AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. HRG. 112–964

ENVIRONMENTAL PROTECTION AGENCY FISCAL YEAR 2013 BUDGET HEARING

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

MARCH 22, 2012

Printed for the use of the Committee on Environment and Public Works

Available via the World Wide Web: http://www.fdsys.gov

U.S. GOVERNMENT PUBLISHING OFFICE

25–024 PDF WASHINGTON : 2017

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ONE HUNDRED TWELFTH CONGRESS
SECOND SESSION

BARBARA BOXER, California, *Chairman*

MAX BAUCUS, Montana
THOMAS R. CARPER, Delaware
FRANK R. LAUTENBERG, New Jersey
BENJAMIN L. CARDIN, Maryland
BERNARD SANDERS, Vermont
SHELDON WHITEHOUSE, Rhode Island
TOM UDALL, New Mexico
JEFF MERKLEY, Oregon
KIRSTEN GILLIBRAND, New York

JAMES M. INHOFE, Oklahoma
DAVID VITTER, Louisiana
JOHN BARRASSO, Wyoming
JEFF SESSIONS, Alabama
MIKE CRAPO, Idaho
LAMAR ALEXANDER, Tennessee
MIKE JOHANNS, Nebraska
JOHN BOOZMAN, Arkansas

BETTINA POIRIER, *Majority Staff Director*
RUTH VAN MARK, *Minority Staff Director*

C O N T E N T S

Page

MARCH 22, 2012

OPENING STATEMENTS

Boxer, Hon. Barbara, U.S. Senator from the State of California 1
Inhofe, Hon. James M., U.S. Senator from the State of Oklahoma 3
Lautenberg, Hon. Frank R., U.S. Senator from the State of New Jersey 7
Sessions, Hon. Jeff, U.S. Senator from the State of Alabama 8
Whitehouse, Hon. Sheldon, U.S. Senator from the State of Rhode Island 10
Barrasso, Hon. John, U.S. Senator from the State of Wyoming 11
Udall, Hon. Tom, U.S. Senator from the State of New Mexico 13
Carper, Hon. Thomas R., U.S. Senator from the State of Delaware, prepared statement 35
Vitter, Hon. David, U.S. Senator from the State of Louisiana, prepared statement 35

WITNESS

Jackson, Hon. Lisa, Administrator, U.S. Environmental Protection Agency 17
Prepared statement 19

ADDITIONAL MATERIAL

Those sand castles could hold hidden health hazard, Providence Journal, August 18, 2009 37
R.I. Waters are No Day at the Beach, ecoRI News, July 24, 2011 40

ENVIRONMENTAL PROTECTION AGENCY FISCAL YEAR 2013 BUDGET HEARING

THURSDAY, MARCH 22, 2012

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

The full Committee met, pursuant to notice, at 10 a.m. in room 406, Dirksen Senate Office Building, Hon. Barbara Boxer (Chairman of the full Committee) presiding.

Present: Senators Boxer, Inhofe, Lautenberg, Whitehouse, Udall, Barrasso, and Sessions.

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

Senator BOXER. Good morning. I would like to begin by welcoming Administrator Jackson to this oversight hearing on the 2013 budget for the EPA.

EPA is charged with implementing critical public health and environmental protections including programs that address clean air, children's health, safe drinking water, and water quality in America's lakes and rivers. EPA's mission is to protect the public health including children and families. The agency was established with bipartisan support and has demonstrated repeated success in improving our families' health and keeping the Nation's water clean and safe.

The President's budget makes tough choices, some of which I do not agree with. But I believe overall it maintains a strong commitment to EPA's mission. For example, the President's budget would make investments in enforcing our Nation's public health laws, including assisting in State and local efforts to reduce dangerous air pollution. The budget also maintains a strong commitment to protecting children by requesting an increase in funding for the Office of Children's Health, something that is extremely near and dear to my heart.

The budget proposes reductions in the Clean Water and Safe Drinking Water Revolving Loan Funds. In recent years, Congress and the Administration have supported significant investments in clean water and drinking water infrastructure, and I do not believe we can stop now. Recent studies highlight the need to maintain robust funding for these infrastructure programs. The American Waterworks Association estimates that drinking water systems will require at least a billion—excuse me—a trillion dollars over the near 25 years, and the American Society of Civil Engineers antici-

pates a water and wastewater infrastructure funding gap of $126 billion by 2020.

I am also very concerned about a proposal to phase out EPA's Beach Protection Program. This small be important investment helps States to monitor water quality of public beaches and protects the public from sickness caused by water pollution.

The budget asks to eliminate $8 million for State and tribal programs that reduce health threats caused by radon, as well as to end funding for EPA's regional work to reduce the risk of radon exposure. According to EPA, this radioactive gas is the Nation's second leading cause of lung cancer, and I am concerned about these budget cuts given the continuing need to address the serious health threats posed by radon.

As we examine EPA's budget, we must keep in mind the positive impact of EPA's work for our economy and public health. As I often say, if you cannot breathe, you cannot work. The economic benefits of EPA's work are clear. The Clean Air Act provides $30 in benefits for every $1 invested, and it was responsible for preventing 160,000 case of premature mortality, 130,000 heart attacks, 13 million lost work days, and 1.7 million asthma attacks in the year 2010 alone.

And I often say when I go to schools to talk to the children, I always ask them do they have asthma or do they know someone, and honestly, between one-third and one-half of the kids raise their hands. And asthma is not anything to laugh at. It is very, very serious.

And I think when you look at what EPA's programs have done, they have fostered a significant and growing clean tech industry. We are the largest producer and consumer of environmental technology, goods, and services. The industry has 119,000 firms, supports 1.7 million jobs, generates $300 billion in revenues, including $43.8 billion in exports. These programs provide clear health and economic benefits for America.

But here is the good news. And Administrator Jackson, you should be very pleased, because the American public strongly supports the EPA. There is a brand new bipartisan poll released yesterday by the American Lung Association. It finds that two-thirds of the voters favor EPA's efforts to set stricter air pollution standards, and a 2 to 1 majority believes that strengthening safeguards against pollution will encourage innovation and create jobs.

I stand with the American people, and as Chairman I will fight any efforts to undermine your work. The President's budget makes tough choices, and I am going to be heard on some of the ones that I do not agree with. But I would say again it maintains a long standing commitment to provide clean air, protect safe drinking water, and safeguard the health of our children and our families.

I look forward to your testimony.

I have a request from Senator Inhofe that everyone—oh, he is going to make his own request, because I was asked by your staff.

I am very, very pleased to welcome you today, and we look forward to hearing from you.

Senator Inhofe.

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

Senator INHOFE. Thank you. The other request is, I did not realize that I had a much longer statement to be a part of the record but we will have to put that in there——

Senator BOXER. Without objection.

Senator INHOFE. Administrator Jackson, it is always good to see you, and your visit to the EPW Committee today is timely. It comes right at the time when President Obama is in my State of Oklahoma touting the virtues of fossil fuel. And that is wonderful. I do not expect the President is going to say too much about some of the things that have happened here, because it is not going to sell too well, although I have been told that his audience is restricted to 150 of his personal friends, and the media has been hand selected. So, it will be interesting to see what happens.

Let me say again I have a great deal of respect for you and always have in the relationship, in large part because you and I have always been straightforward and honest. You know, I understand your job is to carry out the policies of the President. That is what you do. That is your job description. That is not mine. And in some of these areas that we have had disagreement, I always say that we do it with smiles on our faces and do it in the spirit of friendship.

And it did not go unnoticed, Madam Chairman, to the Administrator when I visited with her before the meeting that when I was on the Rachel Maddow show that I declared my three favorite liberals to be Rachel and Barbara Boxer and Lisa Jackson.

Senator BOXER. Well, I do not like the order.

[Laughter.]

Senator INHOFE. Well, actually, no, I did have you first.

[Laugher.]

Senator INHOFE. You were not third. Rachel was.

Senator BOXER. Good point.

[Laughter.]

Senator INHOFE. Well, anyway, right now the President is in Oklahoma, and he standing in the middle of an oil field and talking about the virtues of fossil fuel. It is kind of interesting that he is doing that in that his budgets that he has put forward have been very punitive to that industry. He has made the statement how expensive it would be. His agenda is one that has specifically increased the price of gas at the pump and the energy in our homes.

And remember, it is President Obama himself who said that his policies would necessarily, under his energy costs, would necessarily skyrocket. Those are his words. And that is true, and that is what has happened.

Now, the global warming movement has collapsed. I can see why President Obama is trying to associate himself with oil and gas development in Oklahoma.

As CNN—you might want to listen to this, Madam Chairman. This is good. CNN wrote a piece about Cushing, Oklahoma. That is right at the convergence of our pipelines, and it is about 30 miles west of my home town. It said the place is booming. There is a shortage of workers around. I mean we now, nationally there is actually a shortage of engineers and oil workers and skilled and un-

skilled laborers. In fact, petroleum engineers, petroleum engineers graduating from school can earn upwards of $90,000.

What is Oklahoma's secret? Oklahoma's secret is that we are developing our own resources. Oklahoma has over 83,000 producing wells and 43,000 producing natural gas wells. Oklahoma City University found in 2009 that the Oklahoma oil and gas industry supports 30,000, 300,000 jobs and contributes $51 billion to the State's economy every year. Now, that is exactly why Oklahoma's unemployment rate is consistently much lower than the national average.

We are seeing that in other areas, by the way. I would say in North Dakota. Their biggest problem up there is finding workers. And it happens that Harold Hamm, who has been a witness twice before this Committee, from Unit, Oklahoma, is up there right now in those shale deposits, and he is really just cranking that stuff out. But there is no unemployment in that area. And so, this is significant.

Now, I really think that with the President's campaign going he wants to take credit today for part of the Keystone Pipeline that will be constructed from Cushing, Oklahoma, to Port Arthur, Texas. I would like to remind everyone, I do not have to remind everyone, everyone knows it was the President unilaterally that stopped the XL Pipeline and particularly that area going through Nebraska. And it happens that his authority does not allow him to do the same thing to the south, and therefore he is there making his statements about how friendly he is to oil and gas.

But even as President Obama stands in the oil field pretending to support this pipeline, he continues full force with his efforts to regulate fossil fuels out of existence, spearheaded in large part by your agency. His EPA is moving forward with an unprecedented barrage of expensive rules from greenhouse gas regulation to hydraulic fracturing to clean water regulations to utility MACT with the express purpose of eliminating fossil fuels.

I just want to make sure I have in the record the specific things he has done in his, attempted to do unsuccessfully in his budgets over the last 4 years would be to the percentage depletion, the section 199, and the expensing of intangible drilling costs. Those are things that would have been very, very damaging to the industry.

So, right now, in a minute, we will get a copy of his speech that he has made, and perhaps we will still be in session, and I will be able to do that.

Let me say, also, Madam Chairman, that once again not your fault, mine, or anyone else's, but this coincides with the Armed Services Committee, so I will be going back and forth.

[The prepared statement of Senator Inhofe follows:]

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

Good morning, Administrator Jackson. I want to thank you for coming to discuss EPA's priorities for the coming fiscal year.

As I went through your proposed budget, I saw four themes emerge. Admittedly, you may not agree with my interpretation. First, an escalation in climate change funding; second, increasing the cost of fuel at the pump; third, beefing up EPA's regulatory budget while cutting the States' ability to deal with new unfunded mandates; and finally, negative impacts on rural America.

The proposed budget for EPA to address climate change has expanded to nearly a quarter of a billion dollars. I find this strange given that you yourself have admitted such activity will do nothing to affect the course of global temperatures. In these tough economic times, it doesn't make sense to spend $240 million on something that will have no effect. An additional $56 million is requested to expand various air programs. Most of these programs are already in existence, and under this EPA their impacts have been calamitous for Americans. The funds requested by EPA are being used to create draconian new regulations with the goal of driving up electricity and gasoline prices. As you stated in an interview with Energy Now, the goal is to "level the playing field" among energy types. This is not Congress's intent with the Clean Air Act.

I also found it interesting that you proposed to increase your budget for Federal Vehicle and Fuel Standards Certifications. Inevitably, I'm sure this division within EPA will be working hard to increase the price at the pump, which is way too high in many areas, Oklahoma included, at over $4 per gallon. EPA's policy of increasing the price of fuel certainly seems to be working: AAA notes that gas prices are up 108 percent since President Obama took office. An example of this strategy at work is Tier 3 Gas Regulations, which will raise the price of gasoline.

In addition EPA has, in the past year, required petroleum marketers to pay millions of dollars in fines for not purchasing biofuels that weren't even commercially available. They issued notice of violations to Renewable Fuel Standard (RFS)-obligated companies that tried to comply with the RFS in good faith under the system EPA created. These companies were rewarded with over a $100 million worth of liability with no end in sight.

Instead of taking a hard look inside EPA and making difficult choices about programs that burden our economy, this budget cuts the funding to States that actually pay for some of the unfunded mandates imposed on communities. Last year I raised my concerns that EPA had taken nearly 83 percent of their total budget cuts from the water programs, primarily from the State Revolving Fund (SRF) program. EPA is again cutting the SRF program, which helps States finance infrastructure improvements to help meet Clean Water Act and Safe Drinking Water Act mandates. I've looked at EPA's water regulatory agenda, and I have not seen a commensurate cut in unfunded mandates. In fact, this year EPA is proposing to expand the amount of waters that are covered by the Clean Water Act through their draft jurisdictional guidance. I encourage my colleagues on the Appropriations Committee to restore this cut to the SRF and take those funds from the regulatory program.

Even on areas where we have bipartisan agreement, like Brownfields or DERA (Diesel Emissions Reduction Act), you have proposed to cut these programs while increasing the funding for your political priorities. I am sure I am not the only one today who is disappointed to see you reduce the overall funding for the Brownfields program. What I am surprised by is EPA has somehow proposed to increase its own administrative costs with the program while decreasing the 104(K) and 128 grants. So EPA should be paid more to do less? I am also troubled by your decision to cut DERA in half and the impact it will have on the progress we have already made.

Rural America has been hit especially hard by EPA's regulatory overreach. Fourteen years ago EPA tried to regulate propane dealers under the Emergency Planning and Community Right-to-Know Act (EPCRA) even though they didn't meet the definition of the program. In response, I introduced legislation which was signed into law to stop it. Now, under the same program, you are trying to force the ag retailers to comply with the reporting requirement under section 312 of EPCRA, even though the law currently exempts them. EPA is proposing that the simple mixing of fertilizers to meet customers' specifications for their soil negates the current exemption that they have under EPCRA. Does EPA expect to require farmers to now go to Walmart or Target for their fertilizer needs? Maybe EPA doesn't understand rural America, but I do. If EPA continues down this road they will be imposing additional costs on hundreds of small businesses and farmers in rural America. I would ask that you rethink your approach. If you won't apply this exemption to the ag retailers, I will not hesitate to work with Chairman Lucas from Oklahoma to make sure the exemption is applied.

Thank you.

Senator BOXER. OK, since Senator went over 30 seconds, I am going to take 30 seconds to say this.

President Obama has always endorsed an all of the above strategy when it comes to energy. This is not the Energy Committee. It is the Environment Committee. But I feel that I want to put this in the record.

We have had more domestic drilling, to the point where in 2011 American oil production reached the highest level in a decade, and gas production, the importation of oil, has gone down every single year since President Obama took office. And natural gas is at an all time high in terms of production.

So, all this talk about how the President is against this is incorrect. And he is for an all of the above strategy. He may not want to drill in places where it hurts the fishing economy, the recreation economy, the tourist economy, but he sure is showing by facts, not since yesterday and not since gas prices went up, but since he came in that he is going to move forward.

So, I really do think the facts belie my dear friend's comments. I really do.

And we will move on.

Senator INHOFE. Well, since you went over your 30 seconds——

Senator BOXER. No I did not——

Senator INHOFE. You were over by a minute and a half, let me just have 30 seconds to respond.

Senator BOXER. No, I did not. I did not.

Senator INHOFE. That is exactly the same thing our friend Rachel Maddow said——

Senator BOXER. I did not go over. But I am happy to give you 30 seconds more.

Senator INHOFE. OK. And I was saying that in spite of, we agree on this. We agree that in spite of all of his punitive things he has tried to do, which I have already said in my opening statement, fortunately a lot of these shale deposits in area where the Marcellus is, up in Pennsylvania and New York, people think normally it is all out west. We have had tremendous opportunities, and in spite of his policies, we have increased our production and will continue to so do.

And if we could get all of the politicians out of the way, we would be able to be totally independent of the Middle East not in a matter of years but in a matter of months.

Senator BOXER. Well, do we, we have 2 percent of the world's proven——

Senator INHOFE. No, that is not true.

Senator BOXER. Proven supplies. Well, we are not going to go off on this. I will——

Senator INHOFE. Well, I cannot leave it at that though because that is not true——

Senator BOXER. No, no, we are not going to do this. You——

Senator INHOFE. We have the largest recoverable reserves——

Senator BOXER. Senator Inhofe, my dear friend——

Senator INHOFE [continuing]. Of any country in the world.

Senator BOXER. I just want to say this is not the Energy Committee. This is the Environment Committee. You used your time to slam our President. And I take offense at it. And I will tell you right now if he is so punitive, why are the oil companies making more money than ever before in history, record profits? They are singing in the boardroom.

And we are going to move off this, and we are going to go to Senator Lautenberg.

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

Senator LAUTENBERG. Thank you very much, Madam Chairman. I did not want anybody to hear what I was going to say.

[Laughter.]

Senator LAUTENBERG. Not that I would pick sides here.

[Laughter.]

Senator LAUTENBERG. Pick on somebody your size, Chairman.

[Laugher.]

Senator BOXER. Are you talking to me?

[Laugher.]

Senator LAUTENBERG. I have 45 seconds more. OK, serious business here.

Thanks, Madam Chairman, for holding this hearing. It is hard to believe but we are essentially friends on this Committee, and I hope that we will continue to be after this hearing.

Politicians talk about how Congress needs to balance its budget the same way everyday Americans do. They sit at their kitchen table, plan their household budget, crunching the numbers to see what they can or cannot afford. But no American would try to balance their family's budget by cutting out money for batteries for the hallway smoke detector or putting off getting new brakes for the family car.

It would be just as reckless for Congress to sacrifice the public's health and safety in the name of fiscal austerity. Yet that is precisely what our colleagues on the other side of the aisle have proposed when they say we should cut the Environmental Protection Agency's budget.

The EPA performs critical service to our country and enforces the laws that keep the air our children breathe and the water they drink clean. Administrator Lisa Jackson has provided able leadership for the agency, and we miss her in New Jersey when she headed the Department of Environmental Protection. She did such a good job and—thank goodness—is carrying forward in her task here. We are very proud of your work.

Over the last year, we have seen EPA take important steps to protect the health of our families and restore our environment. After years of delay by polluters and their allies, EPA finally finalized new pollution standards that will cut mercury and toxic air pollution. These standards will prevent asthma attacks, heart attacks, and even premature deaths. They will also protect children from mercury, brain poison for children that can cause developmental problems and learning disabilities.

The EPA also worked with the DOT to set new auto pollution and fuel efficiency standards for cars and trucks. By nearly doubling the performance of our vehicles, these standards will cut America's oil dependence, clear our air, and save consumers money at the gas pump.

But despite its record of success, the EPA is once again under attack. For example, some Senators have launched efforts to subvert the EPA's ability to carry out the Clean Air Act. I think what they ought to do if they are opposed to improving the Clean Air Act is maybe poll their constituents and ask for the homes that have an

asthmatic person in that household, ask them how they feel about saving some dough on the backs of their kids.

My family will never forget an asthma attack that took my sister's life. She was at a school board meeting, tried to get to the respirator that she had in her car, collapsed in the parking lot, and she died 3 days later at the age of 52. And I have a grandson who has asthma. And when my daughter takes him to play ball or whatever sports he is engaged in, she first checks to see where the nearest emergency facility is.

So, it is serious stuff, and we ought to stop playing games with this. Since it became law in 1970, the Clean Air Act has protected our health and the environment from the dangers of toxic air pollution. In 2010 alone it prevented more than 160,000 premature deaths and more than 1.7 million child respiratory illnesses. These are more than just statistics. Just like Administrator Jackson, I have family members, as I mentioned, that suffer from asthma. Our families know that asthma is a serious disease that can mean life or death, and its growth in our population is enormous.

The Clean Act, the economic benefits are also clear. When air pollution is severe, healthcare costs soar, and productivity plunges. Businesses know that employees who cannot breathe are employees who cannot work. Gutting the Clean Air Act will do nothing to help our economic recovery and nothing to close our budget deficits.

I agree we have got to fix the Nation's budget challenges. But no American would balance their household budget by skimping on their family's safety, and Congress should not be putting austerity above public health. I applaud the EPA for making responsible choices in the budget, although I am concerned about some cuts, such as the Beach Act Grant Funding.

So, I look forward to hearing from Administrator Jackson about this budget and about how this Committee can help the EPA continue its vital public mission, improving the health of the American people.

Senator BOXER. Thank you, Senator.

Senator Sessions.

OPENING STATEMENT OF HON. JEFF SESSIONS, U.S. SENATOR FROM THE STATE OF ALABAMA

Senator SESSIONS. Thank you very much.

It is good to be with you, Administrator Jackson. You have an important agency. As Ranking Member of the Budget Committee, I know how tight our budget is. You do important work but you have to be accountable like every other agency. And I know you would agree with that and we expect smart, cost-effective programmatic actions out of your agency.

Senator Inhofe, I noticed yesterday's Washington Post had their Pinocchio Honesty Report, and they quote President Obama as saying if we went to your house and we went to the mall and put up those rigs everywhere, we would still have only 2 percent of the world's known oil reserves. The Washington Post said, "That is simply wrong. The President is on an energy tour this week, and then on Wednesday he once again made this claim. We hope he finally drops this specious logic from his talking points. Two Pinocchios."

Senator INHOFE. Good.

Senator SESSIONS. The budget picture, 2013 would be the fifth consecutive year of a trillion dollar deficit. Under the President's 2013 budget, annual Federal spending reaches $44,000 per household in 2022, and Federal debt reaches $200,000 per household by 2022.

As the size of the Federal Government grows, the middle class is being squeezed from all directions. Real wages are declining. Food and energy prices are rising. Job prospects remain scarce. But one area has received extraordinary increases in funding, and that is the Environmental Protection Agency.

And my constituents ask me frequently why is EPA so much involved now in impacting our lives like we have never seen it before? And I have heard complaints to a degree, Administrator Jackson, that I have never heard since I have been in Washington.

The answer? Since taking office, President Obama has had EPA operating at a surged budget. Since 2009 EPA has received $12 billion more in funding than 2008 baseline levels would have allowed. In fact, when it took office the Administration and the Democratic control of Congress gave EPA a 100 percent increase in its budget in 1 year counting the stimulus. The money came, as I said, as a policy decision from the Administration.

Unfortunately, this rapid increase has led to problems and waste. EPA spent over $1 million, for example, on a large square, 27,000 square foot green roof at the top of the World Wildlife Fund headquarters in D.C. In 2010 EPA received a 38 percent budget increase over 2008 levels, and every year since they have been funded well above that baseline.

What are the priorities? I am concerned about how the money is being allocated. EPA's budget says their No. 1 priority is climate change. They are asking for at least $32 million in increased funding for climate change protection. In fact, EPA plans to spend $140 million more on their regulations and management programs. That means we should expect to see more costly mandates from Washington.

They also plan to increase their spending on EPA regulators and scientists. At the same time, EPA plans to cut spending to the States by $257 million. The State partnerships are important, and they do play a major role in how we conduct our efforts to improve our environment.

You also plan cuts for brownfields redevelopment. So, I was disappointed that your agency would ask for $15 million in increased funding for enforcement efforts while just this week the Supreme Court ruled 9 to 0 in the Sackett case that EPA had abused its authorities.

The tsunami of costly regulations is driving up energy prices and is hindering economic growth. The Environmental Protection Agency's Utility Map, Cross State Air Rule, Coal Ash Rule, Cooling Water Intake Rule, rules on farmers and regulations of pesticides, taking that away from States would together impose a significant burden on our economy, and it results in multiple complaints to me, from my constituents, that these rules are not realistic, they are being imposed too fast, and the cost exceeds the benefits. Twenty-one billion dollars in annual costs on the U.S. economy would be

imposed by these new regulations. That is annual cost. That is about half of the Highway Bill we worked so hard to try to find the money to support.

So EPA declares their rules will only result in a 3 percent increase in electricity rates, but it looks like it may be as much as 10 to 20 percent.

Madam Chairman, thank you for the opportunity to have this hearing. All of us are going to have to tighten our budgets, and I encourage EPA to do that same. And I believe you need to be held accountable and each program analyzed aggressively to see if they justify the taxpayers' dollars being invested in it.

Thank you.

Senator BOXER. Senator Sessions, thank you.

Senator Whitehouse.

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

Senator WHITEHOUSE. Thank you, Madam Chair.

I would like to welcome Administrator Jackson back to our Committee.

I have some concerns about the Beach Protection Budget that we can discuss as the budget process moves forward, very, very important to Rhode Island. And I wanted to mention another thing that is very, very important to Rhode Island is that there be proper enforcement of the Clean Air Act. We are a downwind State. On a bright summer day you drive into work, and the drive time radio is often saying that today is a bad air day, and infants should stay indoors, and seniors should stay indoors, and people should not engage in vigorous outdoor activity, all because of toxic emissions that are being dropped onto us by Midwestern coal plants and power plants.

That sentiment has been echoed; it is not just a Rhode Island and downwind States sentiment. The American Lung Association has just done a poll that shows 73 percent of Americans understand that you can have solid clean air standards and a strong economy, that they go together. Seventy-eight percent of independent voters agreed. Sixty percent of Republicans agreed with that. The poll showed that 72 percent of Americans supported your new protections on carbon emissions for power plants.

So I know you get a lot of static here in DC about what you are doing. This is a unique place where special interests—particularly polluting special interests, I think—have a disproportionate voice. But in the downwind States and among the general American population, we are in accord with you. Indeed, we are counting on you. So I thank you.

And I will close by mentioning a show that I watched when I got home last night on the Nova science program about what is happening at the Poles, in the Antarctic and in the Arctic regions. Once again, we have a situation in which Washington is disconnected from the real world. My theory that it is disconnected by special interest money from the real world, by polluting special interest money from the real world, and so the facts of what we are doing with our carbon pollution to our oceans and to our atmosphere are being manipulated and propagandized.

But I believe that out there in the real world where people are looking at real facts, where they are not under the shadow of special interests, people have strong support for your efforts to get our carbon pollution under control, and I urge you to continue to stand strong and appreciate very much that you have stood strong. And anything we can do to make sure we have your back on that I am interested in doing. It is very important to Rhode Island as a downwind State to have clean air for our citizens.

Thank you very much, Madam Chairman.

Senator BOXER. Thank you, Senator.

Senator Barrasso.

OPENING STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM THE STATE OF WYOMING

Senator BARRASSO. Thank you, Madam Chairman.

The Obama administration officials regularly try to justify their excessive red tape by citing misleading and incomplete health statistics. Meanwhile, they completely ignore how these exact same regulations destroy jobs and destroy communities. When Americans lose their jobs, their health and the health of their children suffers.

These are the findings of a new minority report that I am releasing today as Ranking Member of the Subcommittee of Clean Air and Nuclear Safety. The report is entitled Red Tape Making Americans Sick, a New Report on the Health Impacts of High Unemployment. This is a comprehensive report, and it contains expert testimony before this Committee and the best scientific medical research from institutions such as Johns Hopkins, Columbia, Yale, and others.

This key medical research and testimony details the public health consequences of joblessness. And the joblessness is caused as a result of the cumulative impact of the EPA's ongoing regulations. Specifically, these impacts from joblessness will increase the likelihood of hospital visits, increase the likelihood of illnesses and premature deaths in communities.

This joblessness will raise healthcare costs, will raise questions about the claimed health savings of the EPA's regulations. And these regulations, through this impact, hurt children's health and hurt families' well-being.

As detailed in this report, this Committee has heard some of these findings before. Doctor Harvey Brenner of Johns Hopkins University testified before this Committee on June 15th, and he warned that "the unemployment rate is well established as a risk factor for elevated illness and mortality rates in epidemiological studies performed since the early 1980s."

It is true that studies as far back as 1985 have warned of the health impacts on unemployment. A study published that year in the American Journal of Public Health by Dr. Margaret Lynn found that after unemployment symptoms of somatization, which of course includes pain, gastrointestinal, sexual symptoms, and a whole bunch of different symptoms, also depression and anxiety, were significantly greater in the unemployed than in the employed.

More recent studies include Yale researcher Dr. William Gallo who released a study in 2006 and that found that "results suggest

that the true costs of late career unemployment exceed financial deprivation and include substantial health consequences."

Unemployment's health impact on children is also discussed in the report. The National Center for Health Statistics has found that children in poor families were four times as likely to be in fair or poor health as children in families that were not poor. The research in the report speaks for itself.

The concern about unemployment's impact on public health is a concern for at least one former Obama White House official. As reported in the New York Times on November 17th of last year, White House Chief of Staff William Daley asked one interest group lobbying for stricter EPA rules, an interest group lobbying the Administration for even stricter EPA rules. Mr. Daley said, "What are the health impacts of unemployment?"

I and my colleagues in Congress have urged the EPA to seriously consider the cumulative impacts of their rules and how they negatively impact jobs, families, children, and the elderly. Finally, on Tuesday the Obama administration made a surprising announcement in this regard. The White House announced a new policy on studying cumulative impacts.

Now, finally, after much of the damage has been done to employment and public health, the Obama administration now wants to find out what is happening across the United States because of their rules.

Well, here is the answer. Their rules, closing power plants, shutting down factories, raising gasoline and electricity prices, costing jobs, they all cost jobs, and they make people less healthy as stated in this report.

So, I will release this report, Red Tape Making Americans Sick, a New Report on the Health Impacts of High Unemployment. Studies show EPA rules cost Americans their jobs and their health. I would recommend it to every person who works at the Environmental Protection Agency.

Thank you, Madam Chairman.

Senator BOXER. Thank you, Senator. I look forward to reading it. We have a majority report called a Strong EPA Protects Our Health and Promotes Economic Growth, and the executive summary points out that since the passage of the Clean Water Act, the Clean Air Act, the Safe Drinking Water Act, Superfund, and many of these signed, but most of these signed by Republican Presidents, our gross domestic product has risen by 207 percent, and it remains the largest in the world.

I find it rather amazing that one small agency would be blamed for all the troubles we are going through. And I would say if anyone cares about jobs, have the House ask Speaker Boehner to bring up the bipartisan Transportation Bill. Three million jobs are at stake.

So, let us—this Committee has a great role in definitely creating job through this Transportation Bill which I am so proud is bipartisan.

We will call on Senator Udall.

OPENING STATEMENT OF HON. TOM UDALL, U.S. SENATOR FROM THE STATE OF NEW MEXICO

Senator UDALL. Thank you, Madam Chair, and welcome, Administrator Jackson. Great to have you here again.

I wanted to talk to you about a couple of issues in the questioning, but I thought I would highlight at the beginning here the fact that the President just visited New Mexico and Oklahoma on an energy trip promoting his all of the above energy strategy where he is saying that all of our energy sources should be developed.

In New Mexico we have an area rich in oil and gas called the Permian Basin, which is having an extraordinary boom at this time. And he highlighted by his visit to New Mexico that that boom that was going on and the increased of oil production in the United States. And in fact, I think he went to Oklahoma following New Mexico, and there was a problem there with pipelines not being able to get supply out, and he issued an Executive Order to move that along.

So, I think the President is working very hard, Madam Chair, to try to do everything he can. And it seems to me that we are seeing from Republicans a lot of change in position, especially Mitt Romney. I mean, in 2006 Governor Romney said, and this is a direct quote, "I am very much in favor of people recognizing that these high gasoline prices are probably here to stay." And the New Republic covered it in an article just recently here that I would like to submit for the record, Madam Chair.

Senator BOXER. Without objection.

Senator UDALL. The title of the article is When Romney Liked High Gas Prices. And in fact it highlighted that he was very much for a lot of the plans that President Obama has put forward today.

On this issue of gas prices, I would note that the Associated Press recently conducted a comprehensive statistical study going back 36 years, and the study shows no correlation—underline no correlation—between U.S. drilling and gasoline prices. Gasoline prices are driven by oil prices which are set on the global market. The U.S. has the highest rate count in at least 25 years, but we do not control global supply and demand.

So that is something that I think consumers need to realize and understand. Even if we were totally oil independent, like Canada is, we would still pay global prices since oil can be traded globally. In fact, U.S. gasoline prices are some of the lowest in the world due to our low gasoline taxes. We live in a market economy. The last time a President could set the gas price was when Republican Richard Nixon imposed price controls.

President Obama, as I have said, highlighted on this trip all of the things that he is trying to do, and I think he is making a good, solid effort at trying to move us in the right direction in terms of renewable energy and also making sure there is a strong domestic industry.

And so with that, Madam Chair, I would yield back.

[The referenced article follows:]

The New
REPUBLIC

When Romney Liked High Gas Prices

- Alec MacGillis
- March 22, 2012 | 12:00 am

As he campaigns for president, Mitt Romney is ratcheting up his attacks on Barack Obama over high gas prices, putting the issue at the center of his economic message. He is calling for Obama to fire his Energy secretary, EPA administrator, and Interior secretary, saying they are to blame for high prices at the pump. "No question in my mind that these—I call them the gas-hike trio—that those three are on a mission to drive up the price of gasoline and all energy so that they can finally get their solar and their wind to be more price-competitive. That's what they want to do," Romney said on Monday.

Curiously overlooked, though, is just what a shift this rhetoric is from the approach that Romney took on the issue of gas prices while governor of Massachusetts. Befitting his profile as a moderate Republican who cared about the environment, Governor Romney responded to price spikes by describing them as the natural result of global market pressures and by calling for increases in fuel efficiency—the same approach that he now derides Obama for taking as president.

At moments, Romney went so far as to make high gas prices out to be a welcome reality for the foreseeable future, one that people needed to learn to live with. When lieutenant governor Kerry Healey, a fellow Republican, called for suspending the state's 23.5 cent gas tax during a price spike in May 2006, Romney rejected the idea, saying it would only further drive up gasoline consumption. "I don't think that now is the time, and I'm not sure there will be the right time, for us to encourage the use of more gasoline," Romney said, according to the Quincy *Patriot Ledger*'s report at the time. "I'm very much in favor of people recognizing that these high gasoline prices are probably here to stay."

Romney's response to high gas prices while governor fit into his broader effort to promote "smart growth" policies in Massachusetts—a focus that is rare among Republican leaders but that he took up with alacrity. After taking office in 2003, he combined the state's transportation, environment, and housing departments into a single "Office for Commonwealth Development" under the command of Doug Foy, a prominent local environmentalist who was known to commute to work 20 miles by bike. Together, Romney and Foy pushed for legislation to channel new development into existing communities, thereby reducing the need for new road construction and the car dependence of Massachusetts residents. They put forward a sweeping "Climate Protection Plan" in 2004, which included, among many other things, calls for more car-pooling, public transit and tax breaks for motorists who bought hybrid vehicles. Clean energy

was the future, Romney declared at a conference in 2005: "This is an industry that is going to be explosive in its growth in the next decade."

Romney and Foy also proposed slashing the number of SUVs in the state vehicle fleet. As one administration veteran told me this week: "It was helpful to have gas prices high when we were there because it led [Romney] to think that efficiency was sensible. He talked about that a lot for the state vehicles—that gas costs a lot and we should be driving more efficient vehicles."

Andrea Nuciforo, Jr., who at the time was a Democrat serving in the state Senate, recalled how heartened he was by Romney's staunch support for efforts to reduce fuel consumption. "It was a pleasure to work with him and Doug Foy," Nuciforo said. "The smart growth initiatives that the governor began in Massachusetts were very progressive … It was, 'Let's not have people driving over every hill and dale to get to work. Let's focus on existing options so they can walk or bike or make a short drive to work.'" As for the tax breaks for hybrids that he and Romney both supported, he said, "We thought it was important to provide some support to promising technologies, given that existing technologies have enjoyed enormous public subsidies in the past—which was certainly true of the traditional automobile."

James Gomes, who at the time was president of the Environmental League of Massachusetts, also praised Romney's approach. "His administration's growth planning policy was predicated on the idea that we would discourage automobile use by clustering development, that we would get people out of their cars to that they could either use public transportation on many small local trips or so that they could walk," he said.

During the gas price spike following Hurricane Katrina in September 2005, Romney resorted to the tactic adopted by countless other elected executives, including Obama: declaring that his administration would investigate any allegations of price gouging.

But at other times, he was fearless about pushing policies that would increase prices at the pump. Just a few months into his first term in 2003, his administration pushed for expanding a fee on wholesale fuel deliveries that resulted in a two-cent per-gallon price increase at the pump. The fee went toward a state fund that paid for cleaning spills and leaks at gas stations and had been running low. The board that oversaw the fund had sought approval from Romney's predecessor, Republican Jane Swift, to double the fee from an effective half-cent per gallon to a full cent per gallon. But when Romney came into office, his administration proposed quintupling the effective rate, to 2.5 cents per gallon.

The administration's argument was that the higher increase would put the fund on solid footing for good, recalled Stephen Dodge, associate director of the Massachusetts chapter of the American Petroleum Council, who sat on the board overseeing the fund. But shortly afterward, the administration moved to consolidate the fund, and many other small dedicated accounts, into the state's general fund to help close a $3 billion state budget deficit. This, Dodge said, undermined the administration's claim that the increase, which raised $60 million, was merely a fee adjustment and not a bona fide tax hike. "The fee really did become a tax because it wasn't used for what it was intended for," Dodge said.

The Romney campaign did not respond to a request for comment.

The Democratic National Committee recently tried to draw attention to the 2003 fee increase. But oddly, the candidate has not been challenged about his overall approach to high gas prices while governor and its inconsistency with his current attacks on Obama. This surprises some in Massachusetts. Said Gomes: "It's another instance of Romney saying one thing but having said and done another thing."

Alec MacGillis is a senior editor at The New Republic.

Source URL: http://www.tnr.com/article/politics/101946/mitt-romney-massachusetts-governor-gas-prices-renewable-energy

Senator BOXER. Thank you.

Now we are honored to hear from Administrator Jackson.

STATEMENT OF HON. LISA JACKSON, ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY

Ms. JACKSON. Thank you so much, Madam Chairman, Ranking Member. Thank you for inviting me to testify on the President's fiscal year 2013 budget. It is good to see all the members of the Committee here today. It is the fiscal year 2013 Budget for the EPA. I am joined by the agency's Chief Financial Officer, Barb Bennett.

EPA's budget request of $8.34 billion focuses on fulfilling EPA's core mission of protecting public health and the environment while making sacrifices and tough decisions, the kind that Americans across the country are making every day.

EPA's budget request fully reflects the President's commitment to reducing Government spending and finding cost savings in a responsible manner while supporting clean air, clean water, and the innovative safeguards that are essential to an America that is built to last.

In some cases, we have had to take a step back from programs. This budget reflects a savings of $50 million through the elimination of several EPA programs and activities that have either met their goals or can be achieved at the State or local levels or by other Federal agencies.

Let me spend a moment discussing major elements of our budget request. This budget recognizes the importance of our partners at the State, local, and tribal level. As you know, they are at the front lines of implementing our environmental laws like the Clean Water Act and the Clean Air Act.

In fact, the largest portion—40 percent of the funding request—is directed to the State and Tribal Assistance Grants appropriations to support their efforts. Specifically, this budget proposes that $1.2 billion—nearly 15 percent of EPA's overall request—be allocated back to the States and tribes in categorical grants. This includes funding for State and local Air Quality Management Grants, Pollution Control Grants, and the States' General Assistance Program.

The budget also proposes that a combined $2 billion—another 25 percent of EPA's budget request—goes directly to the States for the Clean Water and Drinking Water State Revolving Funds. This funding will help support efficient system wide investments and development of water infrastructure in our communities. We are working collaboratively to identify opportunities to fund green infrastructure, projects that can reduce pollution efficiently and less expensively than traditional gray infrastructure.

Additionally, EPA's budget request for fund the protection of the Nation's land and water in local communities. Reflecting the President's commitment to restoring and protecting the Great Lakes, this budget requests that Congress maintain the current funding level of $300 million for the Great Lakes Restoration Initiative. This support will continue to be used for collaborative work with partners at the State, local, and tribal level and also with non-profit and municipal groups. The budget also requests support for pro-

tection of the Chesapeake Bay and several other treasured and economically significant water bodies.

The budget reflects the importance of cleaning up contaminated land in our communities by requesting $755 million for continued support of the Superfund Cleanup Program and maintains the agency's emergency preparedness and response capabilities.

EPA's budget request makes major investments in its science and technology account of $807 million, or almost 10 percent of the total request. This request includes $576 million for research, including $81 million in research grants and fellowships to scientists and universities throughout the country for targeted research as part of the Science to Achieve Results, or STAR, Program, including children's health, endocrine disruption, and air monitoring research.

Also as part of this request, EPA includes funding increases into key areas that include green infrastructure and hydraulic fracturing. As I have mentioned before, natural gas is an important resource which is abundant in the United States. But we must make sure that the ways we extract it do not risk the safety of public water supplies.

This budget continues EPA's ongoing congressionally directed Hydraulic Fracturing Study, which we have taken great steps to ensure is independent, peer reviewed, and based on strong and scientifically defensible data. Building on these ongoing efforts, this budget requests $14 million in total to work collaboratively with the United States Geological Survey, the Department of Energy, and other partners to assess questions regarding hydraulic fracturing. Strong science means finding the answers to tough questions and EPA's request does that.

We are making investments to support standards for clean energy and efficiency in this budget. Specifically, this budget supports EPA's efforts to introduce cleaner vehicles and fuels and to expand the use of home grown renewable fuels. This includes funding for EPA's Federal Vehicles and Fuel Standards and Certification Program that supports certification and compliance testing for all emission standards.

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

Madam Chairman, thank you for the opportunity to testify today. While my testimony reflects only some of the highlights of EPA's budget request, I look forward to answering your questions.

[The prepared statement of Ms. Jackson follows:]

TESTIMONY OF LISA P. JACKSON

ADMINISTRATOR

U.S. ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

U.S. SENATE

March 22, 2012

Thank you for inviting me to testify on the President's Fiscal Year 2013 budget for the Environmental Protection Agency. I'm joined by the Agency's Chief Financial Officer, Barbara Bennett.

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

EPA's budget request fully reflects the President's commitment to reducing government spending and finding cost savings in a responsible manner while supporting clean air, clean water and the innovative safe guards that are essential to an America that's built to last. In some cases we have had to take a step back from programs - this budget reflects a savings of $50 million through the elimination of several EPA programs and activities that have either met their goals, or can be achieved at the State or local level or by other Federal agencies.

Let me spend a moment discussing major elements of EPA's budget request.

This budget recognizes the importance of our partners at the State, local and tribal level. As you know, they are at the front lines of implementing our environmental laws like the Clean Water Act, and the Clean Air Act. In fact, the largest portion – 40% percent of EPA's funding request -- is directed to the State and Tribal Assistance Grants appropriation to support their efforts.

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

The budget also proposes that a combined $2 billion - another 25% of EPA's budget request - also goes directly to the States for the Clean Water and Drinking Water State Revolving Funds. This funding will help support efficient system wide investments and development of water infrastructure in our communities. We are working collaboratively to identify opportunities to fund green infrastructure - projects that can reduce pollution efficiently and less expensively than traditional grey infrastructure.

Additionally, EPA's budget request would fund the protection of the nation's land and water in local communities. Reflecting the President's commitment to restoring and protecting the Great Lakes, this budget requests that Congress maintain the current funding level of $300 million for the Great Lakes Restoration Initiative. This support will continue to be used for collaborative work with partners at the State, local and tribal level, and also with non-profit and municipal groups. The budget also requests support for protection of the Chesapeake Bay, and several other treasured and economically significant water bodies. The budget reflects the importance of cleaning up contaminated land sites in our communities by requesting $755 million for continued support of the Superfund cleanup programs and maintains the Agency's emergency preparedness and response capabilities.

EPA's budget request makes major investments in its science and technology account of $807 million, or almost 10 percent of the total request. This request includes $576M for research, including $81 million in research grants and fellowships to scientists and universities throughout the country for targeted research as part of the Science to Achieve Results - or STAR – program, including children's health, endocrine disruption, and air monitoring research. Also, as part of this request, EPA includes funding increases into key areas that include green infrastructure and hydraulic fracturing.

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

We are making investments to support standards for clean energy and efficiency in this budget. Specifically, this budget supports EPA's efforts to introduce cleaner vehicles and fuels and to expand the use of home-grown renewable fuels. This includes funding for EPA's Federal Vehicle and Fuel Standards and Certification program to support certification, and compliance testing for all emissions standards. This also includes implementation of the President's historic agreement with the auto industry for carbon pollution and fuel economy standards through 2025 for cars and light duty vehicles, including testing support for NHTSA's fuel economy standards. Taken together, the Administration's standards for cars and light trucks are projected to result in $1.7 trillion dollars of fuel savings, and 12 billion fewer barrels of oil

consumed. This funding will also help support implementation of the first ever carbon pollution and fuel economy standards for heavy duty trucks.

Stepping back from EPA's budget request, let me spend a moment discussing the impact of a sequester. Madam Chairwoman, as you know, as part of the Budget Control Act, through a sequestration, spending may be forced to be slashed in an irresponsible manner that can endanger the public health protections that we rely on and not invest in an America that's built to last. By design the sequester is bad policy, bringing about deep cuts in defense and non-defense spending to act as an incentive for congressional action on deficit reduction.

Even without the sequester, discretionary spending has already been cut in nominal terms for two straight years. Under the Budget Control Act, it is on a path to reach its lowest level as a share of GDP since the Eisenhower Administration.

If the sequester were to happen, it would bring another round of deep cuts in discretionary spending. Although the Administration is continuing to analyze the impact of the sequester, CBO has said that in 2013, the sequester would result in a 7.8% cut in nonsecurity discretionary accounts that are not exempt from the sequester. It would be impossible for us to manage cuts of that magnitude and still achieve our fundamental mission to protect human health and the environment.

The sequester would thus have a devastating effect on our country's ability to conduct the following activities over the long haul:

- A sequester would result in deep cuts to EPA's Operating Budget, which includes funds for the enforcement of public health and environmental protections.
- It would significantly harm our ability to help state and local governments finance needed drinking water and wastewater projects that provide communities clean and safe water.
- A sequester also would slash EPA grants that help states carry out basic functions that protect human health and the environment like water quality permitting and air quality monitoring.
- The sequester would impair progress on the country's ability to clean up the nation's hazardous waste sites over the long haul.

The President has been clear that Congress needs to avoid a sequester by passing a balanced deficit reduction - at least as much as the Budget Control Act required of the Joint Select Committee on Deficit Reduction to avoid sequestration. The President's Budget reflects such a balanced proposal, and we believe Congress should enact it and cancel the sequester.

Madam Chairwoman, thank you for the opportunity to testify today. While my testimony reflects only some of the highlights of EPA's budget request, I look forward to answering your questions.

Senator BOXER. Thank you very much.

We are going to each have 6 minutes.

I wanted to start off; there was a big critique going after toxic air pollution from power plants, specifically from Senator Sessions. And I wanted to talk to you about that because we have fought off a couple of amendments already, and we know we are going to face some Congressional Review Act repeals on either Boiler MACT or Utility MACT.

And when I get into this, I saw the amazing progress we could make if you are able to move ahead. Because we are talking here about cutting mercury, arsenic, lead, chromium, and other hazardous pollutants that can cause cancer and harm the reproductive and developmental systems of our children in particular. But it is a threat to everybody.

So, as I look at your work that you have produced on this, you say that once the law is implemented we will see up to 11,000 premature deaths avoided every year. We will see 2,800 fewer cases of chronic bronchitis. We will see 4,700 fewer heart attacks, 130,000 fewer asthma attacks.

And I know Senator Lautenberg—I am talking to Senator Lautenberg, I just wanted to say that every time you speak about losing your sister to asthma, and I am glad that you remind us of this because a lot of time you hear these speeches about bureaucracy and jobs and things, which I think are off base. But we forget about why we set up this entity and what it means that when EPA implements the Utility MACT and starts to control mercury, arsenic, lead, and chromium and other hazardous air pollutants, we will see 130,000 fewer asthma attacks every year. We will see 5,700 fewer hospital emergency room visits and 3 million fewer restricted activity days.

So, I guess my question is—and that is why the people support what you do, Administrator. When you sit there and you here this criticism coming from the other side of the aisle, and it is their perfect right to think the way they think and do what they do, and we have a big disagreement, and it is very respectful. But when I look at you sitting there with your people, it must feel pretty darned good to have a job that you know, at the end of the day, is going to save 11,000 lives a year from just from one rule. And chronic bronchitis and heart attacks and asthma, et cetera.

So I want you to put on the record how you come up with these stats so that people know about peer review and who are the people making these estimates. Could you tell us? What is the process before you come up with these benefits?

Ms. JACKSON. Certainly. There is a well developed body of science and scientific research around the air pollution impacts on public health. It is probably that part of pollution that is best studied from an economics perspective. And what happens is that we look at two main drivers, and these are peer reviewed studies; they are based on the work of scientists who first look at hospital admissions, and they track those controlling for other factors, and they also do clinical tests where they expose people to levels of pollution.

The correlation between soot and smog and premature death and asthma is not speculative. It is not a possibility. It is quite real.

It has been estimated, in the case of the mercury and air toxic standards, to save up to 11,000 premature deaths a year.

That has real cost to the American people. I think it is very important to remember that these strong cuts to mercury and other harmful emissions have real benefits to Americans. You know, we unfortunately have to put a price on life so we can monetize it. But there is also the cost of lost work days, of sickness, of children missing school and their caregivers with them, all that goes into our economic analysis. They are peer reviewed and widely accepted.

Senator BOXER. Well, I wanted that on the record because we battle on the floor on this and we are going to keep on battling, and we are going to keep on fighting because you have the facts on your side, and we know if it is our mother, or our father, or our daughter, or our son, or our sister, or our brother, and it could easily be, one of those heart attacks, one of those hospital admissions, then we feel it in the gut. And it is our job to protect America's families just the way we protect our own.

I wanted to close with asking you a question about the Ryan budget. This budget of the President's cuts the EPA by 1 percent, and I have already stated that I am not happy about it. I mean frankly, I feel that the Beach Program is essential because, again, that saves lives. I do not like the cuts in the Radon Program. Again, I think it is essential. And I am going to try to add back those programs. I am not going to ask you about your feelings on them. I am sure you fight for these program. But we know that the President has to do something.

But the Ryan budget cuts the EPA by 14 percent, and it would amount to $1 billion in cuts. I wanted you to respond whether you think that level of cut would, in fact, threaten the health of our children and our families, that level of cut.

Ms. JACKSON. Well, we have not done an analysis of the Ryan budget yet, Madam Chairman. Let me simply say that EPA has taken painful cuts to get down to the 1 percent. It is misleading to say 1 percent because we have actually increased grants to States and tribes. The document that was put up is very misleading. All that money passes through EPA to States and tribes on purpose, and I would be very concerned about our ability to protect human health when we start looking at a larger——

Senator BOXER. OK. Will you send us, both Senator Inhofe and I, the impact of the Ryan budget once you have studied it?

Ms. JACKSON. Certainly.

Senator BOXER. And I would put in the record, well, I just want to put a fact in the record that you make a point I should have made, that funding to the States—and that includes the tribes—accounts for the largest percentage of your budget request. Is that correct, 40 percent?

Ms. JACKSON. That is correct.

Senator BOXER. In 2013. So, these really are passer funds to the States.

Senator Inhofe.

Senator INHOFE. Thank you, Madam Chairman.

Getting back to the, all of the above, which was really our mantra, we were really sincere in that above includes coal. There

has been a lot of concern that the MACT standards for the new electric generating facilities are so strict that no new coal fire generating stations can be built. We know the existing ones and what they are suffering under because contracts are being canceled as we speak.

Information in the rulemaking docket indicates that the new unit MACT Standard was set using performance data from Logan and Chambers units. But the EPA posted a chart in the docket showing six separate test results for Logan with Logan failing the standard five out of six times and a similar situation in Chambers.

Well, we told the public that the new unit MACT Standards would not prevent new units from being built. And yet your own data seems to show that the very units you use to set as a standard would fail the compliance test. Am I wrong on that?

Ms. JACKSON. Yes. I believe I disagree with you on that, sir. The Mercury and Air Toxic Standards are based on achievable technology for the best 12 percent. They look at individual contaminants like mercury, arsenic, cadmium, acid gases, individually. And one of the concerns we worked closely with on industry was looking at condensable versus total particulate matter as a surrogate for some of those hazardous air pollutants.

So, we believe that they are achievable. We believe that the standards meet the requirements of the Clean Air Act in that regard.

Senator INHOFE. OK.

Back to Logan. Did they—is it not accurate that they failed five out of the six tests?

Ms. JACKSON. Sir, I can certainly look at the individual data you are citing. But the Logan Plant I know well. It is a well performing facility in New Jersey, so I know it fairly well. But I would be happy to respond.

Senator INHOFE. All right. Thank you, Madam Administrator.

Actually that is one out of three totally unrelated questions, but one of them is—I remember it so well. It was 14 years ago, and I cannot believe that. I was, at that time, Chairman of the Clean Air Subcommittee, we were a majority, and you might remember when they came in, they were trying to regulate propane on the farms and all of this stuff.

It is very similar to what is going on today under the same program. The EPA is trying to force the ag retailers to report when they sell custom blended fertilizer directly to their farmer customers, even though the law exempts fertilizers held from sale to the ultimate consumers.

Now, farmers do not buy their fertilizer from Walmart, and they have to be custom blended. So, technically, that is selling to the ultimate consumer. I just want to get some kind of a commitment that we are going to let them enjoy the exemption that is in the law right now in terms of the fertilizers sales.

Ms. JACKSON. Senator, I try to know everything about the EPA's regulatory programs. You have managed to give me one I am not familiar with. I am happy to look into it.

Senator INHOFE. That is a first.

Ms. JACKSON. I am happy to look into the matter and answer your question.

Senator INHOFE. Well, it just makes sense, though. There is a reason that we have in the law that they are exempt. And I think that the mistake here in the way it is being applied is that they consider the ultimate consumer to actually be coming from a Walmart or something like that.

Now, I would say that at least, and responding to this for the record, I think that it is important, that we say at least when they have to custom blend, which is every case, that they should be considered as selling to the ultimate consumer because there is a reason for that exemption. That is, what I would like to do is get this back from you, and I think this is an area where you will agree with this. And so I would like to get that back.

Ms. JACKSON. So, you will be submitting a question for us to——

Senator INHOFE. Well, I am already doing it. Why should they not—why should this exemption not stand as selling to the ultimate consumer because it actually is? OK, that is good. That is good.

The third unrelated thing is on February 22 the EPA sent its guidance regarding waters covered under the Clean Air Act to OMB for final review. This goes way back. And I can remember sitting up here back when Senator Feingold actually introduced the Clean Water Restoration Act. Congressman Oberstar did the same thing. We have had this before us many, many times.

It has turned out that could be the most damaging thing in terms of ag. The Farm Bureau and other groups like that have said this is something that is not livable. So, consequently, I was disappointed when we sent the guidance to OMB for final review. And not only has Congress pointedly rejected similar efforts to statutorily expand the scope of the Clean Water Act, the majority of the Supreme Court Justices concluded in the Rapanos case, in the Swank case, and only yesterday in the Sackett case, that the EPA, that the Government, was exceeding its regulatory authority in how to regulate our waters.

I would ask, how does the Administration's policy, as articulated in the new guidance, differ from the overreach that was overturned by the Supreme Court? And that was only yesterday. However, it has been rejected twice before, in the Rapanos case and in the Swank case. And my interest here, of course, is to do something about this final rule in terms of the, how the water is going to be treated.

Ms. JACKSON. Senator, thank you. The Sackett case decided yesterday goes to process, at what point under the Administrative Procedures Act, since the Clean Water Act is silent on the matter, are those who are a recipient of an EPA action allowed to challenge it in court. The Court spoke, obviously, very clearly to that point and we will, of course, be abiding by that decision.

They did not speak unanimously as part of the main decision to the issue of—the continuing issue of which waters and wetlands in this country are jurisdictional. We have heard from a number of stakeholders around the country about the confusion that is resulting in lack of protection on certain lands and in certain areas, and that is what the guidance, which has been out for public comment and is now in the process of being finalized, is attempting to do.

Senator INHOFE. Yes, well, I think you probably noticed that, I think it is Senator Barrasso is going to be heading up an effort. We will be supporting him, Senator Session and Senator Heller, with a bill that stops the EPA from finalizing the guidance and from using the guidance to make decisions about the scope of the Clean Water Act or turn this problematic problem into a rule.

So, we are going to be doing what we can to stop that. But I would like to get your response as to how these Court decisions are going to impact what you are going to be doing with the water issues.

Senator BOXER. Thank you, Senator.

Senator Lautenberg.

Senator LAUTENBERG. Thank you very much, Madam Chairman, and thank you, Administrator Lisa Jackson. We are proud of the work that you and that whole department of yours does. They are dedicated people, and I have met with many of them over the years starting with my earliest Superfund days. And I know how much they feel their commitment to their work is, and they will go to work under the oddest of circumstances and fulfill their mission.

We had a brief discussion, I do not know if any of your heard it, about whether or not we are the Energy Committee or the EPW Committee. But one thing I learned here today is that we might be a part of the Budget Committee because what we are talking about constantly is the costs of these things.

I come from having run a very, very large business before I got here. And I know one thing. We had to have revenues that could carry the business along that was higher than our expenses. And here we have a new economic that says to heck with it; it does not matter what your revenues are. We do not look at that side of things. But yet we dwell on the facts that there are more rules, that there are more imposition on business and so forth.

I need a reminder. I have a quote here from Dr. George Benjamin, President of the American Public Health Association. Pretty reliable. They say, simply, hazardous air emissions are linked to a wide range of serious and immediate human health risks.

But here we cannot seem to get the message across because we are always talking about costs. And when you talk about the costs, and they are important, but do you not sometimes talk about the lives that might be saved? Can we not convince our colleagues on the other side, somehow or other, that it is not a good idea to put your kids up like a canary in a coal mine and ignore what the consequences are?

Now, we had a fellow testify in a hearing we had here on mercury emissions, and he was from a small town in Ohio, Avon Lakes. The man was a councilman. And he talked about a plant that was 42 years old and those scrubbers, but they had to be careful about shutting this plant down. It would cost tens of jobs, maybe 50 or 60 jobs if we shut the plant down. But I went further and I found that in the year 2010, they had 440 asthma attacks, 47 heart attacks, 29 premature deaths. They ought to go to the members of those families and ask if they can continue saving money on the lives and the well being of their children. I do not think so.

Over the past year, EPA has set new clean air standards that will cut toxic air pollution from power plants and industrial facilities. Unfortunately, there are now efforts in the Senate, we hear it, to block new mercury and air toxic standards. How many severe illnesses and even deaths will be prevented by EPA's new pollution limits? Please.

Ms. JACKSON. The mercury and air toxic standards benefits are estimated to be up to 11,000 avoided premature deaths a year. Once fully implemented, up to 130,000 avoided asthma attacks or asthma symptomatic cases that require attention, 2,500 fewer cases of bronchitis, and I do not have the number of heart attacks here as well. But the numbers are quite significant, sir.

Senator LAUTENBERG. That is how it is with you bleeding hearts. What about the money? Come on.

[Laughter.]

Senator LAUTENBERG. Anyway, Administrator, do you want to add something else?

Ms. JACKSON. Oh, I am sorry. We can monetize those benefits, and that is about $90 billion, $30 billion, excuse me, up to $90 billion in 2016. And that is annual. So, it is not fair to say there is only costs. There are benefits. Or another way to think of it is you can pay $1 to clean up the mercury and the arsenic and the cadmium, or you can pay $10 taking yourself and your family to the doctor to deal with all the pollution and the effects of that pollution. You pay either way, and $1 is a better deal.

Senator LAUTENBERG. I would say. I am pleased to see that EPA's budget increases funding for chemical safety programs by $436 million. But there are still more than 80,000 chemicals on EPA's inventory, and current laws have limited EPA to testing the health effects of just 200. That is over more than 30 years. Even with this additional funding, do you still believe that the Toxic Substances Control Act, TSCA, must be modernized in order to protect the public?

Ms. JACKSON. Yes, indeed I do, Senator.

Senator LAUTENBERG. EPA's budget completely eliminates funding for the Beach Act Grants to help States test and monitor water quality. And I wrote the law creating the program in the year 2000. It has helped millions of beach-goers ensure that a day at the beach is not followed by a day at the doctor.

What will be the effects on our beaches and beach-goers' health if States facing budget crunches are unable to make up the difference in lost Beach Act Funds?

Ms. JACKSON. Well, that is the key, Senator. The belief here is that the program was started to help States and local governments get their beach monitoring and surveillance and health systems into place. Our belief is that States are able and can fund in a variety of ways those programs. And so we do not believe that there will be an impact on health.

Senator LAUTENBERG. Yes. And I close by saying that here what we are saying is if you do not—if you need oil for car, and you do not put it in, just drive faster to make up for it.

Thank you very much.

Senator BOXER. Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Chairman.

Administrator, to follow up on Senator Lautenberg's issues, as you know, Rhode Island was scheduled to take a very, very big hit, and you have reduced the hit that Rhode Island takes a little bit under the Section 105 Program.

But when you add in taking the soot particulate matter testing and moving that out of Section 103 into Section 105, that adds to Rhode Island's hit. And when you pile in the elimination of the Beach Protection Grants Program, we end up taking it pretty hard in this budget relevant to other States, it seems to me anyway.

So, I just want to let you know that we are going to be working very hard to try to address that with you. Once again, it was a downwind State. I do not believe we are creating a lot of pollution out of Rhode Island that the rest of the country has to worry about. And so the fact that our hit seems to be going way up when we are one of the less polluting States, we are down river of most of the river pollution that comes, we are downwind of the air pollution, we do not really harm anybody else. So, we will be working with you on that. I just wanted to make sure you knew how important this was to us to have that recognized.

There has been some suggestion that the new EPA clean air rules could be responsible for fuel shortages in the northeast this summer. I think the suggestion has been that Pennsylvania, in particular, might suffer a fuel shortage. Everything that has to do with what you do is often surrounded with propaganda, rumor, and speculation. And I just wanted to get your sense of what the facts are on this. I know that Washington has been largely fact proofed by special interests on a lot of environmental issues. But what are the facts on this?

Ms. JACKSON. Well, there is a specific issue in one specific area of the country. It is not related to EPA regulation, but EPA is working closely and monitoring the fuel supply situation in Pennsylvania and in the Pittsburgh area in particular.

Due to market factors, several refineries which prefer to process light, sweet crude have decided that they would rather shut down than process heavier, sour crude which is on the market these days. That simply means that we need to ensure with those refineries gone, the Buckeye Pipeline which serves them does not result in there not being a reliable supply of gasoline to the economy and customers in that marketplace.

Sunoco, one of the refineries, has publicly said now that they have a plan in place to deliver a reliable supply of products in the areas that they serve, even if they fail to find a buyer for that one refinery. However, EPA has been working with the Department of Energy. We work with the private sector, continue to work with them.

The concerns revolve around the Clean Air Act and the portions of the Clean Air Act that lower the volatility of gasoline in the summer because, as you know, that is when gasoline evaporates and causes smog in our air on hot summer days, and it becomes a bit of a cycle.

We have well established authority to waive fuel standards in the event of any kind of actual fuel supply shortage. With DOE concurrence, we have used that authority, and we are certainly

working closely with the State of Pennsylvania and the industry and DOE on those issues.

Senator WHITEHOUSE. We will follow up with some questions for the record on the funding and its effects on Rhode Island, and I would ask if you could respond to those fairly quickly because, in the budget cycle, if we get stalled on that, then we are stuck waiting. So, I would ask for your cooperation in providing us pretty quick answers.

And I would like to ask that a Providence Journal article from the summer of 2011 be admitted into the record. Madam Chairman, I ask unanimous consent for the article to be admitted into the record.

Senator BOXER. Without objection.

Senator WHITEHOUSE. Thank you. It describes a success story, which is that our salt water beach days lost to contaminated swimming water decreased by 35 percent in 2010 from 2009 levels. And it credited some of the big projects that Rhode Island has done.

The Narragansett Bay Commission has built enormous tunnels and receiving chambers underground to store stormwater from our combined sewer overflow storm systems so that they do not have to bypass sewage treatment and they can be held. And when capacity is restored at the treatment plant, it can be pumped and treated properly. Newport has built a $6 million ultraviolet treatment system for stormwater that discharges onto Easton's beach.

We are doing our job. And we have put a lot of money behind keeping our water clean. And so it really hits hard when this funding is cut off to Rhode Island which, as I said, is a largely non-pollution producing State for the country. We are certainly dealing with a lot more pollution from other States than we create for other States.

Our Department of Environmental Management has reduced its air resources staff from 30 to 20 in the last 3 years because of budget cuts. So, we are up against it. And I will be looking for your support to work our way through this, but particularly a rapid answer to the questions.

Thank you.

Ms. JACKSON. Thank you, sir.

[The referenced article was not received at time of print.]

Senator BOXER. Thank you.

Senator Sessions.

Senator SESSIONS. Thank you, Madam Chairman, and Administrator Jackson.

You have had a pretty good budget run in the last few years by any account, and I do have to say that this country does not have sufficient money to continue all our Government agencies and departments at the same level of funding. They just do not have it.

And the House Republicans have produced a budget. It is a long-term budget that changes the debt course of America. It will keep us, hopefully, from hitting a financial crisis as Erskine Bowles, President Obama's Chairman of the Debt Commission, warned that we are heading to.

So, I am just looking at the numbers here, and I want you to recognize that everybody is going to have to tighten their belt. Under the proposals, the Defense Department would take by far the big-

gest reductions, and that is not war funding. That is coming down on its own. I am talking about the base Defense Budget. They are taking significant real reductions in spending and under the sequester would be very dramatic.

But would you not recognize that even though we are having the greatest deficits in the history of the Republic, that your budget has been continued upward since 2008 and remains considerably above that level?

Ms. JACKSON. Sir, I think that—I do not agree with that. We did get a bump up, primarily to fund water infrastructure, that is State money, and the Great Lakes Program, which is grant money. That does not get spent primarily by EPA by any means.

We took a 16 percent budget cut in 2011, 3 percent in 2012, 1 percent in 2013, and those numbers are misleading because in those times we have increased our funding, as I said in my opening remarks, to try to continue to fund the State-based programs because we know that State budgets are such that the States need the Clean Air and Clean Water Act funding so they can keep their programs going.

Senator SESSIONS. Well, with regard to the State funding, I notice you seemed to react adversely to my comment based on our looking at your budget request. And if I am wrong I would like to be corrected. But it seems to me that, in fact, on this year's budget your numbers for EPA go up and the amount of funding to the States go down. Maybe we have that chart I could show. That is the numbers we score. You do not dispute that, do you?

Ms. JACKSON. I do, indeed. I do not dispute it, and I am certainly not saying that you are wrong. I would say I would look at those numbers differently. I think that chart is a bit misleading.

The decrease in State and tribal funding that you are showing is because the money for the State Revolving Fund Programs is being cut. That is the same money that——

Senator SESSIONS. Well, is that part of your budget?

Ms. JACKSON. It is. But it is also——

Senator SESSIONS. Well, then you propose to cut their Revolving Fund money while increasing yours, are you not?

Ms. JACKSON. No sir, we are not. We are proposing to cut the places where the largest increases happened in the 2010 budget, which is the SRF funding.

Senator SESSIONS. Well, it seems to me that that is what happened.

Ms. JACKSON. Well, sir, if——

Senator SESSIONS. And I am just kind of taken aback. I mean, the numbers are the numbers. So, whatever it is, the Revolving Fund, the money that goes to the States, that has been reduced. And would you not—you value the State participation, and they are partners in our efforts to make our environment better, so I am just concerned about that.

With regard to your statement about reducing spending, your base budget was $7.4 billion in 2008, it jumped to $10.2 billion, it has basically now been dropped to $8.3 billion, which is still a 15, 12 percent increase over where you were after having substantial increases over a number of years.

So I guess my only comment to you and to the Chairman is that we are all going to have to tighten our belts. We would like for you to give every focus you possibly can on containing costs. I believe it can be done better.

I also think you have to consider the impact that the regulations are having on the American people, its impact on job creation, the cost of electricity, the cost of gasoline, and those kinds of things that are placing our economy at risk.

How would you respond to my constituents who are telling me that they have never seen such a surge of regulatory impact as they are now from the Environmental Protection Agency? They think much of it is not responsible and unwise.

Ms. JACKSON. I would say that, first, whether it is the pace of regulation, which I have signed fewer regulations per year than my predecessors, or the fact that several of the regulations that are, that we have done, the Mercury and Air Toxic Standards, the Cross-State Air Pollution Rule, were the result of court decisions that remanded and found previous versions of those regulations illegal, and the last I would offer is that those regulations—Mercury and Air Toxics is a great example—it is $10 of health benefits savings for $1 invested in our economy. It creates 46,000 short-term construction jobs and 8,000 long-term utility jobs. So, the American people get health protection and savings in terms of what they have to pay to keep themselves healthy.

Senator SESSIONS. Administrator Jackson, do you believe that when you mandate a company to employ more people to meet a regulation than they otherwise would not be employing that that is really a job creator? Because it reduces their wealth, it reduces their ability to hire people to do productive items. The question is whether or not the regulation justifies the cost, I believe.

My time is up, I hear. So that is the kind thing we will do. And as to your statement about the health impact on mercury and so forth, EPA's number with regard to health benefits are widely exaggerated in my view, and I would be glad to see the documents that would justify that number.

Ms. JACKSON. They are part of——

Senator SESSIONS. Would you submit that to me?

Ms. JACKSON. They are part of the regulatory impact analysis for the rules. Happy to do so. And I would also like to——

Senator SESSIONS. Well, I have examined some of them in the past, and they are not, they do not back up what your witnesses have said.

Senator BOXER. Senator Sessions, when you were gone, I asked the same questions about are these peer reviewed studies. So I would like to get the transcript, the answer that Administrator Jackson gave me. But in addition, I would be very interested in being copied on this because the point was made that if we ever had a regimen that is clear, it is the scientific studies that look at hospital admissions and the rest.

So, I think we ought to look at it——

Senator SESSIONS. One of the studies was some sort of polling data about whether people would pay more, and it was not a real health study that they were citing. So, I would just like to see it.

Maybe—I hope we do get health benefits from improved environmental quality.

Senator BOXER. Well, I think it is good to go back. I have so much respect for my friend. And we work together on certain issue. But on this one, we are miles—we are different planets. Let us face facts. But I think it is good for people to see this debate, and I just do not let it go unanswered because there is no way under the Clean Air Act you take a poll to find out how many premature deaths are being prevented. We have it all documented. So, would you please send me a copy?

And I would ask unanimous consent to place in the record an October 4, 2011, very interesting op-ed written by Bruce Bartlett. He was, he held senior policy roles in the Reagan and George H.W. Bush administrations, and he served on the staffs of Jack Kemp and Ron Paul. So it is really interesting, and I will put it in.

But here's the opening. Republicans have a problem. People are increasingly concerned about unemployment, but Republicans have nothing to offer them. The GOP opposes additional Government spending for jobs programs and in fact favor big cuts in spending which would likely lead to further layoffs.

Then he concludes by saying in my opinion, regulatory uncertainty is a canard invented by Republicans. It allows them to use current economic problems to pursue an agenda supported by the business community year in and year out. In other words, it is a simple case of political opportunism, not a serious effort to deal with high employment.

Now obviously, Senators Sessions and Inhofe, they would all disagree with this, but I think it is interesting. And the other is, I think a very important poll that runs, Senator, I believe you when you tell me people come up to you at home and tell you, and I wrote what you said, the impact on our lives from the EPA is nothing that they have ever seen before. That is basically what you said. And I totally agree with you that that happened in your State.

I want to just say I have never, never heard that when I go home. I have not had one person come up to me and say please cancel that Clean Air Act Regulation, I need more pollution Barbara; fight against it. And if you look at this, look at this poll. Where is the one about the bipartisan poll, broad support in the spectrum? When asked about setting stricter limits on the mercury that power plants and other facilities admit—and that is a reg that is fiercely opposed by my colleagues on the other side—78 percent said, of likely voters, that they were in favor of the EPA updating these standards.

So we see the world so differently. I find it so intriguing the way we come to this. But I am very interested in seeing the data that Senator asked for.

Senator SESSIONS. Madam Chairman, just briefly, you took liberty and I——

Senator BOXER. No, I am happy to, go ahead.

Senator SESSIONS. This is an important issue for us to talk about. In an article by Stephen Malloy he says the EPA says air pollution kills tens of thousands of people annually, this in a par with traffic accident fatalities. While we can identify traffic acci-

dent victims, air pollution victims are unknown, unidentified, and as far as anyone can tell figments of EPA's statistical imagination. That is what he says.

It ought not to be too much to ask EPA to produce some tangible evidence that air pollution is causing the actual harm to real people. So that is what I am asking for, I guess. Let us see the numbers that justify, the data that justifies the numbers, and I think the Chairman and I agree on that.

Senator BOXER. We do agree. And I did ask the question before.

And I ask unanimous consent to put into the record a sheet put out by the American Academy of Pediatrics talking about how much they support your work. So, we will put that into the record.

Senator Udall, you have the last word unless other Senators come, and then absolutely I will call on them.

[The referenced materials were not received at time of print.]

Senator UDALL. Great. Thank you, Madam Chair.

Administrator Jackson, the U.S.-Mexico border stretches for over 2,000 miles and is home to many thousands of people who need to be connected to modern water and sewer systems for the first time.

I am glad you are requesting $10 million for border environmental infrastructure, but this amount is a fraction of what this program has traditionally received. Last year's Appropriations Act only provided $5 million. We hear a lot about water infrastructure needs. But if all our States faced what we see on the New Mexico border, it would be a national emergency.

Will you work with us to ensure that the Appropriations Committee includes at least $10 million you request in your fiscal year 2013 budget?

Ms. JACKSON. Certainly I am happy to get you any information to support what is clearly an important program, Senator. These are tough choices, and we are proposing less money. We are proposing more than what was in last year's enacted, but only slightly more. So, we are happy to get you information so that you can make that key.

Senator UDALL. But you are going to aggressively support your $10 million, which is what is in the President's budget, I believe. Right?

Ms. JACKSON. I believe it is $4.5 million, sir.

Senator UDALL. I believe it is $10 million.

Ms. JACKSON. Oh, I am sorry, I have bad information. It is $10 million. I am sorry. Senator, we are absolutely in accord. Please forgive me.

Senator UDALL. OK. Thank you.

The EPA's Border 2012 Program is coming to an end, and I understand a new Border 2020 Program is being developed to replace it. Will you ensure that border environmental issues receive top level attention at EPA headquarters going forward?

Ms. JACKSON. Yes, sir, it is a priority.

Senator UDALL. And you are going to be timely in terms of getting out as the one program expires, 2012, a 2020 Border Program?

Ms. JACKSON. It is scheduled for, the Border 2020 Program launch is scheduled for August 2012.

Senator UDALL. Great. Thank you very much.

I wanted to talk a little bit with you about the San Juan Generating Station and EPA's Regional Haze Plan. There is an ongoing disagreement between the U.S. EPA and the State of New Mexico about the Clean Air Act Regional Haze Plan for the San Juan Generating Station in the Four Corners Region in New Mexico. Both EPA and the State appear to be dug in on opposite sides with competing plans and cost estimates and complex technical agreements.

I believe most New Mexicans want EPA and the State to follow the Clean Air Act and preserve the visibility of our great western landscapes and improve public health. But many are also concerned about a potential increase in electricity rates. I hope that all sides will think constructively about win-win solutions here.

I realize that Region Six has primary responsibility here, but will you ensure that EPA headquarters is also engaged on this issue and that the EPA continues to work cooperatively with the State of New Mexico and our local utilities to work through this issue in the best possible way?

Ms. JACKSON. Yes, Senator.

Senator UDALL. Thank you very much.

And on green infrastructure for the State Revolving Funds, or what sometimes is called smart water, EPA's budget request continues a 20 percent setaside for green infrastructure qualifying projects within the two State Revolving Funds.

I want to stress that when we talk about green infrastructure, we are talking about two kinds of green, reducing the amount of concrete and using the natural landscape for stormwater systems or installing energy efficient improvements at a water treatment plant or both. These are both good for the environment. But just as importantly, these kinds of projects save green money for water utility ratepayers by reducing construction costs and energy bills.

Will you continue to advocate for these setasides and ensure that EPA provides appropriate guidance to States on how to implement them?

Ms. JACKSON. Yes, sir. I am a very strong supporter of green infrastructure and so are, by the way, mayors and local communities who get win-win results.

Senator UDALL. And I know many of our mayors are very involved in this and very supportive of it.

U.S. water utilities waste an estimated 7 billion gallons of treated drinking water through leaks and ruptures. Does EPA plan to become more involved in promoting smart water systems that detect leaks and better manage water systems to reduce losses, energy use, and contamination?

Ms. JACKSON. Yes, we are happy to be supportive, both fundingwise through the State Revolving Funds but also through technical assistance working both with the industry, the practitioners, and of course with the States and local governments. There is such a need out there, as we heard earlier, that we do prioritize with the States where we can be financially supportive.

Senator UDALL. Thank you, Administrator Jackson. And I know that you have a very good, solid professional staff at the EPA and we very much appreciate all of their hard work.

Thank you, and I yield back.

Thank you, Madam Chair.

Senator BOXER. Senator Udall, I thank you so much for your patience and asking such good questions.

And Administrator, we really do appreciate you so much. You just tell the truth from the heart, and you are carrying out your responsibilities to the people. And all I want to do, as Chairman of this Committee, is make sure that you keep that up because everybody is counting on you: the little kids, the kids soon to be born, and our families.

Thank you very much.

We stand adjourned.

[Whereupon, at 11:48 a.m., the Committee was adjourned.]

[Additional statements submitted for the record follow:]

STATEMENT OF HON. THOMAS R. CARPER,
U.S. SENATOR FROM THE STATE OF DELAWARE

One of my top priorities this year—which I share with President Obama—is to continue to support initiatives that spur job growth and create a nurturing environment where communities in Delaware and beyond can create a solid foundation for job creation and prosperity. I believe, for the most part, the President's budget is a responsible solution to ensure our continued economic recovery and long-term economic growth, providing for a brighter future for Delaware families.

President Obama's budget proposal continues our efforts to save money, reduce harmful air pollution, and improve our national security by reducing our Nation's reliance on foreign oil and encouraging the deployment of the next generation of clean energy and energy efficiency technologies.

Bringing balance to our Federal budget will be difficult, requiring a shared sacrifice. From Government agencies to corporations, we need to take a hard look at all of the options available to us—both in terms of raising revenue and reducing spending—and we all must share in the sacrifices required to rein in the deficit.

However, I am concerned that President Obama's budget makes cuts to very effective programs within the Environmental Protection Agency (EPA) that not only clean our environment and protect our health but also spur economic growth.

One concern I have is on the dramatic funding cut for one of EPA's most successful programs, the life saving Diesel Emissions Reduction Act (DERA). This recently reauthorized program is a bipartisan, common sense approach to cutting toxic diesel emissions that threaten the lives of our communities and our children. By retrofitting or replacing dirty diesel engines—like those on the school buses that take our children to school every day—the Diesel Emissions Reduction Act saves lives and creates a demand for clean diesel technology, which in turn creates American jobs. The President's budget cuts DERA funding in half from fiscal year 2012 and limits the Administrator's ability to effectively deliver DERA funding by eliminating the grant program. Cutting and limiting the use of DERA funding, which has shown a consistent high return on its investment—for every $1 invested, we get over $13 in health and economic benefits in return—just doesn't make sense.

I am also concerned with the elimination of funding for the EPA's Beaches Environmental Assessment and Coastal Health, or BEACH Act, grant program. This program has been very important to coastal States like Delaware. Delaware is home to some of the Nation's cleanest and most visited beaches. These beaches are not only an important recreational and environmental asset for our State; they are also an important economic engine for the region. By creating confidence that our beaches are safe through water quality monitoring and notifications, the BEACH Act grant program works to keep visitors coming back to our Nation's beaches and investing in our country's coastal communities year after year. This type of monitoring cannot be done by the States alone and therefore should continue to be funded.

As we work through the budgeting process, I will continue to work with my colleagues and the Administration on efforts to curb our Federal debt and deficit while ensuring that we invest in key priorities for the First State and for the Nation.

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

Thank you, Chairman Boxer and Ranking Member Inhofe, for holding this hearing to discuss EPA's proposed budget. I would also like to thank Administrator Jackson for being here today. This could very well be the last opportunity Senate

Republicans will have to ask questions on the record of Administrator Jackson until after the November elections.

I would like to focus on some key issues in my opening statement, all of which I likely won't have enough time to ask questions on as we move forward but are nonetheless important.

Over the last 3 years we have seen multiple regulations proposed and move through the process toward implementation. Some are being pushed back until after the election, presumably because of the economic impact they would have on employment and the price of energy. Some of your Agency actions include the Cross-State Air Pollution Rule, implementation of expanded Clean Water Act jurisdiction, and Tier 3 emissions standards that would increase the price of gasoline.

Some of my colleagues today will likely focus on the litany of proposals EPA is promulgating under the guise of protecting human health. However, I would note that EPA does no microeconomic analysis on the impacts of high unemployment or the loss of revenue to small communities from business closures, including tax revenue that pays for fire departments, hospitals, and schools. In other words, the ability to find employment and feed your family are not considerations in EPA's health impact analysis.

Some things I would like to focus on today are the following:

• EPA's war on hydraulic fracturing needs to stop. Hydraulic fracturing is one of the few bright spots in our economy, creating good paying jobs, generating significant revenue, and giving domestic manufacturing one of its few advantages to compete internationally. That advantage is affordable and readily available natural gas, including the many derivative products that come from production and refining. The regulatory environment in America is not competitive, but the price of natural gas is. EPA's war on hydraulic fracturing is very much a war on American manufacturing.

• It makes little sense for the EPA to continue to try and expand its jurisdiction under the Clean Water Act. The issuance of a guidance document which proposes expanding jurisdiction and permitting authority for both the EPA and the Army Corps of Engineers is bad economics and poor policy. Every private property owner in America should be particularly concerned in light of the Supreme Court's ruling yesterday in the case of Sackett v. EPA. That unanimous decision, and Justice Scalia's opinion, outline how truly destructive a bureaucracy like the EPA can be to individual liberty and private property rights. It further lays bare why the EPA should not be attempting to expand its jurisdiction. In light of the Supreme Court decisions in Northern Cook County (2001), Rapanos (2006), and the Sackett decision just yesterday, EPA's desire to expand its jurisdiction under the Clean Water Act is inexcusable.

• Finally, there remain significant problems with sound science and transparency at the Agency. What is more important is there appears to be nobody watching over or implementing the much needed reforms. White House Science Advisor John Holdren essentially admitted that he has done nothing in the way of oversight or reform after numerous instances of shoddy scientific work. We know that EPA's chemical assessment program is in dire need of reform; both the NAS and GAO have said as much. And on the matter of transparency, despite Administrator Jackson's newly issued Scientific Integrity Policy, it still took nearly 2 months to provide us with the PWG report on the Ramazzini Institute. Transparency is still very much an issue.

Again, thank you, Chairman Boxer and Senator Inhofe, for today's hearing. And thank you, Administrator Jackson, for making yourself available.

[Additional material submitted for the record follows:]

Pages: **4**

Those sand castles could hold hidden health hazard Providence Journal August 18, 2009 Tuesday

Copyright 2009 Providence Publications, LLC
All Rights Reserved
Providence Journal

August 18, 2009 Tuesday

SECTION: NEWS; Local; Pg. 1

HEADLINE: Those sand castles could hold hidden health hazard

BYLINE: By Peter B. Lord, Journal Environment Writer

A federal study finds digging in beach sand puts people at greater risk for illness.

A new study of beaches across the country, including the one at Goddard Memorial State Park in Warwick, finds that people who dig in the sand put themselves at greater risk for **gastrointestinal** illness and diarrhea.

The risks are higher for those who get buried in the sand.

And the risks are greater for children, because they are more likely to be digging tunnels and carving sand castles.

The increased risk levels range from 13 to 23 percent, meaning the chances of any one individual getting sick go up only slightly. But because so many people go to the beaches, the researchers said, the overall numbers of extra illness are significant.

Good news was delivered in a second study that finds that people who wash their hands after digging in beach sand greatly reduce their risk of ingesting bacteria that could make them sick.

The two studies merge the obvious: that washing hands gets rid of germs and concentrations of E. coli bacteria are often higher in beach sand than they are in the water at the beach.

The state Health Department was sufficiently interested in the new research that it recently won a federal grant to do its own analysis of bacteria in the sand at 10 Rhode Island beaches that have been closed frequently because of spikes in E. coli, the indicator bacteria for human waste.

For the next month, staff from the department s beach water-quality monitoring program will collect beach sand samples and have them analyzed. The department will use the

results to help determine protocols for future beach closures, according to spokeswoman Annemarie Beardsworth.

We don t want people to think that it s unsafe to go to the beach, said Beardsworth. It s fine to play in the sand, but this is another opportunity to remind people about the importance of washing their hands. And make sure little kids don t eat the sand. We don t want precaution to take a vacation.

The same message was offered by Christopher D. Heaney, the lead scientist on the beach sand study at the University of North Carolina. He spent the last weekend vacationing at a beach in Little Compton.

He said he made a point of washing after each day at the beach, so he was unconcerned about possible bacteria.

The studies have been publicized by the U.S. Geological Survey, a federal agency that has its roots in mapping and surveying the country, but has broadened its efforts to perform a wide range of scientific studies.

The agency reported that while new research finds that beach sand is a potential source of bacteria and viruses, hand rinsing effectively reduces exposure to microbes that cause **gastrointestinal** illnesses.

Our mothers were right. Cleaning our hands before eating really works, especially after handling sand at the beach, Richard Whitman, the lead author of the U.S.G.S. study, said in a statement. Simply rinsing hands may help reduce risk, but a good scrubbing is the best way to avoid illness.

Whitman s study, focusing on the shores of Lake Michigan in Chicago, found that people digging in the sand contaminated with E. coli would develop **gastrointestinal** illnesses at rates ranging from 1 to 3 percent higher than those who didn t play with the sand.

The study that analyzed people who played in sand at Goddard Park was part of a much larger effort by the federal Environmental Protection Agency to study links among water pollution, swimming at beaches and peoples health.

The scientists interviewed 27,365 people as they visited beaches, and a short time later by telephone to determine if they became sick. They selected beaches that were relatively close to sewage treatment plant outfalls.

The Goddard survey was done in 2007. At Goddard, 138 people who dug in the sand, or about 5 percent of the total, got sick. The rates were higher at beaches in other states.

The researchers found those digging in the sand were increasing their risk of **gastrointestinal** illness by 13 percent and their risk of diarrhea by 20 percent. People getting buried in the sand increased their risks of **gastrointestinal** illness and diarrhea by

at least 23 percent.

The researchers found the risks varied greatly from beach to beach.

For more on the USGS study go to: http://www.usgs.gov/newsroom/article.asp?ID=2278d

To see the EPA study, go to: http://aje.oxfordjournals.org/cgi/content/full/170/2/164

NOTES: plord@projo.com / (401) 277-8036

GRAPHIC: In the sweltering heat Monday, Yuvi Cambero, 9, of Providence, plays in the sand at Goddard Memorial State Park.
Yamil Cambero, right, 12, and his sister Yuvi, 9, who live in Providence, play in the sand at Goddard Memorial State Park beach. Studies indicate digging in the sand at a beach increases the risk of **gastrointestinal** illness.

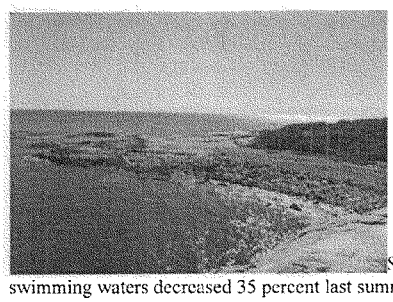
LOAD-DATE: August 18, 2009

R.I. Waters are No Day at the Beach

Sunday, July 24, 2011 at 11:28AM

ecoRI News

By FRANK CARINI/ecoRI News staff



Saltwater beach days lost to contaminated swimming waters decreased 35 percent last summer. (ecoRI News file photos)At first glance, the upfront numbers seem impressive.

Saltwater beach days lost to contaminated swimming waters decreased 35 percent last summer from 2009. Rhode Island has spent about $360 million on the State Tunnel Project, which has helped address Providence's combined sewer overflow problems and improved the water quality in upper Narragansett Bay. The city of Warwick has connected some 8,000 homes in the Greenwich Bay area to the municipal sewer system.

State Department of Health (DOH) 2010 bacteria monitoring data showed that Providence River beaches at Sabin Point and Crescent Park in East Providence and Gaspee Point in Warwick met safe swimming standards 85 percent of the time.

King Park Beach in Newport, which had been closed to swimming since 2004 because of persistent high bacteria counts, welcomed swimmers back July 2.

The city of Newport has invested nearly $6 million in an ultraviolet treatment system to reduce bacteria levels from stormwater that discharges into Easton's Beach. The town of Bristol has installed rain gardens.

The percentage of health standard exceedances — the number of times unsafe levels of bacterial contamination from enterococci and/or fecal coliform were found in tested saltwater beaches — decreased to 8 percent in 2010 from 20 percent the previous year. Rhode Island ranked (lowest to highest) 18th in the nation for the number of samples exceeding national standards last year, according to the National Resources Defense Council. (States with the highest rates of reported contamination in 2010 were Louisiana, 37 percent exceeding health standards; Ohio, 21 percent; and Indiana, 16 percent.)

Since summer 2003, when Rhode Island witnessed a record number of beach closures, Greenwich Bay experienced a massive fish kill and the health of Narragansett Bay was in question, the Ocean State has thrown substantial money at its water pollution problems.

This work to improve water quality at Rhode Island's saltwater beaches has resulted in a 36 percent decrease in beach closures since 2006.

"This is wonderful progress, but our goal of permanently eliminating beach closures is still years away. Wastewater, stormwater, and nutrients continue to plague our shores," according to the Narragansett Bay Watershed Counts, a coalition of agencies and organizations committed to work together to examine and report regularly on the condition of the land and water resources of the Narragansett Bay watershed.

Murky waters
Despite all of the efforts made in the past eight years, the results can be misleading.

Waste from animals contributes to the problem of polluted waters.Contamination from human waste — via failing septic systems, outdated cesspools, overrun wastewater treatment facilities and malfunctioning sewer infrastructure — animal waste and other sources has impaired 57 fresh waters in Rhode Island, rendering them unable to meet federal water quality standards. In all, the state has documented water quality impairments in 112 water bodies.

The Woonasquatucket River, which forms the border between Johnston and North Providence, has widespread dioxin contamination. The DOH recommends that the public not eat fish caught from the river south of the Johnston/Smithfield line.

The U.S. Environmental Protection Agency (EPA) felt compelled, at the end of June, to send out a press notice reminding the public to use the Woonasquatucket River responsibly. Specifically, the notice read, residents of Johnston, North Providence and Providence should keep in mind that contamination in and along the river may pose a health risk.

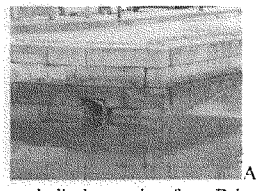
Illnesses associated with polluted beach water include skin rashes, stomach flu, pinkeye, respiratory infections, meningitis and hepatitis.

The fewer saltwater beach days lost to contamination last year — 150 vs. 230 in 2009 — can largely be attributed to weather. Last summer (May 28-Sept. 6), total rainfall was 13.42 inches, nearly 4 inches less than in 2009. The number of significant rainfalls — a half-inch or more in 24 hours — also fell from 13 to 11.

Less rain means less pollution makes its way into our waters. "Weather is a big factor, and it changes by the year," said Amie Parris, the DOH's beach program coordinator. "A dry summer means less beach closures. More rain means more runoff."

Flood of pollutants

Stormwater is created when heavy rain flows over development — driveways, sidewalks, rooftops, highways and parking lots — collecting pollutants such as petroleum, heavy metals, animal waste, chemicals and debris. This concoction of water and waste is typically channeled into storm drains, discharging via outfalls into an unfortunate water body — i.e., the five outfall pipes that discharge into Scarborough Beach.


A stormwater outfall pipe in Bristol.In all, Rhode Island has 64 such discharge sites from Bristol to Woonsocket, including 13 in Providence, according to 2010 DOH figures.

The Department of Health discourages swimming in the upper bay, north of Conimicut Point in Warwick, including the beaches at Sabin Point, Crescent Park and Gaspee Point. These waters are directly affected by pollution inputs due to heavy rains and discharges from area wastewater treatment facilities. State officials also recommend water contact should be avoided for a minimum of three days after heavy rainfall.

In communities such as Narragansett and Newport with combined sewage overflow (CSO) treatment plants, both stormwater and sewage go to such a facility to be treated. However, when there is heavy rain, the amount of stormwater can overwhelm the system resulting in a discharge of raw or partially treated sewage.

The EPA estimates that more than 10 trillion gallons of untreated stormwater flow into U.S. surface waters annually. In addition, another 850 billion gallons of wastewater are released every year from CSOs.

In the past decade, the city of Newport has spent nearly $40 million on various CSO projects. But there is an ongoing debate as to whether that money has kept beach water contamination at bay.

Last month, the Alliance for a Livable Newport held a "CSO Accountability Forum" to discuss the "continuing historic incidence" of overflows since 2004. At that meeting, alliance board member John McCain gave a presentation that claimed there is no empirical data to support that the millions spent on projects, including the new UV system that went on line in May, have reduced CSO discharges.

Easton's Beach was closed June 24 and King Park on July 15 because bacteria levels rose above acceptable levels. Unsafe bacteria levels at Easton's Beach's Middletown neighbor, Atlantic Beach Club, have closed that beach for three days this summer.

So far this summer, Rhode Island has lost more than 60 beach swimming days to polluted waters.

Contaminated beach waters, however, aren't isolated to the Ocean State's salt waters. The three Rhode Island beaches currently closed to swimming are all freshwater spots — Gorton Pond Beach in Warwick, closed since June 16; Governor Notte Park Beach in North Providence, closed since June 30; and Camp Canonicus in Exeter, closed since July 13.

Last summer, of the 292 samples the DOH collected at 43 freshwater beaches, 32 of them (12 percent) exceeded unsafe bacterial levels. The freshwater beaches with the most excedences were Governor Notte Park (7), Lincoln Woods State Park (6) and the Kent County YMCA (6).

"America's beaches have long suffered from pollution — the difference is now we know what to do about it," said Natural Resources Defense Council senior attorney Jon Devine. "By making our communities literally greener on land we can make the water at the beach cleaner. In the years to come, there's no reason we can't reverse this dirty legacy."

Last year, America's beaches — both fresh and salt water — witnessed the second-highest number of closing and advisory days in more than two decades, according to the Natural Resources Defense Council's (NRDC) 21st annual beach water quality report.

The best way to keep pollution out U.S. beach water is to prevent it from getting there by investing in smarter, greener infrastructure on land, such as porous pavement, green roofs, parks, roadside plantings and rain barrels, according to the NRDC report.

"Rhode Islanders know that a healthy (Narragansett) Bay means clean beaches and a vibrant tourism economy. Sixteen million people visit Rhode Island each year to enjoy our beaches, seafood and water sports, creating 55,000 jobs and injecting $6.8 billion into our economy," Sen. Sheldon Whitehouse, D-R.I., said. "We've made great strides in reducing wastewater pollution into Narragansett Bay, but this report reminds us of the progress still to be made to protect our economy and our environment."

Going Green

Green infrastructure stops rain where it falls, storing it or letting it filter back into the ground naturally. This keeps it from running off dirty streets and carrying pollution to the beach. This type of infrastructure also keeps rain from overloading sewage systems and triggering overflows. These smarter water practices on land not only prevent pollution at the beach they also beautify neighborhoods, cool and cleanse the air, reduce asthma and heat-related illnesses, and save on heating and cooling energy costs, the NRDC report stated.

The ills of careless and antiquated development also spill over into the state's rural and not-so-rural backyards. A vast network of cesspools and septic systems, some of the oldest wastewater infrastructure in the nation, handles nearly a third of Rhode Island's household disposal of sewage and wastewater.

Miles of century-old underground water and sewer lines — much of it made of wooden and brick pipes and much of them layered with a buildup of crud — have sprung leaks because they are eroding, crumbling and collapsing.

Even a cesspool in pristine condition is nothing more than a covered hole or pit lined with unmortared brick or stone and filled with human waste. They do little to keep wastewater pathogens out of nearby wells and waters. When the water table rises, human waste sitting in cesspools mixes with groundwater. To keep this wastewater from collecting near homes, there often is an illegal drain nearby to redirect this puddling effluent to an out-of-sight, out-of-mind location. Much of it eventually ends up in brooks, streams, rivers, ponds and lakes, or even in a nearby drinking water well.

In Portsmouth, where the neighborhoods of Portsmouth Park and Island Park lack municipal sewer, the state Department of Environmental Management (DEM) has documented evidence of human sewage in storm-drain outfalls and groundwater seeps along the shorelines in both those areas.

The DEM has even insisted that Portsmouth install sewers in both those neighborhoods because contamination from cesspools and failed septic systems is polluting the Sakonnet River and Blue Bill Cove. Residents, town officials and state officials continue to argue about who will shoulder the cost.

In the meantime, everyone is paying.

Rhode Islanders generate more than 150 million gallons of wastewater daily, according to the Rhode Island Clean Water Finance Agency. In many areas, wastewater is collected at 19 municipally owned treatment facilities and purified before it finds its way back into the Ocean State's waterways.

However, some 50,000 Rhode Island homes use cesspools — many predating 1968 — and the state law originally passed in 2007 to phase-out these inadequate systems by Jan. 1., 2013 was pushed back during the General Assembly's recently concluded session until 2014.

This delayed phase-out only applies to any cesspool within 200 feet of a public drinking water well, within 200 feet of the inland edge of a shoreline feature bordering a tidal water area or within 200 feet of a surface drinking water supply.

Eugenia Marks, the senior director of policy for the Audubon Society of Rhode Island and a trusted local environmental voice, understands the phase-out delay. "It's a tremendous expense and a real hardship to get them out of the ground," she said.

Marks, though, is concerned with one number (200 feet) and a popular summertime destination (beaches). She said the phase-out law should be amended to include cesspools within a greater distance to water supplies, including beaches, to better protect inland swimming holes and public wells that supply drinking water to schools, nursing homes and restaurants.

"I've done the research, and some viruses from human waste can travel 600 feet," she said. "The legislation is too limited. It doesn't say anything about public swimming waters. They are not adequately protected."

As an example, she noted how Beach Pond in Exeter, Echo Lake in Pascoag and Oak Swamp Reservoir in Johnston, an inland body of water with a public beach (Camp Massasoit), are ringed by homes originally built as summer cottages that are now used year-round and not tied in to public sewer systems.

About 150,000 Rhode Island households, or one third of the state's population, use some form of septic system/cesspool for sewage disposal. Rhode Island's septic systems alone discharge some 7 billion gallons of wastewater into the ground annually, according to the DEM.

Few of these systems receive routine inspection and maintenance, and those that do may receive inadequate care as inspectors have historically been without standardized procedures. Rhode Island doesn't even possess a comprehensive inventory of cesspools and their locations.

A look at Johnston Wastewater Management Board field inspection reports and notices filed in the past decade concerning septic system and cesspool problems just in the Oak Swamp Reservoir neighborhood provide a glimpse into the state's clean water troubles.

Handwritten notes on these reports tell a disconcerting story — one that is likely repeated in neighborhoods in non-sewered municipalities across the state. "Sewage seeping out from under the grass and into the street." "Failed system visible from the street." "Effluent flowing down the street." "Problem has been going on for years." "Visible effluent." "Overflows have been occurring for some time." "Septic odors present in liquids."

Camp Massasoit, on the shore of Oak Swamp Reservoir, was closed in June for six days because of high levels of fecal bacteria.

Expensive either way

Homeowners will spend money on interior improvements, a new deck or even a paved driveway, but many balk at replacing a cesspool or failing septic system.

The average cost of replacing a cesspool is $15,000, but financial concerns can be addressed by low-cost loans, such as the program Johnston offers that assists homeowners in replacing failing sewage disposal systems. The Rhode Island Clean Water Finance Agency also offers low-interest loans.

Municipalities, such as Newport, in violation of the federal Clean Water Act are barely penalized. The General Assembly for years ignored bills calling for a cesspool phase-out, and when it finally did pass the Cesspool Phase-out Act of 2007, current members used phrases such as "financial burden" and "cost prohibitive" to delay action for another year.

While we wait, the financial, public health and environmental cost of removing ineffective cesspools and fixing failing septic systems continues to climb.

"The public drives change," said Annemarie Beardsworth, the public information officer for the DOH. "When the public is really concerned, things change."

Article originally appeared on (http://www.ecori.org/).
See website for complete article licensing information.