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DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2007

THURSDAY, APRIL 6, 2006

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:30 a.m., in room SD–124, Dirksen Senate Office Building, Hon. Conrad Burns (chairman) presiding.
Present: Senators Burns, Domenici, Craig, Allard, and Dorgan.

ENVIRONMENTAL PROTECTION AGENCY

STATEMENT OF STEPHEN L. JOHNSON, ADMINISTRATOR

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OPENING STATEMENT OF SENATOR CONRAD BURNS

Senator BURNS. We'll call the committee to order. Sorry—well, I guess we're about on time. Murphy's Law took over this morning. You know, the old law of anything that can go wrong, will. It did. Then I got to looking this over, Mr. Director, and I'm going to make this flowery statement here that's been written by a very able per-

son. Of course, I can't read, and that doesn't help things, but, nonetheless, I was just going to tell you, gather everything you've got up, go back downtown, and rework it, and come on back when you're ready.

Mr. JOHNSON. We're ready, sir.

Senator BURNS. All right. Well, good morning, and thank you very much for coming this morning.

We will hear the budget on the Environmental Protection Agency. I'd like to welcome our good friend, Steve Johnson, the administrator down there, who's with us, and it's a pleasure to have you and—as we make this discussion and try to come up with some—a meeting of the minds, as far as EPA is concerned.

Let me begin by saying, EPA has one of the most important and difficult missions of all the Federal agencies. There's no question about that. You're torn in 65 different directions. How you keep it all together is—takes a man of great talent, and I think you are a man of great talent. The jurisdiction ranges from the responsibility of the cleanup of Superfund sites, such as the Libby asbestos site in Montana, to funding clean water and drinking infrastructure programs, to the enforcement of a long list of environmental laws.

BUDGET REQUEST

The administration has requested $7.3 billion in a total budget authority for fiscal 2007. This is $310 million below fiscal year 2006. That's a 4-percent reduction. That sort of concerns a lot of us on this committee. While the EPA has only been under the jurisdiction of this committee for the past year, the enormity of the clean water and drinking water infrastructure needs across this country has continually been impressed upon me. The administration has requested funding, $842 million, for the Drinking Water SRF, but it has recommended a large reduction in funding the Clean Water State Revolving Loan Fund. The administration is requesting $688 million for the Clean Water SRF, which is $199 million below the fiscal year of 2006. In the Clean Water, the $688 million is just not enough. Clean Water and Drinking Water Infrastructure Gap Analysis published in 2002 indicates we still have a substantial gap in funding, which could help develop the country's clean water and drinking water systems to maintain the spending levels—or the current spending levels, I should say. The Gap Analysis estimates the United States will need to spend $540 billion for both clean water and drinking water capital needs in the next 20 years. I'm not certain yet what our subcommittee allocation will allow us to do, but I intend to try to fund by the State Revolving Loan Funds at the highest level.

Despite the 4-percent reduction in the President's budget request, EPA has a few programs receiving substantial increases. The budget includes the following notable increase, $50 million for Diesel Emissions Reduction Grant Program. I can do that in one single swoop. If you'll just let me turn all that coal into diesel, I can take care of all that.

And $20 million—and do it with private money. Now, that ain't a bad deal. I think that's kind of the way America works—$20 million above the enacted level for the Great Lakes Geographic Pro-

gram and $55 million above the enacted level for homeland security initiatives at the Agency.

But we also face significant challenges in cleaning up the 1,238 active Superfund sites—1,238 Superfund sites on the National Priorities List, and 62 sites proposed to make the NPL. The administration is requesting $1.259 billion for Superfund Programs, which is $17 million above fiscal year 2006.

Now, there's no question that the Superfund Program could use increased funding to clean up sites currently on the NPL and those waiting to make the list. Libby asbestos site, in Montana, was added to the National Priorities List in 2002. The folks in Libby have suffered greatly, and I would like nothing more than to see this site cleaned up as soon as possible. That's why I included it in the language of last year's bill directing the EPA to issue a Record of Decision for Libby no later than May the 1st of this year. I understand that there is some discomfort at the Agency about moving forward with the final ROD for Libby, but I want the ROD issued swiftly, because folks in Libby deserve to know both the timeline and the details of the cleanup process, and I do not want the quality of the ROD to suffer. Most importantly, Mr. Administrator, I would like your word that the community will be involved in the greatest extent possible as that process moves forward.

Now, there's many issues that I could raise at this point, ranging from the proposed funding increase for homeland security initiatives to the newly configured Diesel Emissions Reduction Grant Program, but I'll save my comments for the question part of the round of this hearing.

So, again, I want to thank you for coming this morning. We appreciate your hard work down there, understanding it's probably one of the toughest jobs in this 17 square miles of logic-free environment in which we have to do business.

So, I will—I don't have any colleagues to turn to.

So, I'll turn to the administrator. Mr. Johnson, thank you, this morning, very much, and we'll look forward to your testimony.

SUMMARY STATEMENT OF HON. STEPHEN L. JOHNSON

Mr. JOHNSON. Well, thanks, I appreciate being here. Mr. Chairman and members of the committee, I am pleased to be here to discuss the President's fiscal year 2007 budget request for the Environmental Protection Agency.

The President's budget reflects his continued commitment to providing the critical resources needed for our Nation's highest priorities: fighting the war on terror, strengthening our homeland defenses, and sustaining the momentum of our economic recovery. The President's pro-growth economic policies, coupled with spending restraint, will keep the Government on track to cut the deficit by more than half by the year 2009.

EPA is responsible for being a good steward of our environment and a good steward of our tax dollars. In keeping with the need for spending restraint, the President has included $7.3 billion to support the work of EPA and our partners nationwide in his budget.

This budget fulfills every presidential environmental commitment and maintains the goals laid out in EPA's strategic plan, while spending less. When I accepted the position of EPA adminis-

trator, President Bush charged me with accelerating the pace of environmental protection while maintaining the Nation's economic competitiveness.

BUDGET REQUEST: PRINCIPLES

As we prepare for tomorrow's environmental challenges, EPA will meet the President's charge by focusing on three principles:

The first is results and accountability. This budget includes three programs that have been delivering some of the longest-standing and greatest environmental results. The President requested nearly $1.3 billion for the Superfund Program, a $17 million increase over last year's enacted budget, $841.5 million for the Drinking Water State Revolving Fund, and $688 million for the Clean Water State Revolving Fund.

In order to continue our Nation's steady march toward cleaner air, the President requested $932 million for the Clean Air and Global Climate Change Goal. In order to meet this goal, last year EPA implemented a suite of clean air rules that dramatically cuts power plant emissions of soot, smog, and mercury in the Eastern United States. However, we continue to believe that Clear Skies, a permanent legislative approach, is a more efficient, effective, and long-term mechanism to provide certainty and achieve large-scale emission reductions across the country.

The second principle is innovation and collaboration. The Great Lakes Program is an excellent example of regional and international collaboration. In his budget President Bush requested over $70 million to clean up and protect the lakes. This includes $50 million for the Great Lakes Legacy Act cleanup program, which is an increase of over $20 million over last year's enacted budget.

As the President said, breakthroughs in new technology are powering our economy and dramatically improving our environment and nowhere is this more apparent than in the administration's investment in energy innovation. EPA plays a substantial role in this effort through the implementation of the Energy Policy Act of 2005. The President's budget includes over $100 million, to support the development and implementation of the renewable fuel standard rulemaking to strengthen preventive measures for underground storage tanks and to support the Agency's National Clean Diesel Campaign to reduce diesel emissions from existing engines.

The third principle to accelerate environmental protection is best available science. The President shares this commitment to sound science. His budget request includes $7 million for a Water Infrastructure Initiative, as well as additional funding to study manufactured nanomaterials, for the Integrated Risk Information System, and for the Computational Toxicology Research Program.

Before I conclude, I need to mention EPA's responsibility in supporting the President's top priority: The safety and security of the American people. For 2007, the President requested $184 million for EPA's Homeland Security efforts, which is an increase of $55 million over last year's enacted budget. By reaffirming our commitment to results and accountability, innovation and collaboration, and the best available science, the funding in the President's budget will allow EPA to meet the environmental challenges of the 21st century and beyond.

PREPARED STATEMENT

Last, I also want to thank the committee for significantly reducing the amount and number of congressional projects included in this year's appropriation bill.

That concludes my prepared statement, Mr. Chairman. I would be pleased to answer any questions you may have.

Thank you.

[The statement follows:]

PREPARED STATEMENT OF STEPHEN L. JOHNSON

Mr. Chairman and Members of the Committee, I am pleased to be here today to discuss the fiscal year 2007 budget request for the Environmental Protection Agency (EPA). The President's fiscal year 2007 budget request of $7.3 billion reflects the Administration's strong commitment to carrying out EPA's mission of protecting human health and the environment. The request demonstrates the President's continued commitment to providing the resources needed to address our Nation's highest priorities which include: continued support of homeland security, fighting the war on terror, and sustaining the recovery of our economy. At the same time, there is a need for discipline in our federal budget, and this request shows such discipline through its results-oriented approach.

EPA's programs can work even more efficiently than they do today. We expect to be held accountable for spending the taxpayers' money more efficiently and effectively every year. To assist you, the Administration launched ExpectMore.gov, a website that provides candid information about programs that are successful and programs that fall short, and in both situations, what they are doing to improve their performance next year. I encourage the members of this Committee and those interested in our programs to visit ExpectMore.gov, see how we are doing, and hold us accountable for improving.

This fiscal year 2007 budget incorporates the Administration's vision of a results-oriented and market-based approach to environmental protection while focusing on achieving measurable outcomes in the form of cleaner air, purer water, and better protected land. EPA will implement an environmental philosophy based on three principles in order to better fulfill its mission of protecting human health and the environment.

The first principle is results and accountability. EPA must focus on environmental outcomes, not environmental programs. This budget request includes three programs that have delivered some of the greatest environmental successes. These three programs include: Superfund, for which $1.3 billion is requested, the Drinking Water State Revolving Fund for which $841.5 million is requested, and the Clean Water State Revolving Fund, for which $688 million is requested.

The second principle is innovation and collaboration. This means the Agency will focus on collaborating with its state, tribal, local, and private enterprise partners. EPA will work with these partners to promote market-based strategies, advance stewardship opportunities, and invest in new and innovative technologies. The Great Lakes Program is an example of regional and international cooperation, and this budget requests over $70 million to clean and protect the Great Lakes. This request includes $50 million for the Great Lakes Legacy Act program, a $20 million increase, which will accelerate the cleanup of contaminated sediment that has accumulated for many years in the Great Lakes as a result of historical industrial sources.

Using the best available science is the third principle which the Agency will utilize to fulfill its mission. Strong science and data are integral to making decisions about environmental issues. This budget supports the use of science and data by requesting $7 million for a Water Infrastructure initiative. These funds will provide EPA with the resources needed to conduct a major research effort which will reduce the cost of operation, maintenance, and replacement of old drinking and wastewater systems. The focus on the best science is also demonstrated in the request to fund the study of nanomaterials and their effect on human health. Additionally, our request supports the Integrated Risk Information System and Computational Toxicology programs to promote the best available science.

Mr. Chairman, the Agency has accomplished a great deal in its past efforts to clean the water, improve our air quality, and protect our lands. The environmental challenges that we face are enormously complex and expensive but by relying upon what we have learned from our accomplishments and by incorporating the Adminis-

tration's environmental philosophy with its focus on results, I believe we can meet the challenges that lie ahead in an efficient and productive manner.

HOMELAND SECURITY

Homeland Security is a top priority for the Administration and an integral component of this budget. For fiscal year 2007, the President requests $184 million for Homeland Security. This is an increase of $55 million over fiscal year 2006 enacted levels. EPA plays a leading role in protecting U.S. citizens and the environment from the effects of attacks that release chemical, biological, or radiological agents. Following the cleanup and decontamination efforts of 2001, EPA has focused on ensuring we are prepared to detect and recover quickly from deliberate incidents. The emphasis for fiscal year 2007 is on a few key areas: decontamination of threat agents, ensuring trained personnel and standardized lab capabilities to be called upon in the event of an emergency, and working with the drinking water utilities to protect our water supplies.

Secure drinking water supplies are imperative and this budget requests $42 million for improved water security including the WaterSentinel pilot program. The WaterSentinel pilot program demonstrates how EPA has a critical role in protecting the citizens of this Nation. This program is designed to monitor and help secure the Nation's drinking water infrastructure and will provide early warning of intentional drinking water contamination. WaterSentinel consists of enhanced physical security monitoring, water quality monitoring, routine and triggered sampling of high priority contaminants, public health surveillance, and consumer complaint surveillance. In fiscal year 2007, EPA will establish, in selected cities, additional pilot contamination warning systems with water utilities through increased water monitoring and other surveillance. The addition of water utilities in fiscal year 2007 will allow for more comprehensive and diverse testing of contaminant warning systems. By the end of fiscal year 2007, EPA expects to begin disseminating information learned from the pilots to other water utilities.

Clean Air and Global Climate Change

The fiscal year 2007 President's Budget requests $932 million for the Clean Air and Global Climate Change goal. EPA implements this goal through its national and regional programs which are designed to provide healthier air for all Americans and protect the stratospheric ozone layer while also minimizing the risks from radiation releases, reducing greenhouse gas intensity, and enhancing science and research. In order to carry out its responsibilities, EPA utilizes programs that include many common elements, including: setting risk-based priorities; facilitating regulatory reform and market-based approaches; partnering with state, Tribal, and local governments, non-governmental organizations, and industry; promoting energy efficiency; and utilizing sound science.

In March 2005, EPA issued the Clean Air Interstate Rule (CAIR), which will reduce power plant emissions of sulfur dioxide and nitrogen oxides in 28 eastern states and the District of Columbia by 70 percent and more than 60 percent respectively from 2003 levels when fully implemented. This will go a long way to help many areas attain the fine particle standards and the ozone standards. We will continue to move forward with implementation of this and our other clean air rules in fiscal year 2007. However, we have received 14 Petitions for Review and 12 Petitions for Reconsideration for the 2005 Clean Air Interstate Rule. EPA has also received two administrative stay requests (1 has been denied, 1 is pending); two judicial stay motions have been filed (both have been denied). While we are confident that we will prevail in the litigation concerning CAIR, there is always some uncertainty regarding the outcome of any litigation. We would much prefer to reduce emissions from power plants with the President's Clear Skies legislation. The authority provided by the Clean Air Act to put CAIR in place is limited. Regulations do not provide enough certainty—that is why the President has been urging Congress to pass a permanent, nation-wide solution.

EPA's Climate Protection Programs continue to assist in reaching the President's goal of reducing greenhouse gas intensity by 18 percent by the year 2012. The United States has joined five other countries (Australia, China, India, Japan, and the Republic of Korea) in the Asia-Pacific Partnership for Clean Development and Climate. In 2007, EPA requests $5 million to support this partnership which will focus on deploying cleaner technologies in partner countries in order to reduce poverty, enhance economic growth, improve energy security, reduce pollution, and reduce greenhouse gas intensity.

This fiscal year 2007 budget request includes $50 million for the new Diesel Emission Reduction Grants Program authorized by the 2005 Energy Policy Act. The program will provide grants for projects that reduce diesel emissions from existing en-

gines by using cleaner fuels, retrofitting them with emissions reduction technology, or replacing them with newer, less-polluting engines.

Clean and Safe Water

The fiscal year 2007 President's Budget requests $2.7 billion to implement the Clean and Safe Water goal through programs designed to improve the quality of surface water and drinking water. EPA will continue to work with its state, Tribal, and local partners to achieve measurable improvements to the quality and safety of the Nation's drinking water supplies as well as the conditions of rivers, lakes, and coastal waters.

Also in fiscal year 2007, EPA will continue to work with states and tribes on implementing core Clean Water programs, including innovations that apply programs on a watershed basis. Water quality monitoring is a top priority in protecting and improving water quality and will provide the scientifically defensible water quality data that is necessary to defend our Nation's waters. Additionally, the Agency will support the protection and restoration of wetlands through its own programs such as Section 319 and State Revolving Fund, as well as other Federal programs such as those administered by Fish and Wildlife Service.

The Budget also continues the Administration's commitments to the Clean Water and Drinking Water State Revolving Funds (SRFs). The Budget provides $688 million for the Clean Water SRF, keeping the program on track to meet the cumulative capitalization commitment of $6.8 billion for 2004–2011. This funding level will allow the Clean Water SRF to provide $3.4 billion in loans annually, even after Federal capitalization ends, and will ensure communities have access to capital for their wastewater infrastructure needs.

The Budget proposes $841.5 million for the Drinking Water State Revolving Fund, a $4 million increase over the 2006 enacted level. This request keeps the administration's commitment to provide sufficient capitalization grants to allow the Drinking Water SRF to provide $1.2 billion annually, even after Federal capitalization ends.

LAND PRESERVATION AND RESTORATION

The Agency's fiscal year 2007 budget request to Congress implements the Land Preservation and Restoration goal through EPA's land program activities which promote the following themes: Revitalization, Recycling, Waste Minimization, and Energy Recovery; Emergency, Preparedness and Response, and Homeland Security.

In fiscal year 2007, this goal will include new responsibilities as EPA takes on an important role in implementing the Energy Policy Act of 2005 and it is reflected in the 2007 budget request. This budget includes $38 million for State and Tribal Assistance Grants to support EPA's underground storage tank (UST) program. This is a $26 million increase over fiscal year 2006 enacted levels. The UST program will continue working with states to implement the base UST program as well as the new provisions of the EPAct. The EPAct provisions focus on preventing future releases from USTs and include inspections, operator training, delivery prohibition, secondary containment, and financial responsibility.

Revitalized land that was once contaminated can be used in many proactive ways, including creation of public parks, the restoration of ecological systems, the establishment of multi-purpose developments, and the establishment of new businesses. EPA uses its cleanup programs (including Superfund, RCRA, Corrective Action, Brownfields, Federal Facilities, and Underground Storage Tanks) to facilitate the cleanup and revitalization of contaminated properties. In fiscal year 2007, the Agency will continue to promote the minimization of waste. EPA's municipal solid waste program will implement a set of coordinated strategies, including source reduction (also called waste prevention), recycling (including composting), combustion with energy recovery, and landfilling. The Agency will work with other Federal Agencies within the National Response System to respond to incidents which involve accidental or intentional releases of harmful substances and oil.

Enforcement activities are a significant component of the Land Preservation and Restoration goal which support the Agency's ability to clean up the majority of the most hazardous sites in the Nation. Enforcement allows the Agency to collect funding from Potentially Responsible Parties (PRPs) to finance site-specific cleanup. These accounts segregate site-specific funds obtained from responsible parties that complete settlement agreements with EPA. The Agency will continue to encourage the establishment and use of these Special Accounts within the Superfund Trust Fund in order to finance cleanups. These funds create an incentive for other PRPs to perform cleanup work they might not otherwise be willing to perform and the result is that the Agency can clean up more sites and preserve appropriated Trust Fund dollars for sites without viable PRPs.

HEALTHY COMMUNITIES AND ECOSYSTEMS

In fiscal year 2007, EPA's Budget carries out the Healthy Communities and Ecosystems goal via a combination of regulatory, voluntary, and incentive-based programs. A key component of the Healthy Communities and Ecosystems goal is to reduce risks to human health and the environment through community and geographically-based programs. Some of these community and geographically-based programs include: Brownfields, Wetlands Protection, and programs that concentrate on our nation's large bodies of water such as the Great Lakes, Gulf of Mexico, and Chesapeake Bay.

Community and Geographically-based programs comprise one of the most important components of the Healthy Communities and Ecosystems goal. In fiscal year 2007, the Agency requests $163 million for the Brownfields program to restore abandoned contaminated properties. This is a slight increase over the fiscal year 2006 enacted level for Brownfields. The Chesapeake Bay program also supports the Healthy Communities and Ecosystems goal. This program protects the Bay which needs improved water quality, overall protection, and restoration. This budget requests $26 million for cleaning up and protecting the Chesapeake Bay. This request is $4 million over the fiscal year 2006 enacted level. Community Action for a Renewed Environment (CARE) is another program which is vital to achieving the goal of Healthy Communities and Ecosystems. This program offers many communities the opportunity to improve their environment through voluntary actions.

Another major focus of the Healthy Communities and Ecosystems goal is identifying, assessing, and reducing the risks from chemicals and pesticides. In fiscal year 2007, EPA will continue identifying and assessing potential risks from pesticides. In addition, EPA will set priorities for addressing pesticide and chemical risks, strategize for reducing such risks, and promote innovative and alternative measures of pest control. Also related to reducing pesticide and chemical risk, EPA will continue its Homeland Security activities which focus on identifying and reviewing proposed pesticides for use against pathogens of greatest concern for crops, animals, and humans in advance of their potential introduction. EPA will work closely with other Federal agencies and industry in order to carry out these activities.

COMPLIANCE AND ENVIRONMENTAL STEWARDSHIP

EPA's fiscal year 2007 Budget Request of $540 million for the enforcement program helps realize the Compliance and Environmental Stewardship goal through programs that monitor and promote enforcement and compliance with environmental laws and policies. In fiscal year 2007, EPA will continue with its strong commitment to compliance and enforcement through collaborating with its state, Tribal, and local government partners. The Agency also will support stewardship through direct programs, collaboration and grants for pollution prevention, pesticide and toxic substance enforcement, environmental information, and creation of an environmental presence in Indian Country.

Compliance assistance and enforcement are critical components of the Compliance and Environmental Stewardship goal and EPA supports these components by assuring requirements are clearly understood and by assisting industry in identifying cost-effective compliance options. In fiscal year 2007, EPA will use a two-part approach in ensuring compliance assistance and enforcement. First, EPA will help clarify environmental laws and regulations for regulated communities. The second step is for the Agency to reduce noncompliance through inspections, monitoring, and via enforcement when needed.

In fiscal year 2007, EPA also will focus on promotion of Environmental Stewardship. Environmental Stewardship is a concept that seeks more than just minimal compliance with environmental regulations. Instead, it promotes voluntary environmental protection strategies in which states, Tribes, communities, and businesses are invited to participate. EPA will promulgate stewardship by educating, providing incentives, tools and technical assistance to states, Tribes, communities, and businesses. EPA will implement a performance-oriented regulatory system that allows flexible strategies to achieve measurable results.

In fiscal year 2007 EPA will continue to work with industrial sectors to set pollution reduction goals, provide tools and technical assistance, and identify innovative strategies to reduce risks. In the tribal GAP program, the Agency will support approximately 517 federally recognized Tribes in assessing environmental conditions on their lands and building environmental programs tailored to their needs.

Also in fiscal year 2007, the agency will continue to fortify the Environmental Information Exchange Network (Exchange Network). In fiscal year 2007, EPA, states, Tribes, and territories will continue to re-engineer data systems so that information previously not available or not easily available can be exchanged using common

data standards. By the end of 2007 all fifty states and approximately ten Tribes will have established nodes on the Exchange Network and will be mapping data for sharing with partners and submission to EPA.

In 2007, EPA also will continue its work with Performance Track by recognizing and rewarding private and public facilities that demonstrate strong environmental performance, beyond current requirements. To provide incentives to business to participate, EPA continues to implement and develop new regulatory incentives at the state level. It will support and leverage state environmental leadership programs by aligning Performance Track with at least 20 state programs and double the measurable environmental improvements achieved to date.

In summary, this budget will enable us to carry out the goals and objectives as set forth in our strategic plan, to meet challenges through innovative and collaborative efforts with our state, tribal, and private entity partners, and to focus on accountability and results in order to maximize environmental benefits.

The requested resources will help us better understand and solve environmental problems using the best available science and data, and support the President's focus on the importance of Homeland Security while carrying out EPA's mission.

CLEAN WATER INFRASTRUCTURE FUNDING

Senator BURNS. Well, I thank you.

Let's just—let's talk about this clean water infrastructure funding, Mr. Administrator. How does the—I'd just like to—for you to justify reducing that fund, at Clean Water SRF. In face of the above-mentioned funding estimates, we know we're about—over $500 billion over the next 20 years. We have no chance at all of ever making a dent in that unless we fully fund what we're supposed to be doing now. Now, we can shift funds, and we can delay funds, and something like that. The bad thing here are construction costs. Everything costs more every year. And so, we slip back and back. It's not that you cut those funds, but you increase the costs for the next time around.

So, I—give us an idea. Where does local and rural areas go for seed funding on any project that they might have? Where do they go? Where are we headed? I guess that's my question.

Mr. JOHNSON. Well, Mr. Chairman, as you correctly point out, the needs of our Nation are great when it comes to water infrastructure. I believe we have laid out an approach that attacks that really massive problem in a number ways. One is that the $688 million that the President is requesting in this budget fulfills his commitment to have the Revolving Loan Fund for the Clean Water—State Revolving Loan—revolve at $3.4 billion. So, the amount of money that's in our budget that he's requesting fulfills that obligation to achieve that kind of revolving. But that is not the only approach.

Second is that we need to be looking at innovative technologies, because, whether it is a large system or a small system, we need to be investing in research and development. In fact, the President includes $7 million to look at new technologies. In fact, we've already evaluated 14 technologies that will be very helpful in helping small systems achieve various water compliance issues.

Then the third is a multi-pronged approach that looks at this problem of ensuring that there is full-cost pricing. We need to be looking at this in a watershed approach, because what we do in a watershed in one area affects the others. We also need to be looking at conservation. What are things that we can do to help reduce the burden? Then, lastly, better management. There are opportunities across the Nation where systems are doing a much better job

than others. We want to try to take those lessons learned and have them apply. So, we're really looking at it in a multi-pronged way.

TECHNOLOGY

Senator BURNS. You know, one of these days—I know you don't get into this area, but most of us in the West do—and you have nothing to do with it, but—I don't know how technologies is going to—is going to help new—help a shovel out.

I mean, this is—what we're talking about here, if you've got—if you've got a virtual shovel that's—that shovels virtual dirt to put a virtual pipeline in the ground, that's still not going to get any water on the other end. So, I don't know what new technologies does for you.

But I would suggest, when you're in California the next time, you give me a call, and we'll go down, and we'll show you a—an irrigation area that's in the west-end farmers. You know, they lost about 10 percent of their water—irrigation water. They also lost about 8 percent of their land that they couldn't irrigate anymore. When you've got a little area down there that produces a $3.5 billion of agricultural products in that system, and then you want to cut them back, does not make a lot of sense to me. But they went through a series of underground laterals—mains and laterals on the irrigation system. Figure they saved about 20 percent of their water that they were losing just to evaporation. They—and that—I think that is a model that we—we've got to follow, one of these days, about how we do things. So, if you ever get down in California, you want to go and have them give you a tour of what they did there.

Mr. JOHNSON. Thank you.

Senator BURNS. Environmentally, is to get away from big sprinklers, and went to drip technology that Montana State worked out with—with Israel, by the way—it is something to behold. So, I think we've got to look around outside this thing.

HOMELAND SECURITY

Homeland security. The administration has requested $184 million for homeland security activities, $55 million over 2006. The largest increases, for a water security program, included $30.5 million in Water Sentinel pilot projects. Give me an idea of what these projects are, and what criteria the Agency is using to select those projects, and also how those projects will be evaluated.

Mr. JOHNSON. Well, thank you very much, Mr. Chairman.

The Water Sentinel Program is intended to address the homeland security issue with our Nation's water systems. It is a series of pilot studies that would look for contaminants of concern, real-time contaminants of concern—weapons of mass destruction, if you will. We are looking at technologies that would enable water systems to be able to detect a variety of these kinds of agents.

With regard to the specifics, I would like to inform you, Mr. Chairman and members of the committee, that we are arranging a secure briefing, a classified briefing for you, so that you can have the details of the numbers of pilots, the rationale for this. I would encourage—and, in fact, urge—all the members to attend, because this is an area of critical need.

Senator BURNS. I would suggest that we do that. I'd try to round up all the committee to do that, just members only——

Mr. JOHNSON. Yes.

Senator BURNS [continuing]. If that's the way you want to go. We can get that done for you. We can facilitate that.

Mr. JOHNSON. I'd appreciate that.

Senator BURNS. Because I happen to believe that you're on the right track. Give us some idea on what you're going to do, where you're going to do it, and how you evaluate it. That's what I'm looking for now.

Let's—I'm going to turn to my friend from Colorado, Senator Allard, who just arrived. Have you got a statement, Senator? If so, you can put it in the record. It's your turn to ask questions.

Senator ALLARD. Well, Mr. Chairman, thank you. I do have a statement. I would ask unanimous consent that it be made a part of the record.

Senator BURNS. Without objection.

[The statement follows:]

PREPARED STATEMENT OF SENATOR WAYNE ALLARD

Mr. Chairman, thank you for holding this hearing today. The EPA oversees the many environmental regulations and requirements, some of which can be far reaching and have a disproportionate effect on small communities. I think that this fact makes it very important that Congress exercises close oversight of the Agency and its funding.

I cannot stress enough the need to utilize sound, peer-reviewed science when making decisions about increasing regulations. I also believe that the cost-benefit analysis of regulations should be given more weight in many situations.

Finally, I remain concerned about the climate within the EPA. I mentioned this last year at our EPA budget oversight hearing, and it seems that little—if anything—has changed since that hearing. From communications I have had with constituents, it seems that EPA no longer has an interest in assisting communities with complying with regulations set by EPA, but rather just in heavy-handed enforcement. Often small communities do not have the expertise to develop a plan to meet new regulations. The EPA should be willing to help those communities, rather than refuse assistance until they are able to take enforcement action.

I look forward to working with the Administrator, and my colleagues in the Senate, to see that EPA is able to reasonably carry out their mission; and working with the Committee to ensure that activities at the Environmental Protection Agency are funded in a manner that is responsible and sufficient.

SUMMITVILLE MINE SITE

Senator ALLARD. I understand you're sort of streamlining this hearing, because we're going to have votes coming on, and we're going to have—so, I'll try not to abuse my privileges here, as far as time is concerned.

Senator BURNS. It doesn't bruise very easily.

Senator ALLARD. Yeah. I am interested, also, in some continued monitoring of water systems, particularly in some of those areas where our risks may very high. But, aside from that, I want to talk a little bit about the Summitville Mine site there in Colorado. I think you're aware of the cleanup there, what's been going on.

The question I have—can you tell me what level of priority this is for the Environmental Protection Agency, and kind of give me an update on the cleanup work at the site, where we are right now?

Mr. JOHNSON. Senator, it is a priority area for us. The site is a result of sodium cyanide that was used to extract metals, and the

metal leachate that is getting into and causing the problems. We've been working very closely with the Colorado Department of Health and Environment, and looking at it from a number of ways. One is, the existing water treatment plant is going to need some improvements. We're working with them both on the design and how that would be improved. In addition, there is work that's currently ongoing to consider the design of a new plant. In fact, some of the design work has already now been done, and we are now actively looking at that. We're working very closely with Colorado to determine what are those best remedies, given the contamination of the mine.

Senator ALLARD. Now, in those—in working with Colorado——

Mr. JOHNSON. Yes.

Senator ALLARD [continuing]. I assume you've made some commitments as to what you plan on doing, and that Colorado's made some commitments on what they plan on doing.

Mr. JOHNSON. We're——

Senator ALLARD. How are you on your commitments?

Mr. JOHNSON. As far as I know we're on track. The funds that are available to work on this are through a settlement account.

Senator ALLARD. Yes.

Mr. JOHNSON. Through the EPA Summitville Settlement Account. There are monies that are there to help this work. My assessment is that, we're still very much trying to assess what is the appropriate technology and the most cost-effective technology to address this.

EPA COLORADO COMMITMENTS

Senator ALLARD. So, as far as you know, you've met all the commitments to Colorado, at this point?

Mr. JOHNSON. As far as I know, yes. If you're aware of something we haven't——

Senator ALLARD. Well——

Mr. JOHNSON [continuing]. I'd be happy to follow up.

Senator ALLARD. Well, I've been asked to ask that question. I think there might be some concern there as to whether all the commitments have been made. So, maybe we need to visit——

Mr. JOHNSON. Okay.

Senator ALLARD [continuing]. A little bit about that.

Mr. JOHNSON. I would be happy to.

[The information follows:]

COLORADO COMMITMENTS

The 2001 Record of Decision (ROD) envisioned construction of a two-stage water treatment plant to remove copper and aluminum. EPA committed to funding a water treatment plant. EPA and the State of Colorado agree that the State aluminum water quality standard should be revised so that a one-stage plant would meet water quality requirements. The State staff is preparing to ask the State Water Quality Control Board to make the needed revision to the aluminum water quality standard for the Alamosa River.

The State has the lead for managing the construction of the treatment plant. At issue is whether a one or two stage treatment plant will be funded. An alternate proposal is to provide added building space for a second stage should the Colorado Water Quality Control Board choose to not revise the current water quality standard. This option would add more than $1 million to the cost of a one-stage treatment plant.

EPA has offered to waive the aluminum standard under its Superfund authority if it is not revised by the State Water Quality Control Commissioners. This approach has not been supported by the State. The State and EPA have agreed to wait until the Colorado Water Quality Control Board meets in 2007 on whether to revise the aluminum water quality standard in the Alamosa River to a level attainable with a one-stage plant.

EPA and the State continue to fund the on-going operations of the existing water treatment plant. EPA and the State are also funding the necessary improvements at the existing water treatment plant in order to meet OSHA safety requirements.

Senator ALLARD. Now, can you provide me with the status of the settlement funds that were earmarked for cleanup costs at Summitville?

Mr. JOHNSON. I don't have that number off the top of my head, but I'll be happy to provide it for the record.

[The information follows:]

SUMMITVILLE MINE SITE, SETTLEMENT FUNDS STATUS

EPA and the State maintain separate settlement fund accounts. EPA's settlement balance is approximately $4.6 million. The State of Colorado has estimated that it has $8 million in its settlement balance. The State is using this funding for site operation and maintenance costs.

Senator ALLARD. That's another thing I'll be interested in.

Mr. JOHNSON. Okay. All right.

Senator ALLARD. I think that there—I mean, it's progressing along. My understanding is that now fish are beginning to show up in the river below the Summitville. Somebody reported that to me——

Mr. JOHNSON. Okay. Good.

Senator ALLARD [continuing]. Which is the sign that, you know, we're at least moving through some recovery there.

Mr. JOHNSON. Good.

Senator ALLARD. I realize it's a complicated—it's a serious problem there, complicated, and has some long-term effects that are going to take us a while to work through. I just wanted to make sure that continues to be——

Mr. JOHNSON. Good.

Senator ALLARD [continuing]. An important priority.

Mr. JOHNSON. It is, very much. Senator, I might just add, although not directly applicable in this situation, what we find across the United States is that there are over 500,000 abandoned mines where there aren't responsible parties, there aren't——

Senator ALLARD. Yes.

Mr. JOHNSON [continuing]. Opportunities——

Senator ALLARD. Yeah.

GOOD SAMARITAN PROJECT

Mr. JOHNSON [continuing]. For settlement accounts, and that we have launched a product—or a project administratively with Trout Unlimited, called the Good Samaritan Project, where we have organizations that want to get in and clean up these mine tailing areas, but, for fear of liability, have not——

Senator ALLARD. Yes.

Mr. JOHNSON [continuing]. For many, many years. So, we have——

Senator ALLARD. That's the Good Samaritan Law, which——

Mr. JOHNSON. We're very interested in and we're moving forward administratively, and we'll also be talking with you more about the legislation.

Senator ALLARD. Yeah, well, I think I have some legislation——

Mr. JOHNSON. Yes.

Senator ALLARD [continuing]. On the Good Samaritan Law——

Mr. JOHNSON. Right.

Senator ALLARD [continuing]. That we're working on. We're trying to get it through committee. I think it's something that needs to be dealt with so that individuals can pick up these and—like you say, they would like to clean up the environment, and they're willing to make some personal commitments to do that. So——

Mr. JOHNSON. Yes.

Senator ALLARD [continuing]. We need to give 'em that opportunity without having 'em incur a huge liability that——

Mr. JOHNSON. Right.

Senator ALLARD [continuing]. Was no fault of their own.

Mr. JOHNSON. Exactly.

Senator ALLARD. There's a debate about, "Well, are we letting off the big polluters when we do this?" and all that. But my view is that we'd do more good than harm, and that's—we simply need to do something in that area, and I'm glad to——

Mr. JOHNSON. Yes. Good.

Senator ALLARD [continuing]. Hear you state that.

Mr. JOHNSON. Thank you.

Senator ALLARD. Also, with regard to Summitville, has the Agency considered any alternative treatments for the site? Could you please update me on the status of any alternatives that may be considered?

Mr. JOHNSON. There is technology, from an organization called Arcadius, that we have seen in a pilot phase, which shows some promise. We are encouraging them to submit a more fulsome proposal that moves it beyond the pilot stage. We're encouraged that, at least in a pilot way, it appears to be a workable new technology. We're encouraging them to send us something that expands that.

Senator ALLARD. Okay. Well, if you'd just get back to my office, give us——

Mr. JOHNSON. Okay.

Senator ALLARD [continuing]. Answer some of these——

Mr. JOHNSON. Okay.

Senator ALLARD [continuing]. Questions, we brought up and kind of visit the staff, we'd appreciate that.

Mr. JOHNSON. Sure.

Senator ALLARD. And——

Mr. JOHNSON. It is my pleasure.

Senator ALLARD [continuing]. We want to stay on top of it.

Thank you, Mr. Chairman.

[The information follows:]

SUMMITVILLE MINE SITE, ALTERNATIVE TREATMENTS

EPA Region 8 and State of Colorado staff have met with ARCADIS, an engineering consulting firm, a number of times over the last twelve months, most recently March 6, 2006, to discuss a pilot test to use their cleanup technologies at the Summitville Mine Superfund Site.

On April 21, 2006, ARCADIS submitted a plan to EPA Region 8 and the Colorado Department of Public Health and Environment to perform a pilot test of their proposed technologies. The pilot test would involve the injection of carbon dioxide, a carbon source such as alcohol, as well as other nutrients into the primary mine pool in an attempt to reduce the generation of acid mine drainage and metals loads.

Senator BURNS. Senator Craig?

Senator CRAIG. Mr. Chairman, thank you very much.

Administrator Johnson, welcome before the committee. A couple of questions. Mr. Chairman, I'd ask that my full statement be a part of the record. Thank you.

Senator BURNS. Without objection.

[The statement follows:]

PREPARED STATEMENT OF SENATOR LARRY CRAIG

Administrator Johnson, thank you for coming today. I have several concerns, and I am glad to have this opportunity to share those concerns with you and ask you some questions.

My first concern is the arsenic standard. I, along with many of my Western colleagues, have been concerned for some time about the tremendous burden this standard is putting on small and medium-sized communities. There is not one of these communities that doesn't WANT to be in compliance. The issue is they can't get there. They simply can't afford it. There are approximately 175 communities that probably do not meet the current arsenic standard, which for small communities creates some very large problems. For instance, one rural community in my State of Idaho that was hit hard by the arsenic standard not only passed an expensive bond, but also laid off their only city police officer to try to afford to get into compliance. To me, this poses a greater public safety risk than the naturally occurring arsenic.

I have heard rumblings that EPA may propose new internal regulatory guidance to allow for affordability criteria as it relates to future contaminants. As I understand it, this would give rural communities under 10,000 people an option of how they want to address expensive contaminant issues without economically crippling the community. While arsenic may not be one of the contaminants included in this guidance, we have to work harder to find solutions for these communities. The situation for some of them is getting desperate.

I also have some concerns about pesticide application and EPA discharge permits. As you know, recent court decisions have contradicted long-standing federal policy that the application of agricultural and other pesticides in compliance with labeling requirements do not require National Pollutant Discharge Elimination System (NPDES) permits. This has created ambiguity for pesticide users like farmers, fire fighters, irrigators, and mosquito abatement districts who must have access to the tools necessary to manage pests and maintain public health.

Gem County, Idaho is currently defending itself against a court case alleging that even though they applied a pesticide as directed by the EPA-approved label, the County has to have a NPDES permit. This is a major problem, and one that has the potential to set a wrongful precedent unless the EPA takes more decisive and effective action to protect your own rule.

I believe the EPA-proposed rule you issued in February of 2005 is a step in the right direction, but it is not fully consistent with the Agency's longstanding policy that if you apply a pesticide in accordance with its label, you are not required to have an NPDES permit. Your proposed rule does not protect users from citizen's lawsuits when they are simply performing long-practiced, approved and heavily regulated pest management and public health protection activities. We have an established process that tests chemicals extensively and regulates their use. Requiring NPDES permits for application is redundant, unnecessary, and ill-suited to agriculture. It is an attempt to redefine current law through lawsuits, rather than the legislative process, and we must say enough is enough.

I have co-sponsored legislation, S.1269, with EPW Chairman Inhofe that would provide further clarity by ensuring that NPDES permits would not be required if a pesticide is used to, near or over a waterway in accordance with its labeling and other federal regulations. But this legislation shouldn't even be necessary.

My third concern is regarding air emissions from confined cattle feed operations (CAFOs) and Superfund. You know I have been working to clarify the applicability of the Superfund and EPCRA programs to agriculture, particularly as it relates to livestock operations. To think that a dairy operation or a beef cattle feedlot should

be regulated identically to a weapons dump, an abandoned mining site, or an oil spill is simply ridiculous.

Yet again, we have environmental lawsuits attempting to tell Congress what WE intended to do when passing the Superfund Act in 1980. The EPA is currently implementing the "Air Consent Agreement," where a small sampling of producers have voluntarily agreed to have the EPA gather air emissions data on their farms to more intelligently understand how fugitive air emissions should (or should not be) regulated by the Superfund and EPCRA.

I believe that agriculture was never intended to be regulated just like mines, weapons dumps, etc. And lawsuits like these are really a backdoor attempt to shut down the livestock industry in this country.

I will address these issues further in my questions, and look forward to working with you on these problems. Thank you.

ARSENIC STANDARDS

Senator CRAIG. My first inquiry is about arsenic standards. I've heard rumblings that EPA may propose new internal regulatory guidance to allow for affordable criteria as it relates to future contaminants. As I understand it, this would give rural communities, under 10,000 people, an option of how they would address expensive contaminant issues without economically crippling their communities. In other words, that's the general concept.

In Idaho—and Idaho is not alone in this, because of western geology—the arsenic standard has caused considerable problems in small-to medium-sized communities. There are approximately 175 communities that probably do not meet current arsenic standards, which, for some small communities, creates huge problems. One community, their entire community budget, or city budget, would be committed to that, alone, even though they've been drinking that water for 100 years.

For instance, one of our rural communities is—was hit hard by the arsenic standard, not only passed an expensive bond, but also laid off their entire city police force—or city police officer—no, their only city police officer—I guess that's the way I should word it—which is their entire police force—to try to afford the compliance. To me, this poses, I think, a greater public risk than the issue of arsenic, based on historic records.

If, in fact, EPA is planning on this new regulatory guidance, will arsenic be included as a contaminant under the affordability criteria? And will these communities get a waiver? Or, if arsenic is not, why?

Mr. JOHNSON. Well, Senator, you've asked a number of questions. Let me try to work——

Senator CRAIG. Have at it.

Mr. JOHNSON [continuing]. My way through.

First, the arsenic standard, as you correctly point out, is a new standard, a health protective standard of 10 parts per billion. We are aware that for some of the small and rural communities, there are challenges in meeting that. We've been working to address the challenges by both technology and our research and development. As I mentioned a little while ago, we've evaluated or are now evaluating 14 technologies that deal with arsenic contamination. We're continuing to evaluate new technologies specific to arsenic.

Second is, with regard to waivers or exemptions, the standard is the standard. What we do have under the Safe Drinking Water Act is the authority, working with the State, to extend the compliance

period. Of all the systems that I and Ben Grumbles, the head of our water program, has been working with, the issue is not whether you're going to comply or not, the issue is, how do we get them into compliance, and over what time period? So, our focus has been providing compliance assistance.

BILATERAL COMPLIANCE AGREEMENTS

We've been encouraging an approach called Bilateral Compliance Agreements between the State and the utility to work out the specifics so that the small water systems can get in compliance, but it may take them more time.

With regard to the affordability——

Senator CRAIG. Let's talk——

Mr. JOHNSON. Okay.

Senator CRAIG [continuing]. About compliance.

Mr. JOHNSON. Okay.

Senator CRAIG. In other words, if there is a good-faith effort and clearly a path forward is being demonstrated by the community in relation to the State and EPA, I mean, is that part of all of that picture——

Mr. JOHNSON. That is part of all——

Senator CRAIG [continuing]. Timelines?

Mr. JOHNSON [continuing]. Of that picture, yes, sir. That is part of that picture.

Senator CRAIG. Okay.

Mr. JOHNSON. We've been working, I think, very constructively to try to work through that.

Second, with regard to the affordability guidance the Agency has the methodology that the Agency has used for years to determine whether something is affordable or not? We have recently released draft guidance. That draft guidance is for prospective contaminants, with the exception of, as we note, in the proposed guidance document, that it also applies to the disinfectant byproducts rule that I had signed just a couple of months ago.

Senator CRAIG. But does not include——

Mr. JOHNSON. But——

Senator CRAIG [continuing]. Arsenic.

Mr. JOHNSON. It does not include arsenic.

Senator CRAIG. Okay.

Mr. JOHNSON. That's correct.

Senator CRAIG. Okay. Well, I know you're working at flexibility. That's obviously appreciated. In some instances, I suspect—and I'm glad you're looking out at new technology—there is a rush toward that approach by many in the private sector to see if we can't get technology down to an affordable, workable, sustainable way. You know, there isn't any community out there that doesn't want to comply.

Mr. JOHNSON. Right.

Senator CRAIG. There is the reality of compliance, some of these small communities I've just mentioned. So, you lay off your police force, one or two.

Mr. JOHNSON. Right. Yes.

Senator CRAIG. That community is simply not going to tax itself beyond its capability, especially when it's drinking water it's drunk

for so long and has found no side effects, that they know of, anyway.

Why is the EPA not more actively defending their own rules and authority on the pesticide application and EPA discharge permit issues?

Mr. JOHNSON. Well, I believe that we are. In fact——

Senator CRAIG. So, it's in the eye of the beholder.

Mr. JOHNSON. So—perhaps it's in the eye of the beholder——

Senator CRAIG. Your eye tells me what?

Mr. JOHNSON. Well, my eye tells me that we recognize that this is an issue of uncertainty between the pesticides law, FIFRA, and the Clean Water Act. What we did was issue some guidance to say, if, in fact, a pesticide is used in accordance with its label directions, then an NPDS permit is not required. We are in the process of going through the rulemaking process to make sure that is embodied in regulation.

Senator CRAIG. Okay.

Mr. JOHNSON. We're very active. We have guidance. We're working on the regulation——

Senator CRAIG. Well, we'll stay tuned.

Mr. JOHNSON. So, that's for my eye.

Senator CRAIG. Okay. We'll stay tuned with you. It's an——

Mr. JOHNSON. Okay, good.

Senator CRAIG [continuing]. Important issue to be resolved, and effectively, responsibly—second-guessing doesn't work here very well for any of the parties involved. Trying to understand——

Mr. JOHNSON. Right.

Senator CRAIG [continuing]. Where they need to be.

Last, Mr. Chairman—Administrator Johnson, since I've become engaged in the issue of confined herds, large herd operations, air emissions, and——

Mr. JOHNSON. Yes.

Senator CRAIG [continuing]. Superfund issues, as it relates to large dairies and feed lots, EPA has not been consistent in their position, in my opinion, on this issue. Could you give me the status of the Air Consent Agreement, and talk about what direction you see this going?

COMBINED ANIMAL FEEDING OPERATION

Mr. JOHNSON. Yes, sir. The Combined Animal Feeding Operation, CAFO, as it's known. The issue of air emissions was one that there was great uncertainty in the science. The National Academy of Sciences, in a report, noted that we needed additional science, that there wasn't science to really discern, "Is there a problem? Isn't there a problem? What is there, what isn't there?" Their strong recommendation was that you needed to do research to understand what is going on.

Well, the research that we need is from those CAFOs. So, we entered into consent agreements with a number of operations, now well over 2,000 operations. As part of that agreement, these CAFOs are collecting and monitoring information, per our design, which will then be brought together. In the next year or so, as we gather all that information, then we'll be able to actually assess the science, and then say, "Is there a problem?" If there is, here are

the steps that need to be taken to address it. If there isn't a problem, then so be it. This CAFO agreement is, we believe, a very effective means of gathering the information so that we can base our decisions on sound science.

Senator CRAIG. What kind of timelines do you have as it relates to gathering information and then what might follow from that information?

[The information follows:]

CAFO AGREEMENTS

EPA expects the nationwide AFO air emissions monitoring study to begin later this year and it will last two years. This two-year timeframe is necessary for the scientific purpose of allowing the monitoring study to take into account variable factors such as weather throughout the different seasons and between the different years. Data will start to become available to EPA the first year of the study, and will undergo extensive validation and quality assurance by the Agency. Data will be published on a rolling basis. No later than 18 months following the monitoring study's conclusion, EPA will then publish emission-estimating methodologies, also on a rolling basis.

Mr. JOHNSON. We are continuing to sign up additional farming operations. In fact, the specific number is probably close to 2,700 operations, to date. The monitoring is beginning. I think it's going to take some 9 months to a year to gather the information. Then, once we gather that, it's going to take us some time to assess it.

Senator CRAIG. It's got to run through a——

Mr. JOHNSON. So——

Senator CRAIG [continuing]. Variety of seasonal and——

Mr. JOHNSON. There are seasonal and geographic dimensions. We want to make sure that we do proper peer review. We want to do this in an open and transparent way. A lot of people are very interested in it. I would be happy to get back to the record for you on the specific——

Senator CRAIG. Well, I——

Mr. JOHNSON [continuing]. Schedule.

Senator CRAIG. It is very important to my State, and, frankly, it's very important to the future of American agriculture, that we get this right and we don't make it impossible, at the same time.

Mr. JOHNSON. Right.

Senator CRAIG. You know, large animal operations have impacts, and we all know that. Nobody wants not to do it well.

Mr. JOHNSON. Right.

Senator CRAIG. We simply need the tools to do it with.

Mr. JOHNSON. Right.

Senator CRAIG. Thank you.

Thank you, Mr. Chairman.

Senator BURNS. Senator Dorgan.

Senator DORGAN. Mr. Johnson, thank you. I'm sorry I was delayed at another hearing. But I've looked at your testimony, and appreciate your being here.

CLEAN WATER STATE REVOLVING FUND

Let me ask you, first, about the Clean Water State Revolving Fund. As you know, EPA's Gap Analysis shows that there's about $120 billion gap between what we're currently spending and what we need to spend on the infrastructure. The administration has re-

quested $687 million. That's $700 million below the 2004 level, $400 million beneath the 2005 level, $200 million beneath the 2006 level. Let me ask, if I can, why the 22-percent cut in this account?

Mr. JOHNSON. Senator, you're absolutely correct when you say that the needs are great. The needs assessments are literally in the hundreds of billions of dollars for both clean water as well as the drinking water. The President's budget reflects what the President's commitment was for the Clean Water State Revolving Loan Fund. That commitment was that, over a period of time, the loan fund would revolve at $3.4 billion. The monies that have been requested fulfill that presidential commitment to have the loan fund revolve at that $3.4 billion. But that's only a piece of the pie.

The other piece is that we really need to be working on trying to help water systems, particularly the small water systems. We believe that there are four pillars to that to address that. One is conservation. Another is full-cost pricing; ratepayers have a responsibility, as well. Third is, we need to be looking at this problem not just facility by facility, but by watershed because that's where the contaminants and the issues and the availability all need to be considered. Then, last, the issue of better management is the fourth pillar.

We know of the importance of better management from other systems. The chairman just mentioned some things on water lines of one particular area in California. What we're trying to do is gather those good experiences, these success stories, that could be used by other systems.

The last piece included in the President's budget is $7 million for innovative technologies. We know that the need is great. We're seeing innovative technologies that could address some of the issues. So, for example, rather than replacing a pipe, having to dig up the pipe, we're seeing some liner technology that might be a more cost-effective and better option for dealing with some of the issues. So——

Senator DORGAN. Mr. Johnson, what was the recommendation from your agency with respect to this year's budget, as you sent it up the line? Can you tell me that, for this account?

Mr. JOHNSON. I don't——

Senator DORGAN. Did your agency——

Mr. JOHNSON. I don't——

Senator DORGAN [continuing]. Recommend——

Mr. JOHNSON. I don't——

Senator DORGAN [continuing]. A 22-percent cut?

Mr. JOHNSON. I don't remember what the discussions were within the administration. My goal was to make sure that we honored the President's commitment. This budget reflects that.

Senator DORGAN. All of the—most of the pillars he described, however, are made more difficult by these budget cuts, I would expect. I mean, we—your own gap analysis would suggest that your budget should reflect the ability to respond to that. But I under—it's really not your budget. I was trying to see if I could figure out what you had requested, but I understand it's OMB and now the President's budget. You're duty bound to come here and put on a suit and be aggressively supportive of it. And I respect that view.

CENTER FOR AIR TOXIC METALS

Let me just say, the President's budget zeros out $33 million that Congress provided through the Science and Technology account for specific research projects. Two million dollars of that went to the Center for Air Toxic Metals at the University of North Dakota. That goes back to 1992. The center is to develop information on trace elements and—so that pollution prevention strategies could be developed and implemented and so on. There's no discussion anywhere in this budget about why the administration chose to zero out that $33 million of research projects. There's no information about the specific projects that were funded previously and would now be defunded. Can you tell me what the——

Mr. JOHNSON. Well, I'd have to look at the $33 million. The specific project referred to is, as are a number of projects, congressional special projects, called earmarks. The administration doesn't carry over those earmarks as part of the next budget. In fact, as you know, I've been at EPA 25 years, and no administration carries over those earmarks. So——

Senator DORGAN. I understand that, but normally——

Mr. JOHNSON [continuing]. But on the specific one—I'm not sure about the $33 million. I'd be happy to get back to you, for the record.

Senator DORGAN. Yeah. I mean, that's the Science and Technology account. In fact, this particular center, the Center for Air Toxic Metals, was actually created by the EPA. So—at any rate, if you would get back to me on that, I'd appreciate it.

Mr. JOHNSON. I'd be happy to.

[The information follows:]

The Center for Air Toxic Metals (CATM) at the Energy and Environment Research Center (EERC) of the University of North Dakota (UND) was established in 1992 to perform research on toxic trace element emissions. EPA will support the center in 2006 through a $2 million congressional add-on to the President's fiscal year 2006 budget request—part of a larger set of 37 congressional additions totaling $33,275,000 for EPA's science and technology account. EPA expects fiscal year 2006 funding for CATM will support research and development concerning mercury's transformation in coal-combustion flue gases; sampling and analytical methods; control technologies; and mercury's interaction with selenium. Consistent with Agency policy and prior president budget requests, the fiscal year 2007 budget does not include funding for congressional add-ons provided in previous fiscal years.

PESTICIDE HARMONIZATION

Senator DORGAN. Pesticide harmonization under NAFTA, we passed NAFTA—of course, I didn't support it—but on the floor of the Senate and during debate, the contention was, we're going to harmonize pesticides between the two countries. We just had a study by North Dakota State University that shows that if North Dakota consumers—I should say farm producers—paid the same price as the Canadian producers just across the border, for virtually identical chemicals, they'd pay $41 million less. They expect, and I would have expected, that we would have harmonized, because that's what NAFTA promised. And yet, there's been almost no effort at all to harmonize these chemicals so that you could do joint labels and farmers across the border could essentially buy the chemicals and bring them back if they're the identical chemical, or virtually identical.

So, tell me, where are we on the harmonization?

Mr. JOHNSON. That is an issue that you and I have been talking about for some time. I am pleased to report that, on the harmonization front, that we have made great strides. We do not control, and have no authority to control, prices, and our focus is on human health and environmental assessment, and making sure that the products that end up on the market comply with those health and environmental protective statutes.

What we have done as part of the NAFTA agreement is work on pesticide harmonization. In fact, we have now, between Canada and the United States, jointly registered 20 new active ingredients. We have been working cooperatively with our Canadian counterparts in trying to sort through all the data requirements, making sure that they are not only consistent, but to do everything we could to have joint registrations. As I said, I'm pleased to report that we have actually jointly registered 20 new active ingredients.

Senator DORGAN. I'm aware of——

Mr. JOHNSON. Clearly, there are opportunities to do more, more work to support harmonization.

Senator DORGAN. Can you give me a timeline with respect to your agency's work on this, so we can expect a time when the requirements of NAFTA will be met, generally? If you would give me a report on that.

Mr. JOHNSON. I will.

[The information follows:]

PESTICIDE HARMONIZATION

While EPA's existing programs are fully consistent with our obligations under the NAFTA, we are continuing to work toward the NAFTA goal of harmonization of regulatory standards whenever possible, without lowering the level of health and environmental protection afforded under U.S. laws. We meet formally with our NAFTA counterparts at least two times a year (the next meeting is set for May 24, 2006) and maintain frequent contacts with our Pest Management Regulatory Agency (PMRA) colleagues. The EPA does not have authority over pesticide pricing, but we are continuing to work with state officials, stakeholders, and our international trading partners to explore remedies under existing authorities and through cooperative approaches. EPA has been working to break down trade barriers and promote a level playing field through our harmonization efforts under the NAFTA Technical Working Group on Pesticides (TWG). Under the TWG, the United States and Canada have established a successful Joint Review Program to share the work of evaluating pesticides being marketed in both countries. To date, over 20 new pesticide products have been simultaneously registered under the Joint Review program. While the United States and Canada have been open to NAFTA labels, and actively encouraged pesticide producers to submit candidates, agricultural pesticide producers have been reluctant to apply for NAFTA labels. We have put the structure in place but in order for the process to work, pesticide producers will need to participate. EPA, Canada, and Mexico have initiated a stakeholder process involving representatives from government, industry, and growers, to explore solutions related to pesticide joint labeling as a way of addressing price disparity. EPA and its Canadian counterpart agency plan to hold a meeting with these stakeholders later this year. EPA remains committed to providing growers access to pesticide products and continuing our pesticide harmonization efforts with Canada and other international partners which have already led to more consistent regulatory and scientific requirements, risk assessment procedures, and improved regulatory decision-making. EPA will also continue to provide technical assistance to support Congress, as necessary.

RED RIVER

Senator DORGAN. One other question. Today's not a good day to raise this, because the Red River is running north, and it's flooding

the entire Red River Valley, and we're trying to run it through three communities, with dikes. It's the third highest flood in the history of the Red, so it's not a good time for me to raise questions about the need to replenish the water system of the Red River.

But, as you know, the Red River does run dry. When the Red River dries up, as it has done in the past, it'll destroy the economies of Fargo and Grand Forks and so on. So, we've had this work going on, under the Dakota Water Resources Act, that would evaluate the ability to have an assured supply of water for the Red River Valley. The Bureau of Reclamation has been doing its studies. It is now almost done. It'll be done this December, 4 years behind the date in which it was supposed to have been done, but, nonetheless, you know, 4 years later, it'll be done. Now they're indicating that this is the Draft Environmental Impact Statement for the Bureau of Studies. EPA plays a part in that. The comment period was now extended by the Bureau, after consultation with the EPA. The EPA was not yet ready to sign off on the project, and asked for an extension because you want to compile a record.

I can well understand wanting to compile a record, but I want you to understand, the Bureau has fallen behind 4 years. Our hope would be that we—you know, with 4 years' delay, we could certainly have a record out there someplace that somebody could glean and use and begin to digest. I hope that, if you have some issues, that you will understand the urgency that we have, and that, because it's 4 years delayed, you'll work with us and with the Bureau to try to move expeditiously on this.

Mr. JOHNSON. You have my commitment.

Senator DORGAN. All right. Again, I say, it's not a great time to raise the question of needing water in the river, because we've got way too much at the moment. We're trying to send it to Winnipeg, to get it through our cities, so that Winnipeg gets all of it.

But, at any rate, let me thank you for your work.

CLEAN WATER STATE REVOLVING FUND

Senator DORGAN. But, you know, I'm concerned about the 22-percent cut in the Clean Water State Revolving Fund. I don't think that helps our communities. I think that hurts us as we're trying to address these issues. I recognize, as I said before, you come here supporting a budget that may or may not be your recommendations, but, nonetheless, you're part of the team, and you've got to support this. I happen to think that it's going to shortchange the communities. It's not going to address the gap that we know exists, of 120 billion. It's going to leave us farther back than we should have been. But, you know, we've got serious—we've kind of driven in a ditch in fiscal policy here, for a lot of reasons, and we've got serious problems, so I'm not particularly surprised by all these recommendations, but I think the recommendations hurt, rather than help.

Senator BURNS. We always have a good, friendly competition between North Dakota and Montana. We can never figure out how the North Dakotans can flood out and burn out in the same day.

That was a pretty good trick you pulled that time, you know. It really was.

I've got a couple of questions left, also, Mr. Johnson. The Libby asbestos site, as I mentioned in my opening statement, could you please give us a status report on the Record of Decision, if we could get that done by May the 1st, if we can. I think we should talk about that.

LIBBY SITE RECORD OF DECISION

Mr. JOHNSON. Well, yes, sir. On the Libby site, we appreciate all the work and your assistance and leadership in this area. We've actually cleaned up 595 properties. This year our plan is to clean up an additional 200. We have, in the Libby area, about 1,300 properties, and then, in the Troy area, probably 200 to 300. We have been working on a number of issues, and trying to work through the Libby, as well as the Record of Decision. I would love to have a few moments to talk to you about our status on the Record of Decision. We're going to be a little bit late on that date, but we're working on it.

Senator BURNS. We would——

Mr. JOHNSON. I——

Senator BURNS. We would like to have a visit, if we possibly could——

Mr. JOHNSON. Okay.

Senator BURNS [continuing]. Because folks up there are very nervous about that.

We've already talked about feed lots and confined feeding. Eighty million dollars was rescinded from the Agency's budget in fiscal year 2006 in order—in an effort to offset the need for new appropriations. Give us an update on the Agency's progress of identifying that $80 million, expired grants, contracts, and agreements.

Mr. JOHNSON. We've made very good progress. The GAO was technically correct, and we have gone back and looked at, and continue to evaluate, our contracts and grants. I expect that within the next few weeks, that we'll actually have what our plan is. It has taken a lot of very extensive work to go back and look through each of these agreements, both from a legal and from a financial standpoint. And so, as I said, we'll have our roadmap in the next few weeks, and then we'll meet our obligation. Obviously, we can't do the necessary steps on these contracts and grants until the September timeframe, but we're on target, and look forward to sharing that with you.

Senator BURNS. You might bring us up to date on your Diesel Emission Reduction Program. Give me a thumbnail report on that.

DIESEL EMISSIONS REDUCTION PROGRAM

Mr. JOHNSON. Yes, sir. It's an exciting program. We've made great strides. In the President's budget, there is $49.5 million requested. Based on our experience to date, from funds that have been used to both replace engines and to retrofit engines, we expect to leverage not only that $50 million of Federal taxpayer dollars, but another $100 million, to get $150 million invested in diesel emission reductions. What that equates to, in terms of environmental benefit, is about 7,000 tons of reduction of particulate matter. If you want to look at that in terms of health benefits, that's

about $2 billion in health benefits. So, it's a wise investment, both from an environmental standpoint, and certainly from a public——

Senator BURNS. Tell me about——

Mr. JOHNSON [continuing]. Health standpoint.

Senator BURNS. Have you done any work on any—any research on the use of turbochargers on diesel engines? They tell me—there's some work being done, and I'm wondering if you have monitored any of that work or——

Mr. JOHNSON. Personally, I'm not aware of any——

Senator BURNS. Okay.

Mr. JOHNSON [continuing]. But I'd be happy to check——

Senator BURNS. Okay.

Mr. JOHNSON [continuing]. With our engineers.

[The information follows:]

USE OF TURBOCHARGERS ON DIESEL ENGINES

The EPA's Clean Diesel Combustion ("CDC") technology provides a lower-cost approach for making fuel-efficient diesel engines clean. EPA's CDC strategy, controlling the diesel engine's NO_X emissions to EPA's Tier 2 levels without NO_X aftertreatment, increases the turbocharger's performance requirements to levels which are beyond levels required in the market place today.

On April 18, 2006, EPA Administrator Steve Johnson joined BorgWarner, Inc's Chairman and CEO Tim Manganello to celebrate a joint Government-Industry collaboration in this area of turbocharger technology. Through this collaboration, EPA invented turbocharger technologies are being evaluated and commercialized by BorgWarner (U.S. based corporation, with turbocharger manufacturing in Asheville, NC).

Under the partnership, EPA is providing prototype turbochargers and proprietary insight to improve turbocharger efficiency at low temperature. BorgWarner has supplied modified production hardware to accelerate the commercialization and technology transfer process, as well as to support EPA's CDC industry partnerships with Ford and International Truck to continue their commercialization evaluations of CDC. A fact sheet and Press Releases from BorgWarner and EPA are also attached.

This EPA-Industry partnership in the area of diesel engine combustion and turbochargers is one of several focused on enabling near-term energy conservation through the use of clean automotive technologies. EPA's innovative program has 35 engine and hybrid drivetrain related patents with 20 more underway.

CLEAN AUTOMOTIVE TECHNOLOGY—INNOVATION THAT WORKS

EPA AND BORGWARNER TO DEVELOP FUEL EFFICIENT TECHNOLOGY

A new technology partnership known as a Cooperative Research and Development Agreement (CRADA) between the U.S. Environmental Protection Agency (EPA) and BorgWarner, Inc. was announced on April 18, 2006. The partnership will evaluate and determine the commercial viability of newly advanced turbochargers, air management, and sensors for use with diesel and high-efficiency gasoline engines.

The initial efforts of the CRADA calls for EPA and BorgWarner to evaluate the technical and market potential of advanced turbocharger technologies designed to preserve and extend the diesel engine's efficiency, as these engines achieve the next generation of diesel emissions requirements.

The technical challenge has been to make these high-efficiency engines clean and cost-effective, while maintaining or improving efficiency. These advanced turbocharging technologies are an extremely attractive part of a suite of technologies that enable both diesel and high-efficiency gasoline engines to reduce U.S. dependence on foreign oil and to reduce emission of greenhouse gases.

Through the partnership, EPA and BorgWarner will evaluate these advanced automotive components that can allow the automotive and trucking industry to utilize EPA's Clean Diesel Combustion (CDC), as well as Homogeneous Charge-Compression Ignition (HCCI) gasoline combustion technologies.

Broad industry interest in EPA's Clean Diesel Combustion has accelerated the need for more advanced air-boosting systems than are used in today's diesel.

In order to meet the progressive requirements for advanced turbocharging and boosting systems, BorgWarner and EPA have been working jointly on innovative systems for use with CDC and other clean combustion engine technologies.

These advanced air management systems provide the technical approaches and hardware necessary for ultra-clean diesel engines and gasoline engines to become as efficient as diesel engines.

The advanced enabling technologies, along with CDC and other clean high-efficiency gasoline combustion technologies are being created in EPA's Ann Arbor Laboratory. BorgWarner and EPA will work to quickly evaluate and develop these concepts into commercially viable advanced turbocharger, air management, and sensor hardware.

Successful commercialization of these advanced components will result in the use of more diesel and high-efficiency gasoline vehicles in the United States—which will:

—Reduce emissions . . . thereby helping to clean up the environment
—Save consumers money at the pump . . . by reducing fuel consumption
—Reduce U.S. dependence on Middle East . . . increasing national security
—Reduce record U.S. trade deficit . . . keeps money in United States—grows economy

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PARTNERSHIP GEARED TOWARD NEW TECHNOLOGIES TO REDUCE FUEL CONSUMPTION

Cleaner engines mean cleaner air thanks to a partnership to develop advanced automotive components for cleaner, more fuel efficient engines and vehicles. The U.S. Environmental Protection Agency and BorgWarner will examine the commercial viability of newly advanced turbochargers, air management, and electronic sensors for use with clean diesel and high efficiency gasoline engines. Commercialization of these technologies will result in lower emissions and reduced fuel consumption, which in turn saves Americans money at the pump, improves environmental protection and lessens dependence on foreign oil.

"By advancing the technologies that are good for the environment, good for our economy, and good for our energy security, together with BorgWarner, EPA is meeting the president's call to get our nation off the treadmill of foreign oil dependency," said EPA Administrator Stephen L. Johnson. "For the past century, diesel engines have been America's economic workhorse—reliable, fuel efficient, and long lasting. Through innovations in technology, this economic workhorse is expanding into an environmental workhorse."

Diesel powered passenger vehicles have significantly better fuel economy than their gasoline powered counterparts. Through the partnership, BorgWarner will build and evaluate unique turbochargers that will help maintain fuel economy in clean diesel combustion systems. The company also will develop air management and combustion sensor technologies. Partnering with BorgWarner allows this "made in the USA" technology to also support manufacturing jobs in the United States through their turbocharger manufacturing and engineering facilities in Asheville, NC.

The EPA—BorgWarner partnership was established through a Cooperative Research and Development Agreement, which is a tool Congress established to facilitate technology transfer from National Laboratories to industry and the marketplace.

More information about the partnership and clean fuel efficient technology: epa.gov/otaq/technology

DIESEL HYBRID TECHNOLOGY

Mr. JOHNSON. We've done some very interesting work on diesel hybrid technology that uses hydraulic hybrid systems. So, instead of using a battery to store the energy that comes from braking, EPA's unique patented hybrid system stores the energy in a hydraulic system. In fact, we have a partnership with UPS where we are demonstrating this technology in their delivery trucks. You're going to begin seeing some trucks actually being used to deliver packages which have diesel hybrid hydraulic technology. The fuel savings for the hydraulic hybrid trucks is significant. So, we're very excited about the work that we've been doing with the Department

of Energy, the hydraulic industry, and some of the engine manufacturers, to advance these kind of technologies.

Senator BURNS. Good.

Senator Domenici, thank you for coming this morning.

Senator DOMENICI. Who owns that patent? Whose patent is that?

Mr. JOHNSON. It's actually an EPA patent.

Senator DOMENICI. Terrific.

Mr. JOHNSON. Researchers from our Ann Arbor, Michigan, laboratory are the ones that——

Senator DOMENICI. Terrific.

Mr. JOHNSON [continuing]. Have the patent.

Senator DOMENICI. Are they out there trying to get it into the market and—

Mr. JOHNSON. Yes. It is actually a joint partnership effort with a number of auto and truck manufacturers. UPS is going to be the first one in the market with this technology.

Senator DOMENICI. Now, how do you come about that? Do you have a laboratory that does that work?

Mr. JOHNSON. Yes, we have a laboratory in Ann Arbor, Michigan, that invented the technology and is part of the technology transfer partnerships helping to move this technology to the market. This is the same laboratory that deals with, you know, the window stickers that everybody sees on the windows of new cars.

Senator DOMENICI. Yeah.

Mr. JOHNSON. This is the laboratory that actually does the emissions and fuel economy testing of new cars to validate and verify testing that is done by the automobile manufacturers, so that the consumers can know the fuel economy of new vehicles. The engineers in this laboratory did the research and development of the unique hydraulic hybrid technology.

Senator DOMENICI. Interesting.

Mr. JOHNSON. Now we have 35 patents granted and 20 underway covering engine and hybrid technologies.

Senator DOMENICI. Mr. Chairman, I have a lot of issues in this appropriations, but I'm only going to deal with a very small one that has been befuddling New Mexicans for a long time.

I'm so grateful to you, Mr. Johnson, for helping us on arsenic in the small communities. We still are—still can't get it worked out with the State of New Mexico. I don't like to get you in the middle with the environmental people in the State, but I have no alternative. I—you have a different approach than they do, and I just must continue to push hard as to why they can't see fit to do what you think is possible to help the small users, those small arsenic-laden water systems.

ARSENIC STANDARD

First, we want to thank you for the help—you've detailed responses to my questions—and your willingness to come and personally meet with me and others, and a number of Senators. You did that for us. You asked—I asked that the State use the minimum documentation necessary to meet your guidance on exemption applications—you're aware of that—to implement existing State policy and the EPA guidance so that communities can receive exemptions from economic hardships, which are—is in quotes—that's

works of art—and adjust for New Mexico's relatively low median household income, and use alternative approaches to issuing formal exemptions in order to use the full flexibility provided by the EPA to buffer—excuse me—to offer bilateral agreements for time extensions for the individual water systems that meet general financial or concentration criteria. Do you believe that these suggestions are permissible under existing regulations? And, if so, do you think it justifiable for a State to permit these to be used by the water systems in the State?

Mr. JOHNSON. Well, Senator, you raise a very important issue with regard to the revised arsenic standard. We are very supportive of these bilateral compliance agreements between the State and the individual utilities. We see that as an effective mechanism to provide the necessary window of time so that an individual utility can come into compliance with the 10-parts-per-billion arsenic standard. In all the discussions that I've had, it's not been whether they will or will not. Everyone wants to come in compliance with that. It's, How do we do that, and do we have sufficient time to do that? What we've been doing, and, certainly, as an agency, focusing on compliance assistance. How can we assist the communities? As I said, the bilateral compliance agreement is, we believe, an effective mechanism to be able to do that.

In addition, as I believe I mentioned earlier, we have been actively continuing to research new technologies that help——

Senator DOMENICI. Yes.

Mr. JOHNSON [continuing]. That particularly—help all communities, but particularly help small communities.

Senator DOMENICI. But we're not there yet.

Mr. JOHNSON. Right.

Senator DOMENICI [continuing]. Some of them aren't right behind the eight ball.

Mr. JOHNSON. Well, we're——

Senator DOMENICI. We're almost there, but the State is saying, "Do it," and you're on the outside, saying, "Maybe you can get extensions, and here are some ways to do it," if I——

Mr. JOHNSON. And——

Senator DOMENICI [continuing]. If I read it right.

Mr. JOHNSON. We're committed to work with our State partners to help provide whatever we can do. The flexibility is given. As you appropriately point out, there are flexibilities within the statute so that—again, they need to meet the standard, but flexibilities in time, so that they have an opportunity to meet it.

Senator DOMENICI. Now, you're going to continue to expeditious and fair reevaluation, as I understand it, and, if appropriate, repromulgation of arsenic standards, in light of the new scientific—any new scientific data, as—that would indicate that the science relating to arsenic might be changed. You're still working in that arena. It's a—day-by-day, scientists are still working at that. Is that correct?

Mr. JOHNSON. Well, it's true. It's true for a number of chemicals. As an agency, we always need to be open to what the new science tells us. Whether it's arsenic or some other contaminant of concern, we have to be open to that. So, both for arsenic, as well as a num-

ber of other compounds, as the science continues to evolve, as additional research, then we, as an agency, need to be open.

INTEGRATED RISK INFORMATION SYSTEM

We do have, as part of the President's budget, a $9 million request to support IRIS, which is our Integrated Risk Information System, which is the principal system and the support of the scientists, to make sure that we're keeping up with the evolving science for contaminants.

So, yes, sir.

Senator DOMENICI. What is that called?

Mr. JOHNSON. The Integrated Risk Information System, also called IRIS——

Senator DOMENICI. IRIS.

Mr. JOHNSON.—I-R-I-S.

Senator DOMENICI. Okay.

Mr. JOHNSON. Thank you.

Senator DOMENICI. You're part of that team. You have $9 million to spend in that activity?

Mr. JOHNSON. That's correct.

Senator DOMENICI. I want to thank you, personally, for what you do in your job. You don't get—people don't know what kind of job you have. I knew your predecessor very well, Paul Gilman. He's—he was—worked for me for a long time. I guess you know that.

Mr. JOHNSON. Yes. Well, thank you, sir.

Senator DOMENICI. Thank you.

ARSENIC STANDARD

Thank you, Mr. Chairman.

Senator BURNS. Yes, sir.

Senator Allard?

Senator ALLARD. Well, I—you're going to get a little bit on arsenic from me, too.

I mean, all——

Senator BURNS. We've all got it out there.

Senator ALLARD [continuing]. We all have this arsenic concern. What is the—strictly from a health risk standpoint—I'm not talking about what's in the law, but I'm talking about from a health risk standpoint, what is generally the level that is acceptable?

Mr. JOHNSON. Well, the maximum——

Senator ALLARD. It's somewhat higher than what we have in law.

Mr. JOHNSON. Well, the maximum contaminant level, set at 10-parts-per-billion, is health protective. I know that the National Academy of Sciences and a variety of other people have opined on that particular issue. It's not one on which I am particularly an expert, myself. Let me—I'll turn to Ben Grumbles or—do you have any additional information? Ben Grumbles is the head of our Water Program, our Assistant Administrator for Water, Senator.

Senator ALLARD. Thank you.

Mr. GRUMBLES. Senator, I don't have the specifics on the science, but, based on the National Academy of Sciences report, when the Agency went through the rulemaking process to set the MCL and to move from the 50-parts-per-billion, which had been the previous standard, down to the 10-parts-per-billion, that, based on the

science in that report, the Agency went through a process where the standard would have been even more stringent than the 10-parts-per-billion. It was somewhere in the 5- to 8-parts-per-billion. The administrator used the flexibility—the new flexibility provided in the Safe Drinking Water Act amendments of 1996, taking costs into account, and feasibility, and ended up with the 10-parts-per-billion standard, which is the current standard. So——

Senator ALLARD. Set by, basically, the Congress—isn't that correct?

Mr. GRUMBLES. Well, the——

Senator ALLARD. Isn't that set in——

Mr. GRUMBLES [continuing]. The Congress didn't specify the 10-parts-per-billion, but the Congress provided for a process to go through for setting a standard, and the Congress did direct that the Agency set a standard.

Senator ALLARD. Well, you know, I was always under the understanding that that 10-parts-per-billion was a much lower level than what historically has been accepted as a level where you would impact a life-threatening situation, as far as the human population is concerned. Now, there's—if you talk about arsenic levels, and you want to talk about other parts of the environment—you know, fish or birds or something—they might be much more sensitive to levels. But I was trying to get out of you about where the human risk level would be, where we have the increased. I have always been under the assumption it was higher. Now, I was formerly a health officer, and we had a higher level than that, that we considered before you actually concerned about just health risk. That's the figure I was trying to get on the record here. I thought it was somewhere around 50-parts-per-billion, which you threw out, which was our original standard that we had there.

Mr. GRUMBLES. That's correct.

Senator ALLARD. I guess if we're trying to protect birds, which tend to be very sensitive to these kind of things, and fish and all this, then that—maybe we have to go down to 10-parts-per-billion. I mean, the struggle that we're going with is, I have communities in my State, too, that have actually—they're not as low as the 10-parts-per-billion, but they're—it's not at a level that creates a health problem for the human population in that community. It seems to me—and Senator Craig also alluded to this, that people in my community have been drinking this water for decades and not had a problem, and all of a sudden they're faced with this challenge. It seems to me, in setting priorities, we look at the health risk. Right now the standard is so tight that this is a naturally occurring level in these communities, in that river that they get their water out of, is higher than 10-parts-per-billion, and you're asking that small community to clean up that river, and they didn't cause the problem. It was there by nature. Nature put it there.

It seems to me that if we're going to be providing an exemption, and they are a struggling community that doesn't have a lot of money, it seems to me that there's—you can provide them some economic relief and not create a problem for them economically. If that level is higher than 10-parts-per-billion, and it's been there for hundreds of years, there's probably not many birds or fish that are surviving in that area right now, anyhow, because they haven't—

they wouldn't be able to, if that's affecting them, at this particular point.

Now, those communities where arsenic is added in, because of manufacturing operations or—that's a different story. But so many of us are at the top of the heap, from Montana and Colorado and Idaho. That's just a naturally occurring product—chemical that you find in drinking water. It's been there for hundreds of years. Now these communities are expected—and it seems to me that—and I guess my question is, Do we have the—do you have the flexibility to look at that, in a small community that's struggling, and not having any health effects to the human population, saying, "Well, you know, this is a community that we can—we don't have to press them so hard to get it done, until we get our technology developed?"

Mr. GRUMBLES. Senator, a couple of things. When the 10-parts-per-billion number was established, a definite factor involved in that was the threat to public health. Now, as the administrator said, we need to continue to review the science behind all our regulations. The Water Office doesn't—it's not currently on our agenda to revise—to go through a process to revise that 10-parts-per-billion standard, but what is extremely important is to continue to gather the science, and to use the 6-year review process, under the Safe Drinking Water Act, for regulations that have been promulgated, to ensure we revisit, over time.

On the extensions part——

Senator ALLARD. Let me—if it is a threat to human health, why do you let 'em drink it?

Mr. GRUMBLES. If it is—I'm sorry—if it——

Senator ALLARD. You said the 10-parts-per-billion was a threat to human health. So, why do you let 'em drink it?

Mr. GRUMBLES. Well, it's a factor. It's one of the factors that's involved in the risk, in the health assessment.

Senator ALLARD. I——

Mr. GRUMBLES. Right.

Senator ALLARD. The point is, though, is that 10-parts-per-billion, on and by itself, it might be——

Mr. GRUMBLES. Right.

Senator ALLARD [continuing]. A factor in accumulating—a number of accumulating factors. But, you know, if this is such a public health problem, you shouldn't let 'em ever drink the water, even now. You shouldn't ever let 'em drink the water. But the point is, is that this has been there for hundreds of years. These communities have been suffering—they've been dealing with this. There hasn't been an unusual death rate in these communities. It seems to me, in trying to provide—you know, you can give these communities a little relief, economically, and—it seems to me like you can have the science to support that, at least historically, and not have to force this economic burden on 'em until we get some technology that's developed that can actually work on it. It seems to me there's some common sense that we're missing here.

Mr. GRUMBLES. Your points are well taken. That's one of the reasons why the administrator has ensured that our office maximize the flexibility that's provided. The statute calls them "exemptions." It's really extensions of time to reflect the priorities and the econo-

mies of scale. That's why we point to the fact that small communities can have up to 9 years to comply with that standard as we develop more effective technologies, and funds are available under the Drinking Water State Revolving Fund and other mechanisms to make it affordable, over time.

Senator ALLARD. Well, in my State, these small communities may not be increasing in population. Now, they may be, and may be in a better financial position in—9 years from now, but I don't see their economic situation improving, frankly. Do you, Mr. Chairman? I don't—you know, they're struggling. In some cases, they're actually losing population. Being able to deal with—and I don't see the cost of developing this technology really coming down, unless you really mass produce it.

It just seems to me that we're really getting ourselves into kind of a—an area that we're just going to say to these people, "Well, you know, your community's going to die, and the river arsenic level's going to stay the same, because the community won't be there to treat the water." And it seems to me we've lost focus on some common sense here, somehow or the other. I'd just encourage you, if you have the latitude there in the law, to give this some serious thought.

Thank you, Mr. Chairman.

Senator BURNS. Thank you, Senator Allard.

Well, I thank you, Mr. Director, for coming down this morning. I have no more questions, although there will be some, and then we'll have our visit, and then we'll meet—somewhere, we'll meet and iron all of our difficulties out. There's not that many of 'em. I will—I want to congratulate you. You've done a good job down there, and under very difficult conditions and circumstances, because I know what your job would be, and I don't think I could keep all those balls in the air if I were trying to do it.

CONCLUSION OF HEARINGS

Thank you all very much. The subcommittee will stand in recess subject to the call of the Chair.

[Whereupon, at 10:37 a.m., Thursday, April 6, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]