Superfund program. Although the President's Fiscal Year 2003 budget does not propose enacting Superfund taxes at this time, the issue may be revisited for the fiscal year 2004 budget. Specific details on the President's request for Superfund in fiscal year 2004 will be developed within the executive branch over the course of the next several months, and submitted to Congress in February 2003.

Question 3. Federal enforcement is a critical backstop to State enforcement programs. EPA proposed to cut enforcement personnel in the Fiscal Year 2002 budget, and this proposal was rejected. In the conference language to the VA/HUD appro-

priations bill, EPA was directed to “restore Federal enforcement positions in accordance with the fiscal 2001 Operating Plan.”

Question 3(a). Please confirm that the Federal enforcement positions were restored in accordance with the direction in the VA/HUD conference report. Please also indicate the number of Federal enforcement positions that you have included or will include in the Fiscal 2003 Operating Plan. If there are fewer positions proposed for Fiscal Year 2003 for key Federal programs, such as civil enforcement, compliance monitoring and incentives, please indicate the number of vacancies that have not been filled and the number of positions eliminated in Fiscal Year 2003 compared to 2001 levels.

Answer 3(a). EPA restored workyears to the enforcement program consistent with funding provided by Congress in the fiscal year 2002 appropriations. Congress appropriated an increase of \$15 million to the Fiscal Year 2002 President's Request for enforcement, which provided funding for about 145 workyears. Due to the catastrophic events on “9/11”, it was necessary to provide the Office of Enforcement and Compliance Assurance (OECA) with additional workyears to support our homeland security efforts. Therefore, the Agency restored 115 workyears to the enforcement programs and 30 workyears were provided for homeland security.

While vacancies fluctuate at any given time, OECA is managing its on-board levels very close to its authorized workyear ceiling. Below, please find a table which outlines the changes from the Fiscal Year 2001 operating plan to the fiscal year 2003 Request.

Fiscal Years 2001–2003 Workyear Crosswalk

Program	FY 2001 Budget	Changes in FY 2002 Re- quest	Congres- sional Restora- tion & Agency Cut in 2002 Budget	Changes in FY 2003 Re- quest	FY 2003 Request
Compliance Monitoring	528.5	–93.0	+29.0	–26.7	437.8
Civil Enforcement	1,012.2	–92.0	+34.2	–49.3	905.1
Criminal Enforcement	300.1	+1.9	–3.2	294.4	
	–4.4				
Homeland Security			+30.0		30.0
Superfund Enforcement	1,030.6	–63.5	+52.4		1,019.5
Compliance Assistance	213.4	+6.9	–6.9	–11.9	201.5
Compliance Incentives	97.3	–6.4	–0.2	–5.9	84.8
Capacity Building, NEPA, Environ. Justice	205.0	–11.2	–0.1	–1.7	92.0
Enforcement Training	25.0	–6.2	–0.5	–1.3	17.0
Data Management	124.2				124.2
Brownfields	0.5			+4.5	5.0
Total	3,536.8	–269.8	+139.8	–95.5	3,311.3

Question 3(b). EPA’s Fiscal Year 2003 budget proposes that \$15 million be directed to a State enforcement grant program. What is the authority for this program? If Federal enforcement positions are not maintained at Fiscal Year 2001 levels in your proposed budget, would the funding proposed for this new State grant program be sufficient to cover the cost of maintaining these positions? Does EPA view State activities and capacity building as a substitute for Federal enforcement? How will EPA measure the accomplishments of State enforcement programs?

Answer 3(b). While we believe we have existing authority, we are proposing an expansion of that authority to accommodate the multimedia context in which the grants will be administered. Accordingly, authorizing language in the appropriations bill that funds the program would facilitate the administration of the grants.

EPA and the States have different, but complementary roles when it comes to enforcement of our Nation’s environmental laws. States have primary responsibility for implementing and enforcing most environmental programs through delegated authority from the EPA. The EPA’s Federal role is to implement and enforce programs that cannot be delegated to States, to handle more complex cases involving multiple States or corporations with multiple facilities, to deal with issues that require expertise or resources that only EPA can provide, and to enforce when States are unable or unwilling to. Given the interplay between the State and Federal programs, we believe the State and tribal enforcement grant program will enhance both State and EPA efforts to increase compliance with environmental laws.

States will be approved for grant funding only if their grant proposal includes specific plans to measure and report on their performance in achieving results. For example, for environmental risks or noncompliance patterns they are addressing with the grant funds, States will need to define performance measures for determining whether they are having an impact (e.g., pollution reductions, improved environmental practices at facilities or within an industry, increased compliance rates). EPA will establish required reporting intervals for States to provide performance information which can be reviewed on a regular basis by EPA.

Question 4. Hazardous Waste Regulations—EPA's budget proposal includes discussion of a plan to exclude lower risk wastes from hazardous waste regulation. Does EPA also plan to review higher risk wastes and regulate them as hazardous if they are not currently part of the hazardous waste system?

Response. The Agency is taking a balanced approach to ensure that high-risk wastes are appropriately regulated under RCRA, and that low-risk wastes are not over-regulated. We agree that there is a continuing need to evaluate whether wastes should be brought into the hazardous waste system, or otherwise addressed to control potential risks. In recent years the Agency has completed a number of evaluations of industrial wastes to determine if any of these should be added to the list of hazardous wastes. These include recent evaluations of wastes from the paint manufacturing, inorganic chemicals, and chlorinated aliphatics production industries. We are also continuing investigations into other wastes of potential concern (e.g., wastes from the dye and pigment production industries), and we are examining certain wastes that are already regulated as hazardous to clarify the scope of the regulations (e.g., spent petroleum catalysts). As discussed in the EPA budget, we are also examining a limited number of specific waste streams for potential exemptions under RCRA, to the extent they do not pose a risk to public health or the environment. This effort is an outgrowth of a previous rulemaking and public comment. Subsequently, we were directed in the fiscal year 2002 appropriation to expeditiously address these requests for exemptions.

In summary, we intend to continue to improve management of wastes by both effectively addressing wastes that present risks of concern while also ensuring that other waste streams are not inappropriately over-regulated.

RESPONSES OF HON. CHRISTINE TODD WHITMAN TO ADDITIONAL QUESTIONS FROM
SENATOR CAMPBELL

Question 1. Global Climate Change—I have supported the use of market based mechanisms in Federal regulation. Market based approaches lead to efficient allocation of resources, resulting in greater all around benefits. The acid rain program is a strong example of what market based approaches can do. I understand that the Administration is preparing to release new guidelines for emissions reductions as indexed to economic output. Could you briefly discuss how such an approach could work?

Response. The President's climate change policy sets a goal of an 18 percent reduction in greenhouse gas intensity the ratio of emissions to economic activity in the U.S. over the next 10 years. In practical terms, this means that fewer tons of greenhouse gases will be emitted for every million dollars of gross domestic product. The Administration predicts that current trends of technology improvement and current climate programs will cause greenhouse gas intensity to fall by 14 percent from 2002 2012. The President's goal calls for an additional 4 percent reduction in greenhouse gas intensity for the period.

Administration estimates are that this 4 percent reduction in greenhouse gas intensity translates into roughly a 100 million metric ton reduction in greenhouse gases by 2012. To achieve this goal, the President proposes investments in the development of new, lower emitting, technologies and tax incentives for the adoption of such technologies. In addition to the focus on emissions, the President's plan supports improvement in carbon sequestration through agricultural activities. Further, the President has challenged American business and industry to form partnerships with the Administration to achieve these goals.

Question 2. How have the priorities changed in response to the recent economic slowdown and September 11 attacks?

Response. EPA played a critical role in responding to the September 11, 2001, attacks at the World Trade Center in New York City and the Pentagon. At the World Trade Center, the Agency aided in debris removal from Ground Zero, combined efforts with Occupational Health and Safety Administration and the New York City Department of Health to monitor worker exposure to contaminated dust and partic-

ulate matter, and coordinated with the New York City Department of Environmental Protection to sample drinking water and ambient air quality. Similar monitoring efforts were conducted at the Pentagon crash site. At the Senate Hart Office Building in Washington, DC, EPA worked with the Sergeant at Arms, who served as the lead, during the Anthrax decontamination process, which was successfully completed in January 2002.

While the Agency continues its mission of protecting public health and the environment, we also recognize that homeland security efforts do not end with the conclusion of cleanup efforts in New York and Washington, DC. Protecting the nation's water supply, securing and protecting EPA's facilities and employees, improving the Agency's ability to respond to any major terrorist incident, supporting and coordinating with other law enforcement agencies, and initiating research activities to achieve a higher level of preparedness will continue to be important priorities as EPA works to improve the nation's homeland security.

Question 3. Endangered Species—You mention that in the new budget, the EPA will strengthen the role of science in decisionmaking to direct policy and priorities. We've seen, in the last few months, faulty and misdirected science having disastrous effects in both the Canadian Lynx studies and Oregon's Klamath Basin. How is the EPA prepared to prevent such future problems by ensuring balanced and unbiased scientific research?

Response. I do agree with you about the importance of science in decisionmaking to direct policy and priorities. EPA's Peer Review Policy helps ensure that the best available scientific information is used in EPA decisions in a balanced and unbiased way. This policy requires that major scientific and technical work products used in Agency decisions receive critical review by qualified individuals (or organizations) who are independent from, but have equivalent expertise to, those who performed the work. While our peer review policy does not apply to science developed or used by other Federal agencies, as in the two cases cited in your question, since 1994 it has applied not only to all science conducted by EPA's program and regional offices, but also to science done by others but used by EPA.

This year we are taking additional steps to support our continued use of the best available science in decisionmaking. First, we have enhanced the participation of our Office of Research and Development (ORD) in the Agency's decisionmaking process, including creating additional ORD positions that are dedicated to coordinating scientific input into regulatory policies. Second, EPA is currently drafting its new guidelines to implement the Office of Management and Budget's information quality guidance. These new guidelines will outline the quality requirements for all information disseminated by EPA, and for influential information—including scientific research findings—the guidelines will set high standards for objectivity, utility, and integrity. This will include meeting stringent criteria for transparency and reproducibility of findings.

Rigorous peer review of our science, and early and continued involvement of our scientists in decisionmaking, will allow EPA to continue to be confident that the science used in our decisions is balanced, unbiased, and appropriately applied to the issue at hand. Doing so not only results in better decisions, but enhanced service to the American public through more effective accomplishment of our mission to protect human health and safeguard the natural environment.

RESPONSES OF HON CHRISTINE TODD WHITMAN TO ADDITIONAL QUESTIONS FROM
SENATOR CLINTON

Question 1. As you know, indoor air quality is one of the largest outstanding environmental issues around Ground Zero. I was pleased that in the letter that you sent to me on February 12, 2002, you committed to working with local, State, and Federal partners to establish a Task Force on Indoor Air in Lower Manhattan, and I look forward to working with you in this regard.

I believe that it is imperative that this Task Force conducts door-to-door inspections and indoor sampling within no less than a 10 block radius of Ground Zero. The Task Force should also operate a centralized location where the public can get information on whether their building has been tested/inspected, the results of those tests, and clear guidance on cleanup requirements, resources available to pay for cleanups, and certified cleanup companies in the area.

Please provide more detailed information on the Task Force, including: (1) the proposed make-up of the Task Force, (2) the Task Force's proposed mission, (3) a proposed schedule for completion of necessary indoor air activities, and (4) a proposed budget for the Task Force.

Response. 1. EPA established the Task Force in mid-February. The list of taskforce members is attached.

2. The Task Force's mission is to assure that people are not being exposed to pollutants related to the World Trade Center collapse at levels that might pose long term health risks. On May 8, 2002, EPA and its Federal, State and city partners announced a comprehensive plan to ensure that apartments impacted by the collapse of the world trade center have been properly cleaned. The attached fact sheet provides more details. EPA, New York City, the Federal Emergency Management Agency (FEMA), and the Occupational Safety and Health Administration (OSHA) are taking a collaborative approach that will include:

- Cleanup of residential units on request, using certified contractors;
- Followup testing for asbestos in the indoor air for requesting households;
- Availability of HEPA (High Efficiency Particulate Air) filter vacuums;
- Establishment of a hotline to provide information and take cleanup and testing requests;
- Distribution of health and cleanup information; and Professional cleanup of remaining unoccupied, uncleaned buildings.

3. At this time, there is no established end date for these activities.

4. Under the plan, FEMA will provide a grant to New York City that will pay for the professional cleaning and testing. EPA will continue to work with the City and FEMA to identify future projects and funding needs.

Question 2a. According to EPA's budget summary document, it appears that FEMA has provided the necessary resources for EPA to conduct the outdoor air sampling that it has been and continues to do in New York City. Is that correct?

Response. Yes. FEMA has transferred over \$95 million to EPA for response activities at the World Trade Center Site.

Question 2b. What resources has EPA used for the anthrax cleanups at private sites, the Postal Service, other government agency sites, and the U.S. Capitol complex? How much of that funding came out of your Superfund program and how much came out of the 1902 Supplemental?

Response. EPA has expended over \$25 million for Capitol Hill response out of its Superfund removal program. The Fiscal Year 2002 Defense Appropriations Act, which included the Supplemental for Counter-terrorism reimbursed EPA for \$12.5 million of that. The Administration is requesting the remaining \$12.5 million in the latest Supplemental request.

In general, the USPS, other government agencies and privately owned facilities, such as the America Media, Inc. site in Florida, are funding their own cleanups. EPA is providing technical assistance from our On-Scene Coordinators, our Environmental Response Team, and other personnel. EPA estimates that it has spent approximately \$2 million for anthrax cleanup and technical assistance at sites other than the Capitol Hill Complex.

Question 2c. In your February 12, letter to me, you mentioned that you were already working with the City and ATSDR on indoor air quality in Lower Manhattan by providing resources to analyze indoor air and dust samples from 30 buildings in Lower Manhattan. What was the source of these resources?

Response. FEMA provided funding for the original sampling and will fund additional project components that are eligible under its programs.

Question 2d. Why in your February 12 letter to me did you suggest that the resources for the new Indoor Air Task Force should come from the CDBG money appropriated for New York last year? As I'm sure you are aware, the use of that money is at the discretion of Governor Pataki. In addition, the demands on the CDBG money for economic redevelopment and revitalization in lower Manhattan unfortunately already far exceed these resources.

Response. While I am sure the demands on these CDBG resources is great, as you know, eligible activities of CDBG funds include the provision of services related to public health. This could potentially include addressing the indoor environmental needs of residents and building owners in Lower Manhattan.

Question 3. EPA's budget summary States that you will be using funds from the 1902 Supplemental to develop "Additional information needed to determine the risks to human health from short-term exposures to acutely toxic chemicals."

Please explain this effort further. What chemicals will EPA be looking at? Will this effort in any way be targeted to addressing the short-term exposures experienced at the World Trade Center?

Response. EPA's National Advisory Committee for Acute Exposures for Hazardous Substances (NAC/AEGL Committee) is working with experts of the Environmental & Occupational Health Sciences Institute (EOHSI) to develop a list of chemicals of concern in the World Trade Center disaster and to assess the ability to develop

acute exposure values for emergency planning scenarios. These experts will provide the NAC/AEGL Committee with the results of their analyses of the World Trade Center disaster and meet with the committee to discuss the short-term exposures of concern from the viewpoint of both vulnerable areas just following the event and also re-entry considerations. Included in the substances of concern are glass fibers, PM_{2.5} and greater micron diameter particles, benzene and toluene emissions from jet fuel combustion, phthalates and polyaromatic hydrocarbons (chrysenes, anthracenes, pyrenes) from building materials and some brominated flame retardants.

Question 4. EPA's budget summary document also mentioned that EPA will be using money from the 1902 Supplemental to "provide environmental updates on environmental data to the Agency's website regarding cleanup efforts at the World Trade Center." Please explain this effort in further detail.

Response. In the aftermath of the World Trade Center (WTC) disaster, EPA assumed responsibility for developing and maintaining a multi-agency data base to house both the results of ambient air monitoring conducted in New York City and its surrounding environments to determine the environmental impacts of the 9/11 event. In addition, EPA has been posting the results of its own WTC sampling and monitoring activities on the Agency website (found at www.epa.gov) since September 25, 2001. While some monitoring organizations have ceased their operations, EPA, the New York State Department of Environmental Conservation, and the New York City Department of Environmental Protection continue to monitor in the vicinity of the WTC. EPA will continue to accept new data updates into the data base and update its public website postings as long as monitoring activities are advancing. In addition, EPA plans to make the data base publicly available later this year and will be renewing the public version of the system as new data becomes available.

Question 5. With respect to Homeland Security in the Administration's Fiscal Year 2003 proposal for EPA, the lion's share of the funding would go to conducting research on "better technologies and assessments to clean up buildings contaminated by biological and chemical agents." Please explain this effort in further detail. What will this include in addition to anthrax?

Response. The President's 2003 budget allocated \$75,000,000 to the Environmental Protection Agency for research on building security and decontamination. EPA developed a 2-year plan for development, testing, and communication of enhanced methods for detection, containment, decontamination, and disposal of clean-up equipment after intentional introduction of biological or chemical contaminants into large buildings. This plan includes consideration of biological and chemical warfare agents as well as toxic bulk industrial chemicals, and the plan addresses both indoor releases of contaminants and proximal outdoor releases.

As part of this effort, the Agency will test and verify existing devices to detect contaminants, develop new devices or methods of detection, equip vans with detection instrumentation for rapid response, and design a detection network. Research will also be conducted to develop and test methods for preventing the spread of contaminants, and to protect building occupants, emergency responders, and decontamination crews. In addition, EPA researchers will look at methods for decontaminating indoor surfaces and methods for disposing of contaminated clean-up materials. The Agency also plans to provide guidance on improved detection, containment, and decontamination methods for facility managers, emergency responders, decontamination crews, and those sampling and analyzing materials in the environment.

Question 6. How will EPA work to incorporate its experience in New York into its Homeland Security Initiative?

Response. EPA has developed a lessons learned document that has been distributed within the Agency. The lessons identified in this document, along with other assessments, will help EPA to develop its Agency-wide Homeland Security Strategy. EPA's strategy will be incorporated into the National Strategy.

Question 7a. It is my understanding that EPA's Inspector General has already recommended that contaminant asbestos be regulated under the Clean Air Act and that EPA's Office of Air and Radiation has agreed with this recommendation. Can you please tell the committee what actions are already under way or that the Agency intends to take in this regard?

Answer 7a. The Inspector General recommended that EPA consider the need for regulation of contaminant asbestos under the Clean Air Act through National Emissions Standard for Hazardous Air Pollutants (NESHAP).

Contaminant asbestos emissions are potentially associated with a wide variety of mineral mining and processing operations. Because of the potential for asbestos exposure resulting from emissions and other pathways associated with inappropriate

material handling and disposal, we agree that the need for regulation of contaminant asbestos sources under the NESHAP program should be considered. However, there are significant issues which must be addressed when considering NESHAP development for contaminant asbestos sources.

We have developed an Action Plan for determining the need for NESHAP for a broad range of contaminant asbestos emissions sources. The objective of the Action Plan is to identify the steps and associated activities necessary to gather the information needed to decide whether regulations for sources of contaminant asbestos are warranted.

Question 7b. I also understand that EPA's Office of Pollution Prevention and Toxic Substances has committed to forming a "Blue Ribbon Panel" on policy issues "associated with the use and management of asbestos and other durable fibers" by mid-2002. Please tell the committee if this is proceeding on schedule? How will the asbestos issues resulting from the September 11 attacks be addressed by the Panel?

Response. Blue Ribbon Panel—EPA is establishing a panel of informed stakeholders (which includes industry, school officials, EPA, health and risk assessors, and the public) to provide independent advice and council on policy issues associated with asbestos. The panel will consider how the Agency should best focus its resources to address asbestos products still in use and asbestos products found in homes, commercial buildings, and schools. The first panel meeting will be in late Summer 2002.

The panel is expected to address asbestos issues resulting from the September 11 attacks. For example, the Panel will address air emissions standards for asbestos, discuss the use of asbestos-containing building materials, and work to develop a consumer education campaign.

Question 8. Once again, funding for the Long Island Sound has been severely cut from this year's enacted level. Why?

Response. The reduction from \$2.5 million to \$477 thousand reflects the elimination of the fiscal year 2002 earmark of \$2.003 million. Our fiscal year 2003 request is equal to our request for fiscal year 2002.

Question 9. The National Estuary Program is already woefully under-funded, and could provide significant benefits for important estuary resources around the country, such as the Peconic Estuary on Long Island. Why is there a significant cut in funding proposed by the Administration for the National Estuary Program?

Response. As with Long Island Sound funding, the reduction in total levels for the National Estuary Program reflects elimination of a \$5.5 million earmark appropriated in fiscal year 2002.

RESPONSES OF HON. CHRISTINE TODD WHITMAN TO ADDITIONAL QUESTIONS FROM
SENATOR JEFFORDS

Question 1. I have been told that, nationally, our superfund site needs are three times greater than the money available. How much money would be necessary in fiscal year 2003 for the program to operate at the optimal level?

Response. This Administration is committed to the polluter pays principle. Due to the polluter pays structure of Superfund, approximately 70 percent of non-Federal Superfund sites are financed and cleaned up by private parties. Other sites are cleaned up by EPA with costs recovered from private parties after cleanup.

Last year, EPA produced a near record amount in private party cleanup commitments and cost recovery—\$1.7 billion—an increase from the previous year of almost \$300 million. Of the \$1.7 billion, EPA recovered \$413 million in cleanup costs—a large increase from the \$145 million recovered in the previous year. The total value of these settlements with responsible parties exceeds \$18 billion. EPA will continue to pursue agreements with responsible parties to conduct future cleanup work wherever possible.

The President's budget request of \$1.29 billion for Superfund reflects a strong commitment to clean up hazardous waste sites. The fiscal year 2003 budget includes an almost \$200 million increase in such funding. While funding in Superfund is essentially flat as compared to fiscal year 2002, the Budget includes \$200 million for Brownfields funding through other accounts. Prior to the President signing the Brownfields legislation in December, Brownfields funding was provided through the Superfund account and within the fiscal year 2002 Superfund total. At the budget levels requested by the President for fiscal year 2003, EPA expects to maintain progress at Superfund sites, and EPA's presence at sites with ongoing work will continue. EPA will continue to ensure that available funds are directed to the highest priority sites and projects.

Question 2. I understand that in Region 1, for example, the funding in the “pipeline” (used for remedial investigations, feasibility studies, and removal work) has dropped from \$45 million in 2000 to \$24-\$26 million this year. Can you explain this dramatic decrease in funding to me?

Response. As part of the budget process, EPA allocates resources to each region for specific categories of work. Allocations of “pipeline” resources are predominantly contractor resources. In fiscal year 2000, EPA allocated \$29.4 million to Region 1 for pipeline activities. The region was able to augment this “base” allocation to nearly \$45 million by using deobligated funds from closed/expired contracts. The pipeline allocation for Region 1 in fiscal year 2002 is \$24.8 million. The reason for the reduction from the fiscal year 2000 (\$29.4 million) is based on the implementation of a new methodology for allocating pipeline resources among the ten regions.

Question 3. Is there any data documenting an increase in the complexity of Superfund sites?

Response. The remaining universe of NPL sites that are not construction complete are more complex than sites that have already achieved construction completion. Many factors are included in complexity, which affects the duration and cost of cleanups. Examples of some such factors include: contaminant characteristics, presence of multiple contaminants, area and volume of contamination, multi-media contamination, ecological issues, groundwater issues, remedial technology(ies) necessary, site location, proximity to populations, Potentially Responsible Party (PRP) cooperation, presence of multiple PRPs, and other stakeholder interests (States, Tribes, communities, natural resource trustees). While we have not attempted to assess all the characteristics that describe complexity on a site-specific basis, we have a few surrogate measures that demonstrate how the current universe of non-construction complete NPL sites differs from NPL sites that are construction complete.

Type of facility. 21 percent of the remaining non-construction completed universe of final NPL sites (675) are Federal facilities. Simply the nature of contamination at these sites and their vastness defines these sites as complex. Only 4 percent of construction completed sites are Federal facilities.

Mega-sites. Mega-sites, as defined by Resources for the Future, are non-Federal facility sites with total cleanup costs estimated at \$50 million or more. Of the 124 mega-sites that EPA has identified, 75 percent are not construction complete.

Number of operable units per site. In order to address the multiple aspects of site cleanup, EPA may divide sites into smaller scale units, called operable units.

- There are an average of 4.2 operable units per final, non-construction complete, non-Federal facility mega NPL site, which 1.5 times greater than the number of operable units at comparable construction complete NPL sites.

- There are an average of 1.9 operable units per final, non-construction complete, non-Federal facility, non-mega NPL site, which is 1.3 times greater than the number of operable units at comparable construction complete NPL sites.

- There are an average of 9.5 operable units per final, non-construction complete, Federal facility NPL site, which 2.1 times greater than the number of operable units at comparable construction complete NPL sites.

Question 4. Is the EPA meeting its reduction goals for per capita municipal solid waste generation? What is the goal in fiscal year 2003?

Response. Yes, EPA is on track to meet the 2005 per capita municipal solid waste generation goal and recycling goal. EPA challenged the Nation to attain two municipal solid waste goals by the year 2005; maintain per capita solid waste generation at the 1990 level of 4.5 pounds per day; and increase recycling to 35 percent. Now, as year 2000 results are compiled, most recent available data indicate that in 1999 Americans generated 4.62 pounds per capita per day and recycled 27.8 percent.

In fiscal year 2003, the annual performance goal is to divert an additional 1 percent (for a cumulative total of 32 percent or 74 million tons) of municipal solid waste from land filling and combustion, and maintain per capita generation of RCRA MSW at 4.5lbs per day. In furthering the national goals, EPA expects that year 2003 per capita waste generation will continue near the 1999 level, and recycling will approach 32 percent.

EPA partnerships with States, tribes, local governments, and businesses in projects such as WasteWise, Jobs Through Recycling, Extended Product Responsibility, and Pay-As-You-Throw financing are lending focus to the job creation, cost savings, and energy benefits which accrue from waste reduction and recycling.

The Administration is building on past successes by establishing new priorities with a focused commitment to waste reduction and recycling. These priorities include a retail initiative to raise environmental awareness of consumers and business and encourage individuals to address environmental issues at the “hands-on” level as a gateway to better environmental stewardship. Additional efforts will cultivate

innovative approaches to demonstrate the value of recycling and waste minimization as integral components of the nation's materials management strategy.

Question 5. EPA's proposed budget includes the costs of additional retirement and health benefits. In fiscal year 2001 and fiscal year 2002, what percentage of the Agency's full-time workforce was covered by the CSRS retirement system and what percentage was covered by the FERS system?

Response. The Administration has proposed new legislation so that Federal agencies would, beginning in fiscal year 2003, pay the full government share of future benefits under the Civil Service Retirement System (CSRS) and assume responsibility for the health benefits of all of their retirees (and their dependents/survivors). This proposal is simply an accounting issue that shifts responsibility for paying these costs from a centrally management account in OPM, to each Agency. In fiscal year 2001, 36 percent of the Agency's full-time workforce was covered by CSRS, as opposed to 64 percent who were covered by the Federal Employee Retirement System (FERS). We estimate that 35 percent of the Agency's full-time workforce will be covered by CSRS, and 65 percent by FERS in fiscal year 2002.

Question 6. Since September 11, EPA has been asked to take on many additional homeland defense activities. Last year's terrorism supplemental provided increased resources for EPA to carry out these new duties. In fiscal year 2003, the Agency plans to spend \$124 million on homeland defense activities, but is adding almost no new employees overall. How many FTE are assigned to homeland defense activities? Are any EPA employees being reassigned from environmental protection to homeland defense activities?

Response. Before September 11, 2001, EPA had 12 people working on Homeland Security issues. In responding to the events of September 11 and the Anthrax incidents in Washington, New York, and Florida, EPA personnel were temporarily dislocated from what could be considered traditional activities of environmental protection. As cleanup at the World Trade Center and the Capitol Hill Complex have progressed, some affected Agency staff have resumed non-terrorist related environmental protection duties. The 2002 Emergency Supplemental and fiscal year 2003 President's Budget Request incorporates new investments into EPA's Homeland Security activities. The Agency is requesting additional FTE and also proposing to re-direct over 45 FTE in fiscal year 2003 toward Homeland Security priorities. Currently, new jobs are being announced on a competitive basis. Employees inside the Agency are able to compete for these job vacancies as well as anyone else. In the President's fiscal year 2003 budget, the Homeland security FTE will be 66.9, an almost six fold increase over fiscal year 2001.

Question 7. Please explain the decision to eliminate the STAR Fellowship Program and move the environmental education division to the National Science Foundation?

Response. The President's Budget proposes to strengthen math and science education in the United States by improving the quality of math and science education in grades K-12 and by attracting the most promising U.S. students into graduate level science and engineering by providing more competitive stipends. The President's K-12 math and science initiative and the higher graduate stipends are being funded through the National Science Foundation's (NSF) budget. NSF is noted for its expertise and success in funding competitive programs in math and science. The Budget increases NSF's annual stipends for fellowship and traineeship programs from \$21,500 to \$25,000. Funding for EPA's STAR Fellowship Program was eliminated in fiscal year 2003 as part of the larger initiative to strengthen math and science programs through the National Science Foundation (NSF). EPA will continue funding for its Minority Academic Institutions (MAI) Fellowships program at \$1.5 million in fiscal year 2003.

Question 8. In general the mandates under the Safe Drinking Water Act are well funded, however, parallel resources are not provided to Clean Water Act mandates, resulting in erosion in the base programs run by States under Federal clean water act mandates. What can be done to ensure appropriate funding exists for the core work States are doing to keep our waters clean?

Response. The Clean Water Act Section 106 grants are a key component of assistance to States for base programs. The fiscal year 2003 President's Budget Request recognizes the importance of these State grant funds by proposing \$180.4 million, the largest Presidential request ever.

Question 9. Vermont is very pleased with the performance partnership model. What can be done to expand the flexibility of that model and to ensure adequate levels of funding/ensure that any new funds are incorporated within that agreement rather than as add-on mandates from the Federal Government? (The financial pres-

tures to keep up with the CWA/SDWA mandates does make it very difficult for States to provide the level of services citizens should and do expect.)

Response. Performance Partnership Agreements have fostered a much improved working relationship between the States and EPA. The partnership has resulted in better communications, allowing States and EPA to take advantage of each other's unique strengths and abilities, leading to better environmental results cleaner and safer air, water and better protected land.

One of the most important tools that complement this framework is the Performance Partnership Grant (PPG). Through PPGs, States can combine funds from up to 16 environmental program grants into a single grant. This provides States with the flexibility to direct Federal resources to address their most pressing environmental problems or program needs. Under PPGs, it is also easier to fund innovative or cross-cutting activities, such as pollution prevention, compliance assistance or data integration projects. Further, States also save on administrative costs because of reduced paperwork and streamlined accounting procedures.

While the PPG is perhaps the most recognizable tool for facilitating funding flexibility, it is worth noting that the EPA recently revised its regulation governing the administration of all environmental program grants to State, interstate and local governmental agencies (Part 35 Rule, effective April 2001). This rule not only sets forth the provisions for interested States to pursue funding flexibility through PPGs, it also encourages EPA and States to set priorities together under all program grants so that resources can be directed to address State needs within each program area.

The revised rule allows the EPA Administrator to add, delete or change the list of grants eligible for inclusion in PPGs. EPA wants to extend the funding flexibility available through PPGs as much as is possible within the boundaries set by Congress in authorizing the PPG program. To that end, EPA recently added the newly authorized Environmental Information Management grant program grants.

Performance Partnership principles have fostered a new understanding of the importance of EPA and States working together toward a common goal, as well as an appreciation of the need to find new opportunities to help States direct precious resources where they are most needed. The achievement of optimal program and resource flexibility is, however, a work in progress, and can only be reached through EPA and States' continued partnership efforts.

Question 10. One of the most successful EPA sponsored programs in Vermont, with impacts in upstate New York as well, is the Lake Champlain Basin Program. This program is a real success story where the EPA, working with local partners has made significant strides, in fact is ahead of schedule, on cleaning up Lake Champlain. This important and successful program is proposed to be reduced from the fiscal year 2002 level of \$2.5 million to \$954,800 in fiscal year 2003. How can the program be maintained with such a large budget reduction?

Response. Our requested level will permit us to continue our successful efforts to support implementation of the Lake Champlain Management Plan via funding for the Lake Champlain Basin Program. The reduction reflects an elimination of the \$1.545 million earmark appropriated in fiscal year 2002; our request for fiscal year 2003 is equal to our request for fiscal year 2002.

Question 11. Please provide me with a detailed budget breakdown of EPA's proposed spending on Tribal activities, and Tribal wastewater projects in particular, as compared to fiscal year 2002 enacted levels.

Response. The President's Budget request for EPA's tribal program is \$232 million in fiscal year 2003, an increase of \$3.6 million from the fiscal year 2002 level (see attachment). This request consists of the following.

- \$34.7 million for EPA's Environmental Programs and Management (EPM) account to support development of integrated environmental management programs. This represents an increase of \$300 thousand from fiscal year 2002 EPA funding.
- \$116.7 million awarded to tribes from the State and Tribal Assistance Grant (STAG) account, excluding infrastructure financing. This is a \$5 million increase from fiscal year 2002 EPA funding.
- \$70.9 million under the Water Infrastructure Financing account. This represents a decrease of \$2 million from fiscal year 2002 EPA funding; and
- \$6.7 million for the Superfund Program and \$3.2 million for the Leaking Underground Storage Tank program which maintains the fiscal year 2002 EPA funding levels for these programs.

Wastewater funding

Of the \$70.9 million above under the Water Infrastructure Financing account, wastewater funding is as follows:

- \$18.18 million is for the Clean Water Indian Set-aside Grant Program for tribal wastewater systems. This amount assumes that Congress will accept our proposal to continue the Clean Water State Revolving Fund (CWSRF) set-aside funding at 1.5 percent. The difference in the EPA CWSRF fiscal year 2002 Appropriation amount of \$1.35 billion and the fiscal year 2003 President's Request of \$1.21 billion accounts for the decrease of \$2 million in the tribal set-aside funding.

- EPA estimates that with the fiscal year 2003 set-aside about 20 additional grants will be awarded with an additional 1,700 tribal homes being served with adequate treatment systems.

The table below lists appropriations for the CW Indian Set-Aside Program since its inception in 1987:

Clean Water Indian Set-Aside Grant Program Funding

Fiscal Year	Appropriation Amount	Projects Funded
1987	\$5,805,000	7
1988	11,520,000	19
1989	4,705,000	5
1990	4,867,600	8
1991	Set-aside language not yet authorized in CWSRF.	
1992	9,743,000	14
1993	9,637,500	12
1994	6,090,000	8
1995	6,175,000	24
1996	6,742,500	25
1997	6,750,000	29
1998	6,750,000	25
1999	6,750,000	28
2000	6,727,100	31
2001	20,205,500*	57
2002	20,250,000*	yet to be determined
Total	\$132,719,200	292

* Reflects an increase in the percent of funds (0.5 percent to 1.5 percent) set-aside for fiscal year 2001 and fiscal year 2002 only from the Clean Water State Revolving Fund (Title VI) for grants to Indian tribes and Alaskan Native Villages for wastewater treatment systems.

\$40 million is requested in the fiscal year 2003 President's Budget to address the sanitation needs (drinking water and wastewater) of Alaska's rural and Native Villages (an amount equal to the Agency's fiscal year 2002 Appropriation).

EPA estimates that approximately 54 drinking water and wastewater projects will be constructed, and that additional training and technical assistance will be provided.

The table below shows EPA's appropriation since 1995:

Fiscal Year	Appropriation Amount	Projects Funded
1995	\$15,000,000	25
1996	15,000,000	35
1997	15,000,000	40
1998	15,000,000	35
1999	30,000,000	51
2000	30,000,000	51
2001	35,000,000	48
2002	40,000,000	to be determined
Total	\$195,000,000	285

Question 12. Please explain why the President's fiscal 2003 budget provides no funding for the Clean Lakes Program.

Response. In recent years, EPA has encouraged States to use the section 319 Nonpoint Source Program to support the lakes and reservoir work which was previously funded under the section 314 Clean Lakes Program. Our policy is consistent with the Senate Appropriations Committee conference reports in fiscal year 2000 and 2001 which included a suggestion that lakes activities be funded under the section 319 program and that 5 percent of section 319 funds be allocated to Clean Lakes activities. Our grants reporting data indicate that a substantial amount of lakes-related work is being supported under section 319. Specifically, grants report-

ing data for fiscal year 1999 through fiscal year 2001 indicate that States are using at least 5 percent of their section 319 funds annually in projects that directly benefit lakes and reservoirs. We also echoed the Senate's suggestion that "each State use at least 5 percent of its section 319 funds for Clean Lakes activities" in our supplemental fiscal year 2000 section 319 guidance issued in Dec. 1999. The guidance emphasized that it applied to fiscal year 2000 319 grants and to grants issued "in future years."

Question 13. I am concerned about the rate of progress that EPA is making in responding to the Supreme Court decision on the revised ozone and fine particulate standards. That was just about 1 year ago. But, the Agency still hasn't released an implementation strategy so the States can really get started on the 8-hour ozone rule. This is particularly unsettling in light of the findings from a recent public health study. The study shows that children appear to actually develop asthma from playing sports in areas with high ozone concentrations. Can you give me an idea of what the schedule is on the new ozone standard?

Response. Since the U.S. Supreme Court's action on February 27, 2001 EPA has made much progress working with our State and other Federal partners to implement the revised ozone standard. The Agency successfully defended the standards in the D.C. Circuit, which ruled on March 26, 2002, that the Agency acted reasonably when setting the 8-hour ozone standard. This is a significant victory in EPA's ongoing efforts to protect the health of millions of Americans from the dangers of air pollution. Concurrently with defending the standards in court, the Agency has been responding to the Supreme Court's implementation decision. The Court held that EPA's approach for implementing the 8-hr ozone NAAQS was not acceptable because it did not adequately consider the provisions of Title I, Part D, Subpart 2. The Court directed EPA to develop an implementation approach that incorporates appropriate principles from that part of the Clean Air Act. In response, EPA embarked upon a process of outreach to gather information and ideas that could underpin a Federal rulemaking dealing with the issues raised by the Court. EPA also began to examine all of the complex issues surrounding the court mandate. Some of the issues under consideration include. (1) the relationship of Subpart 1 to Subpart 2; (2) nonattainment area classifications and associated attainment dates; (3) rate of progress requirements for nonattainment areas; (4) the role of mandatory measures in State attainment plans; (5) the requirements for conformity of federally supported projects such as highways and airports; and, (6) attainment demonstration requirements. In the fall of 2001, we began outreach efforts to fully inform the elected officials and the general public of the issues. We have expanded the dialog with interested parties, including States and local air agencies, other governmental organizations, and individual stakeholders, to further the exchange of ideas and develop solutions. In early March of this year, we held public meetings in Washington and Atlanta to receive input on the numerous issues. Over 150 persons attended these meetings. A third public meeting is scheduled for April 3, 2002 in Phoenix. Concerning our schedule for the ozone standard, we plan to propose an implementation rule this summer and issue a final rule about a year later.

Question 14. As you know from meeting with them, the Attorney General of Vermont and other Attorneys General from other Northeast States are very concerned about New Source Review enforcement and regulations. They are worried about what EPA and Justice are doing and what they will do. So am I.

Question 14(a). What is the Agency doing with the NSR enforcement actions it has already started?

Answer. EPA's enforcement activities to address New Source Review violations continue to be vigorous. EPA has since January 2001 made approximately 87 information requests to power plants, refineries and other facilities, such as paper mills; issued about 22 Notices of Violation; filed and concluded at least 7 cases; and engaged in numerous other enforcement activities such as depositions, motion practice and on-going settlement discussions—all to enforce the Clean Air Act's NSR requirements. We believe our NSR cases are strong and will continue to urge companies to come to the table and settle these cases. In the meantime, we will vigorously pursue our investigations and litigation.

Question 14(b). Will EPA's proposed budget change the level of effort, personnel or resources allocated to prosecuting those actions already started?

Answer. No, the staff dedicated to NSR enforcement has, in fact, increased, in that we recently hired two attorneys for that office. Additionally, we anticipate that we will be able to manage the FTE reduction from fiscal year 2002 to fiscal year 2003 through normal attrition, without the reassignment of existing enforcement staff and without a hiring freeze.

Moreover, we have since January 2001 filed and concluded 5 major cases against refineries for NSR violations the combined effect of which will be an estimated reduction of 76,000 tons of sulfur dioxide (SO₂) emissions per year and 31,000 tons of nitrogen oxides (NOx) emissions per year. We also filed and concluded a major case against a power plant, PSEG, which alone will reduce the company's emissions of sulfur dioxide (SO₂) by 90 percent and its emissions of nitrogen oxides (NOx) by more than 80 percent. These decreases represent 32 percent of all the SO₂ and 20 percent of all the NOx emitted from stationary sources in New Jersey, and 19 percent of all the SO₂ and 5 percent of all the NOx from all sources in the State, including cars and trucks.

Question 14 (c). Does EPA expect to initiate any new NSR enforcement actions this year?

Answer. Yes, as described above, we continue to vigorously pursue NSR enforcement. As with any enforcement action, however, how soon and how many cases can be concluded depends on the particular facts of each case.

Question 15. Please describe EPA's new State enforcement program and explain how it differs from the one the Agency proposed last year?

Response. Last year when the President's fiscal year 2002 Budget proposed a \$25 million enforcement grant program, EPA worked extensively with States and Tribes to solicit and consider their comments and suggestions. The design for the proposed \$15 million program in the President's fiscal year 2003 Budget provides for performance-based grants that will build on the comments and suggestions received previously. Options for use and allocation of grant funds identified during the outreach process are outlined below.

Options for Use of Funds (One or a combination of options may be used)

- Capacity Building. funds would be used to expand the capabilities of existing enforcement and compliance assurance programs.
- Problem-Based Strategies. funds would be used to implement a strategy to address a specific environmental risk or noncompliance pattern (identified by the State or Tribe).

Options for Allocating Funds to States and Tribes (One or a combination of options may be used)

- Competitive Awards. funds will be awarded based on the merits of the proposal; not all States and tribes would receive funds.
- Base Share Grants. each State receives a minimum amount, plus additional funds are available through the competitive award process.
- Tribal Set-Aside. Recognizing that Tribal environmental programs may not compete well with States it may be necessary to set aside a portion of the funds for Tribal grants.

ENFORCEMENT PROGRAM

Question 16. How many unfilled jobs exist in the enforcement division?

Response. In Fiscal Year 2002, the Office of Enforcement and Compliance Assurance has a workyear ceiling of 3,407 (excluding the 50 FTE provided in the supplemental bill) across all appropriations among its Headquarters, Field and Regional offices. We are managing very close to our current authorized FTE levels and expect to lapse only a few workyears this year.

Question 17. EPA is currently spending 0.3 percent of the replacement value of its real estate assets on building repairs and improvements, well below the real estate industry's recommended level of 2 percent to 5 percent of the replacement value. Is EPA under-funding its building repairs and improvements?

Response. We believe we have allocated sufficient resources for these activities. Over the past 6 years, the Agency's facility inventory has dramatically shifted from primarily rent/leased facilities to government-owned facilities (39 percent owned in fiscal year 1997 to 63 percent owned in fiscal year 2003). The Agency's Repair and Improvement account, which is the primary funding source for repairs and improvements, has remained constant over this same period. In recognition, the President's Budget contains a \$10.0M increase over fiscal year 02 to begin mitigating the current repair backlog which exist in our facilities. This increase will enable EPA to devote 1.2 percent of the replacement value of its real estate assets to repair and maintenance, closer to the industry standard.

Question 18. On the topic of smart growth, I see a need for tools for community planning, visualization of growth, development and design alternative modeling, evaluation of fiscal and environmental impacts, and consensus-building.

Question 18a. Does EPA agree that decision support tools will assist communities in making informed decisions by helping them understand the implications of dif-

ferent choices and that these tools will help increase public involvement and help all participants make choices based on sound technical information?

Answer. Yes, EPA believes that decision support tools are useful for communities to make better informed decisions about how and where to grow. While the Federal Government cannot and should not be a national or regional development board, it can help expand the availability of these tools by partnering with selected organizations, and supporting an economy of scale that makes them more cost-effective and accessible. An October 2001 GAO report found that local and State officials felt that the Federal Government could provide technical assistance to assess and mitigate land use impacts as a means to better protect air and water quality.¹ EPA concurs with that finding and, in order to be proactive on these issues, we are helping States and communities realize the economic, community, and environmental benefits of smart growth. We recognize that local land use decisions are best made by local officials, and that EPA can help them gather data and information on which to base those decisions.

EPA's current efforts focus on increasing the ability of State and local governments to evaluate the environmental impacts of development patterns. For example, EPA is working with communities to pilot the use of the Smart Growth Index (SGI) a GIS-based tool developed in partnership with the Criterion software company to measure the discrete air and water impacts of proposed development decisions. Several additional cities will be piloting SGI in 2002. In addition, EPA's Office of Policy, Economics, and Innovation and the Office of Environmental Information are jointly supporting the development of remote sensing data in three cities to examine long-term, development-related changes in the amount of open space, impervious surfaces, farmland, and urbanized land area. Remote sensing data projects will be launched in an additional three cities by the end of 2002.

Regional EPA offices have also recognized the benefits of developing tools for local decisionmaking. EPA's Chicago office, for example, supported the development of L-THIA Long-Term Hydrological Impact Analysis which provides estimates of changes in runoff, recharge, and nonpoint source pollution resulting from past or proposed land use changes. EPA's Atlanta office has partnered with the University of Florida to map all large, ecologically significant properties in the entire eight-State southeast region. The resulting "greenprint" will provide systematic information to localities to support their protection of large ecosystem properties.

Question 18b. Does EPA have ideas on how to educate communities about such tools, how to assist communities in determining which tools may be the most useful in addressing their needs, and how to provide communities with the necessary resources to acquire such tools and put them to use?

Answer. Through its extensive work with partners in the Smart Growth Network, EPA has been successful in helping local and State governments to both apply relevant planning tools and develop new and innovative approaches to the decision-making challenges at hand. The Smart Growth Network—comprised of more than 30 leading organizations representing financiers, developers, local government leaders, community interests, and environmentalists—has been a critical link in EPA's collaboration with communities. Grants to Network partners have yielded some of EPA's most effective efforts to date to educate communities. Through a grant to CONCERN, EPA supports a website that receives an average of 10,000 hits per day, and is identified by the American Planning Association as one of the ten leading Web-based resources on smart growth. Grants to Network partners Local Government Commission and Urban Land Institute have resulted in a successful 5-year track record of conferences on smart growth tools and approaches, the most recent one of which (January 2002 in San Diego) attracted 900 participants, largely representing local governments. With EPA's support, the International City/County Management Association currently provides Smart Growth Network member services to approximately 600 individual members and serves as an important clearing-house of information for those interested in smart growth.

New activities in 2002 will continue to focus on facilitating smart growth implementation by communities, and the application of newly available tools to assist community decisionmaking. A new initiative announced by Governor Whitman will provide direct technical assistance to roughly ten pilot communities to implement new tools to help them prioritize open space for preservation. In so doing, these communities can better accommodate needed growth while preserving their most fragile and environmentally critical lands. In addition, EPA will begin a new effort to sup-

¹General Accounting Office, Environmental Protection: Federal Incentives Could Help Promote Land Use That Protects Air and Water Quality, October 2001. GAO-02-12.

port States as they facilitate and advance local implementation of smart growth through a pilot State Workshop for Smart Growth scheduled for May 2002.

EPA's own efforts and discussions with our partners in the Network have made us aware of the full range of tools that continue to be in demand by communities. Tools that would allow them to better analyze and estimate build-out scenarios, either through analytical models or visual representations, are of great assistance to local decisionmakers and members of the public. Similarly, tools that will allow planners and the public to more accurately assess the impacts (environmental, transportation, fiscal, etc.) of projects can support improved decisionmaking. Visualization tools continue to be useful in conveying development options to a broad audience. More challenging is the need to develop and make available tools that better reflect the true cost of various services (water, postal service, auto insurance, electricity, and infrastructure costs for impact fee assessment) by location, so as to enable local leaders to more equitably collect and distribute resources throughout a community. Finally, tools that can aid communities in removing the barriers to development, such as red tape permit assessments or plans for disposal of vacant properties, can facilitate the private sector's full involvement in a community's plans for smart growth. EPA is working to support the wider availability of these types of tools, but more help is needed to accomplish this enormous task.

Question 19. Please provide me with a detailed breakdown of EPA's spending for Smart Growth activities in the proposed fiscal year 2003 budget and how funding compares to fiscal year 2002 enacted levels.

Answer. Funding designated for smart growth-related work is primarily located in the Agency's Office of Policy, Economics, and Innovation (OPEI), which coordinates, among other activities, the Smart Growth Network. Resources for fiscal year 2002 and fiscal year 2003 are shown below.

Resources (\$ in thousands)					
FY 2001		FY 2002		FY 2003 (Proposed)	
\$3,360.0*	21.0 FTE	\$3,868.0*	20.0 FTE	\$3,984.0*	20.0 FTE

* Dollars include salary expenses

Resources in fiscal year 2002 are being evenly allocated between continued education and outreach efforts and direct implementation efforts. While the Agency will continue to emphasize this dual approach in fiscal year 2003, we expect to place greater emphasis on smart growth implementation in the coming years to meet rising demand at the State and local level for better tools and technical assistance. Brief descriptions of these two efforts are provided below.

Maintain and Expand Smart Growth Outreach and Education

The Smart Growth Network is a principal source of information and expertise for the smart growth field. The core of the Network's information dissemination strategy is composed of four activities: the Smart Growth Network Web site, the Smart Growth Network membership program, the annual Partners for Smart Growth conference, and the wide dissemination of research products, such as the Governor's Guide to Smart Growth in cooperation with the National Governors' Association, and Local Tools for Smart Growth in cooperation with the National Association of Counties. A new activity in fiscal year 2002 to recognize leaders in smart growth will also serve to demonstrate innovative approaches for communities and individuals.

Smart Growth Implementation

EPA will help communities put smart growth into action through technical assistance, the provision of tools, and local capacity building. These efforts will focus on the three groups that have the greatest impact on smart growth implementation.

Local and State government; the private sector (developers, engineers, and financial institutions); and standard-setting organizations (such as the Institute of Transportation Engineers). For example, in fiscal year 2002, EPA will provide grants and direct technical assistance to help communities better link open space preservation to brownfields redevelopment in an effort to promote community-level smart growth.

Question 20. EPA's budget states that the Agency will be working to "exclude lower risk wastes from the hazardous waste regulation." This is a policy that began in the last Administration. I agree that low-risk wastes should not be subject to the full panoply of hazardous waste regulation, but I see a need for balance. EPA did a study in 1996 that demonstrated that many high-risk waste that should be in the hazardous waste system are not. (For instance Texas, Rhode Island, Vermont and

New Jersey, among others, regulate some chemicals as hazardous that other States do not) That study was not followed up with action. Does EPA agree that if low-risk wastes are removed from the hazardous waste system, there is at least an equal need to assure that hazardous chemicals that are very toxic and do threaten groundwater and drinking water supplies should be in the hazardous waste system?

Response. The Agency is taking a balanced approach to ensure that high-risk wastes are appropriately regulated under RCRA, and that low-risk wastes are not over-regulated. We agree that there is a continuing need to evaluate whether wastes should be brought into the hazardous waste system, or otherwise addressed to control potential risks. In recent years the Agency has completed a number of evaluations of industrial wastes to determine if any of these should be added to the list of hazardous wastes. These include recent evaluations of wastes from the paint manufacturing, inorganic chemicals, and chlorinated aliphatics production industries. We are also continuing investigations into other wastes of potential concern (e.g., wastes from the dye and pigment production industries), and we are examining certain wastes that are already regulated as hazardous to clarify the scope of the regulations (e.g., spent petroleum catalysts). As discussed in the EPA budget, we are also examining a limited number of specific waste streams for potential exemptions under RCRA, to the extent they do not pose a risk to public health or the environment. This effort is an outgrowth of a previous rulemaking and public comment. Subsequently, we were directed in the fiscal year 2002 appropriation to expeditiously address these requests for exemptions.

In summary, we intend to continue to improve management of wastes by both effectively addressing wastes that present risks of concern while also ensuring that other waste streams are not inappropriately over-regulated.

Question 21. Please explain the decision to eliminate work on high-efficiency renewable fuel engines, as well as the development of a production prototype 85-mpg family size vehicle.

Response. Federal agencies' work under the Partnership for a New Generation of Vehicles (PNGV) is winding down. The "big three" automakers have agreed to develop a fuel efficient vehicle using technology developed under PNGV. In fact, Ford Motor Company expects to manufacture a hybrid vehicle for model year 2003. Other companies, like Toyota and Honda already have fuel efficient hybrid vehicles on the road and have plans to introduce more models using hybrid technology.

EPA is focusing its automotive expertise on engine and hybrid technology working with the Ford Motor Company and Eaton Corporation through an historic Cooperative Research and Development Agreement (CRADA). Through this very effective program, EPA has developed advanced automotive engine and drivetrain technologies that result in vehicles that are simultaneously extremely clean and extremely efficient. EPA's efforts have already produced impressive results.

Together with EPA's unique engineering expertise and industry funding and commitments, Ford and Eaton are working to extend these significant engineering advances so they can be introduced on the road later this decade. The fiscal year 2003 President's Budget for EPA's Clean Automotive Technology program is \$17.1 million, with most of the funding being used to meet EPA's obligations under the CRADAs.

Question 22. Does EPA intend to fund further study of any other remediation technologies such as ECASOL?

Response. EPA has initiated a program that will be fully operational in 2003 to evaluate a wide range of rapid treatment technologies for biological agents. The goal of this program is to accurately characterize the capabilities of promising technologies so that the inventory of usable tools is as broad as possible. This will allow contractors and others to tailor remediation efforts to specific circumstances.

RESPONSES OF HON. CHRISTINE TODD WHITMAN TO ADDITIONAL QUESTIONS FROM
SENATOR LIEBERMAN

Question 1. Please provide the President's request and enacted levels following for the Clean Water State Revolving Fund and Drinking Water State Revolving Fund for fiscal years 2001, 2002, and 2003. Please provide a distribution of these funds by State, including the proposed distribution for fiscal year 2003.

Response.

Office of Water
Clean Water SRF and Drinking Water SRF
FY 01 and FY 02 Pres. Request/Enacted Levels
FY 2003 Proposed Level

Allowance Holder	RC State Code	RC/State Title	2001 President's Budget	2001 Enacted	2002 President's Budget	2002 Enacted	FY 2002 Estimates
01	10	CONNECTICUT	\$9,875.2	\$16,460.3	\$10,387.0	\$16,497.0	\$14,810.6
01	20	MAINE	\$6,240.0	\$10,400.9	\$6,563.3	\$10,424.1	\$9,358.5
01	30	MASSACHUSETTS	\$27,368.5	\$45,618.5	\$28,786.8	\$45,720.2	\$41,046.5
01	40	NEW HAMPSHIRE	\$8,055.6	\$13,427.3	\$8,473.1	\$13,457.2	\$12,081.6
01	50	RHODE ISLAND	\$5,412.6	\$9,021.9	\$5,693.1	\$9,042.0	\$8,117.7
01	60	VERMONT	\$3,957.3	\$6,596.1	\$4,162.3	\$6,610.8	\$5,935.0
02	10	NEW JERSEY	\$32,940.5	\$54,906.2	\$34,647.6	\$55,028.5	\$49,403.4
02	20	NEW YORK	\$88,974.3	\$148,304.7	\$93,585.1	\$148,635.1	\$133,441.3
02	30	PUERTO RICO	\$10,513.6	\$17,524.4	\$11,058.5	\$17,563.5	\$15,768.1
02	40	VIRGIN ISLANDS	\$420.0	\$700.1	\$441.8	\$701.7	\$630.0
03	10	DELAWARE	\$3,957.3	\$6,596.1	\$4,162.3	\$6,610.8	\$5,935.0
03	20	DIST OF COLUMBIA	\$3,957.3	\$6,596.1	\$4,162.3	\$6,610.8	\$5,935.0
03	30	MARYLAND	\$19,496.2	\$32,496.4	\$20,507.1	\$32,569.1	\$29,239.8
03	40	PENNSYLVANIA	\$31,930.7	\$53,222.9	\$33,585.4	\$53,341.5	\$47,888.8
03	50	VIRGINIA	\$16,497.0	\$27,497.6	\$17,351.9	\$27,558.9	\$24,741.7
03	60	WEST VIRGINIA	\$12,566.0	\$20,945.4	\$13,217.2	\$20,992.0	\$18,846.2
04	10	ALABAMA	\$9,013.6	\$15,024.2	\$9,480.7	\$15,057.6	\$13,518.4
04	20	FLORIDA	\$27,209.9	\$45,354.2	\$28,619.9	\$45,455.2	\$40,808.7
04	30	GEORGIA	\$13,629.2	\$22,717.6	\$14,335.5	\$22,768.2	\$20,440.8
04	40	KENTUCKY	\$10,259.4	\$17,100.6	\$10,791.1	\$17,138.7	\$15,386.8
04	50	MISSISSIPPI	\$7,262.6	\$12,105.4	\$7,638.9	\$12,132.4	\$10,892.2
04	60	NORTH CAROLINA	\$14,548.2	\$24,249.4	\$15,302.1	\$24,303.4	\$21,819.1
04	70	SOUTH CAROLINA	\$8,258.0	\$13,795.4	\$8,686.0	\$13,795.4	\$12,385.2
04	80	TENNESSEE	\$11,710.0	\$19,518.5	\$12,316.8	\$19,562.0	\$17,562.3
05	10	ILLINOIS	\$36,457.0	\$60,767.6	\$38,346.3	\$60,903.0	\$54,677.3
05	20	INDIANA	\$19,426.9	\$32,381.2	\$20,433.6	\$32,453.4	\$29,135.9
05	30	MICHIGAN	\$34,660.5	\$57,773.1	\$36,456.7	\$57,901.8	\$51,983.0
05	40	MINNESOTA	\$14,816.0	\$24,695.8	\$15,583.8	\$24,750.8	\$22,220.7
05	50	OHIO	\$45,379.8	\$75,640.3	\$47,731.5	\$75,808.8	\$68,059.5
05	60	WISCONSIN	\$21,792.5	\$36,324.2	\$22,921.8	\$36,405.2	\$32,683.8
06	10	ARKANSAS	\$5,273.2	\$8,789.5	\$5,546.4	\$8,809.0	\$7,908.6
06	20	LOUISIANA	\$8,861.4	\$14,770.4	\$9,320.6	\$14,803.3	\$13,290.1
06	30	NEW MEXICO	\$3,957.3	\$6,596.1	\$4,162.3	\$6,610.8	\$5,935.0
06	40	OKLAHOMA	\$6,512.5	\$10,855.3	\$6,850.0	\$10,879.5	\$9,767.4
06	50	TEXAS	\$36,843.6	\$61,411.9	\$38,752.9	\$61,548.7	\$55,257.1
07	10	IOWA	\$10,909.8	\$18,184.7	\$11,475.1	\$18,225.2	\$16,362.2
07	20	KANSAS	\$7,276.1	\$12,128.0	\$7,653.2	\$12,155.0	\$10,912.5
07	30	MISSOURI	\$22,346.4	\$37,247.6	\$23,504.4	\$37,330.5	\$33,514.5
07	40	NEBRASKA	\$4,123.0	\$6,872.4	\$4,336.7	\$6,887.7	\$6,183.6
08	10	COLORADO	\$6,448.0	\$10,747.7	\$6,782.1	\$10,771.6	\$9,670.5
08	20	MONTANA	\$3,957.3	\$6,596.1	\$4,162.3	\$6,610.8	\$5,935.0
08	30	NORTH DAKOTA	\$3,957.3	\$6,596.1	\$4,162.3	\$6,610.8	\$5,935.0
08	40	SOUTH DAKOTA	\$3,957.3	\$6,596.1	\$4,162.3	\$6,610.8	\$5,935.0
08	50	UTAH	\$4,247.4	\$7,079.7	\$4,467.5	\$7,095.4	\$6,370.1
08	60	WYOMING	\$3,957.3	\$6,596.1	\$4,162.3	\$6,610.8	\$5,935.0
09	10	ARIZONA	\$5,444.5	\$9,075.1	\$5,726.7	\$9,095.3	\$8,165.6
09	20	CALIFORNIA	\$57,651.7	\$96,095.4	\$60,639.3	\$96,309.5	\$86,464.6
09	30	HAWAII	\$6,243.2	\$10,406.3	\$6,566.7	\$10,429.4	\$9,363.3
09	40	NEVADA	\$3,957.3	\$6,596.1	\$4,162.3	\$6,610.8	\$5,935.0
09	50	AMERICAN SOMOA	\$723.7	\$1,206.3	\$761.2	\$1,209.0	\$1,085.4
09	60	GUAM	\$523.7	\$872.8	\$550.8	\$874.8	\$785.4
09	70	NORTHERN MARIANAS ISLANDS.	\$336.3	\$560.6	\$353.8	\$561.9	\$504.4
10	10	ALASKA	\$4,824.4	\$8,041.5	\$5,074.4	\$8,059.4	\$7,235.6
10	20	IDAHO	\$3,957.3	\$6,596.1	\$4,162.3	\$6,610.8	\$5,935.0
10	30	OREGON	\$9,106.1	\$15,178.3	\$9,578.0	\$15,212.1	\$13,657.1
10	40	WASHINGTON	\$14,018.2	\$23,365.9	\$14,744.6	\$23,418.0	\$21,024.1
9R	*N	Undist. National Resources.	\$4,000.0	\$20,205.5	\$12,750.0	\$20,250.0	\$18,180.0

Office of Water—Continued
Clean Water SRF and Drinking Water SRF
FY 01 and FY 02 Pres. Request/Enacted Levels
FY 2003 Proposed Level

Allowance Holder	RC State Code	RC/State Title	2001 President's Budget	2001 Enacted	2002 President's Budget	2002 Enacted	FY 2002 Estimates
RT			\$800,000.0	\$1,347,030.0	\$850,000.0	\$1,350,000.0	\$1,212,000.0

Office of Water
Clean Water SRF and Drinking Water SRF
FY 01 and FY 02 Pres. Request/Enacted Levels
FY 2003 Proposed Level

Allowance Holder	RC State Code	RC Title	2001 President's Budget	2001 Enacted	2002 President's Budget	2002 Enacted	FY 2002 Estimates
01Drinking Water (SRF).							
01	10	CONNECTICUT	\$7,806.3	\$7,789.1	\$7,789.1	8052.5	8052.5
01	20	MAINE	\$7,806.3	\$7,789.1	\$7,789.1	8052.5	8052.5
01	30	MASSACHUSETTS	\$30,051.4	\$29,985.3	\$29,985.3	28787.9	28787.9
01	40	NEW HAMPSHIRE	\$7,806.3	\$7,789.1	\$7,789.1	8052.5	8052.5
01	50	RHODE ISLAND	\$7,806.3	\$7,789.1	\$7,789.1	8052.5	8052.5
01	60	VERMONT	\$7,806.3	\$7,789.1	\$7,789.1	8052.5	8052.5
02	10	NEW JERSEY	\$19,016.6	\$18,974.8	\$18,974.8	18538.6	18538.6
02	20	NEW YORK	\$49,396.1	\$49,287.4	\$49,287.4	62430.7	62430.7
02	30	PUERTO RICO	\$11,208.5	\$11,183.8	\$11,183.8	10741.3	10741.3
03	10	DELAWARE	\$7,806.3	\$7,789.1	\$7,789.1	8052.5	8052.5
03	20	DIST OF COLUMBIA ..	\$7,806.3	\$7,789.1	\$7,789.1	8052.5	8052.5
03	30	MARYLAND	\$7,806.3	\$7,789.1	\$7,789.1	9350.9	9350.9
03	40	PENNSYLVANIA	\$24,560.0	\$24,505.9	\$24,505.9	25930.6	25930.6
03	50	VIRGINIA	\$15,231.9	\$15,198.4	\$15,198.4	11127.6	11127.6
03	60	WEST VIRGINIA	\$7,806.3	\$7,789.1	\$7,789.1	8052.5	8052.5
04	10	ALABAMA	\$9,279.9	\$9,259.5	\$9,259.5	8052.5	8052.5
04	20	FLORIDA	\$22,628.5	\$22,578.7	\$22,578.7	18841.3	18841.3
04	30	GEORGIA	\$16,720.6	\$16,683.8	\$16,683.8	12749.8	12749.8
04	40	KENTUCKY	\$11,895.4	\$11,869.3	\$11,869.3	9805.1	9805.1
04	50	MISSISSIPPI	\$9,067.3	\$9,047.4	\$9,047.4	8052.5	8052.5
04	60	NORTH CAROLINA ...	\$14,096.4	\$14,065.4	\$14,065.4	14139.9	14139.9
04	70	SOUTH CAROLINA ...	\$8,407.2	\$8,388.7	\$8,388.7	8052.5	8052.5
04	80	TENNESSEE	\$10,476.8	\$10,453.7	\$10,453.7	8145	8145
05	10	ILLINOIS	\$27,134.3	\$27,074.6	\$27,074.6	30050.4	30050.4
05	20	INDIANA	\$9,523.1	\$9,502.2	\$9,502.2	9455.1	9455.1
05	30	MICHIGAN	\$22,966.7	\$22,916.2	\$22,916.2	33003	33003
05	40	MINNESOTA	\$12,996.6	\$12,968.0	\$12,968.0	15952.9	15952.9
05	50	OHIO	\$24,999.9	\$24,944.9	\$24,944.9	24547.6	24547.6
05	60	WISCONSIN	\$10,466.8	\$10,443.8	\$10,443.8	15946.5	15946.5
06	10	ARKANSAS	\$11,106.8	\$11,082.4	\$11,082.4	8717.8	8717.8
06	20	LOUISIANA	\$10,906.3	\$10,882.3	\$10,882.3	8052.5	8052.5
06	30	NEW MEXICO	\$7,806.3	\$7,789.1	\$7,789.1	8052.5	8052.5
06	40	OKLAHOMA	\$11,207.7	\$11,183.0	\$11,183.0	12446.5	12446.5
06	50	TEXAS	\$59,210.0	\$59,079.8	\$59,079.8	62023.7	62023.7
07	10	IOWA	\$12,319.8	\$12,292.7	\$12,292.7	14784.6	14784.6
07	20	KANSAS	\$10,970.8	\$10,946.6	\$10,946.6	9234.7	9234.7
07	30	MISSOURI	\$10,496.0	\$10,472.9	\$10,472.9	11702.6	11702.6
07	40	NEBRASKA	\$7,806.3	\$7,789.1	\$7,789.1	8052.5	8052.5
08	10	COLORADO	\$10,503.4	\$10,480.3	\$10,480.3	13323	13323
08	20	MONTANA	\$7,806.3	\$7,789.1	\$7,789.1	8052.5	8052.5
08	30	NORTH DAKOTA	\$7,806.3	\$7,789.1	\$7,789.1	8052.5	8052.5
08	40	SOUTH DAKOTA	\$7,806.3	\$7,789.1	\$7,789.1	8052.5	8052.5
08	50	UTAH	\$7,806.3	\$7,789.1	\$7,789.1	8052.5	8052.5
08	60	WYOMING	\$7,806.3	\$7,789.1	\$7,789.1	8052.5	8052.5

Office of Water—Continued
Clean Water SRF and Drinking Water SRF
FY 01 and FY 02 Pres. Request/Enacted Levels
FY 2003 Proposed Level

Allowance Holder	RC State Code	RC Title	2001 President's Budget	2001 Enacted	2002 President's Budget	2002 Enacted	FY 2002 Estimates
09	10	ARIZONA	\$7,955.4	\$7,937.9	\$7,937.9	9126.3	9126.3
09	20	CALIFORNIA	\$84,525.4	\$84,340.0	\$84,340.0	82460.9	82460.9
09	30	HAWAII	\$7,806.3	\$7,789.1	\$7,789.1	8052.5	8052.5
09	40	NEVADA	\$7,806.3	\$7,789.1	\$7,789.1	8052.5	8052.5
10	10	ALASKA	\$7,806.3	\$7,789.1	\$7,789.1	8052.5	8052.5
10	20	IDAHO	\$7,806.3	\$7,789.1	\$7,789.1	8052.5	8052.5
10	30	OREGON	\$11,584.3	\$11,558.8	\$11,558.8	14148.9	14148.9
10	40	WASHINGTON	\$21,013.0	\$20,966.8	\$20,966.8	19872	19872
40	*N	Undist. National Resources.	\$2,576.1	\$2,570.4	\$2,570.4	2657.3	2657.3
9R	*N	Undist. National Resources.	\$44,375.0	\$44,277.3	\$44,277.3	44750	44750
RT			\$825,000.0	\$823,185.0	\$823,185.0	\$850,000.0	\$850,000.0

Question 2. I am troubled by what appears to be a precipitous decline in enforcement actions, including investigations, as well as criminal and civil enforcement cases, while the EPA is asking for more enforcement funds. What is your view of this decline in enforcement investigations, and can you explain why you need more money to do a lot fewer actions?

Response. EPA's enforcement program remains as strong as ever. Both last year's results and the enforcement actions we have pursued since January 2001 demonstrate the comprehensive efforts undertaken to reduce and eliminate harmful pollution:

- EPA showed record results last year from our enforcement activities nearly doubling the amount spent by violators and liable parties on pollution controls and cleanups; more than tripling the number of facilities voluntarily auditing and disclosing violations under EPA's audit policy; almost doubling the civil judicial penalties assessed against environmental violators; and increasing the spending by violators on Supplemental Environmental Projects by 60 percent (see attached summary of our enforcement results from fiscal year 2001)

- Since January 2001, we have initiated (either investigated or filed) about 73 and concluded at least 52 "significant" cases. "Significant" cases are those judicial or administrative actions where there is significant environmental impact; widespread violations of environmental laws at more than one facility; a significant environmental or programmatic issue; significant penalties, injunctive relief or supplemental environmental projects (SEPs); or where Headquarters has been extensively involved. As with the fiscal year 2001 results reported above, the end of year results for this year will report the complete results for all cases, not just the "significant" enforcement actions summarized here. As you know, exactly how soon or how many cases will be concluded in any given year depends on the facts of each case.

Specific examples of enforcement successes already achieved since January 2001 include:

- We have filed and concluded 5 major cases against refineries for NSR violations the combined effect of which will be an estimated reduction of 76,000 tons of sulfur dioxide (SO₂) emissions per year and 31,000 tons of nitrogen oxides (NOx) emissions per year

- We also filed and concluded a major case against a power plant, PSEG, which alone will reduce the company's emissions of sulfur dioxide (SO₂) by 90 percent and its emissions of nitrogen oxides (NOx) by more than 80 percent. These decreases represent 32 percent of all the SO₂ and 20 percent of all the NOx emitted from stationary sources in New Jersey, and 19 percent of all the SO₂ and 5 percent of all the NOx from all sources in the State, including cars and trucks

- We issued many imminent hazard orders to address immediate threats to human health and the environment. For example, EPA issued two imminent hazard orders under RCRA to Magnesium Corporation to address dangerous dioxin levels at the facility and the threat to workers' health from extremely high levels of hexachlorobenzene in anode dust. EPA also issued two imminent hazard orders

against Seaboard Farms under the Clean Water Act and RCRA to address contaminated drinking water resulting from hog farm waste.

- We also issued an Administrative order (made final on appeal in April 2001) under RCRA to address imminent threats from the improper storage and disposal of large volumes of munitions and unexploded ordnance that had been buried at the Massachusetts Military Reservation on Cape Cod. The emergency order required the National Guard Bureau to detonate the munitions in a special “controlled demolition chamber” that was present at MMR, except for those munitions and ordnance that were unsafe to move (and which could be detonated in place).

- With respect to criminal enforcement, the number of criminal enforcement activities has remained steady for the past two fiscal years relative to cases initiated, referral of cases for prosecution, and defendants charged. During the first quarter of fiscal year 2002, the criminal enforcement program has initiated more cases with more defendants charged than during same period in fiscal year 2001. The number of cases initiated include activities which support Homeland Security as well as traditional environmental crimes enforcement, while the rise in defendants is solely attributable to violations of environmental statutes. These results are attributable to the extraordinary effort of our investigative staff, who are working to meet the ongoing requirement of enforcing our nation’s environmental laws while also responding to the President’s No. 1 priority—Homeland Security.

Criminal Enforcement Snapshot

Fiscal Year	Cases Initiated	Referrals	Defendants
2000	477	236	360
2001	482	256	372

EPA continues to successfully address environmental violations using the various tools available, ranging from voluntary incentives to imminent hazard orders. Concluding cases is no small feat, and we are proud of the accomplishments achieved and will continue to pursue enforcement in order to achieve similar results in the future.

Enforcement Accomplishments fiscal year 2001

EPA’s enforcement program achieved tremendous success in fiscal year 2001, protecting human health and the environment through record setting amounts in injunctive relief, significant reductions in pollutant loadings, an estimated reduction of more than 660 million pounds of harmful pollutants and the treatment and safe management of an estimated record 1.84 billion pounds of pollutants, in addition to a significant increase in the commitment on the part of violators to spend on supplemental environmental projects:

- Number of facilities voluntarily auditing and disclosing violations under EPA’s audit policy more than tripled—from 437 in fiscal year 2000 to 1,754 in fiscal year 2001
- Spending by violators on Supplemental Environmental Projects was up 60 percent from \$56 million in fiscal year 2000 to \$89 million in fiscal year 2001
- Amount spent by violators and liable parties on pollution controls and cleanups nearly doubled from \$2.6 billion in fiscal year 2000 to \$4.4 billion in fiscal year 2001.
- Civil judicial penalties assessed against environmental violators nearly doubled from \$55 million in fiscal year 2000 to \$102 million in fiscal year 2001; civil administrative penalties levied by EPA were down slightly at \$1.5 million from about \$25.5 million in fiscal year 2000 \$24 million in fiscal year 2001. Overall, penalties increased as our strategy focused on large judicial cases.
- Total years for criminal sentences for environmental violations rose from 146 years in fiscal year 2000 to 256 years in fiscal year 2001 as a result of EPA’s strategy to, as a priority, seek jail time for significant criminal cases.
- Criminal fines fell from \$122 million in fiscal year 2000 to \$95 million in fiscal year 2001 again, our strategy was to seek jail time for significant criminal cases.

By focusing on environmental results or outcomes, such as the reductions in pollution, and by using all of the tools available, such as compliance assistance, incentives, and enforcement, EPA is continuing to aggressively address the most serious environmental problems and achieve unprecedented results.

Snapshot: End of Year Results FY 1999 to 2001

Activity	FY 1999	FY 2000	FY 2001
Audit Policy Settlements.	106 companies 624 facilities	217 companies 437 facilities	304 companies 1754 facilities
Value of Injunctive Relief.	\$3.4 billion	\$2.6 billion	\$4.4 billion
Civil Judicial Penalties	\$141 million	\$55 million	\$102 million
Civil Administrative Penalties.	\$25.5 million	\$25.5 million	\$24 million
SEPs	\$237 million	\$56 million	\$89 million
Inspections	22,000	20,000	18,000 (est.)
Administrative Actions	3500	5300	3200
Civil Referrals	403	368	327
Criminal Referrals	241	236	256
Criminal Sentences	208 years	146 years	256 years
Criminal Fines	\$62 million	\$122 million	\$95 million

Question 3. In describing the accomplishments of EPA's climate protection programs, the 2003 Annual Performance Plan and Justification discusses the savings associated with EPA's climate change programs, including a reduction of growth in greenhouse gas emissions by 20 percent in the 1990–2010 period, with a total of 450 MMTCE. Please explain the relationship between these accomplishments and the President's recent announcement on climate change, in which he announced a goal of reducing the carbon intensity in the U.S. by 18 percent. Since the baseline improvements during the period cited by the President appears to be 14 percent, please explain if the accomplishments of the EPA's climate programs are factored into that baseline improvement of 14 percent, and if so, what portion of the 14 percent improvement is attributable to the EPA programs. Since the President's climate change proposal appears to increase the carbon intensity by 4 percent over the baseline by 2012, could we reach the President's goal by simply investing more in the voluntary energy efficiency programs at EPA? How much more of an investment would it take?

Response. In its 2003 Annual Performance Plan and Justification, EPA discusses a number of accomplishments that are attributable to its climate protection programs. One of the savings figures cited, a cumulative reduction of 450 MMTCE through 2010, is based on an EPA analysis of investments made to date through EPA's voluntary programs. Since many of the investments promoted through EPA's climate programs involve energy-efficient equipment with lifetimes of decades or more, the investments that have been spurred through 2001 will continue to deliver environmental and economic benefits through 2010 and beyond. The second savings figure cited is also based on accomplishments through 2001 and shows that EPA's voluntary climate programs have reduced the growth in greenhouse gas emissions since 1990 by about 20 percent from what it would have been without these programs. In 2001 alone, EPA's climate protection programs reduced greenhouse gas emissions by more than 65 MMTCE equivalent to the annual emissions from about 45 million cars.

EPA's partnership programs play a key role in the President's climate change strategy. The accomplishments of EPA's climate protection programs are a significant factor in the 14 percent business-as-usual improvements cited in the President's policy, along with the effects of current regulations and autonomous improvements in efficiency. The President's plan will require the full implementation and continued funding for EPA's existing climate protection partnership programs, such as Energy Star, Natural Gas STAR, and the PFC Reduction Climate Partnership with the Semiconductor Industry. In addition, new business challenges, such as the recently announced EPA Climate Leaders program and the Combined Heat and Power Partnership, will play a major role in meeting the President's new emissions reduction goal of more than 100 million metric tons of carbon equivalent in 2012. Climate Leaders challenges businesses to reduce their greenhouse gas emissions through setting an aggressive long-term emissions reduction goal and performing a corporate-wide inventory to track their annual progress toward this goal, while the CHP Partnership works with businesses to promote use of these highly efficient cogeneration technologies.

The President has challenged American businesses and industries to reduce greenhouse gas emissions and is confident that voluntary approaches can achieve his commitment. Already, agreements with the semi-conductor and aluminum industries, and with industries that emit methane, are dramatically reducing emis-

sions of the most potent greenhouse gases. The President's plan will build on these successes, with broader agreements and greater reductions. The Administration is confident that a combination of new EPA voluntary programs, such as Climate Leaders, tax incentives for renewable energy and technology improvements, and enhanced baseline protection through an improved 1605(b) program will encourage many more companies to undertake voluntary greenhouse gas reductions and thereby achieve the President's goal. The President has also committed that if progress is not sufficient by 2012, the United States will respond with additional measures that may include a broad, market-based program, as well as additional incentives and voluntary measures designed to accelerate technology development and deployment. The Administration is currently assessing what resources will be necessary to accomplish the President's goal, however the President's fiscal year 2003 Budget includes \$4.5 billion in spending and tax incentives related to addressing the challenge of climate change.

Question 4. Please explain the relationship of EPA's request for funds (\$9,775,800) for the Montreal Protocol's Multilateral Fund to the U.S. commitment to that Fund. Please explain what other funds are being targeted to meeting this commitment. Is EPA and the State Department requesting "full funding" for our present commitment; if not, what is the requested shortfall? Has the United States met all of its past financial commitments to the Fund? If not, how much in arrears is the U.S. in regarding its negotiated commitments to the Multilateral Fund?

Response. Every 3 years, the Protocol Parties commission a study on the funding needed to meet the needs of developing countries through the next triennium. On that basis, the Parties decide on a Fund budget. Payments of donor countries are then based on the U.N. scale of assessment. After considering the last report in 1999, the eleventh meeting of the Parties to the Montreal Protocol took Decision XI/7, which set the US commitment for the Montreal Protocol Multilateral Fund for 2000, 2001 and 2002 at \$36.7 per year. A report detailing the needs of the Fund for the next triennium (2003-2005) is due to the Parties next month. It is widely expected to suggest the need for increasing the level of replenishment in order to enable developing countries to meet their upcoming 2005 phaseout requirements which include a 50 percent reduction in CFCs and Halons, an 85 percent reduction in carbon tetra chloride, and a 20 percent reduction in both methyl bromide and methyl chloroform.

As noted in your question, EPA is requesting \$9,775,800 for 2003. We understand that the State Department, which also requests funds for the Multilateral Fund, is requesting \$23m for 2003. The shortfall, if any, will not be known until the Parties review the technical needs assessment report and reach a final decision on replenishment.

Because Fund payments are technically due at the beginning of the year, the US is currently some \$58m in arrears to the Fund. However, taking into account the US payments that are expected to be finalized in the next few months with fiscal year 2002 funding, the US is expected to be some \$25.5m in arrears compared with its negotiated commitments. This is a cumulative shortfall which is a result of the US funding at a level that is less than the commitment level over a number of years due to reductions in funding by Congress.

RESPONSES OF HON. CHRISTINE TODD WHITMAN TO ADDITIONAL QUESTIONS FROM
SENATOR SMITH

Question 1. As you may recall, during the 106th Congress, Senator Crapo and I introduced legislation to create a TMDL pilot program which allowed local communities to experiment with different approaches to reaching their clean water goals.

I commend the Administration for proposing a similar initiative that would give \$21 million in grants for local watershed projects. Can you describe this initiative in more detail and please explain, if and how it will help communities faced with large TMDL implementation costs?

What would be the criteria to apply for this program and how will watersheds be chosen to participate?

Response. The Administration plans to invest this money in community-based watershed efforts to protect and restore America's waterways. The initiative will support watershed resources that sustain human health, economic stability, ecosystem integrity, recreational opportunity, natural or cultural significance, or other important uses.

Most importantly, the initiative will foster and encourage the development and implementation of innovative and novel approaches to clean water. For example, grant money could be used to support projects such as third party TMDLs, pollutant

trading, watershed NPDES permits under the Clean Water Act, and other creative approaches to advance protection of the resources.

EPA will distribute the funds through a competitive grant process. Candidates can include States, municipalities, non-profit organizations, universities and other groups. The Agency will be consulting with a wide variety of stakeholders in the coming months to develop the most appropriate selection criteria. EPA hopes to make the final selections as early as next fall and begin the process of dispersing funds as soon as the budget is approved.

One of the pressing issues facing EPA and States is how TMDLs can be implemented more cost-effectively. The development of more cost-effective TMDLs on a watershed basis creates opportunities to shift pollution control responsibilities from high cost controls over point source discharges to comparatively low cost controls over nonpoint sources.

Question 2. In the Department of Defense fiscal year 2002 appropriations bill, Congress provided EPA with \$90 million for drinking water vulnerability assessments, security at EPA labs and anthrax decontamination activities.

I am particularly interested in making sure that the vulnerability assessment funds are distributed to drinking water systems as quickly as possible so that vulnerabilities can be identified and appropriate safeguards put in place. Can you shed some light on how your Agency plans to distribute these funds to drinking water systems? And the time line for doing so?

Response. EPA is continuing to partner with the States, tribes, U.S. Territories, and water quality organizations to identify the most efficient and effective distribution of the funds to increase protection of our Nation's critical water infrastructure. EPA's goal is to help make the most systems safest soonest. The Office of Water received the Supplemental Security funds within 3 appropriations; Science and Technology, State and Tribal Assistance Grants, and Environmental Programs and Management. The proposed breakout within each appropriation is as follows:

Science and Technology (S&T)/Budgetary Resources (in millions). \$82.8 Timing of Obligation.

- About \$50.0 M of these funds will be used to provide direct assistance to the approximately 400 largest drinking water systems to carry out vulnerability assessments and enhance emergency response plans. EPA's goal is to complete the majority of the awards by the end of July 2002.
- \$23.0 M will support technical assistance and training to small and medium drinking water systems on vulnerability assessments and either developing emergency response plans or strengthening existing plans. EPA is working jointly with States and utility organizations in determining a specific allocation plan, and expects to begin obligation of funds in July through September 2002.
- \$3.0 M will support wastewater utilities' undertaking of vulnerability assessments, developing emergency operations plans, and collecting data on appropriate remediation efforts. EPA intends to award funds by September 2002.
- About \$5.8 M will support activities to further develop and conduct additional training on vulnerability assessments and other counter terrorism tools, and investigate security-related detection, monitoring, and treatment tools. EPA intends to begin awarding funds from July through September 2002.
- About \$1.0 M will support salaries and travel expenses of 10 FTEs in both EPA Headquarters and Regional Offices who are working exclusively on critical water infrastructure protection.

Obstacles to Obligation of Funds

- At the request of the Governors, EPA will jointly review grant applications from the largest drinking water systems with State Drinking Water and Emergency Response agencies. Timely award of funds will depend on receipt of State comments and resolution of any issues.
- Award of remaining funds will depend on completion of interagency research plans and State/EPA medium and small systems strategy.

State and Tribal Assistance Grants (STAG)/Budgetary Resources (in millions). \$5.0

Timing of Obligation:

- \$5.0 M will be awarded to States and Territories to support counter-terrorism coordination work in conjunction with EPA and drinking water utilities to implement homeland security activities. Funds will be awarded by the September fiscal year 2002.

Obstacles to Obligation of Funds:

- Award of funds to support counter-terrorism coordinators is subject to receipt of grant applications from States which may be dependent on internal State processes.

Environmental Programs and Management (EPM)/ Budgetary Resources (in millions). \$1.0

Timing of Obligation:

- \$1.0M will support wastewater utilities activities, including development and testing of counter terrorism tools and training for vulnerability assessments. EPA intends to award funds by September 2002.

Obstacles to Obligation of Funds:

- At the request of the Governors, EPA will jointly review grant applications from the largest drinking water systems with State Drinking Water and Emergency Response agencies. Timely award of funds will depend on receipt of State comments and resolution of any issues.

Question 3. As you know, EPA failed to finalize a large number of MACT regulations within the statutory deadlines, because both the Clinton and Bush Administrations denied the Air Office the 3–4 million per year that would have allowed timely completion.

As a result, by March, each State will now have to develop its own emission standard for each industry and substance without a MACT. This is a superb example of penny-wise and pound foolish. What plans does the EPA have regarding finishing these regulations and addressing the burden on States?

Response. This Administration is committed to reducing toxic air pollution. As you know, the Clean Air Act set out ambitious schedules for EPA to promulgate technology-based standards for 189 hazardous air pollutants emitted from 174 source categories. The programs to reduce toxic air pollution have removed hundreds of thousands of tons of toxics from the air since the program began in 1990 historic reductions that dwarf all previous efforts to control emissions of carcinogenic chemicals. As you have noted, delays in the Maximum Achievable Control Technology (MACT) program preceded the current Administration. Appropriations constraints and legal challenges have contributed to slow progress in this program. The deadline for all of the technology-based MACT standards was November 2000. EPA missed that deadline. The time lost cannot be made up now.

However, when Governor Whitman came into office, she confirmed that we need to issue these standards as soon as possible, and EPA is now on a tight time line to complete all of the regulations by May 2004. The Governor has signed 14 MACT standards either proposals or final rules since she took office. In addition, EPA staff has drafts of all but 3 of the 21 remaining MACTs to be proposed. After the May 15, 2002 deadline, 34 standards will remain to be finalized, which will then be subject to the Clean Air Act Section 112(j) "hammer" provisions.

We believe there will be little or no burden on States if we complete all the standards by May 2004. The Section 112(j) provisions require major sources to submit a part 1 Title V operating permit application on May 15, 2002 followed by a part 2 permit application 2 years later, or May 15, 2004. In a Part 1 application, the source sends general information about the facility to the permitting authority usually the State. Part 2 is a more comprehensive, detailed application containing information on specific pollutants, emission points, and controls to the permitting authority. However, barring further legal challenges and assuming that EPA hews to the time line, all MACT standards will be promulgated before the part 2 application is due. Therefore, the sources will not need to submit the part 2 and permitting authorities will not need to develop case-by-case MACT.

RESPONSES OF HON. CHRISTINE TODD WHITMAN TO ADDITIONAL QUESTIONS FROM
SENATOR WYDEN

The purpose of the Environmental Protection Agency (EPA) STAR Fellowship program is to encourage promising students to obtain advanced degrees and pursue careers in environmentally related fields. The program is consistent with the mission of EPA to provide leadership in the nation's environmental science, research, education, assessment, restoration, and preservation efforts.

STAR Fellowships have provided a unique opportunity for students at Oregon State University and doubtless many other universities as well. The program allows the best students to choose their own cutting edge area for research and multidisciplinary training.

One of EPA's targets is environmental monitoring and impact assessment. Many of the STAR fellows in Oregon have worked on biodiversity and ecological research

with an applied focus. This program often provides the sole source of support for these students and is instrumental in developing a pipeline of environmental professionals to meet national needs.

In your fiscal year 2003 Annual Performance Plan and congressional justification you stated, "A blue ribbon panel of the Science Advisory Board recommended in 1994 that EPA enhance its environmental education programs for training the next generation of scientists and engineers."

Question 1. In view of this recommendation from your own Science Advisory Board and the national demand for talented, environmental professionals, how can you justify cutting the STAR program from your fiscal year 2003 budget?

Response. The President's Budget proposes to strengthen math and science education in the United States by improving the quality of math and science education in grades K-12 and by attracting the most promising U.S. students into graduate level science and engineering by providing more competitive stipends. The President's K-12 math and science initiative and the higher graduate stipends are being funded through the National Science Foundation's (NSF) budget. NSF is noted for its expertise and success in funding competitive programs in math and science. The Budget increases NSF's annual stipends for fellowship and traineeship programs from \$21,500 to \$25,000. Funding for EPA's STAR Fellowship Program was eliminated in fiscal year 2003 as part of the larger initiative to strengthen math and science programs through the National Science Foundation (NSF). However, EPA will continue funding for its Minority Academic Institutions (MAI) Fellowships program at \$1.5 million in fiscal year 2003.

Question 2. EPA is apparently transferring part of the funding formerly used for the STAR program to support education programs at the National Science Foundation (NSF). Do you believe that NSF has the capability and track record to provide educational opportunities comparable to EPA, and if so, please provide me with the rationale and the safeguards that will be used to ensure that the money goes for the same purpose and not research or other activities.

Response. As stated in the response to question a, the President's Budget proposes to strengthen math and science education in the United States by improving the quality of math and science education in grades K-12 and by attracting the most promising U.S. students into graduate level science and engineering by providing more competitive stipends. NSF is noted for its expertise and success in funding competitive programs in math and science. Funding for EPA's STAR Fellowship Program was eliminated as part of the larger initiative to strengthen math and science programs through the National Science Foundation (NSF). NSF has conducted an excellent graduate research fellowship program in many science disciplines for many years.

