

1 NEAL R. GROSS & CO., INC.

2 RPTS MICHON

3 HIF047180

4  
5  
6 MODERNIZING ENVIRONMENTAL LAWS: CHALLENGES  
7 AND OPPORTUNITIES FOR EXPANDING INFRASTRUCTURE  
8 AND PROMOTING DEVELOPMENT AND MANUFACTURING  
9 THURSDAY, FEBRUARY 16, 2017

10 House of Representatives  
11 Subcommittee on Environment  
12 Committee on Energy and Commerce  
13 Washington, D.C.

14  
15  
16  
17 The subcommittee met, pursuant to call, at 10:00 a.m., in  
18 Room 2123 Rayburn House Office Building, Hon. John Shimkus  
19 [chairman of the subcommittee] presiding.

20 Present: Representatives Shimkus, McKinley, Barton, Murphy,  
21 Olson, Johnson, Flores, Hudson, Walberg, Carter, Walden (ex  
22 officio), Tonko, Ruiz, Peters, Green, DeGette, McNerney, Dingell,  
23 Matsui, and Pallone (ex officio).

24 Staff present: Wyatt Ellertson, Research Associate,  
25 Energy/Environment; Adam Fromm, Director of Outreach and

26 Coalitions; Giulia Giannangeli, Legislative Clerk, Digital  
27 Commerce and Consumer Protection/Environment; Tom Hassenboehler,  
28 Chief Counsel, Energy/Environment; Zach Hunter, Director of  
29 Communications; A.T. Johnston, Senior Policy  
30 Advisor/Professional Staff, Energy/Environment; Katie McKeough,  
31 Press Assistant; Mary Neumayr, Senior Energy Counsel; Tina  
32 Richards, Counsel, Environment; Chris Sarley, Policy  
33 Coordinator, Environment; Dan Schneider, Press Secretary; Peter  
34 Spencer, Professional Staff Member, Energy; Hamlin Wade, Special  
35 Advisor, External Affairs; Luke Wallwork, Staff Assistant; Jeff  
36 Carroll, Minority Staff Director; Jacqueline Cohen, Minority  
37 Senior Counsel; Jean Fruci, Minority Energy and Environment  
38 Policy Advisor; Caitlin Haberman, Minority Professional Staff  
39 Member; Rick Kessler, Minority Senior Advisor and Staff Director,  
40 Energy and Environment; Dan Miller, Minority Staff Assistant;  
41 Alexander Ratner, Minority Policy Analyst; Matt Schumacher,  
42 Minority Press Assistant; Andrew Souvall, Minority Director of  
43 Communications, Outreach and Member Services; and C.J. Young,  
44 Minority Press Secretary.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

45 Mr. Shimkus. Let me call the subcommittee to order.

46 And before we start opening statements I want to welcome,  
47 and I will have my ranking member welcome Congressman Walberg and  
48 Congressman Carter, who are new to the Energy and Commerce  
49 Committee as a whole, and also new to the subcommittee.

50 So, so welcome. Glad to have you.

51 Mr. Tonko. Thank you, Mr. Chairman. On our side I would like  
52 to welcome Congresswoman Debbie Dingell at the end of this tier,  
53 and Representative Scott Peters and Representative Raul Ruiz.

54 So we look forward to a very productive session with Energy  
55 and Commerce.

56 Thank you, Mr. Chair.

57 Mr. Shimkus. Thank you. And this is a kind of a new  
58 committee. It has got expanded jurisdiction over part of the  
59 stuff we are talking about today. And so and this is also a  
60 committee that helped push through the Toxic Chemical Reform bill  
61 which was a, I would argue, is one of the major pieces of  
62 legislation that got through in the last Congress.

63 So, so we work well together. We fight when we need to fight,  
64 and that is the way the system works. So it is great, it is great  
65 to have you here.

66 And I will recognize myself for five minutes for my opening  
67 statement.

68 Welcome to the Environment Subcommittee's first hearing of  
69 the 115th Congress. The topic of the hearing today reflects what

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

70 is going to be one of the themes of our legislative work this  
71 Congress, and that is to identify the best ways to modernize the  
72 statutes within our jurisdiction in ways that deliver effective  
73 environmental protections and remove unnecessary barriers to  
74 expand economic opportunity in communities and the nation.

75 We will be returning to this topic a lot in the coming months.  
76 Today focuses on challenges to economic development under certain  
77 laws and policies administered by the Environmental Protection  
78 Agency. We will be taking testimony to help us to identify  
79 practical solutions and statutory updates that will accelerate the  
80 development of infrastructure and manufacturing.

81 In a future hearing, we will look at similar challenges at  
82 the Department of Energy. In particular, we will be working to  
83 update and ensure more rapid implementation of our nation's  
84 nuclear waste management policy. As we know from extensive  
85 committee oversight, getting our nation's ???10:04:28??? used  
86 steel management program back on track will result in a path to  
87 reinvigorate the nuclear energy sector, save taxpayers billions  
88 of dollars in liability costs, and unlock tens of billions of  
89 dollars for construction and associated infrastructure projects.

90 The benefits of good jobs in strong communities that result  
91 from this kind of economic activity can be difficult to measure  
92 fully, but that makes them no less real. And so, as we look at  
93 how to modernize environmental laws, we should always keep in mind  
94 the intangible good that comes from enabling people to have the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

95 economic wherewithal to live healthier and safer lives.

96           These community-strengthening benefits of economic  
97 development are central to the goals of the EPA's Brownfields  
98 Program. This program incentivizes states, local governments,  
99 and private stakeholders to clean up underused or abandoned  
100 industrial and commercial properties, and to return them to  
101 beneficial use. There are more than 450,000 Brownfield sites in  
102 the United States. In many communities across the nation,  
103 Brownfields contribute to the blight that depresses property  
104 values, inhibits development, and contributes to economic  
105 stagnation.

106           Cleaning up these sites and returning them to productive use  
107 is great for the economy because Brownfields grants can be directly  
108 leveraged into jobs, additional redevelopment funds, and to  
109 increase residential property values. So it offers the kind of  
110 a community boost we want from good environmental policies.

111           While the Brownfields Program seems to be working, there is  
112 always room for improvement. So, we today welcome Mayor Jon  
113 Mitchell from New Bedford, Massachusetts. Mayor Mitchell has  
114 developed solar projects from contaminated sites, which is also  
115 something that is happening near my district in East St. Louis,  
116 Illinois. Turning contaminated sites into solar seemed like an  
117 excellent way to develop infrastructure while addressing blighted  
118 areas within our communities.

119           In the implementation of our air laws, the states,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

120 localities, and private sector all face challenges in developing  
121 new infrastructure or manufacturing projects. As noted in past  
122 committee hearings, when companies seek to invest in large capital  
123 projects, they need realistic and predictable project timelines.  
124 This is necessary to plan, design, procurement, installation and  
125 operations. Yet, uncertainties in the process for obtaining air  
126 permits can lead to costly delays and decisions not to invest in  
127 these projects.

128 EPA is required to make new source permit decisions one year  
129 after a completed application is filed. An analysis that looked  
130 at preconstruction permits for power plants and refineries,  
131 however, found that while permits in the late 1990s averaged around  
132 160 days, from 2002 to 2014 it took an average of 480 days to issue  
133 a decision on a permit application.

134 In other cases, we see EPA setting new air standards but  
135 failing for years to issue implementation regulations. EPA took  
136 nearly seven years to issue guidance on how to comply with its 2008  
137 ozone standards. It took more than three years to issue final  
138 implementation regulations for its 2012 particulate matter  
139 standards.

140 The unnecessary delays for project developers and city and  
141 state planners just add up and result in the costly waste of time  
142 and project investments idling on the sidelines. We should be  
143 able to do better than this. In today's modern economy it makes  
144 no sense that we cannot have a more efficient permitting process

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

145 -- processes, or more timely guidance from the regulatory  
146 agencies.

147 Our witnesses today will provide local, state, and national  
148 perspectives that should help guide us as we consider common sense  
149 measures to expand economic opportunity by modernizing certain  
150 environmental statutes.

151 And with that my time is almost out. And I yield back my time  
152 and recognize the ranking member of the subcommittee Mr. Tonko.

153 Mr. Tonko. Thank you, Mr. Chair. And welcome to our  
154 panelists and to the new members of the Energy and Commerce  
155 Committee on both sides of the aisle. I look forward to working  
156 with you all as a member of this committee.

157 Decades of American history demonstrate we can grow our  
158 economy and create jobs while improving our environment and public  
159 health. I am not convinced that trend is about to change. I want  
160 to make it clear from the start of this hearing that our  
161 environmental protections provide significantly greater benefits  
162 than costs to society. It results in healthier people, which  
163 means fewer sick days, asthma attacks, hospital visits, and  
164 premature deaths, among many other benefits.

165 OMB estimated that major rules promulgated by EPA from 2004  
166 to 2014 generated benefits between \$160 and \$788 -- excuse me, \$160  
167 and \$788 billion compared to \$38 to \$45 billion in costs. Clean  
168 Air Act protections account for the majority of these benefits,  
169 and have prevented millions of lost work and school days. The

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

170 Cross-State Air Pollution Rule had a benefit-to-cost ratio  
171 exceeding 50 to 1. And a clean power plant will reduce carbon  
172 pollution while saving lives.

173 Strong laws can prevent environmental disasters. When our  
174 laws fail to protect people, the cost can be tremendous.

175 I want to thank Ms. Mays for being here today from Flint,  
176 Michigan. It is important for members to hear about the harm that  
177 was done to thousands of our fellow Americans and how it could have  
178 been prevented by better laws and greater investment from the  
179 Federal Government. The price of this disaster will far exceed  
180 the investment that would have been necessary to prevent it.

181 The case of Flint should make it clear that real  
182 infrastructure investment is indeed needed. We cannot fool  
183 ourselves into thinking it can only be done through deregulation.  
184 We need federal dollars behind our efforts.

185 So I would agree that some of our environmental laws should  
186 be updated. And I would suggest starting with strengthening the  
187 Safe Drinking Water Act. Our water infrastructure is crumbling.  
188 In many communities it is becoming a liability to economic growth,  
189 to public health and to safety.

190 Democratic members of this subcommittee have reintroduced  
191 legislation to improve the Safe Drinking Water Act. It has been  
192 21 years since we last updated this law. It is past time to  
193 reauthorize the drinking water SRF which has received flat funding  
194 since its inception, despite growing needs and aging

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

195 infrastructure. We must give EPA the authority necessary to be  
196 able to set standards and require an update of the Lead and Copper  
197 Rule.

198 Similarly, our Brownfields law is in need of an update. This  
199 program has been incredibly successful by every method, and it is  
200 a great investment. Every federal dollar leverages between \$17  
201 and \$18 in other public and private funding. Cleaning up these  
202 sites has environmental, health, and economic benefits, including  
203 increasing nearby residential property values and putting unused  
204 properties back on local tax rolls.

205 But many of the easy Brownfields have been cleaned up. In  
206 addition to more flexibility, we need to examine whether the  
207 funding level for individual sites and the overall program is  
208 adequate. For both water and Brownfields, strengthening these  
209 laws would create jobs, protect public health, and ease the burden  
210 on local governments. Last Congress this subcommittee worked  
211 together on TSCA reform, a law that industry, consumer protection,  
212 and environmental stakeholders all agreed needs to be brought into  
213 the 21st Century. I hope we can find common ground again this  
214 Congress to improve laws where a consensus exists on the need for  
215 reform.

216 Based on the testimony we will hear this morning, I think  
217 there are strong cases to start with drinking water and  
218 Brownfields.

219 And with that, Mr. Chair, I would like to yield my remaining

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

220 time to Representative Doris Matsui from California.

221 Ms. Matsui. Thank you very much, Ranking Member Tonko,  
222 yielding time.

223 Strong investment in water infrastructure is vital to our  
224 health and safety. As we have seen tragically this week in  
225 California at Oroville Dam, aging and neglected infrastructure  
226 threatens lives.

227 Just 70 miles south of Oroville at Folsom Dam, which is just  
228 upstream from my district in Sacramento, we are demonstrating the  
229 positive impact infrastructure can have. I worked tirelessly to  
230 ensure the millions of dollars in federal investment over the last  
231 decade building a spillway, which is making our residents safer,  
232 our regions more secure. That also involves environmental  
233 standards, too.

234 Water infrastructure is vital for public safety and public  
235 health. Instead of rushing to weaken our environmental  
236 standards, I hope we can come together to make real commitments  
237 to maintaining and improving infrastructure in all our  
238 communities.

239 Thank you. And I yield back.

240 Mr. Shimkus. The gentlelady yields back her time.

241 The Chair now recognizes the gentleman from New Jersey Mr.  
242 Pallone for five minutes.

243 Mr. Pallone. Thank you, Mr. Chairman.

244 Our nation's crumbling infrastructure is a pressing issue

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

245 that we must address. And in this subcommittee that means  
246 investing in drinking water infrastructure, Superfund cleanups,  
247 and Brownfield grants. Our current investments in these critical  
248 public health programs is simply not enough. This week's  
249 evacuation in California related to the Oroville Dam are the latest  
250 example, but far from the only example.

251 My Democratic colleagues and I have repeatedly introduced  
252 legislation to modernize and fund these infrastructure programs.  
253 The Republicans have consistently opposed or blocked these  
254 efforts.

255 Today I join many of the Democrats on this subcommittee in  
256 announcing the reintroduction of the Safe Drinking Water  
257 amendments and Ranking Member Tonko's AQUA Act to fund drinking  
258 water infrastructure efforts. When Democrats controlled the  
259 House, the AQUA Act passed easily on a bipartisan voice vote. But  
260 since Republicans took over they have avoided the issue. And I  
261 hope this hearing is a sign that Republicans are ready to join our  
262 infrastructure efforts.

263 As the Federal Government has pulled back infrastructure  
264 funding in recent years, the backlog of infrastructure repairs and  
265 replacement has grown, and so has the price tag to address it.  
266 Laying pipe replacements into water mains burst costs more than  
267 planning ahead. Delaying Superfund cleanups while contaminants  
268 spread in the environment costs more than quickly containing and  
269 addressing pollution.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

270 In the long run we're not saving money by ignoring the  
271 problem. And only public funding can close the gap to the  
272 communities in need. Now, I expect my Republican colleagues will  
273 suggest today that the key to spurring infrastructure is  
274 environmental deregulation instead of public funding. But that  
275 approach is dangerous and shortsighted.

276 Environmental protections are essential for public health,  
277 for the economic viability of our communities, and for the  
278 preservation of our natural resources. The benefits of  
279 environmental protections far outweigh the costs, and so repealing  
280 those protections would hurt far more than it would help. Cutting  
281 environmental protections may benefit some in the short term, but  
282 others will pay with their health and welfare.

283 We will hear today from Melissa Mays, a resident of Flint,  
284 Michigan. The ongoing drinking water crisis in Flint will only  
285 be solved with significant federal funding. Melissa's experience  
286 shows why environmental protections are so important and what can  
287 happen when short-term economic decisions overrule environmental  
288 considerations. Any efforts by Republicans in Congress and  
289 President Trump to remove environmental protections will have  
290 lasting consequences, unleashing dangerous pollution that could  
291 take decades to clean.

292 We will also hear today from the Mayor of New Bedford, whose  
293 harbor is a Superfund site thanks to the unrestricted dumping of  
294 PCBs decades ago. That harbor, like the Superfund sites in my

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

295 district, shows the long-term costs of having to clean up  
296 pollution, costs that could have been avoided if stronger  
297 environmental protections had been in place.

298 Mayor Mitchell will also tell us about new clean energy jobs  
299 in New Bedford, in both the solar and wind energy industries.  
300 These are good jobs, driven in part by environmental protections.

301 And there are numerous small manufacturers nationwide that  
302 develop and manufacture air pollution control equipment. The  
303 experienced and innovative technologies produced in this sector  
304 position these manufacturers as leaders in international markets  
305 for pollution control and environmental services. Repealing air  
306 quality regulations will not only eliminate vital public health  
307 protections, it will also kill those jobs.

308 When it comes to infrastructure, Democrats will continue to  
309 fight for the federal investments our communities need. These  
310 investments strengthen public health while also creating  
311 good-paying jobs. And when it comes to environmental  
312 protections, Democrats will continue to lead the fight for safe  
313 drinking water, clean air, and clean land. We can have a safe  
314 environment and a strong economy. In fact, in the long run, a safe  
315 environment is absolutely necessary for a strong economy.

316 And I will yield back unless -- I don't think anybody else  
317 wants my time, Mr. Chairman.

318 Mr. Shimkus. The gentleman yields back his time.

319 The Chair looks to the majority side to see if anyone else

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

320 wants to do an opening statement. The Chair recognizes the  
321 gentleman from Texas Mr. Barton for five minutes.

322 Mr. Barton. I won't take five minutes, Mr. Chairman, but you  
323 are gracious to give me that time.

324 First, I want to congratulate you on chairing this  
325 subcommittee. A long time ago I chaired a similar subcommittee  
326 that had kind of the jurisdiction of Mr. Upton's subcommittee and  
327 your subcommittee; we did energy and environment. And it should  
328 be that way because they exist together. So I am very pleased that  
329 you chair the subcommittee and have the jurisdiction that this  
330 subcommittee has.

331 I want to welcome our witnesses to the first hearing of this  
332 subcommittee. This is an important issue. Republicans hear the  
333 Democratic side, who seem to think we are ready to rape and pillage  
334 the environment. Nothing could be further from the truth.

335 We do want to review our environmental statutes and put them  
336 in context with where we are today in terms of economic  
337 development. You can have both. You can have positive economic  
338 development and effective environmental protection. And I think  
339 this hearing is going to lead us to begin to do that.

340 I would hope, Mr. Chairman, that as we go through the hearing  
341 process we, we take a serious look at, to the extent we want to  
342 reform, review, change some of the environmental statutes, that  
343 we put in a true, effective cost-benefit analysis. I see no reason  
344 we can't use real numbers and real science, as opposed to some of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

345 the studies that the Obama Administration did.

346 I was here when we did the Clean Air Act amendments early '90s.  
347 I was here when we passed the last Safe Water Drinking Act. Then  
348 Chairman John Dingell worked across the aisle to craft both of  
349 those pieces of legislation. And I'm sure you and Mr. Weldon hope  
350 to do the same thing with Mr. Pallone and the Democrats.

351 I hope we also take a real look at CO2. I know that's not  
352 the direct purpose of this hearing, Mr. Chairman, but there is no  
353 question that the criteria pollutants in the Clean Air Act, you  
354 know, mercury and SO2 and NAAQS and particulate matter, that they  
355 are true pollutants.

356 CO2 is a little different animal. It's not directly harmful  
357 to human health. The theory is that the amount of manmade CO2 has  
358 somehow tipped the balance in the upper atmosphere, and that is  
359 causing, over long periods of time, consequences that are  
360 negative. It is not entirely clear whether that is an absolutely  
361 true fact or not as opposed to a theory. And I hope we will, I  
362 hope we will take a look at that and, if necessary, clarify what  
363 a pollutant is under the terms of the Clean Air Act.

364 In any event, Mr. Chairman, you are gracious with your time.  
365 I appreciate you yielding to me. And I look forward to this  
366 hearing and to our witnesses.

367 Let me say one other thing. The minority has somehow decided  
368 that Flint, Michigan, is a federal issue. There is no question  
369 that if we do an infrastructure bill we can lend a helping hand

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

370 to many communities around the country that need to upgrade their  
371 water systems. But to say that that, the reason that Flint,  
372 Michigan, happened is because of lack of federal initiative is not  
373 a true statement.

374 That was a state and local issue. The local community and  
375 the state did not do their job. And I know we have the gentleman  
376 from Michigan Mr. Walberg, now on the committee, and he may have  
377 a different view about that. But we certainly want to help the  
378 Flint, Michigans of the world, but to say that that is now a federal  
379 responsibility 100 percent, I strongly disagree with.

380 But I yield.

381 Mr. Shimkus. The gentleman yields back his time.

382 So, again, welcome to the panel. This is how we operate:

383 You all submitted your opening statements for the record. I  
384 will recognize each one of you for five minutes to kind of  
385 summarize. And then we will go on to questions. And it should,  
386 it should go real well.

387 So first off we'd like to welcome the Honorable Jonathan  
388 Mitchell, Mayor of New Bedford, Massachusetts. Sir, welcome.  
389 You have five minutes and you are recognized.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

390 HON. JONATHAN F. MITCHELL, MAYOR, NEW BEDFORD, MASSACHUSETTS;  
391 KEVIN SUNDAY, DIRECTOR, GOVERNMENT AFFAIRS, PENNSYLVANIA CHAMBER  
392 OF BUSINESS AND INDUSTRY; MELISSA MAYS, FOUNDER, WATER YOU  
393 FIGHTING FOR?; EMILY HAMMOND, GEORGE WASHINGTON UNIVERSITY LAW  
394 SCHOOL ON BEHALF OF CENTER FOR PROGRESSIVE REFORM; THOMAS M.  
395 SULLIVAN, VICE PRESIDENT, SMALL BUSINESS POLICY, U.S. CHAMBER OF  
396 COMMERCE; AND ROSS E. EISENBERG, VICE PRESIDENT, ENERGY RESOURCES  
397 POLICY, NATIONAL ASSOCIATION OF MANUFACTURERS

398

399 STATEMENT OF MR. MITCHELL

400 Mr. Mitchell. All right. Thank you, Mr. Chairman. Good  
401 morning, members of the committee, subcommittee.

402 My name is Jon Mitchell. I am the Mayor of New Bedford,  
403 Massachusetts. And I am pleased to be here to testify on behalf  
404 of the United States Conference of Mayors where I chair the Energy  
405 Committee.

406 Today I want to discuss the importance of reauthorizing and  
407 modernizing the Brownfields law and by describing how New Bedford  
408 has used the program and turned environmental liabilities into  
409 environmental assets. If Congress is interested in giving  
410 economic development tools to communities, reauthorizing and  
411 modernizing the Brownfields law should be a cornerstone of that  
412 effort.

413 Let me give you a little bit of background on New Bedford.

414 New Bedford was the world center of the 19th Century whaling

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

415 industry, and later became a national center for cotton textile  
416 manufacturing. Today the city has recaptured its national  
417 leadership in the maritime sector as the number one commercial  
418 fishing port in the United States. Our city historically has  
419 struggled, however, with a high -- with high unemployment rates  
420 and demographic challenges, like most older, industrial urban  
421 centers.

422 That said, the city and the region are in the midst of a  
423 noticeable transformation. This past year we enjoyed the  
424 sharpest drop in unemployment of any metropolitan area in America.  
425 When I came into office five years ago the unemployment rate  
426 hovered around 14 percent. And today it is 3.7 percent.

427 With two major Superfund sites, hundreds of Brownfield sites  
428 and a few remaining opportunities for so-called greenfield  
429 commercial development, New Bedford has come to recognize that our  
430 path to continuing our trajectory of growth and prosperity lies  
431 in part in unlocking the potential of contaminated sites through  
432 innovative new approaches.

433 I would like to highlight two of our projects: a traditional  
434 Brownfield site and a redeveloped Superfund site.

435 New Bedford's upper harbor is host to dozens of historic  
436 textile mill buildings. With a healthy real estate market and  
437 spectacular views of the river and marshlands, private sector  
438 investors there in that part of the city have recognized the  
439 potential for conversion of these mills to residences. The city

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

440 has long moved forward with -- has moved forward with plans to  
441 construct a recreational bike path along this particular area that  
442 would follow the shoreline between the mill buildings and the  
443 water's edge.

444 The fundamentals of economic activity are all in place. That  
445 said, an important underlying factor has been, throughout the  
446 period of redevelopment, Brownfield grant funding. In key  
447 instances, grants have helped catalyze and support New Bedford's  
448 mill conversion projects. And this is a problem that is similar  
449 in so many cities across America.

450 Targeted Brownfield funds have been used creatively to fill  
451 important gaps and cover assessment and remediation costs that  
452 were problematic for the city and its private sector partners.  
453 For example, the city was recently awarded two \$200,000 Brownfield  
454 cleanup grants that paid for the remediation of two derelict large  
455 fuel tanks along the river. And that led, that opened the doors  
456 up for redevelopment. All told, multiple waterfront buildings  
457 have now been converted, and tens of millions of dollars have been  
458 invested, and hundreds of construction jobs were created, all as  
459 a result of this unlocking of the door through Brownfield grants.

460 It also may, and turning to the other project, it may surprise  
461 you that, according to The Wall Street Journal, the City of New  
462 Bedford has the distinction of having the most installed solar  
463 capacity per capita of any municipality in the continental United  
464 States. We are actually beaten by Honolulu, for obvious reasons.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

465 I would like to highlight our flagship solar project, which  
466 is the Sullivan Ledge Solar Project, because it is a great example  
467 of the creative re-use of a contaminated site that has helped  
468 support local jobs and deliver bottom line benefits.

469 Sullivan's Ledge was one of the country's most high-profile  
470 Superfund sites. Today, atop a cleaned and capped landfill, sits  
471 a 1.8 megawatt solar farm with over 5,000 solar panels that  
472 generate electricity to support over 200 homes. Our effort was  
473 far from easy, but it required a great deal of creativity by pulling  
474 in PRPs and getting very creative about some of the technical  
475 hurdles that we had to confront. But it is now, indeed, an  
476 environmental asset.

477 So what does all this mean to us as we look at Brownfields  
478 and Congress' role in supporting Brownfield redevelopment? It's  
479 this, and members touched upon this directly: whole funding of the  
480 Brownfields program. At the current levels EPA funds only 30  
481 percent of the applications. And this is a very good investment  
482 in cities, especially ones like mine, creating a multi-purpose  
483 grant that enhances flexibility for cities to move money around  
484 to the sites that need it the most. Increased cleanup of grant  
485 amounts is, in particular, a cleanup grant as opposed to assessment  
486 is especially important.

487 And then there are a handful of other things, like allowing  
488 reasonable administrative costs in the grant program, clarifying  
489 grant eligibility for publicly-owned sites, removing barriers for

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

490 local and state governments to address mothballed sites, and  
491 encouraging Brownfield cleanups by so-called good Samaritans.

492 In closing, Brownfield redevelopment is a win/win for  
493 everyone involved. And it creates jobs, cleans up the  
494 environment, and it is pro business and pro community.

495 And I thank you again for the opportunity, Mr. Chairman, to  
496 speak to all these matters.

497 [The statement of Mr. Mitchell follows:]

498

499 \*\*\*\*\* INSERT 1\*\*\*\*\*

500 Mr. Shimkus. Thank you very much.

501 Now I will turn to Mr. Kevin Sunday, Director of Government  
502 Affairs at Pennsylvania's Chamber of Business and Industry.

503 Your, obviously your full statement will go into the record. You

504 have five minutes and you are recognized.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

505 STATEMENT OF KEVIN SUNDAY

506

507 Mr. Sunday. Thank you and good morning, Chairman Shimkus,  
508 Ranking Member Tonko, members of the subcommittee. It is an honor  
509 to appear before you this morning on behalf of the PA Chamber.

510 My name is Kevin Sunday, Director of Government Affairs. The  
511 PA Chamber is the largest broad-based business advocacy  
512 association in the state, a state that is second in the nation in  
513 total energy production, and in the top ten for manufacturing  
514 output. Among states, we have the fourth highest coal production,  
515 the second largest natural gas production, the second largest  
516 nuclear fleet. We are, in short, a big energy state.

517 Pairing these assets with the generational opportunities  
518 before us with pipeline and the electric transmission  
519 infrastructure mean we have the opportunity of a lifetime to grow  
520 our economy in a way that we haven't seen in decades. And that  
521 means we can take advantage of every facet of the value chain from  
522 energy production and power generation, to infrastructure, to  
523 manufacturing and refining. Each segment of that value chain  
524 relies and builds upon one another. And when we encourage the  
525 growth of one, we encourage opportunity in the others.

526 And we are starting to see some of that happen in our state.  
527 For example, we have had a shuttered steel mill is reopening  
528 because of demand for new pipe. Domestic energy production gave  
529 three refineries in Southeast Pennsylvania and their thousands of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

530 employees, many of them union, a new life. A global integrated  
531 gas company picked Southwest Pennsylvania for a multi-billion  
532 dollar petrochemical facility. It is the first time in decades  
533 that anyone is talking about building that kind of operation  
534 outside of the Gulf Coast.

535 Those are just a couple examples. I have many more in my  
536 testimony. And I would like to say that those kinds of  
537 opportunities are so common that our unemployment rate is among  
538 the lowest in the country, but it is not. In fact, it trails it  
539 by almost a full point. And that is because we are leaving  
540 opportunity on the table.

541 We do need a skilled and ready workforce and we do need a  
542 competitive tax, trade and labor policy to compete as a state and  
543 as a country, but we also need a modernized approach to our nation's  
544 environmental laws and the implementation of them so that we can  
545 promote economic opportunity without sacrificing environmental  
546 progress.

547 The current air quality compliance obligations are  
548 draconian. We have an energy-intensive manufacturing facility in  
549 Southeast Pennsylvania, and they spend more on annual air quality  
550 compliance than they spent buying the entire operation a few years  
551 ago for \$180 million.

552 We have another company that spent \$100 million on control  
553 equipment for emissions that the facility will never produce.

554 New regulatory obligations are being handed down faster than

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

555 it takes to get a permit, and the obligations have become  
556 inordinately complex. State regulators are tied up due to a lack  
557 of guidance coming from federal agencies, and we would encourage  
558 Congress to take a hard look at how national ambient air quality  
559 standards are revised and implemented.

560 The EPA's use of unrealistic modeling in establishing NAAQS  
561 designations and in permitting evaluations is discouraging  
562 growth. We have heard first-hand companies declining to invest  
563 in Pennsylvania because of ozone transport requirements. And  
564 research is clear, such as that of Michael Greenstone, who was  
565 President Obama's Chief Economist on the Counsel of Economic  
566 Advisers, that the consequences of being designated  
567 non-attainment are severe, with billions of lost economic  
568 activity.

569 With regards to permitting, the current structure requires  
570 companies to account for emissions they will never actually emit.  
571 We have seen a number of our companies stuck in an endless loop  
572 of litigation and appeals. We also should rethink the current  
573 offset approach that requires one facility to shut down or retire  
574 so that another one can operate.

575 And, finally, when it comes to moving and using energy, we  
576 have lost opportunity because of delays in permitting new  
577 infrastructure, which require years of review from nearly a dozen  
578 state and federal agencies. What has already been permitted is  
579 at risk to litigation, which is going to delay things even further.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

580 We would encourage Congress to take the opportunity to step in and  
581 provide clear guidance on what the National Energy Policy Act  
582 should and shouldn't cover.

583 And I would encourage this committee that, if nothing else,  
584 as I have said in my remarks and testimonies for you to act, I would  
585 remind you that today is the fifth anniversary of the Mercury and  
586 Air Toxics Rule being published in the Federal Register. That  
587 rule, I would remind you, was estimated by EPA to cost \$10 billion  
588 to secure \$4 million. Again, \$10 billion in cost for \$4 million  
589 in benefit for mercury reduction. And I should also note that EPA  
590 was off by a factor of four regarding how much coal generation would  
591 shut down in the wake of the rule.

592 I have some recommendations in my testimony I would encourage  
593 you and the administration to take a look at. Our challenges are  
594 many but our opportunities are greater. And I would encourage  
595 that we embark on a process that incentivizes innovation and growth  
596 in emissions reduction, not one that encourages litigation and  
597 needless bureaucracy.

598 Thank you.

599

600 [The prepared statement of Mr. Sunday follows:]

601

602 \*\*\*\*\* INSERT 2\*\*\*\*\*

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

603 Mr. Shimkus. Thank you.

604 Now I will turn to Ms. Melissa Mays, Founder of Water You  
605 Fighting For, obviously from the Flint, Michigan, area. You are  
606 recognized for five minutes. Thanks for coming.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

607 STATEMENT OF MELISSA MAYS

608

609 Ms. Mays. Thank you.

610 Today is day 1,028 since we have had clean and safe water in  
611 the city of Flint, Michigan. We are coming up on the third  
612 anniversary of the irresponsible switch of our water source and  
613 the subsequent failure of our government to properly treat and  
614 protect our ageing infrastructure and, more importantly, our  
615 lives.

616 The last 1,028 days have been nothing short of a living hell  
617 for the 100,000 residents of Flint. The lack of stronger,  
618 enforced environmental regulations allowed our state Department  
619 of Environmental Quality to get away with loopholes in the Lead  
620 and Copper Rule for testing and reporting. In the effort to save  
621 just a few dollars per day, they exploited the weak existing rule,  
622 the defunded EPA, and poisoned 100,000 innocent people, people who  
623 depended on their government to provide the simplest of services:  
624 clean, safe water.

625 Children like mine were never warned to not go get a glass  
626 of water out of the taps because there might be hidden neurotoxins  
627 in the water that are invisible to the naked eye. Senior citizens  
628 never stopped to think twice about the dangerous unwanted  
629 chemicals they were drinking while taking their prescribed  
630 medication. I never imagined that the water I was filling my  
631 workout bottle with before heading to the gym could possibly kill

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

632 me.

633           Because of the travesties like the hugely outdated Lead and  
634 Copper Rule and the absence of bathing and showering standards,  
635 nearly 200 people have died from pneumonia caused by bacteria in  
636 our water. For the past four weeks I have been suffering from a  
637 respiratory infection, plus ear infections because of the bacteria  
638 pseudomonas aeruginosa which is present in my shower at a plate  
639 count of 2.9 million.

640           Before 2014, before we were poisoned, I had three happy,  
641 healthy, active sons. My oldest, Caleb, tested into a  
642 dual-enrollment school where he could take high school and college  
643 courses at the same time and be able to graduate with a diploma  
644 and an Associate's Degree.

645           My middle child, Christian, is sharp. His teachers have  
646 wanted to accelerate him a grade since elementary school.

647           My youngest, Cole, is the sweetest boy you could ever meet  
648 with his little dimples, adorable baby voice, and his everlasting  
649 innocence, which is now lost because he knows he is poisoned by  
650 politicians who wanted to save money.

651           Fast forward to today after our poisoning. Caleb almost  
652 failed his junior year because he could not remember his homework  
653 he had done the night before and would fail his tests. He called  
654 it brain fog. And so he had to re-learn how to learn. Imagine  
655 going through 12 years of school and having a teacher bring a  
656 different way to remember because of being exposed to lead; copper;

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

657 aluminum; total trihalomethanes; chloroform; 1,4,  
658 Dichlorobenzene; Bromodichlormethane; acetone; bacteria; and  
659 numerous other contaminants through drinking water and showering  
660 in your own home.

661 Christian and Cole have severe bone and joint pain, as lead  
662 settles in your bones as well as your growth plates. For kids ages  
663 9 to 14, the growth plates are open and spongy to accommodate their  
664 muscles and joints to be able to stretch as their bones hit those  
665 typical 4-inch growth spurts. Both he and Cole are to start their  
666 second round of painful physical therapy since their growth plates  
667 are hardening prematurely.

668 Christian and Cole talk about the brain fog as well. And it  
669 terrifies me. Because even I know that your brain continues to  
670 develop until you are 25. My sons are also seeing a  
671 rheumatologist, which comes with a lot of blood work.  
672 Unfortunately, Christian passes out when it comes to needles.  
673 This will carry on for the rest of my sons' lives because someone  
674 wanted to save money.

675 My husband is 41 and has dizzy spells to where he nearly faints  
676 and is in constant pain. I am 38. I have a rheumatologist for  
677 my brand new autoimmune disorder that looks like lupus. I have  
678 a neurologist for my new seizures, as lead and copper are stored  
679 in your brain. I have a gastroenterologist because drinking  
680 caustic water tears up the pipes in the ground as well as your  
681 intestines, so I have IBS and diverticulosis.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

682 I have consulted with a toxicologist and environmental  
683 physician who helped us develop a detox plan, but says it is moot  
684 since we are still being exposed in the shower to the dangerous  
685 toxins as our pipes crumble in the ground. And now I have an  
686 infectious diseases doctor to help with the bacterial infections  
687 I am now fighting.

688 We use only bottled water to cook with, drink, brush our  
689 teeth, and give our pets because the water is too unsafe. We spend  
690 so much time either sick, going to the doctor, taking tons of  
691 medication, or buying shower filters. Try to picture that in your  
692 head before suggesting that protecting your family's health and  
693 mine is too expensive.

694 Tell that to the restaurants in Flint that closed down because  
695 residents don't want to drink lead in their coffee or eat bacteria  
696 in their chicken noodle soup. Tell that to the dentist who lost  
697 patients because no one wanted a cleaning with a neurotoxin-laced  
698 water. Tell that to the families of the people that have died from  
699 Legionnaire's Disease, which is entirely preventable with tougher  
700 environmental laws and investment in infrastructure. Tell them  
701 their loved ones' lives are not worth businesses taking the proper  
702 precautions to not poison their customers.

703 Since the infrastructure in Flint is still failing, mains  
704 break, and pipes leak into the ground, our sidewalks are crumbling,  
705 our streets are caving in causing huge sink holes that makes it  
706 dangerous for ambulances to rush down the street, my street, to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

707 the hospital on emergencies. And our homes have flooded basements  
708 as the water table fills up.

709 There is no amount you can place on the safety, health, and  
710 well-being of tax paying human beings and pets living in this  
711 country. So before cutting back on environmental regulations and  
712 infrastructure funding, find somewhere else. We pay our taxes so  
713 our government can do their job and ensure something as simple as  
714 life-sustaining clean, safe water. Seeing and suffering  
715 first-hand the devastation that can and will happen with reduced  
716 or weakened environmental regulations and decreased funding for  
717 infrastructure updates has opened my eyes as to where we are as  
718 a country, and it is scary.

719 The health, safety, futures and lives of the residents have  
720 fallen far beyond the desire to cut costs and pocket more money.  
721 This is short-term thinking, and it is reckless. If you want to  
722 protect your constituents' lives, you must implement updated and  
723 stringent, environmentally sound regulations and pollution  
724 restrictions, otherwise you will just be ushering in thousands of  
725 more Flints across this great country of ours.

726 I hope that the pain and suffering of my family, my sons, is  
727 a lesson and a warning to each of you. Put yourself in our shoes  
728 before you slash regulations to make a profit.

729 Thank you.

730 [The prepared statement of Ms. Mays follows:]

731

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

732

\*\*\*\*\* INSERT 3\*\*\*\*\*

733 Mr. Shimkus. Thank you.

734 The Chair now recognizes Ms. Emily Hammond, Professor of Law  
735 at George Washington University Law School. You are recognized  
736 for five minutes.

737 STATEMENT OF EMILY HAMMOND

738

739 Ms. Hammond. Thank you, Chairman, Ranking Member Tonko, and  
740 distinguished members of the subcommittee for the opportunity to  
741 testify today.

742 Make no mistakes about where we started. The Cuyahoga River  
743 really did catch fire. Toxic waste really did ooze into homes and  
744 schoolyards in Love Canal. Millions have suffered from lung  
745 disease, heart attacks, and premature deaths because of our dirty  
746 air. And, as Ms. Mays just testified, we cannot afford to let our  
747 memories grow short.

748 I use the word "afford" intentionally because I will begin  
749 today by discussing how environmental law has helped our economy  
750 thrive. Next, I will describe why efforts to tamper with our  
751 regulatory process, efforts like the 2 for 1 Executive Order,  
752 systematically undermine not just the benefits we have gained but  
753 our prospects for the future.

754 Look what decades of experience show. Between 1970 and 2011,  
755 air pollution dropped 68 percent but the gross domestic product  
756 increased 212 percent. During that same period, private sector  
757 jobs increased by 88 percent.

758 Consider as well that the rules issued by EPA undergo a  
759 rigorous cost-benefit analysis. EPA is required by the Office of  
760 Management and Budget to follow accounting principles and assess  
761 both the costs and the benefits of regulations. These constrained

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

762 analyses badly underestimate the benefits of environmental  
763 regulations. After all, how can you value a human life with the  
764 staggering beauty of the nature world.

765 Because of this under valuation, however, OMB-driven  
766 cost-benefit analyses are very conservative. I will use the Clean  
767 Air Act as an example.

768 Air pollutants have numerous adverse health and  
769 environmental effects. Ozone, for instance, is linked to  
770 respiratory illnesses, heart attacks, premature death, and  
771 negative effects on forests and crops. When people are sick, when  
772 they are caring for their ill loved ones or dying too early, they  
773 cannot work, they cannot go to school. That hurts business.

774 By contrast, environmental protections offer savings.  
775 EPA's Clean Air Act rules saved over 164,000 lives in 2010. And  
776 they are projected to save 237,000 lives in 2020. These same rules  
777 saved 13 million days of work, and 3.2 million days of missed school  
778 in 2010. By 2020, these numbers will increase to 17 million days  
779 of work and 5.4 million days of school.

780 A study published in the proceedings of the National  
781 Academies of Sciences found the cumulative benefits to the economy  
782 of Clean Air Act air toxic regulations alone to be over \$104 billion  
783 by 2050.

784 Why are we reaping these benefits? Because our air, water  
785 and soil are cleaner than they were decades ago. There is,  
786 however, very much still to do. And I urge this institution to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

787 ensure full funding for our environmental regulatory programs,  
788 including enforcement, for critical infrastructure upgrades, for  
789 Brownfields funding, and for efforts to fight climate change.

790 As we move forward with strengthening our environmental  
791 protections we must also ensure that our regulatory process is  
792 sound. The White House's January 30th 2 for 1 Executive Order is  
793 an example of sloppy regulatory policy that will be harmful to the  
794 public, especially with respects to environmental law. The order  
795 systematically disfavors the critical prevention protections that  
796 we need to ensure a thriving economy and healthy future. Most  
797 stunningly, it appears to direct agencies to count regulatory  
798 costs but not consider their benefits. This ignores this  
799 institution's directions. This institution enacted those  
800 environmental laws to secure their many benefits.

801 Environmental laws were enacted to ameliorate classic market  
802 failure. Polluters do not like to pay for the consequences of  
803 their actions. But these laws do more. They represent our  
804 society's recognition of a moral obligation to protect our  
805 neighbors, our children, our natural environment, and our future.  
806 There is still a great deal more to do, and we cannot afford  
807 complacency, whether in our environmental laws or in the  
808 regulatory process.

809 Thank you.

810 [The prepared statement of Ms. Hammond follows:]

811

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

812

\*\*\*\*\* INSERT 4\*\*\*\*\*

813 Mr. Shimkus. Thank you.

814 The Chair now recognizes Mr. Thomas Sullivan, Vice President  
815 of Small Business Policy at the U.S. Chamber of Commerce. You are  
816 recognized for five minutes. Welcome.

817 STATEMENT OF THOMAS SULLIVAN

818

819 Mr. Sullivan. Thank you, Mr. Chairman, and Ranking Member  
820 Tonko, members of the subcommittee.

821 My name is Tom Sullivan and I run the Small Business Council  
822 at the U.S. Chamber of Commerce. The Chamber is the world's  
823 largest business federation. We represent the interests of three  
824 million businesses as well as state and local chambers, and  
825 industry associations. The majority of our business members are  
826 small firms. In fact, approximately 96 percent of Chamber  
827 members' companies have fewer than 100 employees, and 75 percent  
828 have fewer than ten.

829 Maxine Turner, who is the founder of Cuisine Unlimited in Salt  
830 Lake City, chairs our Small Business Council, which works to ensure  
831 the views of small business are considered as part of the Chamber's  
832 policy making process.

833 I am especially pleased to join our partners at the  
834 Pennsylvania Chamber of Commerce on this panel. The U.S. Chamber  
835 was founded by a group of chambers in 1912. They are the backbone  
836 of our institution. And that is as true today as it was 105 years  
837 ago.

838 I have spent most of my professional career advocating for  
839 small business, first at NFIB, and then from 2002 to 2008, I was  
840 honored to serve as the Chief Counsel for Advocacy at the Small  
841 Business Administration. That office is charged with

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

842 independently representing the views of small business. And it  
843 oversees agency compliance with the Regulatory Flexibility Act,  
844 which is also sometimes called the Small Business Regulatory  
845 Enforcement Fairness Act, or an acronym called SBREFA.

846 It is the purpose of those laws that guides my testimony this  
847 morning, that early input by small businesses in the development  
848 of legislation and regulatory policy should serve as a model for  
849 modernizing environmental statutes, as well as the government's  
850 role implementing the law. Many times federal laws and  
851 regulations that may work for large corporations don't work for  
852 small firms.

853 Several years ago I worked with a group of small businesses  
854 in Quincy, Illinois, who found themselves in the cross-hairs of  
855 Superfund. The authors of Superfund never intended to target  
856 small business owners like Greg Shierling, who owned two  
857 McDonald's, and Mack Bennett, who owned a furniture store, or  
858 Barbara Williams, who owned a diner in Gettysburg, Pennsylvania.  
859 The unintended consequences of a one size fits all statute forced  
860 small business owners to spend thousands in legal fees for  
861 settlements when they really had not done anything wrong.

862 Thankfully, Congress took action and exempted innocent small  
863 businesses from Superfund in 2001.

864 Whether it is reauthorizing a new law, creating a new agency,  
865 or when agencies craft new regulations, government is well advised  
866 to solicit input and work with small businesses to devise solutions

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

867 that maximize benefits of laws and regulation and minimize harmful  
868 economic impact. Recent figures show that there are over 28  
869 million small businesses in the United States, and that small  
870 business has been responsible for creating about two-thirds of the  
871 net new jobs over the past 15 years. However, the United States  
872 has experienced a decline in start-ups, and that trend threatens  
873 a full economic recovery.

874         According to data from the Census Bureau, there were 700,000  
875 fewer net businesses created from 2005 to 2014 than from 1985 to  
876 1994. More worrisome is recent evidence that supports -- that  
877 suggests the number of transformational start-ups, those that  
878 contribute disproportionately to job and productivity growth, has  
879 been in decline since 2000.

880         This decline in entrepreneurship and small businesses'  
881 increasing concern with regulatory burden are trends that should  
882 be reversed in order for the United States to experience growth.  
883 When agencies and small businesses work together and  
884 constructively find solutions, better regulation happens. There  
885 are examples of those win/win situations in my full written  
886 testimony. I would be happy to cite some of them during the  
887 questions.

888         Congress is on the right track, looking at ways to modernize  
889 the regulatory process. The Regulatory Accountability Act, which  
890 is H.R. 5, as well as the Regulatory Flexibility Improvements Act,  
891 H.R. 33, have already passed the House of Representatives.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

892 Together these reforms, that passed with bipartisan support, that  
893 help ensure agencies rely on credible science and data, and  
894 bringing greater transparency to the rulemaking process, and  
895 bolster the involvement of small businesses in policy making,  
896 should do the job.

897           America needs the economic strength job-creating power and  
898 innovative genius of small business in order to get back on track  
899 economically. Improvements to existing statutes will help calm  
900 the regulatory headwinds that prevent small business from being  
901 the economic engine of growth here in the United States.

902           [The prepared statement of Mr. Sullivan follows:]

903

904 \*\*\*\*\* INSERT 5\*\*\*\*\*

905 Mr. Shimkus. The Chair thanks the gentleman.

906 The Chair now recognizes Mr. Ross Eisenberg, Vice President  
907 of Energy and Resources Policy of the National Association of  
908 Manufacturers. You are recognized for five minutes. Welcome.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

909 STATEMENT OF ROSS EISENBERG

910

911 Mr. Eisenberg. Thank you very much. Good morning, Chairman  
912 Shimkus, Ranking Member Tonko, members of the subcommittee. I am  
913 very pleased to be here today representing the views of the 12  
914 million men and women who make things in America.

915 We are in the midst of what we call a manufacturing moment.  
916 And it is really easy to see why. Manufacturing contributed \$2.17  
917 trillion to the U.S. economy in the most recent year that we have  
918 data for, 2015. That is up from \$1.7 trillion in 2009.

919 For every dollar spent in manufacturing, another \$1.81 is  
920 filtered throughout the economy, which is the highest multiplier  
921 factor of literally any sector in the economy. Manufacturing has  
922 helped lift the country out of the Great Recession, and we have  
923 ignited a new generation economy.

924 Manufacturers have sharply reduced our impact on the  
925 environment through a very wide range of innovations. The results  
926 benefit not only consumers but the broader communities beyond the  
927 manufacturing shop floor. And the overall numbers are  
928 indisputably good.

929 I have included in my written statement EPA's latest air  
930 trends chart. And that is right off the EPA Web site. And you  
931 can see, I mean for criteria pollutants the trend lines for every  
932 single pollutant go straight down. And they have been doing  
933 straight down since, since 1990.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

934           When you add in the progress we have made on greenhouse  
935 gasses, where we have reduced more greenhouse gasses in this  
936 country than any other nation on Earth, we have a very good, and  
937 I would say tremendous story to tell.

938           Now, environmental laws have been largely successful in  
939 reducing pollution. I don't think anybody really disputes that.  
940 In many cases they have been so successful that pollutants have  
941 been reduced to trace or even background levels. At the same time,  
942 these statutes were written four or five decades ago, and their  
943 drafters really couldn't have possibly envisioned how best to use  
944 these laws to tackle some of the environmental challenges in the  
945 21st Century.

946           These challenges include the West Coast being in perpetual  
947 ozone non-attainment because of emissions coming over from, from  
948 Asia, or states literally running out of controls needed to meet  
949 some of the newest air quality standards, or the fact that EPA often  
950 uses computer models in lieu of real modeling -- or monitoring,  
951 and they conflict at times, or how to possibly categorize different  
952 kinds of lands and water features in this country as simply waters  
953 of the United States, or how to handle climate change and  
954 greenhouse gas emissions.

955           For example, in the vehicle sector we have three different  
956 agencies which lay claim to often very conflicting regulatory  
957 authority. Regulators are increasingly unable to adapt stringent  
958 programs to the progress that has been made and easily reshape them

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

959 on their own to confront new environmental challenges. And when  
960 they try, they risk imposing requirements that are just simply not  
961 legally justifiable. History is littered with a long list of  
962 creative EPA regulations that have been held up by the courts. And  
963 that transcends politics and administration.

964 Several recent regulations threaten to set new records for  
965 compliance costs, collectively strapping manufacturers with  
966 hundreds of billions of dollars in new regulatory burdens per year.  
967 From a manufacturing perspective we have lost a critical balance  
968 in our federal environmental policies between furthering progress  
969 and limiting unnecessary economic impacts. In our view, it  
970 doesn't have to be that way.

971 The NAM recommends that Congress modernize outdated  
972 environmental laws to make them perform better, or require federal  
973 agencies to regulate the environmental challenges better, or even  
974 better, both. We understand these are not remotely simple tasks.  
975 But neither was modernizing TSCA. And this committee did that  
976 last year. It was an overwhelming success. We hope the committee  
977 can leverage the success it had on TSCA and turn to other statutes  
978 and modernize them as well.

979 My written statement contains a long list of proposals to  
980 improve the way we regulate things like criteria pollutants and  
981 greenhouse gasses and surface water and drinking water and  
982 permitting. And we believe that doing that will help those  
983 emissions guidelines keep going down while preserving

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

984 manufacturers' overall competitiveness.

985 In my testimony I also provide a long list of proposals to  
986 clear the way for new infrastructure, particularly in the energy  
987 space. As this committee knows, this is a very exciting time for  
988 energy in the U.S. Our abundance of all sources is driving a  
989 manufacturing renaissance which is, in turn, creating a major need  
990 for new and improved energy delivery infrastructure.

991 A recent report by the NAM found the total natural gas demand  
992 is poised to increase about 40 percent over the next ten years.  
993 That is double or I would say that is, that is double what, what  
994 happened the ten years before that. But, realistically, we have  
995 had a geographic mismatch. Where the gas is being produced now  
996 does not necessarily match where the pipes are going and where the  
997 energy needs to go. And that needs to be resolved.

998 In addition, energy infrastructure increasingly suffers from  
999 what we call permitting paralysis. Federal, state and local  
1000 permitting hurdles continue to impede projects across the energy  
1001 landscape. It is a challenge. It is something that continues to  
1002 be a challenge despite some very, very good efforts by Congress  
1003 and the executive branch that we really want to see continued  
1004 attention to.

1005 So we are happy for the measures in the FAST Act that was  
1006 passed last year. We are excited about the President's recent  
1007 executive memorandum on high priority infrastructure projects. I  
1008 applaud this committee for your leadership on the recent passage

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1009 of the bipartisan Water Infrastructure Improvements for the Nation  
1010 Act, which is a first step to addressing our current drinking and  
1011 wastewater infrastructure crisis. We hope this momentum  
1012 continues.

1013           Manufacturers are committed to a strong, healthy,  
1014 sustainable environment. But there has to be a balance.  
1015 Environmental laws and regulations should be designed to ensure  
1016 they are effective in achieving their desired outcomes without  
1017 creating unnecessary adverse economic or social impacts.

1018           Thank you very much.

1019           [The prepared statement of Mr. Eisenberg follows:]

1020

1021 \*\*\*\*\* INSERT 6\*\*\*\*\*

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1022 Mr. Shimkus. Thank you.

1023 And the Chair would like to ask a unanimous consent request  
1024 that the chairman of the full committee get an opportunity to give  
1025 an opening statement.

1026 Hearing none, Chairman Greg Walden is recognized for five  
1027 minutes.

1028 The Chairman. Thank you very much, Mr. Chairman. Thank you,  
1029 colleagues. I was detained in another important matter so I  
1030 couldn't be here at the beginning. But I appreciate the testimony  
1031 of all the witnesses.

1032 Yesterday the Energy Subcommittee began to explore the great  
1033 potential for American economic growth from modernizing our  
1034 electricity and energy infrastructure, which is really important  
1035 to do. Today this subcommittee, the Environment Subcommittee,  
1036 with its expanded jurisdiction under Chairman Shimkus'  
1037 experienced and able leadership, turns to the economic and  
1038 environmental benefits that will flow from modernizing some key  
1039 environmental laws.

1040 The common goal here is to identify what steps are necessary  
1041 to responsibly reduce the barriers to a more productive U.S.  
1042 economy, and then to develop targeted legislative reforms that  
1043 will provide for this economic expansion and create good-paying  
1044 jobs. Doing this will ultimately benefit American consumers.

1045 To begin delivering clear results, though, we must craft  
1046 policies that will expand our infrastructure and help accelerate

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1047 innovation, investment, and spur manufacturing growth. It also  
1048 means taking the necessary steps to ensure our laws do what they  
1049 were intended to do as efficiently and cost-effectively as  
1050 possible. And it means making sure regulations are developed and  
1051 implemented with transparency and predictability.

1052 There are plenty of opportunities to make common sense  
1053 changes to environmental laws and the way we implement those laws  
1054 that will reduce unnecessary barriers, disincentives and delays,  
1055 permitting new infrastructure and manufacturing. This is  
1056 particularly the case with implementation of some of our air laws.

1057 And there are additional opportunities for environmental  
1058 cleanup that can turn old environmental dead zones into healthy,  
1059 revitalized spaces for our local communities. And all of that can  
1060 help spur some new economic growth.

1061 Some barriers and burdens to development come from outdated  
1062 assumptions going back decades, as some of you have testified, when  
1063 many of our laws were developed. We have learned much since then  
1064 about what works and what doesn't work.

1065 Other roadblocks come from regulatory practices that have  
1066 proven impractical or become outdated as environmental quality has  
1067 improved to the point that additional refinements have become more  
1068 costly to obtain. And the digital age has produced analytical  
1069 tools that were not available when the Clean Air Act was last  
1070 amended in 1990. Just look at the computing power packed in an  
1071 iPhone or the developments in nanotechnology and bioscience, or

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1072 all the modern technology that companies use to respond  
1073 successfully to what consumers want in the information age.

1074       Clearly, we have seen tremendous advances all around us, and  
1075 we must embrace as we modernize our laws to increase the speed,  
1076 effectiveness and quality of environmental decision making, all  
1077 of which can produce cleaner air, cleaner water and cleaner soils.  
1078 That is our common goal.

1079       Our challenge is this: can we go bold and actually harness  
1080 these new tools and technology in partnership with the inherent  
1081 advantages of more localized decision making?

1082       Can we refocus our resources on cleanup efforts rather than  
1083 courtroom brawls and bureaucratic bungling?

1084       Are there analytical tools and modeling approaches that can  
1085 make for more practical risk-informed decision making that will  
1086 ease unnecessary burdens and reduce the costly delays in business  
1087 development?

1088       Can analysis and decision making be decentralized to enable  
1089 innovative approaches to improving public and environmental  
1090 health?

1091       We have enormous opportunities to make meaningful  
1092 improvements in our environmental laws and regulations. We can  
1093 join the twin engines of modern science and common sense and  
1094 produce better public health and a better economy, too. They are  
1095 not mutually exclusive. They do not have to be that way.

1096       Today we will begin to identify these opportunities. Again,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1097 I appreciate the witnesses before us.

1098 I would just say on a final note, I remember several years  
1099 ago in a community that I represent there was this whole issue about  
1100 what is a wetland and what is not. And we went out on this area  
1101 with cheatgrass and basalt and some dirt. It was clearly a pond  
1102 with some willows and all. That, to me, is a wetland.

1103 And then the local community showed me what the agency had  
1104 said was a wetland which were these two tracks left behind from  
1105 a utility truck that had gone out there when the ground was soft.  
1106 That had now been determined to be a wetland. And they could not  
1107 work around that, they could not disturb that. And they literally  
1108 were the ruts from a utility truck that had been out there a year  
1109 or so before.

1110 This is the kind of stuff that doesn't make sense at home to  
1111 our communities. This is why we lose support for some of these  
1112 efforts. These are the sorts of things we should be able to come  
1113 together on without a lot of extreme rhetoric and figure out, can  
1114 we find a better way? We want to protect these wetlands. We want  
1115 to protect our drinking water. We had problems in Portland public  
1116 schools where they knew about lead in the drinking water there and  
1117 didn't tell the parents for a year or so. It is happening all over  
1118 our country. None of us wants to drink that.

1119 So let's find a good way through this and we will get better,  
1120 we will harness this technology, we will add in common sense, and  
1121 together in our communities we will get to a better place.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1122 Thank you.

1123 Mr. Shimkus. The gentleman yields back his time.

1124 So here is the deal, I am going to recognize myself for five  
1125 minutes to start asking questions. And we will just bounce back  
1126 and forth.

1127 And I will just start by saying, you know, there are some  
1128 issues that we always deal with: How clean is clean? In fact, Mr.  
1129 Eisenberg, you talked about trace and background. Those are words  
1130 we use in this committee all the time.

1131 And I appreciate my colleagues and their testimony. There  
1132 is a, there is a desire to be efficient, use new technologies, make  
1133 sure we are protecting human health, but also making sure that we  
1134 can create jobs.

1135 So I want to start with Mayor Mitchell because, you know, you  
1136 have the experience. You have been taking Brownfield sites, you  
1137 have been able to put solar panels on there.

1138 From your experience as a mayor trying to help redevelop areas  
1139 that are blighted or listed as you can't touch, what are some of  
1140 the hurdles and what would you recommend us look at so that we can  
1141 ease some of those hurdles so we can move in the redevelopment of  
1142 these sites quicker?

1143 Mr. Mitchell. Yes, thank you, Mr. Chairman. No, it is a great  
1144 question.

1145 And, you know, I guess the way I would start is to say that  
1146 much of the low-hanging fruit, certainly in New Bedford and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1147 certainly from what I hear from other mayors in the way of  
1148 Brownfield sites have been picked over in recent years. That is  
1149 to say, the easy sites, that is the less contaminated sites, have  
1150 been taken care of and what remains are more complicated sites,  
1151 dirtier sites that in many cases across the country have economic  
1152 value. There is untapped value there that, in the absence of  
1153 contamination, would lead to the redevelopment of those sites.

1154 Mr. Shimkus. They could be right on the shoreline. They  
1155 could be right down Main Street.

1156 Mr. Mitchell. Yes.

1157 Mr. Shimkus. They could be in --

1158 Mr. Mitchell. They can be anywhere. We have, for example,  
1159 on our waterfront, one of the, in one of the busiest ports on the  
1160 East Coast, a 28-acre site that was, that had been for over a  
1161 century the location of a power plant. And back in the late '90s  
1162 the power plant was decommissioned and the utility continued to  
1163 use it. And the utility offered it up to the city for a dollar  
1164 to redevelop, right. It has enormous value but to the fact that  
1165 it is soaked with 100 years' worth of oil and PCBs and other really  
1166 bad things.

1167 And the city had to turn that opportunity down. And so it  
1168 has sat and continues for some 15 years later to sit there. And  
1169 we're working on plans, on a number of plans to try to kick start  
1170 interest in redevelopment. But there is a hugely valuable site  
1171 that could be put to any kind of purpose: mixed use development,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1172 industrial development, maritime development. But it can't move  
1173 because it is -- the cleanup proposition is, to the market at least,  
1174 insurmountable.

1175         So, and I think that is a story that has been told in a lot  
1176 of cities across the United States. In the cities that right now  
1177 are dotted with construction cranes, in the private sector there  
1178 are -- there is less of a need for government to step in and close  
1179 a funding gap. But in many cities, including, I presume, many of  
1180 the districts that committee members, subcommittee members  
1181 represent, there is a need for government to step in and close that  
1182 gap. It has been doing so successfully in so many places across  
1183 the United States, but that gap still persists for many valuable  
1184 properties across the land.

1185         Mr. Shimkus. So when we were talking earlier, New Bedford is  
1186 about 100,000 people, and probably most communities in this  
1187 country are less than that. I live in one that is about 25,000.  
1188 Springfield, Illinois has got about 100,000. So, but in these  
1189 communities of that size and smaller you have small business.

1190         And I turn to Mr. Sullivan to give us the small business  
1191 perspective of some of the hurdles that they have to face in this  
1192 compliance because, you know, we used to quote 50 percent of all  
1193 new jobs is created by small business. And if there are hurdles  
1194 that are making that impossible, then we need to know what those  
1195 could be.

1196         Mr. Sullivan. Thank you. Thank you, Mr. Chairman.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1197 I think the answer actually is very simple. And that is  
1198 engage the small business owners towards the constructive  
1199 solutions. It works. And when the agencies, whether they are the  
1200 state or federal agency, when agencies ignore that opportunity for  
1201 constructive input toward solutions then bad things happen and  
1202 unintended consequences happen.

1203 So, the answer to your question, Mr. Chairman, is you need  
1204 commitment to engage those small businesses before the ink is dry  
1205 on regulatory policies that affect our communities.

1206 Mr. Shimkus. So my time is expired. And I will just sum up.

1207 So you are saying get with them and talk to them earlier about  
1208 what is the desire to achieve a blend and see how the small business  
1209 can work to obtain that before the heavy hammer of government comes  
1210 down?

1211 Mr. Sullivan. Yes. That is correct, Mr. Chairman.

1212 Mr. Shimkus. My time is expired.

1213 The Chair now recognizes the ranking member of the  
1214 subcommittee Mr. Tonko for five minutes.

1215 Mr. Tonko. Thank you, Mr. Chair.

1216 Ms. Mays, again I thank you for being here today and sharing  
1217 your family's story. I know it must be difficult. But I, for one,  
1218 am very grateful that you are giving a voice to your community.

1219 I cannot imagine what it must feel like to turn on your faucet  
1220 and not expect safe water. So if I could ask you a series of  
1221 questions to which you could either say yes or no.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1222 Do you believe the situation in Flint could have been  
1223 prevented had stronger environmental laws been in place?

1224 Ms. Mays. Absolutely. And in my personal opinion, and how  
1225 the residents feel, is that had the EPA had a stronger presence  
1226 the state Department of Environmental Quality could not have  
1227 gotten away with, you know, exploiting these loopholes.

1228 And, I mean, the rule is outdated. There is limited  
1229 resources with the EPA. And there are all of these lawsuits that  
1230 EPA has been hit with and not allow them to come in and say what  
1231 you are doing is wrong. Stop it. They are still, because we are  
1232 stuck in an emergency situation instead of a disaster situation,  
1233 the state, the people who poisoned us, are still in control of our  
1234 recovery, which is why we are not having a recovery.

1235 So, yes, I do not agree with you, Mr. Barton, because it was  
1236 a failure on all levels. But because we did not have more  
1237 stringent laws, and the fact that we don't have bathing and  
1238 showering standards is ridiculous. Europe does. Other  
1239 countries do. Because that is where we find most of our exposure.

1240 You get two times the exposure to toxic chemicals in a  
1241 10-minute shower than you do drinking two liters of the same water  
1242 because you are dealing with inhalation and absorption. So the  
1243 fact that we are not even regulating this or testing for these  
1244 contaminants is terrifying.

1245 Mr. Tonko. Ms. Mays, do you believe if there had been more  
1246 investment to improve and replace unsafe infrastructure these

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1247 problems may have been avoided?

1248 Ms. Mays. Absolutely. If there was money available, if  
1249 there, I mean if there were better revolving fund grants, if there  
1250 were issues, our city would have been able to start fixing this  
1251 a lot sooner.

1252 Mr. Tonko. Okay.

1253 Ms. Mays. We have 700 lines replaced out of about 39,000.

1254 Mr. Tonko. What about the ability to pay? You know, a  
1255 community like Flint and the affordability to pay for necessary  
1256 infrastructure upgrades is what raised concerns, so with  
1257 additional rate increases to water bills, does it not?

1258 Ms. Mays. It is. We, the state just stopped offering credits  
1259 because Governor Snyder said that our water meets federal  
1260 regulation which, of course, doesn't mean, say, 12 parts per  
1261 million can poison a child by far. But, yeah, there is no -- we  
1262 really have no money. We don't, because we are a struggling city.  
1263 And so the money was not available in the water fund to do this.

1264 Plus, we are losing 40 percent of our treated water because  
1265 of main line breaks. So our water costs are through the roof.

1266 Mr. Tonko. So, therefore, is it necessary for the Federal  
1267 Government to provide funds to communities so that, you know, they  
1268 can address systems that are failing?

1269 Ms. Mays. Absolutely. And Congressman John Conyers  
1270 introduced the WATER Act which, by taxing corporate offshore  
1271 profits, they would be able to fund \$37 billion a year for

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1272 infrastructure across the U.S. So they would be helping cities  
1273 like ours that are struggling, as well as reservations, hospitals,  
1274 nursing homes, day cares, the places where the most vulnerable are.

1275 Mr. Tonko. And so it becomes apparent that it is impossible  
1276 for some of these communities to respond to those needs and federal  
1277 investment is required. And there are many communities like Flint  
1278 across the nation.

1279 When it comes to the negative health effects from unsafe  
1280 water, can you talk about the impacts on work productivity for you  
1281 and you family, children's education and the city's economy?

1282 Ms. Mays. Oh, absolutely. I was on unpaid sick leave for  
1283 quite some time because of the seizures until we could get them  
1284 under control. We missed so much work because we have to go  
1285 outside of the city to find specialists to deal with what my sons  
1286 are going through, what I am going through. We spend so much time  
1287 and money on medication. And we -- I do, I miss a ton of work  
1288 because I have to take my kids to constant doctor and specialist  
1289 appointments.

1290 And my husband is the same way. He gets up in the morning  
1291 and has dizzy spells and so he can't go to work. And he has got  
1292 two jobs. And so when he misses work it is a huge hit to our family.

1293 Mr. Tonko. Ms. Hammond, thank you for explaining how the  
1294 benefits of these protections significantly outweigh the costs.  
1295 Would you say these benefits are oftentimes understated?

1296 Ms. Hammond. They are. As I mentioned in my testimony, and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1297 I have some various citations in my written testimony, the benefits  
1298 of many of the things that, that come about from environmental  
1299 regulation are very difficult to value, or perhaps even priceless.  
1300 We might be able to put a price tag on the cost of a new piece of  
1301 pollution equipment, but how do we put a price on the kinds of  
1302 stress, the dignitary harm, the lives that are impacted when they  
1303 are, when people are harmed by environmental pollution? Those  
1304 things, we try to price them, but we undervalue them.

1305 Mr. Tonko. And what about strengthening the Safe Drinking  
1306 Water Act or EPA issuing an improved Lead and Copper Rule? What  
1307 benefits do you see? And, again, is it that same theory of  
1308 benefits outweighing costs?

1309 Ms. Hammond. Yes. Certainly I think that we would see far  
1310 greater benefits than costs by updating the Safe Drinking Water  
1311 Act to make it safer, to give EPA more authority with the funding  
1312 to carry out that authority, and to direct EPA to enact these  
1313 stricter regulations to ensure that our treated water is safe, that  
1314 the infrastructure, the pipelines that carry that water, aren't  
1315 picking up contaminants on the way to people's homes.

1316 Mr. Tonko. Thank you. I have got to yield back.

1317 Mr. Shimkus. The gentleman's time has expired.

1318 The Chair now recognizes the gentleman from Texas, Mr.  
1319 Barton, for five minutes.

1320 Mr. Barton. Thank you, Mr. Chairman.

1321 I am primarily going to ask Mr. Eisenberg some questions.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1322 But I feel I should talk to you a little bit, Ms. Mays, because  
1323 you are obviously personally experiencing a problem, a huge  
1324 problem with your family.

1325 What is the population of Flint?

1326 Ms. Mays. One hundred thousand people.

1327 Mr. Barton. What is the expected cost -- is the problem the  
1328 crumbling water lines or is the problem reprocessing or processing  
1329 of the water supply? Which is it or is it both?

1330 Ms. Mays. Because of the loopholes in the Lead and Copper Rule  
1331 the state did not have to require corrosion control, which is  
1332 absurd. You know, when water goes through a metal pipe -- so what  
1333 is happening, basically, is that that corrosive acidic water ate  
1334 our infrastructure. It literally ate the metal. So we have  
1335 holes, we have leaks, we have gushes, all the way up into people's  
1336 homes. We have pipes exploding in people's walls as well.

1337 Mr. Barton. Okay. Well, that doesn't help answer my  
1338 question. I know you are trying to.

1339 Ms. Mays. Well, I am having hearing issues because of the ear  
1340 infections from bacteria, so you have to talk a little louder.

1341 Mr. Barton. I can't do that.

1342 Is it the water itself? Is it the way it is processed? Or  
1343 is it the fact that the pipes that take it to your home have  
1344 deteriorated and there is material in the ground around Flint that  
1345 gets into the water?

1346 Ms. Mays. It was all of the above. The water was caustic.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1347 The water source was caustic. It was not treated properly to make  
1348 it less acidic. It ate our infrastructure.

1349 So we switched back to a cleaner water source. But it doesn't  
1350 matter because the crumbling infrastructure is still releasing the  
1351 toxins and re-poisoning that new water.

1352 Mr. Barton. Then why can't the city of Flint and the state  
1353 of Michigan put the money in to do that, to clean, to put in new  
1354 lines and to put in a new processing plant? Every other city in  
1355 the country does, every other county, every other state, you know.

1356 Ms. Mays. Well, because our, our state --

1357 Mr. Barton. Because if it is a federal issue, if you are  
1358 absolutely correct -- and I know you have got a real problem. I  
1359 am not disparaging that. But if it is the Federal Government's  
1360 fault, then every city, every county, every state in the country  
1361 would have the same situation. They would have thousands and  
1362 thousands of these. We don't.

1363 Ms. Mays. Well, that is not true. We actually have about  
1364 5,300 cities in the United States that are cheating and using  
1365 loopholes in the Lead and Copper Rule.

1366 Mr. Barton. But we don't have 5,300 cities that have the  
1367 problem that Flint apparently has?

1368 Ms. Mays. Not yet. No, not yet.

1369 And the reason we don't have our city -- first of all, our  
1370 city is near bankrupt. Our state took over our city in 2011 and  
1371 decided to sell off assets under the Public Act 436, which you guys

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1372 know as the Emergency Manager Law. And our Republican governor  
1373 feels that, the same thing as you, that if he had to spend the money  
1374 to fix Flint, even though the state did it, that he would have to  
1375 fix all the cities. So, therefore, he is not.

1376 Mr. Barton. Yes, I am not saying it is not a problem. I am  
1377 not saying the Federal Government shouldn't have a role in it.  
1378 What I am saying is that it is not the total responsibility of the  
1379 Federal Government. If it were, we would have this replicated  
1380 100,000 times.

1381 Ms. Mays. And I am not aware that I actually said it was  
1382 totally a Federal Government subject.

1383 Mr. Barton. And we don't, we don't have that. Your county,  
1384 your city, your state could correct this problem. They don't need  
1385 the Federal Government. May need some assistance in terms of  
1386 infrastructure. But they don't --

1387 Ms. Mays. Well, someone needs to regulate what our state is  
1388 doing. They poisoned us and they are in control of our, you know,  
1389 our lack of recovery. And there is no one to make our governor  
1390 do the right thing. So we have no oversight ourself.

1391 Mr. Barton. It is called voters. It is called elections.  
1392 You control who your governor is.

1393 Ms. Mays. It I called he is in there till 2018. He is not  
1394 up for reelection, and so we are stuck.

1395 Mr. Barton. Mr. Eisenberg, do you believe that CO2 should be  
1396 a criteria pollutant under the definition of the Clean Air Act?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1397 Mr. Eisenberg. A criteria pollutant that we haven't asked  
1398 for, I, as an association I don't believe we would be for something  
1399 like that. That would be a tough thing to implement. But it is  
1400 regulated under the Clean Air Act and under 111 and various other  
1401 statutes. And, you know, we --

1402 Mr. Barton. Because of the 5 to 4 Supreme Court decision and  
1403 a very faulty endangerment finding by the Obama Administration  
1404 within the first 90 days, you are correct. That might be, and I  
1405 think is an error.

1406 Would you support, if we were to reopen the Clean Air Act to  
1407 clarify some things, the inclusion of a true cost-benefit analysis  
1408 on major environmental regulations?

1409 Mr. Eisenberg. We absolutely would. We absolutely would.

1410 Our goal is that those analyses be done as well as possible.  
1411 And strengthening them for everybody involved on the cost side and  
1412 the benefit side could only help get the best information possible  
1413 to us, the regulating community, and to everybody at the agency.

1414 Mr. Barton. My time has expired, Mr. Chairman.

1415 Mr. Shimkus. The gentleman now recognizes the ranking member  
1416 of the full committee Mr. Pallone for five minutes.

1417 Mr. Pallone. Thank you, Mr. Chairman.

1418 There is a lot that has been discussed about what we disagree  
1419 on. But I want to thank the Chairman for inviting Mayor Mitchell  
1420 to talk about the Brownfields Program because I do think we can  
1421 get bipartisan support.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1422 I have been a strong proponent of the Brownfields Program from  
1423 the start and have always welcomed bipartisan support. And I  
1424 believe that reauthorizing and increasing the funding for  
1425 Brownfields should be a part of any effort this committee moves  
1426 on infrastructure.

1427 So, Mayor Mitchell, do you agree with that, yes or no?

1428 Mr. Mitchell. When you phrase it that way, Congressman,  
1429 absolutely.

1430 Mr. Pallone. Okay.

1431 Mr. Mitchell. But, yes. And let me just elaborate. I think  
1432 it is an area where there could be broad agreement here. And I  
1433 say that, I mean I come here wearing two hats. I am the Mayor of  
1434 New Bedford but I am also the Chair of the Energy Committee of the  
1435 U.S. Conference of Mayors. And so we talk, we, the mayors of  
1436 America, talk about this.

1437 There is broad unanimity about across America's cities for  
1438 additional funding for Brownfields. And I think what most mayors  
1439 would tell you is that the Brownfields Program has been very  
1440 helpful in kick starting the development of certain properties.  
1441 But there are so many grants out there, so many grant applications  
1442 that go unfunded. According to the EPA there have been some 1,700  
1443 viable projects that have not been issued grants in the last five  
1444 years.

1445 That is pretty significant. I have a list in my city. And  
1446 I am sure every, every American could come up with a list of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1447 projects that have economic value but the negating factor is  
1448 contamination. And that although some cities do have, a handful  
1449 of cities in this country do have the resources on hand to help  
1450 close, you know, close the gap themselves or that the real estate  
1451 markets are so hot that the private sector takes care of it, in  
1452 the majority of American cities that is still not the case. Even  
1453 in places like New Bedford, where we have had a lot of success  
1454 recently in economic development, we still don't have the  
1455 resources to, to close those gaps.

1456 Mr. Pallone. And, you know, I have more of these sites than  
1457 any other state in New Jersey, and more in my district than any  
1458 other part of New Jersey. So I understand.

1459 I assume you support more funding for Superfund cleanups as  
1460 well, obviously, as a Superfund city?

1461 Mr. Mitchell. Well, as a city that has two Superfund sites,  
1462 the one that I mentioned, Sullivan's Ledge, but also New Bedford  
1463 Harbor, which is the nation's first marine Superfund site,  
1464 absolutely they could use more funding.

1465 Mr. Pallone. Well, you know, when you mention the harbor I  
1466 wanted to mention in my district we have a place called Laurence  
1467 Harbor which has a -- which is also on the national priority list.  
1468 So I know first-hand, you know, how difficult and expensive it is  
1469 to clean up these waterfront sites.

1470 Now, in the case of New Bedford Harbor, a settlement was  
1471 reached with the responsible party in 2013. And the funds from

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1472 that settlement have increased the pace of cleanup considerably.

1473 That is correct?

1474 Mr. Mitchell. That is correct.

1475 Mr. Pallone. So, I only mention that because it illustrates  
1476 what we have seen at numerous Superfund sites: when more funding  
1477 is available, these cleanups can be done more quickly and more  
1478 efficiently, which is so important to the communities around the  
1479 Superfund sites.

1480 But I want to, I wanted to turn to the issue of environmental  
1481 protections. My Laurence Harbor Superfund site is contaminated  
1482 with lead and other heavy metals that were used to build the  
1483 seawall. That is something that wouldn't happen today because of  
1484 the environmental protections we have in place.

1485 And the same is true, to my understanding, for New Bedford  
1486 Harbor, environmental protections ensure that PCBs are not being  
1487 dumped into our rivers and harbors.

1488 My question is if these kinds of environmental protections  
1489 had been in place decades ago, I think a lot of these Superfund  
1490 sites probably would never have been contaminated. So do you  
1491 think it is important to preserve environmental protections so  
1492 that your successor is not cleaning up new Superfund sites 50 years  
1493 from now?

1494 Mr. Mitchell. Yes. I mean I think the contamination that  
1495 occurred in New Bedford, and many other places similarly situated,  
1496 were the poster children for the whole suite of environmental

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1497 legislation in the early '70s. I wish it hadn't happened. But  
1498 we are living with that legacy.

1499 And I can tell you, again just speaking as a mayor who talks  
1500 to a lot of other mayors, there isn't a mayor in America that  
1501 thinks, that will tell you that we should be loosening up on the  
1502 kinds of regulations that would have protected us from, from those  
1503 outcomes years ago.

1504 Mr. Pallone. And just one last question for Ms. Mays. Would  
1505 you say to those who suggest -- or what would you say to those who  
1506 suggest that we need to weaken our environmental protections?

1507 Ms. Mays. That that is going to bring in more Flints. I mean,  
1508 had we had tighter regulations we wouldn't be where we are at now.  
1509 If those loopholes didn't exist, we wouldn't be sick and poisoned  
1510 at this point in time. And we don't want to see any other city  
1511 go through what we are going through right now.

1512 Mr. Pallone. Well, thank you.

1513 You know, we are looking at, and hopefully on a bipartisan  
1514 basis, you know, some major infrastructure initiatives for both  
1515 water infrastructure, Brownfields, Superfund. So, you know, I  
1516 think that I really appreciate your testimony. And, hopefully,  
1517 those initiatives will be bipartisan. Thank you.

1518 Thank you, Mr. Chairman.

1519 Mr. Shimkus. The gentleman's time has expired.

1520 The Chair now recognizes the gentleman from West Virginia Mr.  
1521 McKinley for five minutes.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1522 Mr. McKinley. Thank you, Mr. Chairman.

1523 I would ask unanimous consent that we could introduce into  
1524 the record a letter from the American -- the Association of General  
1525 Contractors of America and their concern for the infrastructure  
1526 and modernization of our regulatory reform.

1527 Mr. Shimkus. Hearing no objection, so ordered.

1528 [The information follows:]

1529

1530 \*\*\*\*\* COMMITTEE INSERT 7\*\*\*\*\*

1531 Mr. McKinley. Thank you very much.

1532 Mayor Mitchell, we have in West Virginia over 200 Brownfield  
1533 sites. And there are 60 in my district. I have got one in a  
1534 building nearly adjacent to my office in Wheeling. So I am quite  
1535 familiar with some of the problems with it.

1536 And I would agree from your testimony the concern that it is  
1537 a blight in your community to have one. We have had over the last  
1538 six years since I have been in Congress a lot of discussion about  
1539 that, about how we can motivate that from happening.

1540 But what would, what are you suggesting we do so that we can  
1541 move this along through the process? Because we know like the one  
1542 you were referring to is 15 or 20 years. I know the site that I  
1543 am referring to is 30 or 40 years has been abandoned. And it is  
1544 right on the riverfront. So what do we do about addressing the  
1545 bureaucratic inefficiencies and delays and judicial delays, what  
1546 would you suggest we do on Brownfields?

1547 Mr. Mitchell. So, putting funding, additional funding aside,  
1548 I think there are a couple of things. So one is increasing the  
1549 flexibility of the use of grants. So, there are many communities,  
1550 and I suspect Wheeling is like New Bedford in this way, an older  
1551 manufacturing city, that have many Brownfield sites. And money  
1552 is, grants are issued to cities that, like mine and yours, was the  
1553 qualification with fewer restrictions. In other words, the money  
1554 wouldn't be site specific but would be city specific, and so that  
1555 we might be able to use them on different sites, depending how the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1556 market shifts.

1557           Because we don't want a site -- here is what we want to avoid:  
1558 we want to avoid a situation where we go through the process of  
1559 applying for a Brownfield grant, getting the grant, and then the  
1560 developer says we are not interested anyway. Right? And so that  
1561 we have to, we, the city, have to start over again and reapply for  
1562 another site through EPA's grant cycle to address somewhere else  
1563 that might be developable. So that is one.

1564           The other thing is, I think the treatment under CERCLA of the  
1565 municipal ownership of sites I think would matter. Cities, if  
1566 cities had the ability to take control of sites and to do planning  
1567 and do environmental assessment and put through those efforts  
1568 sites in the market, we would be in a better place. And one might  
1569 way, well, --

1570           Mr. McKinley. Thank you.

1571           Mr. Mitchell. -- you know, so wherein lies the  
1572 accountability there?

1573           Mr. McKinley. I hope we can have further conversation.

1574           Mr. Mitchell. Sure.

1575           Mr. McKinley. I would like to go beyond those two I think,  
1576 because I want to get in the time frame down to Mr. Sunday.

1577           You had referenced in your prepared testimony about 321(a)  
1578 of the Clean Air Act. And you said that it is in the language of  
1579 the statute, there is language that says continued evaluation.  
1580 The EPA is to conduct "continued evaluation of potential loss of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1581 employment that may result from administration or enforcement of  
1582 the Act."

1583           And you expressed some concern that that is not being upheld.  
1584 A federal judge in October confirmed that it is not being upheld.  
1585 And you said in your paper that Congress should do something. What  
1586 are you suggesting we do?

1587           Mr. Sunday. Well, I think, I appreciate the question, sir,  
1588 the language of that opinion was I think a pretty strong upbraiding  
1589 of the agency. I think Congress should step in and maybe there  
1590 is administrative penalties, maybe there is some sort of sanctions  
1591 against the agency if they are not done. At the very least there  
1592 should be some sort of oversight.

1593           And it is important that the continuing evaluation happens,  
1594 one, because Congress said it should. And I think we should have  
1595 respect for the rule of law, when Congress issues a directive to  
1596 the agency that the agency carries that out.

1597           And, second, we need to consider that there are substantial  
1598 public health impacts on an individual who loses their job. I  
1599 reference that in my testimony that we don't fully account for the  
1600 lifetime loss of earnings with the declining quality of life for  
1601 somebody that loses their job.

1602           Mr. McKinley. Yes, sir, thank you.

1603           I found it incredible, though, when I read the testimony that  
1604 the EPA recognized that they were just not going to do it. Just  
1605 not going to do it, even though it was a statute. So I am

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1606 questioning.

1607           How about any of the others? Mr. Sullivan, would you agree  
1608 that this is a problem when the EPA chooses to enforce some portions  
1609 of law and not others?

1610           Mr. Sullivan. Congressman, I think it is a huge problem.  
1611 And, in particular, there are instances where EPA is supposed to  
1612 consult with small business prior to finalizing a proposed rule.  
1613 And it does not.

1614           I will give you one example. In the risk management plan that  
1615 this subcommittee has jurisdiction over in the Clean Air Act, the  
1616 Environmental Protection Agency submitted their rule to the Office  
1617 of Management and Budget before the panel report that summarizes  
1618 small business input was even finished. That is an example of the  
1619 agency going through a check-the-box exercise versus what  
1620 Congress' intent was, a constructive dialog for solutions.

1621           And I think that this subcommittee is well situated to bring  
1622 some oversight to make sure that that doesn't continue.

1623           Mr. McKinley. Sorry, my time has expired.

1624           Mr. Shimkus. The gentleman's time has expired.

1625           The Chair now recognizes the gentlewoman from Colorado Ms.  
1626 DeGette for five minutes.

1627           Ms. DeGette. Thank you, Mr. Chairman.

1628           Back in 1994 when I was in the Colorado legislature I passed  
1629 a bill called the Voluntary Redevelopment -- Cleanup and  
1630 Redevelopment Act. And this was a Brownfields bill that was

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1631 targeted at cleaning up environmentally contaminated sites in  
1632 Colorado.

1633           And I remember when I did the bill, the Chamber of Commerce  
1634 and the Sierra Club both supported this bill because what it did  
1635 is it set -- what was happening was people who owned these  
1636 contaminated sites but were not -- and the mayor knows this well  
1637 -- these were not Superfund sites but they were old dry cleaners,  
1638 they were old mining sites, they were leaking tanks. And because  
1639 of the threat of enforcement action by the state, people were just  
1640 sitting on these pieces of property, fearful of cleaning them up.

1641           And so, so really until 21st Century Cures came up this was  
1642 my piece of legislation that I passed in my career that I was the  
1643 proudest of because what it did was it took a real problem that  
1644 I described, and then it put together a regulatory framework that  
1645 encouraged businesses to clean up these sites and to make them  
1646 economically viable, but it also protected environmental  
1647 regulation.

1648           And every so often I talk to my colleagues in the Colorado  
1649 Department of Public Health and Environment, and now, all these  
1650 years later, it has been used thousands of times in my state of  
1651 Colorado to clean up environmental contamination. So I have  
1652 always been a big proponent of federal Brownfields legislation.  
1653 And I also think that we can be doing much more at the federal level  
1654 to try to figure out a way where we can enforce environmental  
1655 regulations while at the same time incentivizing cleanups.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1656           And that is sort of what I want to talk about today because  
1657 it seems to me that in this Congress, and particularly with this  
1658 new presidential administration, we look at environmental  
1659 regulation as a blunt instrument. So we either, you know, what  
1660 we say, and I am looking at this executive order that President  
1661 Trump signed which says that any federal agency issuing a new  
1662 regulation must rescind at least two existing regulations to  
1663 offset the cost of complying with the new regulation.

1664           Talk about a blunt instrument. Rather than saying what  
1665 regulations do we have that maybe don't exactly work and could be  
1666 repealed or could be modified to work in our economy today, and  
1667 how do these all work together, we just, we just make the value  
1668 judgment that all these regulations are the same. So regulations  
1669 are bad and so we will just repeal two of them for every one that  
1670 we have. Which is, frankly, if you think about it, absolutely  
1671 ridiculous from a public policy perspective.

1672           I think Ms. Mays could completely agree with that when she  
1673 sees what happened in Flint, Michigan.

1674           So I just want to ask you, Professor Hammond, about this. I  
1675 want to ask about the academic -- I don't think there are academic  
1676 underpinnings of the order -- but I want to ask from an academic  
1677 perspective, new regulations are developed to deal with new  
1678 problems or new scientific understanding. When an agency  
1679 develops a regulation does that mean that existing safeguards are  
1680 no longer needed?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1681 Ms. Hammond. Not at all. And I think you have really  
1682 characterized this 2 for 1 order quite well. It trades our future  
1683 for the benefits that we have right now. It really traps agencies.  
1684 They can't justify taking important existing regulations off the  
1685 books, regulations that still operate to protect people. And,  
1686 yet, that means they can't issue new regulations that are needed  
1687 to guard against the many new risks that we face today. It really  
1688 puts them in a bind.

1689 And I argue it is a bind that is contrary to law.

1690 Ms. DeGette. And you are not saying that if we have a new  
1691 regulation that we should never repeal old, outdated regulations;  
1692 right?

1693 Ms. Hammond. Not at all. In fact, agencies are already  
1694 required under many circumstances to do look-backs, to assess the  
1695 regulations they have on the books, see how they are working, and  
1696 see if any of them need to be rescinded. And agencies do rescind  
1697 rules that they find to be outdated, or they update those rules.

1698 So, this is not to say that we shouldn't improve what we have,  
1699 it is simply to say that an unthinking rescission of very good  
1700 regulations hampers progress.

1701 Ms. DeGette. Thank you.

1702 Thank you very much, Mr. Chairman.

1703 Mr. Shimkus. The gentlelady's time has expired.

1704 The Chair now recognizes the gentleman from Texas Mr. Olson  
1705 for five minutes.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1706 Mr. Olson. I thank the Chair. And welcome to our six  
1707 witnesses.

1708 I hope this is not news to you all, but since I have been  
1709 elected to Congress in 2009 I have been the leader in the House  
1710 to fix our broken ozone rule system. It takes EPA seven years to  
1711 put out new rules for new ozone standards. And then starts the  
1712 broken process over with new standards seven months later. There  
1713 is no chance, no chance for local communities and businesses to  
1714 comply.

1715 When the person charged with ozone emissions in the San  
1716 Joaquin Valley, in this very room right around where Ms. Hammond  
1717 and Ms. Mays are sitting, tells us that nearly every single  
1718 gasoline powered car in San Joaquin Valley will be banned because  
1719 of those new ozone standards, there is a big problem.

1720 When Houston, Texas, my hometown, goes from being the ozone  
1721 capital of America in 1972 to within one year of full attainment,  
1722 this year 2017, and the rules change, Houston, we have a problem.  
1723 And it is not just Houston's problem, it's the San Joaquin Valley's  
1724 problem. Almost 400 counties across America have that same  
1725 problem.

1726 EPA is effectively saying you can never, ever comply with  
1727 those standards because they will change. And that is why I  
1728 reintroduced the bill, bipartisan, bicameral bill H.R. 806 to  
1729 address this problem. I am proud to have the co-sponsorship of,  
1730 Chairman, of Mr. Latta, Mr. Flores; Democrats Mr. Cuellar, Mr.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1731 Bishop, and Mr. Costa; and across The Hill on the Senate side we  
1732 have the West Virginia duo, Mr. Manchin and Mr. Capito.

1733           Along those lines, my first question is for you, Mr.  
1734 Eisenberg. Page 11 of your testimony you recommend that Congress  
1735 require the Clean Air Scientific Advisory Committee, CASAC, to  
1736 comply with the Clean Air Act, Section 109(d), and "advise the  
1737 Administrator of any adverse public health, welfare, social,  
1738 economic, or energy effects which may result from various  
1739 strategies for attainment and maintenance of air quality  
1740 standards."

1741           I thought CASAC had to comply with the law, the Clean Air Act.

1742           Mr. Eisenberg. So --

1743           Mr. Olson. Can you explain why that is so important?

1744           Mr. Eisenberg. We think it is extremely important. So, they  
1745 complied with pretty much everything you said except for the  
1746 economic part, and never bothered to look at what the economic  
1747 impact of this rule was.

1748           And as you guys know, we measured it, and it was, you know,  
1749 hundreds of billions to trillions of dollars. So that was  
1750 something we would have liked on the front end going in. Obviously  
1751 it helps, on the implementation side it helps in terms of  
1752 technological feasibility.

1753           Because, like I said, we would do it. We were just never  
1754 asked to do it, so, so we didn't. And, obviously, that is one of  
1755 the recommendations we would like to see put into place and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1756 something that becomes mandatory.

1757 Mr. Olson. I think that is our job to make sure the Exec.  
1758 Branch calls, the law will be passed. That is kind of what Article  
1759 I of the Constitution says.

1760 Next question is for you, Mr. Sunday. There is a study by  
1761 a man named Michael Greenstone, National Bureau of Economic  
1762 Research. It was over the time period 1972 to 1987. He did a  
1763 study about the cost of non-attainment to local counties. He said  
1764 counties lose \$37 billion in capital, \$75 billion in economic  
1765 production, and 590,000 jobs if there in non-attainment. That was  
1766 30 years ago.

1767 In your testimony you referenced a paper called "EPA's New  
1768 Source Review Program: Time For Reform?" That was on page 14,  
1769 footnote 23. The authors say that changing ambient standards, air  
1770 quality standards carries delays, and in some cases canceled  
1771 projects.

1772 What is your experience back home about these delays with  
1773 these changing standards over and over, are you losing jobs, losing  
1774 projects?

1775 Mr. Sunday. Yes. We have had, we have had economic impacts.  
1776 Most recently we have had frustrations, not just with those but  
1777 with the 1-hour SO2 standard. When you go to shorter and shorter  
1778 time frames it becomes really hard for states to say that if we  
1779 permit a new source we are never going to have an exceedence in  
1780 that 1-hour frame.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1781 EPA promulgated the 1-hour SO2 in 2010. Five years later  
1782 they settled with Sierra Club in a sue and settle arrangement.  
1783 They gave states almost -- they basically said monitoring for your  
1784 designations is off the table. We have got new modeling.  
1785 Modeling is extremely conservative. And, again, as I mentioned,  
1786 it requires plans to account for emissions that they are not going  
1787 to produce.

1788 Mr. Olson. How much has the Chamber lost in Pennsylvania by  
1789 county? Do you think like 30-some billion in capital, like in  
1790 1979, or '87, I am sorry, 75 billion in economic production?  
1791 Anything like that in Pennsylvania, those type numbers? Because  
1792 that is incredible, 30 years ago, billions.

1793 Mr. Sunday. I don't have a specific number for you. But as  
1794 I mentioned, we have site selection if we see non-attainment, for  
1795 a lot of companies the location just gets crossed right off the  
1796 list, before you even evaluate workforce, location,  
1797 infrastructure, et cetera.

1798 Mr. Shimkus. The gentleman's time has expired.

1799 Mr. Olson. That is when you get back to control ozone coming  
1800 from overseas sources.

1801 Mr. Shimkus. The gentleman's time has expired.

1802 The Chair now recognizes the gentleman from Texas, the other  
1803 gentleman from Texas Mr. Green for five minutes.

1804 Mr. Green. Thank you, Mr. Chairman. I thank you and our  
1805 ranking member for holding the hearing today on infrastructure and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1806 modernizing our nation's environmental laws. Congress needs to  
1807 use this opportunity to invest in our nation's infrastructure and  
1808 rebuild America. And this is a bipartisan area that our  
1809 subcommittee, I hope, can work together on.

1810 Mr. Chairman, I would like to ask unanimous consent to place  
1811 into the record a letter -- if I can find it -- to the House of  
1812 Representatives in opposition to H.J.R. 59. It comes from a  
1813 number of different groups, labor groups. And ask unanimous  
1814 consent to place it into the record.

1815 Mr. Shimkus. Seeing no objection, so ordered.

1816 [The information follows:]

1817 \*\*\*\*\* COMMITTEE INSERT 8\*\*\*\*\*

1818 Mr. Green. Thank you.

1819 One, I want to welcome our panel. On any given day coming  
1820 from the district I have in Houston, Texas, I can either be mad  
1821 as can be at EPA or be thankful they are there. And so we have  
1822 that battle.

1823 But I am glad they are there because I have a very industrial  
1824 area. We have environmental challenges in east Harris County. I  
1825 have now three refineries and a lot of chemical plants. At one  
1826 time I had all five in east Harris County. But, so, we have  
1827 challenges. But I want those, you know, we need that product that  
1828 those plants produce. But I also want them to comply with the law.  
1829 And that is what we try to do.

1830 Mayor Mitchell, I am glad you are here because having an older  
1831 part of Houston, we have had Brownfields we have been able to  
1832 utilize and turn into really something that is productive for our  
1833 community. Although right now we are in the middle of a battle  
1834 in our area on a Superfund site. We had a paper mill back in the  
1835 '60s who they took the docks and the mash from cleaning up our paper  
1836 to -- and disposed of it, but it was abandoned. And it was done  
1837 long before we had an EPA, probably in 1964 and '65.

1838 And, so, but we are trying. EPA worked with the community.  
1839 We got a good ruling on the need for the complete cleanup of that.  
1840 It's called the San Jacinto Waste Pits. And I know my colleagues  
1841 on the committee have heard me because whenever we had the EPA  
1842 administrator for the last number of years I explained to her my

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1843 first question will be What are you going to do about the San  
1844 Jacinto Pits?

1845 They put it on -- it was in Ted Poe's district. Now it is  
1846 Congressman Babin's district. But it was in my district  
1847 originally, so that is why I got to know all the people there. And  
1848 but EPA took longer than I think they should have. But we did get  
1849 a decision to actually remove that docks. And it is going to be  
1850 very expensive. And the good news, we have a responsible party  
1851 and it is not just on the taxpayers to do it.

1852 Mayor Mitchell, in your program, in the Brownfields Program,  
1853 how has that benefitted your city?

1854 Mr. Mitchell. Well, in general, Congressman, we have been  
1855 able to generate jobs and save taxpayer dollars by smart use of  
1856 available federal funds, including Brownfields funds. So I  
1857 mentioned in my testimony briefly a Superfund site called  
1858 Sullivan's Ledge that we were able to turn into, from a truly nasty  
1859 pollution site into a premier solar farm that generated an awful  
1860 lot of local jobs, inner-city jobs for guys who put together solar  
1861 panels and build things, as well as to save taxpayer dollars  
1862 because it is on a city-owned site. And the electricity that is  
1863 generated from it, it is about a 1.8 megawatt site, allows the city  
1864 to save substantially on its electricity bill. So it is really  
1865 a marquee project that we are very proud of.

1866 That is one example.

1867 Mr. Green. Well, in the rules that you can do, because some

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1868 of the restorations we have, you are not going to build apartments  
1869 or habitats on that property?

1870 Mr. Mitchell. No.

1871 Mr. Green. But you can use it as solar farm.

1872 We encapsulated, and it is a community college, but it is  
1873 completely covered by concrete, and but it is a community college  
1874 sitting there now that, in a neighborhood, a very inner city  
1875 neighborhood. So it works.

1876 Have you all, have you worked with project labor agreements  
1877 to do those kind of restorations?

1878 Mr. Mitchell. They can be used. We did use a project labor  
1879 agreement on another Brownfields site that we turned into, with  
1880 state funding, a state-of-the-art marine terminal that will be  
1881 used specifically for the offshore wind industry, which is about  
1882 to arrive on the East Coast, and New Bedford will be the launching  
1883 pad for it.

1884 But there was a project labor agreement on that site. And  
1885 it works, it works very well. It was done, done very quickly and  
1886 ready for the offshore wind industry which is really setting up  
1887 shop just now.

1888 Mr. Green. Okay. Well, thank you. I am almost in my time.

1889 But my colleagues from Texas on the Republican side brag about  
1890 how we produce more wind power. So I am hoping the East Coast can  
1891 catch up with us.

1892 Mr. Mitchell. That is right.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1893 Mr. Green. And I yield back my time.

1894 Mr. Shimkus. There is a lot of hot air in Texas. We know that  
1895 here.

1896 So the Chair recognizes the gentleman from Michigan Mr.  
1897 Walberg for five minutes.

1898 Mr. Walberg. I thank the Chairman. And thank you for this  
1899 hearing and thanks to the panel for being here, each of you.

1900 And, Ms. Mays, it is appreciated to see you again. Sitting  
1901 in oversight during the last Congress and having you and others  
1902 in front of us numerous times to deal with the Flint issue is very  
1903 important. So I don't plan to ask any questions. I think I used  
1904 plenty of time in those hearings.

1905 But I do want to say something, and hadn't planned to say this.  
1906 But I want to make it very clear, the comments of one of my  
1907 colleagues, that this wasn't just a local/state situation. And  
1908 I want to say thank you to my colleagues that are still here,  
1909 colleagues here in Congress who joined with in helping the Michigan  
1910 delegation as we worked together to try to bring some resources  
1911 back to deal with this issue.

1912 It was an important issue to deal with. Certainly there were  
1913 egregious failures at the local level for years, allowing a great  
1914 city like Flint, probably could be defined as an auto capital,  
1915 economic engine in Michigan, to go downhill to the point that we  
1916 see today with infrastructure and all of the rest. So,  
1917 significant blame is there at the local level, significant blame

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1918 is at state DEQ in letting things slip.

1919           Fortunately, a professor like Mark Edwards from Virginia Tech  
1920 came in, brought in, assisted, bringing to light the problem that  
1921 went on with our environmental concerns there. But ultimately he  
1922 said -- and this is what I want to make a point of -- that the number  
1923 one most difficult party and party at fault was the EPA. And that  
1924 is the reason why the administrator, the Region 5, resigned and  
1925 left office.

1926           But it bothered me that never did we ever get an apology or  
1927 an admission of guilt from the EPA administrator or otherwise in  
1928 this issue. And that resulted, along with all of the process,  
1929 resulted in significant human impact, as evidenced by Ms. Mays  
1930 today as well.

1931           And so it is important for me to say this was failure at all  
1932 levels. And we do well in looking at how we make sure in the future  
1933 that we use our resources wisely and our powers appropriately to  
1934 make sure that we carry out what we are supposed to be doing.

1935           Having said that, let me move on here.

1936           Mr. Eisenberg, thank you for being here. In the past, EPA  
1937 has assured the public that states will have multiple years to  
1938 comply with stringent air standards such as ozone standards. But  
1939 what impact do those standards, like the recently issued ozone  
1940 standards, have on permitting? And more specifically, is this a  
1941 "few years in the future problem" or a "now problem" for domestic  
1942 manufacturing?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1943 Mr. Eisenberg. It was a 2015 problem for domestic  
1944 manufacturing. So the minute, literally the minute that the new  
1945 standards had the goalposts removed and the new ozone standards  
1946 come into place, for permitting that is, that is what you have to  
1947 hit. And so even though you have a couple years, and it really  
1948 isn't that many years, but a couple years to start working on state  
1949 implementation plans, for permitting purposes day one, the day EPA  
1950 goes final, you've got to hit those limits.

1951 And they are tough limits to hit. I mean they, in a lot of  
1952 places half the states --

1953 Mr. Walberg. Even if they haven't put the full parameters in  
1954 place?

1955 Mr. Eisenberg. Yes. Even if they haven't finished their  
1956 implementation guidance. And so you just have to figure out way  
1957 to get there.

1958 Mr. Walberg. Guessing at it?

1959 Mr. Eisenberg. Yes. Computer models and things like that.

1960 And it is frustrating. I mean, I personally went to EPA a  
1961 couple of years ago with a member of mine who was struggling with  
1962 that exact same issue in PM2.5, particulate matter. They were  
1963 building a green roof facility in the middle of Missouri, where  
1964 there is literally nothing. I mean it is just open space. They  
1965 were going to make green roof components. I mean, generally  
1966 pretty good for everybody. It's a win across the board.

1967 They couldn't figure out how to model a payment for PM2.5.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1968 They just couldn't figure it out. And the state couldn't figure  
1969 it out. EPA couldn't figure it out. Nobody could figure it out.

1970 Eventually that story had a happy ending. But it hung up the  
1971 permit for a bunch of years -- or a bunch of months. The company  
1972 was thinking about pulling out, moving to a different site.

1973 That is the kind of thing we need to avoid. And that is the  
1974 kind of thing that you can do by just updating the Clean Air Act,  
1975 updating some of these provisions, making them perform a little  
1976 bit better.

1977 Mr. Walberg. And putting the parameters in place clearly.

1978 Mr. Eisenberg. Without a doubt.

1979 Mr. Walberg. Yes. Yes.

1980 Mr. Sunday, in the context of permitting under the Clean Air  
1981 Act you raised concerns that EPA's modeling is based on unrealistic  
1982 assumptions. Explain a little bit more.

1983 Mr. Sunday. Right. When we say it is unrealistic or  
1984 conservative what we mean is that if you compare these same  
1985 expectations in the model versus actually monitoring data you will  
1986 come to two different conclusions. And that is monitoring shows  
1987 what the real world impacts are. And the modeling is really  
1988 conservative, it assumes that a facility is cranking out emissions  
1989 as high as possible, as often as possible around the clock. And  
1990 then it has to account or order its operations in a way to account  
1991 for those emissions, even though those emissions aren't actually  
1992 going to be created.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1993           And so when you rely on modeling, your, your outcomes are only  
1994 as good as your expectations. And the current structure under  
1995 modeling is the impressions or expectations that you are putting  
1996 into it, those inputs, aren't reflective of real world practice.

1997           Mr. Shimkus. The gentleman's time --

1998           Mr. Walberg. Thank you. My time has expired.

1999           Mr. Shimkus. The gentleman's time has expired.

2000           The Chair now recognizes the gentleman from California Mr  
2001 McNerney for five minutes.

2002           Mr. McNerney. Well, I thank the Chairman.

2003           The U.S. has clearly made environmental progress since the  
2004 Clean Air and Clean Water Act. And it is clear that this progress  
2005 has produced significant innovation and economic growth. So the  
2006 question we now face is, are the regulations promulgated under the  
2007 Clean Air Act and Clean Water Act still producing innovation and  
2008 economic growth? Or is it time to revise the laws to reflect the  
2009 kind of flexibility that Mr. Eisenberg advocates?

2010           But, the problem with revising the laws, from my point of  
2011 view, is that we hear extreme views from the Republican party of  
2012 eliminating the EPA. And so there is no way we can open up that  
2013 box. There is no way we can do that because a fear that the  
2014 progress we made will be lost in a deregulatory frenzy.

2015           So the Republicans have forced us into an absolute  
2016 determination to block and obstruct all and any efforts to revise  
2017 these laws. That is simply where we are.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

2018 Now, Ms. Hammond, I loved your quote, and I may not get it  
2019 exactly right, that the environmental regulations help correct  
2020 market failures. Would you expand on that a little bit, please?

2021 Ms. Hammond. Yes. Classic economic theory provides that we  
2022 have these things called externalities. So, essentially, when,  
2023 let us say, a manufacturing facility bears many costs internally,  
2024 it fields those costs, but when it pollutes the air it is imposing  
2025 the costs of the pollution on the public at large. That is a  
2026 negative externality because it makes its costs external.

2027 Environmental laws force those costs back into the entities  
2028 who created them. And so it is a simple market failure and it is  
2029 a very rational way of working to correct that failure.

2030 Mr. McNerney. Well, a few years ago the Center for Progressive  
2031 Reform published a short article examining the question of whether  
2032 regulations were resulting in job loss. The article concluded  
2033 that there was no evidence to support the assertion of substantial  
2034 job losses versus environmental trade-off. Could you elaborate  
2035 on that one a little bit?

2036 Ms. Hammond. Yes. And I am familiar with that article. The  
2037 fact is, economists have been looking for decades for support for  
2038 this urban myth, this false dichotomy that environmental  
2039 regulation hurts our economy. The history, the facts show  
2040 otherwise.

2041 And so I think it is important to remember many of the figures  
2042 that we have heard today that focus on regulatory costs don't

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

2043 account at all for regulatory benefits. So perhaps there are some  
2044 costs imposed; again, that is a false way of looking at it because  
2045 we are actually asking people to bear the costs of what they create,  
2046 of their behavior.

2047 But let's say, okay, they are bearing a cost they didn't bear  
2048 before. But we have to remember what the benefits of doing that  
2049 are. The benefits are the health benefits, the days that people  
2050 can go to work, the days that kids can stay in school. And so,  
2051 even this discussion today has focused very much on costs, but  
2052 hasn't at all attempted to net the benefits into that figure. If  
2053 you net the benefits in, we will find net benefits, not net costs.

2054 Mr. McNerney. Thank you.

2055 Ms. Mays, you said that the state used a weak rule to save  
2056 pennies a day and poisoned 100,000 people. What are the weak  
2057 rules? And how were those used to poison?

2058 Ms. Mays. Well, one of the loopholes in the Lead and Copper  
2059 Rule they exploited was that they could take up to a year to  
2060 evaluate whether corrosion control was necessary once they  
2061 switched the water source.

2062 The next was the testing. There is no strict testing to say  
2063 you have to identify a service line. I mean it is in there, it  
2064 is in the wording, but there is no follow-up. So they were testing  
2065 people, like my home, and saying that, oh, she has got a lead  
2066 service line. Her lead at this point in time is 8 parts per  
2067 billion. It's safe. Which, of course, it is not. But I did not

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

2068 have a lead -- I have a copper service line.

2069 So there was that. There was the capping stagnation on how  
2070 long the water can sit in the pipes.

2071 The small bottles, they had small-mouth bottles to encourage  
2072 people to use a lower flow. All these little loopholes that are  
2073 being exploited in those 5,300 cities I talked about before. And  
2074 if these are not tightened up and closed up, these 5,300 cities  
2075 are going to be looking at a problem like Flint. Hopefully, not  
2076 as devastating. But, again, you can't put a price on a child's  
2077 learning capabilities. You can't put a price on my liver or my  
2078 lungs.

2079 So these need to be closed up so this never happens again.

2080 Mr. McNerney. Is there a specific proposal to close those  
2081 loopholes?

2082 Ms. Mays. We have been working on trying to reform the Lead  
2083 and Copper Rule on a federal and state level. And we run into so  
2084 much opposition because all we hear is how much it is going to cost.  
2085 They do not talk about the health benefits, the life benefits. All  
2086 we hear is, nope, this is going to cost too much money. Nope, this  
2087 person is going to have to pay. And so nothing happens.

2088 Mr. McNerney. Well, if you have specific proposals, work with  
2089 us and we will try to work with you.

2090 Ms. Mays. Thank you.

2091 Mr. McNerney. Thank you.

2092 I yield back, Mr. Chairman.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

2093 Mr. Shimkus. The gentleman's time has expired.

2094 The Chair now recognizes the gentleman from Georgia Mr.

2095 Carter, a new member of the committee, for five minutes.

2096 Mr. Carter. Thank you, Mr. Chairman. And thank all of you  
2097 for being here today. We appreciate your participation in this.

2098 Mr. Chairman, I have a statement from the American Forest and  
2099 Paper Association and the American Wood Council that I would like  
2100 to submit for the record.

2101 Mr. Shimkus. I hear. Give me a minute.

2102 Without objection, so ordered.

2103 [The information follows:]

2104

2105 \*\*\*\*\* COMMITTEE INSERT 9\*\*\*\*\*

2106 Mr. Carter. Thank you.

2107 Mr. Eisenberg, I want to start with you if I could. In your  
2108 testimony you mention the carbon neutrality of forest-based  
2109 biomass. And that really piqued my interest because, as you know,  
2110 in the state of Georgia we have quite a bit of forests and forest  
2111 products industry, and specifically in the 1st District of Georgia  
2112 that I have the honor and privilege of representing. So it is very  
2113 important to me.

2114 And that statement really did pique my interest. I was very  
2115 interested in that.

2116 Many of the European countries consider forest-based biomass  
2117 to be carbon neutral. However, the EPA seems to have taken a  
2118 different opinion of that and a different approach, and they are  
2119 treating it much like fossil fuel source. Do you agree with the  
2120 EPA's assessment of forest-based biomass?

2121 Mr. Eisenberg. I do not. And until 2010 the EPA did consider  
2122 forest biomass carbon neutral. In 2010 they kind of created this  
2123 problem. And now we don't necessarily have an answer.

2124 So, no, the forest products industry is reusing a resource  
2125 to make energy that otherwise wouldn't be used for, really,  
2126 anything valuable. So it is, it is our position that forest  
2127 biomass produces, it is a part of the sustainable carbon cycle.  
2128 It harnesses this energy that would otherwise be lost. And it  
2129 should absolutely be considered carbon neutral, particularly if  
2130 you are seeing forest stocks rising at the same time.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

2131 Mr. Carter. What happened? Why did the EPA change? At one  
2132 time they were considering it carbon neutral. And then you said  
2133 in 2010 it kind of shifted?

2134 Mr. Eisenberg. That is exactly what happened. I wish I had  
2135 a good answer for you. But they changed their position after, I  
2136 think, significant external pressure. And it is, obviously,  
2137 something we would like to see changed back.

2138 Mr. Carter. Well, it is really a problem because a lot of the  
2139 forest product facilities in the state of Georgia and  
2140 specifically, again, in my district they use self-generated energy  
2141 as opposed to going to the power grid that uses natural gas and  
2142 coal. They use this. And it is somewhat of a byproduct.

2143 And that seems to me to be what we would encourage and what  
2144 we would want them to do. But, again, when they are using a  
2145 renewable, carbon neutral biomass that is a byproduct of their  
2146 manufacturing process, wouldn't you agree that EPA should  
2147 recognize that as being carbon neutral?

2148 Mr. Eisenberg. Without a doubt. I mean the Chairman said  
2149 something about, you know, How clean is clean? How renewable is  
2150 renewable? Right? I mean this is renewable energy; let's treat  
2151 it as such. You can't distinguish between different kinds. I  
2152 mean they are all good for our policy. They are part of, frankly,  
2153 an all-of-the-above policy. And we should absolutely be finding  
2154 ways to get these manufacturers to use something that would  
2155 otherwise be waste.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

2156 Mr. Carter. And that is very vital. I mean in the state of  
2157 Georgia we have over 200 manufacturing facilities, in Georgia  
2158 alone, many of them in my district. And, again, for them to be  
2159 able to use this as a reliable power source, that is essential and  
2160 it is very important.

2161 Now, Mr. Eisenberg, if I could, I want to switch gears for  
2162 just a moment. A constituent with a manufacturing facility in my  
2163 district has expressed to me their concern and their very real  
2164 concern that energy costs are, and energy bills, the high costs  
2165 of energy, are really one of the obstacles that they are having  
2166 to overcome. We have struggled with this in the state of Georgia.

2167 I served for ten years in the Georgia state legislature.  
2168 Some years ago we had a sales tax on energy that was just  
2169 devastating to manufacturing. We took that off. We, you know,  
2170 my -- I want to give credit where credit is due -- we acknowledged  
2171 that and took it off. Yeah, we should have had it off long before  
2172 then. But it did. And it helped immediately. It was an  
2173 immediate relief to our, to our manufacturers.

2174 But, again, how can we, how can we look at energy costs? I  
2175 mean would you, would you agree that that is a real obstacle for  
2176 businesses, and manufacturers in particular?

2177 Mr. Eisenberg. Without a doubt. For many manufacturers it  
2178 is their biggest cost. In some of these very energy-intensive  
2179 sectors -- chemicals, iron, steel, aluminum, things like that --  
2180 it is, it is their most significant cost. And so it is a driver

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

2181 for whether or not they are going to expand facilities, build  
2182 facilities.

2183 The big reason you see sort of a manufacturing boom in the  
2184 Gulf region is, quite frankly, because of the energy down there.  
2185 And so, so it is absolutely a cost. It is a driver, one of the  
2186 many drivers, and for a lot of these companies the biggest driver.

2187 One of the recommendations we make in our proposals here is  
2188 that when EPA is putting out new regulations on manufacturing it  
2189 needs to take into account energy. I mean there are certain  
2190 provisions of the Clean Air Act that require that. They get danced  
2191 around.

2192 And as EPA, and realistically it has become in many ways a  
2193 regulator of energy in some of these areas, okay, let's take a look  
2194 at how that is impacting manufacturers' energy use. This is  
2195 something they should absolutely deal with that.

2196 Mr. Carter. And as we talk more about --

2197 Mr. Shimkus. The gentleman's time has expired.

2198 Mr. Carter. -- keeping manufacturing in America, energy  
2199 costs should be considered.

2200 Mr. Eisenberg. Absolutely.

2201 Mr. Carter. Thank you, Mr. Chairman. Appreciate your  
2202 indulgence.

2203 Mr. Shimkus. The Chair now recognizes the gentlelady from  
2204 Michigan Congresswoman Dingell for five minutes.

2205 Mrs. Dingell. Thank you, Mr. Chairman. And thank you for

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

2206 hosting this hearing. It is a really important topic. And thank  
2207 you to all the witnesses. I want you to know I read all of your  
2208 testimonies last night, and I will not have time to ask all the  
2209 questions that I want to.

2210 I want to build on my colleague from Michigan's comments. I  
2211 want to thank Melissa Mays for being here today. And really the  
2212 comments that my colleague made -- and I wish that Mr. Barton was  
2213 still here, and I want to talk to him about it -- I met Ms. Mays  
2214 before any of you had ever heard the word Flint. And when I met  
2215 her and some other people from Flint and understood what was  
2216 happening, I very quickly developed a position that I still have  
2217 today and, I think, really gets at what this part of this hearing  
2218 is about, which is at the time, we need to figure out how we keep  
2219 the people of Flint safe and what did we need to do immediately?

2220 How did we fix the problem long term?

2221 And how do we make sure that it never happens again in another  
2222 community in this country?

2223 Like my colleague from Michigan, I do believe the government  
2224 was responsible at every level. I think the federal, state and  
2225 local level all failed the people of Flint, period.

2226 But Mr. Barton was asking questions about what happened in  
2227 Flint and was it the delivery, was the lines, was it? The reality  
2228 is there was a canary in the coal mine and General Motors stopped  
2229 using the water in the plant long before anybody realized what was  
2230 happening. And nobody shared the fact that GM's engines were

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

2231 being corroded. And they were given the opportunity that no Flint  
2232 resident or any other Flint business was offered, which was to go  
2233 to an alternate water system.

2234 So, and as we have been talking, and I don't want to ask the  
2235 same question, though I was going to, you know, does EPA need to  
2236 strengthen the Lead and Copper Rule to ensure what happened doesn't  
2237 happen in any other? Everybody agrees. The question is, how do  
2238 we have that discussion? How do we balance that cost-benefit  
2239 ratio?

2240 So, I think that is really an important question. And I think  
2241 today reinforces the water in Flint still is not safe. And I want  
2242 to ask Ms. Mays some questions about that. But how do we make sure  
2243 that what is the proper role at the federal level for these other  
2244 5,300 communities?

2245 Let me ask you this question, Ms. Mays: How are the residents  
2246 of Flint taking all of this? And do they have any remaining faith  
2247 the government will help remedy the situation?

2248 Ms. Mays. Every day that ticks by we lose our hope. We lose  
2249 a bit of self worth because, like Mr. Barton was talking about,  
2250 it is an argument over who is responsible instead of let's get on  
2251 it and fix it. Let's save these people's lives. And let's put  
2252 in the laws that are going to make sure it doesn't happen again.

2253 And as time goes on, again, today is 1,028 that we have had  
2254 to go through this. And to see that there has been very little  
2255 change is terrifying. Because now I am hearing from cities all

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

2256 over the place. I am actually going to East Chicago to talk to  
2257 them about their crisis and try to help rebuild their morale as  
2258 well.

2259 We have had an increased number of suicide attempts. We have  
2260 people that have given up. People are walking away from their  
2261 homes that they worked so hard to pay for. And they are just giving  
2262 up. And they just can't deal with this anymore because it has gone  
2263 on for so long and with such little being done. And people saying,  
2264 well, we don't want to help; it is not our responsibility. While  
2265 we're sitting here suffering in our showers, watching people that  
2266 we love die and suffer and fall apart in front of us because, though  
2267 it has been 21 years since there has been any kind of update to  
2268 the laws that should have protected us. It is heartbreaking.

2269 Mrs. Dingell. Let me ask you one more question quickly.

2270 We just had an incident down river, which is where I am front,  
2271 where the water smelled and it was colored. It is colored and  
2272 there was a number of issues. Having gone through Flint, I was  
2273 not shy or retiring and immediately got on the phone with the  
2274 governor. But one of the things that concerned us is that the  
2275 water authority did not call us back. They were doing testing and  
2276 not making it transparent. And I could go on and on and on.

2277 But my question is, do you think we need to strengthen the  
2278 Safe Drinking Water Act to provide more information to consumers  
2279 about what is in their water for all contaminants? And how quickly  
2280 do we tell people we are testing? How do you give that information

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

2281 to, to the consumers, et cetera?

2282 Ms. Mays. Absolutely. It needs to be immediate. As soon as  
2283 there is an issue people need to know. If they would have told  
2284 us that they failed their first Safe Drinking Water Act test in  
2285 May of 2014, we could have gotten filters, we could have stopped  
2286 drinking the water, and we wouldn't be where we are at. So  
2287 transparency is crucial.

2288 We need to know what is in our water because we are paying  
2289 for it and we are relying on it. But, also, we need to know what  
2290 changes are being made and why they are being made? What is being  
2291 tested for? Because we are intelligent people. You know, just  
2292 give us the facts and we will be able to protect our own families.

2293 Mrs. Dingell. Out of time. But I do want to tell Mr. Barton  
2294 that there were two problems in Flint. Because nobody told people  
2295 what was going on, the infrastructure corroded. Got to keep that  
2296 from happening in this country.

2297 Mr. Shimkus. My guess is you will, you will talk to him.

2298 Mrs. Dingell. I think you are right.

2299 Mr. Shimkus. The Chair now recognizes the gentleman from  
2300 Texas Mr. Flores for five minutes.

2301 Mr. Flores. Thank you, Mr. Chairman. I want to thank the  
2302 panel for joining us today.

2303 Mr. Eisenberg, you recommended in your testimony that  
2304 Congress consider modifying the national ambient air quality  
2305 standards review cycle to more closely align with the actual pace

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

2306 of implementation of existing standards. So the question on that:  
2307 Can you explain what this would look like and why it is important?

2308 Mr. Eisenberg. Sure. It --

2309 Mr. Flores. And, Mr. Sunday, I will have a follow-up for you  
2310 in a second.

2311 Mr. Eisenberg. So we have spent a lot of time over the years  
2312 talking with air directors and the folks in the state that are  
2313 actually doing the work to try to implement these things. And I  
2314 think if you ask most of them whether or not five years is the right  
2315 amount, I think they would say no. They are generally  
2316 understaffed and have a lot of different regs that they are dealing  
2317 with all at the same time. And in terms of the pace of when EPA  
2318 gets them guidance and their ability to comply with it, we  
2319 constantly wind up in this sort of, this Groundhog Day scenario  
2320 --

2321 Mr. Flores. Right.

2322 Mr. Eisenberg. -- where every five years we are barely  
2323 implementing the last one.

2324 And, so, I think if you asked them do we -- would you like  
2325 more time? I think they would probably say yes.

2326 It would probably look at lot like what is the bill you  
2327 support, the bill that you and Congressman Olson put forward which,  
2328 if it is signed into law, would basically ensure that all the ozone  
2329 standards stay, you know, everybody basically meets, other than  
2330 a few counties, by 2025, --

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

2331 Mr. Flores. Right.

2332 Mr. Eisenberg. -- with less economic penalties. You get to  
2333 the same place. Those numbers keep trending down, like I have been  
2334 saying all morning, except there are less economic penalties. It  
2335 is kind of a win for everybody.

2336 Mr. Flores. Yes. I mean based on when we looked at this last  
2337 year, I mean the actual pace of implementation from the EPA was  
2338 actually ten years versus the five years that the law provides for.  
2339 About 80 percent of the language in Mr. Olson's bill came from my  
2340 bill last cycle. And H.R. 4000 did also, it resets that to fit  
2341 sort of the real world. That way we could actually get to a place  
2342 where we are having success versus our communities always being  
2343 behind and suffering an economic penalty from that.

2344 Also, Mr. Eisenberg, you testified that "the shale gas boom  
2345 could create 1.4 million new manufacturing jobs in the United  
2346 States and generate annual cost savings for manufacturing of \$34.1  
2347 billion due to lower energy and feed stock costs." So, why is it  
2348 important that we maintain or that we establish, rather, a more  
2349 balanced and predictable permitting and review process for complex  
2350 infrastructure projects like pipelines?

2351 Mr. Eisenberg. Because manufacturing is coming back and we  
2352 need the pipes to get the natural gas where it goes. We are relying  
2353 on all fuels as manufacturing, but especially natural gas.

2354 Mr. Flores. Right.

2355 Mr. Eisenberg. We use it as feed stock.

2356 Mr. Flores. So, so it helps manufacturing. Can you give us  
2357 some granularity about what types of manufacturing jobs would be  
2358 particularly benefitted --

2359 Mr. Eisenberg. Absolutely.

2360 Mr. Flores. -- by this?

2361 Mr. Eisenberg. Absolutely. Certainly on the back end it is  
2362 the sort of energy-intensive, the chemicals, the petrochemicals.  
2363 Everything that is a building block for everything that we, that  
2364 we make and use here: trash bags and carpet, and everything that  
2365 natural gas goes into.

2366 On the front end there is the entire supply chain. There's  
2367 the, you know, compressors, and valves, and paints and coatings,  
2368 and cement, and all of these components that go into a large  
2369 infrastructure project like that.

2370 The value to -- we have a number that we use, about 32 to 37  
2371 percent of a pipeline is manufacturing inputs. So those are all  
2372 manufacturing jobs. That is straight across the supply chain.  
2373 It is across the country. It is just a great story. And that is  
2374 a big reason why we support some infrastructure.

2375 Mr. Flores. Okay, thank you.

2376 Mr. Sullivan, as an advocate for small business, there are  
2377 executive orders or parts of executive orders that -- well, let  
2378 me rephrase that. Are there parts of executive orders that could  
2379 address the balance between cost and benefits in a regulation that  
2380 you think are worth considering putting in the statute?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

2381 Mr. Sullivan. Thank you, Congressman. Yes, there are  
2382 provisions that should be enhanced in the executive orders and  
2383 perhaps looked to by this committee legislating.

2384 Any time an agency is required to look at costs they then need  
2385 to speak with small businesses to come up with solutions. And many  
2386 times that doesn't happen. So the idea of taking those  
2387 cost-benefit executive orders and writing them into law, so for  
2388 instance, when you are looking at updating the Clean Air Act, have  
2389 tremendous benefits for small business input.

2390 And we think that that would lead, for Main Street small  
2391 businesses, to actually come up with more constructive solutions  
2392 to many of the things that we were talking about this morning.

2393 Mr. Flores. What I would like you to do, if you could,  
2394 following this hearing is send us some specific recommendations,  
2395 if you don't mind. That way we can begin the statutory process  
2396 of moving, advancing the ball on these executive -- to putting  
2397 these executive orders into statute that help provide the right  
2398 balance between regulations and cost and benefit and economic  
2399 growth.

2400 Thank you. I yield back.

2401 Mr. Sullivan. Thank you.

2402 Mr. Shimkus. The gentleman yields back his time.

2403 The Chair now wants to welcome Congressman Ruiz to the  
2404 committee and recognize him for five minutes.

2405 Mr. Ruiz. Thank you. I appreciate that, Mr. Chairman.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

2406           The Clean Air and Clean Water Act protect our basic  
2407 necessities: clean, breathable air, and safe, drinkable water,  
2408 fundamental elements we all need to survive. And we need to  
2409 prioritize protecting our health.

2410           I am an emergency medicine physician. I take care of asthma.  
2411 And the worst moments I think are kids who have come in with an  
2412 asthma exacerbation and gone into cardiac arrest and have passed  
2413 away. And those moments of me having to tell their parents that  
2414 their child just died still haunt me to this day.

2415           Asthma is exacerbated by air pollution. It is one of the most  
2416 common preexisting diseases among children in the U.S., and a  
2417 leading cause of hospitalizations and school absences. There are  
2418 over 34 million asthmatics in the U.S., including 7 million  
2419 children. Annually, nationwide there are over 10.5 million  
2420 physician visits due to asthma, 2 million emergency room visits  
2421 due to asthma, and \$11 billion spent on asthmatic treatments.

2422           While asthma can be debilitating, or even life threatening,  
2423 it can be a controllable disease. Asthma intensifies by  
2424 environmental conditions such as outdoor air pollution. So why  
2425 would we want to make it harder for asthmatic children in  
2426 vulnerable populations to breathe clean air?

2427           We also know many of the water systems that serve low income  
2428 communities have drinking water contamination levels above  
2429 federal guidelines, which can lead to a number of developmental  
2430 and behavioral health issues. In my district we have rural

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

2431 communities that rely on well water because there is no water  
2432 infrastructure, and there is high levels of contaminated arsenic.

2433 Funding improvements to water systems would improve the lives  
2434 of these families and children. Many of these families live in  
2435 under served areas and rely on healthcare, Medicaid, to get access  
2436 to take care of their asthma and all of the other developmental  
2437 problems that they have.

2438 Ms. Mays, tell me, are you in Medicaid?

2439 Ms. Mays. Yes. We are covered by the Flint water Medicaid  
2440 expansion.

2441 Mr. Ruiz. So that was part of the expansion?

2442 Ms. Mays. Yes.

2443 Mr. Ruiz. Okay, you know, lead can have acute toxicity. It  
2444 can cause irritability, behavioral changes, headache, abdominal  
2445 pain, nausea, vomiting, all these things. That is just if  
2446 somebody takes a big swig of lead toxicity.

2447 That is not what is happening in Flint. That is more of a  
2448 higher dose but doesn't cause acute symptoms. It is more chronic  
2449 in nature. Those are the silent killers, the silent things where,  
2450 you know, people may have developmental delays; they have hearing  
2451 problems; nervous systems; injuries to kidney, speech, language;  
2452 even growth, muscle, bone development; and eventually seizures,  
2453 which can be life threatening.

2454 So if you didn't have Medicaid, what would happen to your  
2455 children?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

2456 Ms. Mays. We would not be able to take them to the  
2457 rheumatologist, to the osteo specialists they have to see because  
2458 of their growth plates and growth problems. They would not be able  
2459 to get the blood work done to consistently see what is going on.

2460 I deal with seizures at this point. So I wouldn't be able  
2461 to see my neurologist, my gastroenterologist, my rheumatologist,  
2462 our infectious diseases doctor, our toxicologist and  
2463 environmental physician. We wouldn't be able to see any of them  
2464 because we couldn't afford it. We just do not have that money.  
2465 So if we did not have the health coverage, we wouldn't be able to  
2466 try to manage the side effects of these permanent damages.

2467 Mr. Ruiz. And are your neighbors in the same place, the other  
2468 parents of children that have these calamities?

2469 Mr. Ruiz. Absolutely. Flint is 41 percent at or below the  
2470 poverty line. So we are a struggling city as it is. And access  
2471 to quality medical care if you do not have Medicaid is slim to none.  
2472 So we have so many people that never got tested so they don't even  
2473 know how high their blood lead levels were during that first  
2474 crucial 28 days.

2475 So, we have people that are dying from seizures. There was  
2476 a 29-year-old school security guard who had a seizure and died at  
2477 the school.

2478 Mr. Ruiz. Wow.

2479 Ms. Mays. And we have no idea what it was caused by because  
2480 he didn't have insurance.

2481 So we are absolutely terrified right now.

2482 Mr. Ruiz. Any kids that you know of with renal failure on  
2483 hemodialysis or anything?

2484 Ms. Mays. We have a lot. We have several different dialysis  
2485 clinics that are full. There is a waiting list.

2486 Mr. Ruiz. Oh dear.

2487 Ms. Mays. My oldest son now has high blood pressure because  
2488 he has kidney damage. All three of my sons have low vitamin D  
2489 levels because their kidneys are not producing enough because they  
2490 have been hit by this --

2491 Mr. Ruiz. That is one of the, that is the primary reasons why  
2492 I ran for office to begin with. I didn't grow up in the political  
2493 world, guys. I didn't run for city council and then work my way  
2494 up. I came straight from the emergency department because I take  
2495 care of these patients that I care so much about. And it breaks  
2496 my heart to know how sometimes politicians up here are so removed  
2497 from the human face of failed policies. And they are not smiling.  
2498 They are on hemodialysis. They are worried.

2499 And if we don't start prioritizing correctly our funding to  
2500 help patients and help real people with real problems and kind of  
2501 make that our focus instead of, you know, prioritizing, putting  
2502 at the top of our list removing these protections in order to  
2503 benefit, you know, some of the companies, then I think we are just  
2504 going to have a worse human tragedy.

2505 And with that, I am sorry you are going through this.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

2506 Ms. Mays. Thank you.

2507 Mr. Ruiz. I will be praying for you and your family. Thank  
2508 you so much.

2509 Ms. Mays. Thank you.

2510 Mr. Shimkus. The gentleman yields back his time.

2511 A couple pieces of business. I ask unanimous consent that  
2512 a letter from the American Road and Transportation Builders  
2513 Association be submitted for the record.

2514 Without objection, so ordered.

2515 [The information follows:]

2516

2517 \*\*\*\*\* COMMITTEE INSERT 10\*\*\*\*\*

2518 Mr. Shimkus. And a February 2015 Resources for the Future  
2519 white paper entitled "EPA's New Source Review Program: Evidence  
2520 on Processing Time 2002 to 2014."

2521 Without objection, so ordered.

2522 [The information follows:]

2523

2524 \*\*\*\*\* COMMITTEE INSERT 11\*\*\*\*\*

2525 Mr. Shimkus. Also ask unanimous consent to submit for the  
2526 record a letter from the Center for Progressive Reform, dated  
2527 February 10, 2017; a Washington Post article reporting that  
2528 American households have a 15,000 regulatory burden, dated January  
2529 14, 2015; and a report from the Congressional Research Service,  
2530 "Methods of Estimating the Total Cost of Federal Regulations,"  
2531 dated January 21, 2016.

2532 Without objection, so ordered.

2533 [The information follows:]

2534

2535 \*\*\*\*\* COMMITTEE INSERT 12\*\*\*\*\*

2536 Mr. Shimkus. That should be all the business.

2537 We do appreciate your testimony. These are tough issues.

2538 You know, I, when we were successful in the last Congress, I think

2539 we have just got to get on the same page of what are real numbers,

2540 whether it is job loss or the science. I think we have to have

2541 transparency and trust that the numbers we bring forward are

2542 legitimate.

2543 I think we have to have a recognition of the time frame of

2544 implementation and the burdens of changing that.

2545 This was a committee hearing that was really broad. And I

2546 think my colleagues and I after this will start focusing down on

2547 stuff like Brownfields and some other things that we might be able

2548 to move in a more collaborative, comradely manner. And maybe we

2549 will look at some of the other tough, tough issues, too.

2550 But we do appreciate your testimony. And I call this hearing

2551 to a close.

2552 [Whereupon, at 12:17 p.m., the subcommittee was adjourned.]

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701