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6 FISCAL YEAR 2017 EPA BUDGET

7 TUESDAY, MARCH 22, 2016

8 House of Representatives

9 Subcommittee on Energy and Power

10 joint with the

11 Subcommittee on Environment

12 and the Economy

13 Committee on Energy and Commerce

14 Washington, D.C.

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16
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18 The subcommittees met, pursuant to call, at 2:00 p.m., in
19 Room 2123 Rayburn House Office Building, Hon. Ed Whitfield
20 [chairman of the Subcommittee on Energy and Power] presiding.

21 Members present: Representatives Whitfield, Shimkus,
22 Harper, Olson, Barton, Murphy, Latta, McKinley, Pompeo, Griffith,
23 Johnson, Long, Ellmers, Bucshon, Flores, Mullin, Hudson, Cramer,

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Upton (ex officio), Tonko, McNerney, Green, DeGette, Capps, Sarbanes, Yarmuth, Loeb sack, Schrader, and Pallone (ex officio).

Staff present: Will Batson, Legislative Clerk, Energy and Power, Environment and the Economy; Mike Bloomquist, Deputy Staff Director; Allison Busbee, Policy Coordinator, Energy and Power; Jerry Couri, Senior Environmental Policy Advisor; Tom Hassenboehler, Chief Counsel, Energy and Power; A.T. Johnston, Senior Policy Advisor; Ben Lieberman, Counsel, Energy and Power; David McCarthy, Chief Counsel, Environment/Economy; Mary Neumayr, Senior Energy Counsel; Annelise Rickert, Legislative Associate; Chris Santini, Policy Coordinator, Oversight and Investigations; Chris Sarley, Policy Coordinator, Environment and Economy; Dan Schneider, Press Secretary; Peter Spencer, Professional Staff Member, Oversight; Dylan Vorbach, Deputy Press Secretary; Christine Brennan, Minority Press Secretary; Jeff Carroll, Minority Staff Director; Timia Crisp, Minority AAAS Fellow; Jean Fruci, Minority Energy and Environment Policy Advisor; Caitlin Haberman, Minority Professional Staff Member; Rick Kessler, Minority Senior Advisor and Staff Director, Energy and Environment; Josh Lewis, Minority EPA Detailee; John Marshall, Minority Policy Coordinator; Dan Miller, Minority Staff Assistant; Alexander Ratner, Minority Policy Analyst; Matt Schumacher, Minority Press Assistant; Andrew Souvall, Minority

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47 Director of Communications, Outreach and Member Services; and
48 Tuley Wright, Minority Energy and Environment Policy Advisor.

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49 Mr. Whitfield. [presiding] I would like to call this
50 hearing to order.

51 This is a joint hearing of the Energy and Power Subcommittee
52 with the Environment and the Economy Subcommittee. Of course,
53 the subject of today's hearing is the FY 2017 budget for EPA.

54 I would like to recognize myself for five minutes.

55 We, of course, welcome Administrator McCarthy. I went down
56 before the hearing started. I know she has been testifying before
57 the appropriators, and now, she is going to be testifying before
58 us. I suggested that, after she finished with us, that she go
59 on to another committee and testify there.

60 [Laughter.]

61 But there is no secret that there is a really serious division
62 in the country over some of the programs at EPA, certainly the
63 Clean Energy Plan. The administration, we recognize, views
64 climate change as the No. 1 issue facing mankind, and they have
65 moved forward aggressively to address it in the U.S. with the Clean
66 Energy Plan. From my personal view, I think it is being done
67 because of international commitments that the President has made
68 as a result of his Georgetown speech and his other commitments
69 internationally to be a leader in addressing climate change.

70 But I think that it has really come to a head in this country
71 over the controversy of the Clean Energy Plan with the lawsuits

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72 filed by -- is it 26 states or 27 states? Twenty-seven states
73 filed a lawsuit. I think that shows quite clearly that there is
74 real angst over the extreme process that EPA is utilizing to adopt
75 this Clean Energy Plan.

76 I might say once again that even Larry Tribe, who is a
77 respected constitutional lawyer, said in some ways it was like
78 tearing up the Constitution. So, many people do feel like that,
79 you know, you can address climate change, but you ought to at least
80 follow the law. Other people say, well, the ends justify the
81 means.

82 But the Supreme Court did stay the Clean Energy Plan by a
83 vote of 5-to-4. Even under the Utility MACT, the Supreme Court
84 ruled that cost should have been considered. We all recognize
85 that, by the time they made their decision, the regulated bodies
86 had already implemented the plan. So, it had been done, even
87 though the Court said there were some problems with it. And even
88 under the Tailoring Rule, the Supreme Court issued a decision that
89 called that into question as well.

90 So, one of the reasons many of us on my side of the aisle
91 are upset is that we feel like the EPA is being too aggressive
92 and that they have adopted a plan to be aggressive, recognizing
93 that when you have a divided government, the only way that a party
94 can contest it is go to court. If you go to court, and if you

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95 don't get a stay, then, frequently, by the time the decision is
96 made and all the court procedures have been exhausted, it is too
97 late.

98 So, that is why we are going to do everything we can do to
99 do serious oversight to make sure that the stay issued by the
100 Supreme Court is followed, recognizing that even on that there
101 is probably different legal opinions about what can and cannot
102 be done.

103 But we know that the EPA's proposed budget is \$8.267 billion,
104 which is \$127 million increased over the enacted level for FY 2016
105 and certainly higher than the FY 2009 enacted level of \$7.6
106 billion.

107 All of us want to have a lot of questions for you, Ms.
108 McCarthy. As I say, we disagree with you on many things. We
109 respect you as a person and we recognize that you are a talented
110 person with very strong views. And we have very strong views.

111 Unfortunately, we are going to have a vote during this
112 process, but it won't take long. I think we are only going to
113 have about 30-minute votes.

114 So, with that, I would like to yield back the balance of my
115 time and recognize the gentleman from New York for his five-minute
116 opening statement.

117 Mr. Tonko. Thank you. Thank you, Mr. Chair. And, Chair

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118 Whitfield and Chair Shimkus, for holding this hearing I say thank
119 you. It is important for us to focus on the Environmental
120 Protection Agency's budget request for fiscal year 2017.

121 Might I welcome, also, our Administrator McCarthy? Thank
122 you for being here to share your thoughts and provide information,
123 and thank you for your sound leadership and your stewardship of
124 many of the programs that make for better results with the
125 environment.

126 Public health and a clean environment are intricately
127 linked, and I strongly believe that these principles support
128 economic growth. Whether it is reducing air pollution, financing
129 drinking and clean water infrastructure, or helping support the
130 cleanup of brownfields for reuse, the EPA plays an essential role
131 in keeping Americans and our environment healthy.

132 I know there are many members who believe that cutting the
133 EPA budget will block the agency from issuing regulations and
134 enforcing environmental laws, but, in reality, much of the budget
135 supports state and local governments, either through grants and
136 loans or with information and technical assistance. Cuts to the
137 EPA budget cause additional burdens on state and local
138 governments.

139 The EPA has and will continue to play a critical role in our
140 nation's response to reducing greenhouse gas emissions and

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141 addressing the threat of climate change. Despite what some may
142 believe, climate change is happening and needs actions. The
143 Clean Power Plan is essential to this response.

144 I also want to point out that this committee still has not
145 held a single hearing to examine the poor and deteriorating state
146 of drinking water infrastructure around the country. This is an
147 area of jurisdiction that we have neglected, and I find that very
148 troubling.

149 EPA has estimated the 20-year capital needs for this
150 infrastructure at some \$384 billion. The American Society of
151 Civil Engineers has graded our drinking water infrastructure a
152 "D". Federal support for drinking water systems is primarily
153 done through the Drinking Water State Revolving Fund, or the SRF,
154 which was created and last authorized in 1996. Through the SRF,
155 we provide grants to states to administer this funding, giving
156 them plenty of flexibility to address the greatest concerns that
157 they have in the individual states.

158 Since 2003, we have made little to no effort to reassess
159 whether the federal government is doing its fair share. The
160 hundreds of thousands of water main breaks every year, trillion
161 gallons of water lost through leaks, millions of lead service
162 lines, and prevalence of century-old pipes suggest that we are
163 not.

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164 USA Today recently reported that nearly 2,000 water systems
165 across all 50 states have exceeded the EPA's lead action level
166 within the past 4 years. That is unacceptable.

167 The federal commitment is simple, not good enough, and we
168 must step up to help states and local communities finance these
169 projects. A majority of the Democrats on this committee have
170 cosponsored the Assistance, Quality, and Affordability, or AQUA
171 Act, which would reauthorize the Drinking Water SRF at Recovery
172 Act levels and beyond, in addition to making some much-needed
173 updates to the Safe Drinking Water Act.

174 We stand ready and willing to be partners in this effort.
175 For inspiration, we need not look any further than our colleagues
176 on the Transportation and Infrastructure Committee who passed a
177 bipartisan surface transportation bill that included a \$70
178 billion transfer from the General Fund. We would only need a
179 fraction of that to make major headway in our drinking water
180 infrastructure backlog, that infrastructure which is hidden
181 infrastructure.

182 But, sadly, without the need for extension after extension
183 of the Drinking Water SRF, we have forgotten the bipartisan nature
184 of this issue in this committee. It is time to get serious about
185 this committee's role in protecting public health and maintaining
186 our drinking water infrastructure. Every job and every life

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187 relies on water. It relies on the commitment that we will demand
188 nothing less than safe drinking water. It is time to come
189 together, recognize this, and take action.

190 With that, Administrator McCarthy, I look forward to your
191 testimony and to working with you to continue our progress in
192 environmental protection. Again, thank you for being here.

193 With that, I yield back.

194 Mr. Whitfield. The gentleman yields back.

195 At this time the Chair recognizes the gentleman from
196 Illinois, Mr. Shimkus, who is chairman of the Environment and the
197 Economy Subcommittee, for five minutes.

198 Mr. Shimkus. Thank you, Mr. Chairman.

199 And welcome, Administrator McCarthy.

200 Hopefully, we can continue to work on coal ash and, as we
201 talked about earlier, getting TSCA over the finish line. We
202 appreciate some of the expertise your office has been able to
203 provide for us to make those decisions.

204 Madam Secretary, there is real pain in coal country, as you
205 know. Market conditions have some effect, but, also, they just
206 can't keep up with the numerous rules and regulations that they
207 are trying to meet, whether that is Casper or cooling towers, Clean
208 Power Plan, mercury, MATS, stream protection rule, Waters of the
209 U.S. It is just too much that they can handle and have any

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210 consistency and planning. That is why the coal regions of our
211 country are in dire straits. When you lose a coal mine, you lose
212 all the periphery jobs. You lose the grocery stores, the gas
213 stations, and the like.

214 We know that you are here asking at least the appropriators
215 for more money. I am fresh off the campaign trail. I had to tell
216 my folks that you were at 2008 funding levels and at 1989 staff
217 levels. And all my constituents said, well, that is still too
218 much. So, we have an education to do.

219 I had to remind them there are some things that I think are
220 important that the agency does, too. We have the Superfund
221 responsibilities. We have brownfield reclamation. There are
222 things that we need to do. But the environment out there today
223 makes it difficult for the public to really appreciate the budget
224 request and the job challenges that our nation is facing right
225 now.

226 But I want to thank you for your service and the
227 professionalism that you have shown. I will have a couple of
228 tougher questions when we get to those, but I know that you are
229 up to it. With that, I appreciate your coming.

230 And, Mr. Chairman, I yield back.

231 Mr. Whitfield. The gentleman yields back.

232 At this time I recognize the gentleman from New Jersey, Mr.

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233 Pallone, for five minutes.

234 Mr. Pallone. Thank you, Mr. Chairman, and, also,
235 Administrator McCarthy, for being here today to discuss the EPA's
236 programs and budget.

237 EPA's work is critically important to protecting the health
238 of our communities and our environment. The President's fiscal
239 year 2017 budget funds the EPA at \$8.267 billion, a modest increase
240 of \$127 million from the fiscal year 2016 enacted level. And this
241 also deals with the funding level approved as part of the
242 bipartisan budget agreement in October.

243 I support this increase, but it is important that we all
244 recognize that far more resources are needed to properly address
245 all the environmental issues facing our nation today. A clean
246 environment is essential to public health and to a strong economy.

247 It is also important to recognize that EPA's budget
248 represents a small portion of the overall federal budget, less
249 than one-quarter of 1 percent. We should also remember that EPA
250 shares over 40 percent of its funding with the states and tribes
251 to help them implement federal environmental laws and achieve
252 national goals. These funds support local economies and
253 communities big and small.

254 The recent drinking water crisis across the nation
255 demonstrates how important it is to invest in our drinking water

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256 systems. I commend the President for increasing the Drinking
257 Water State Revolving Fund, or SRF, by nearly \$160 million. Our
258 drinking water systems need more funding to help provide clean
259 and safe drinking water to communities.

260 While I am happy to see this funding increase, I must
261 reiterate that so much more is needed. The Drinking Water SRF
262 has been underfunded for years. According to EPA's most recent
263 needs survey, \$385 billion is needed over the next 20 years to
264 modernize and repair our drinking water systems.

265 We should be working together to make these critical
266 investments to ensure the health of our communities. We have
267 reached a point where essential water and waste infrastructure
268 needs repair and replacement. We simply cannot allow this
269 essential infrastructure to deteriorate further. If we do, we
270 are going to be forced to spend more when a crisis occurs, and
271 the longer we delay, the more expensive it will become to fix.

272 The President's budget also provides an increase of nearly
273 \$68 million for climate and air-quality-related initiatives,
274 which I support. We should be investing in programs that build
275 climate resiliency and reduce the impacts of extreme weather
276 events. I especially appreciate EPA's plans to help communities
277 integrate climate adaptation policies to help them address our
278 changing climate and plan for the future.

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279 In addition, the President's budget increases funding by
280 nearly \$40 million for the cleanup of Superfund and brownfield
281 sites across the nation. These are vital programs for protecting
282 human environmental health, while also creating jobs and
283 improving the economy. As of March 1st, brownfields programs
284 have created more than 100,000 jobs and in the first 2 months of
285 this year have revitalized over 4500 acres of land.

286 While I appreciate EPA's efforts, the remaining Superfund
287 and brownfields sites are becoming more complicated to clean up,
288 and with limited resources, the time and cost to complete this
289 work is extended significantly. With so many people living near
290 contaminated sites, we must continue providing robust support for
291 these programs. Cleanup of these sites transforms from
292 liabilities to assets that generate needed revenues and economic
293 opportunity.

294 Finally, I would like to voice one area of concern, proposed
295 cuts to the BEACH Act Grant Program. As someone elected to
296 represent part of the Jersey shore, I understand the importance
297 of protecting and improving the quality of our beaches and their
298 importance to local economies. I am disappointed that, once
299 again, the budget eliminates funding for this critical program,
300 and I am troubled by EPA's unwillingness to prioritize funding
301 to fight water-borne pathogens of pollution that affect coastal

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302 recreation. This program deserves continued support, and I will
303 work with my colleagues to ensure adequate funding.

304 But, again, I look forward to the Administrator's testimony.

305 Thank you, and I yield back.

306 Mr. Whitfield. The gentleman yields back.

307 At this time the Chair recognizes the chairman of the full
308 committee, Mr. Upton, for five minutes.

309 The Chairman. Administrator McCarthy, welcome back. We
310 look forward to our discussion on EPA's proposed 2017 budget.

311 I know that the agency has an ambitious agenda that it would
312 like to put in place before the President's tenure in the White
313 House is completed, but the EPA should focus, I believe, its
314 efforts less on finalizing a wave of new regs and more on getting
315 back to the basic functions for which the agency was created.

316 Improving public health by ensuring the quality of the air
317 we breathe and the safety of our drinking water supply, that is
318 the reason Republicans and Democrats came together in 1970 and
319 created the EPA. It was also the reason Congress passed many
320 bipartisan public health bills, like the Clean Air Act and the
321 Safe Drinking Water Act, for the agency to administer.

322 However, the heartbreaking events unfolding in Flint are a
323 sign that perhaps the EPA has strayed from its core mission. Make
324 no mistake, the system failed at all levels that resulted in the

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lead contamination problems with Flint's water supply. It is clear to me that EPA's poor performance of its duties under the Safe Drinking Water Act were, in fact, part of the problem.

I hope that, in the same bipartisan spirit that launched EPA in 1970, that we can rededicate ourselves to the basic public health protections that are the reasons that this agency was brought into existence, the most recent example being our bipartisan work to strengthen the public disclosure requirements in the Safe Drinking Water Act. Not only was it a step in the right direction, more importantly, I hope that it provides the reset needed at the agency to focus it on doing the tasks assigned to it under the Safe Drinking Water Act, including compliance and verification activities.

What we are doing now will not prevent damage in Flint, but we owe it to the people of Flint, as well as other communities across the country that may face lead-contaminated water supplies, to sharpen EPA's oversight role in protecting public health.

I know many people in D.C. are eager to lay blame on one political party or another when disasters like Toledo, Gold King Mine, Flint threaten a community's drinking water. Regardless of who is responsible, we need to address the crises that those people face.

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348 I am interested in being part of the solution, and I know
349 that you, also, want to be part of the solution. It is going to
350 take creative solutions, and surely there will be challenges. I
351 know that we can put our heads together and put a greater emphasis
352 on problem-solving and doing right by the American people, rather
353 than playing the blame game. And that is certainly my
354 perspective.

355 While we are talking about places where we can and should
356 be working together, I want to follow up on what John Shimkus
357 indicated with our committee's reform efforts for the Toxic
358 Substances Control Act, or TSCA. As you know, we worked very hard
359 to put together a bipartisan bill that addresses legal
360 shortcomings in the law. I know that your agency would like to
361 see reform occur in this Congress. I look forward to your support
362 in helping it get to the President's desk. We look to working
363 constructively with you.

364 And I yield back the balance of my time.

365 Mr. Whitfield. The Chair recognizes the gentleman from
366 California, Mr. McNerney, for five minutes.

367 Mr. McNerney. Well, thank you, Mr. Chair.

368 The EPA plays an important role in our society in protecting
369 our citizens and our environment. Safe and clean drinking water
370 has recently risen to the headlines because of the discovery of

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371 pipes corroded by using contaminated water in Flint, Michigan.
372 This water has permanently harmed their children and shaken
373 people's trust in our public services. This type of occurrence
374 will become more common if we fail to invest in our failing
375 infrastructure or if we fail to invest in the means to monitor
376 our safe drinking water. Clean and safe drinking water should
377 be a guarantee for every American. It is not only irresponsible,
378 but criminal to withhold funds and resources to protect lives.

379 The EPA also has a significant responsibility to fight
380 climate change. Climate change is considered a contributing
381 factor to crop failures and droughts in the Middle East and the
382 African Sahel. Climate change is causing weather patterns to
383 bring super-storms such as Sandy and Katrina. The evidence for
384 climate change is dramatic and growing.

385 The EPA has the experience and science to help us push back
386 on climate change, and they are working on lowering carbon
387 emissions and developing clean energy sources. We need reliable
388 and resilient grid that we can depend upon. And I am going to
389 take this opportunity to recommend to my coal state colleagues
390 to embrace carbon sequestration before the coal industry
391 collapses entirely.

392 Climate change is also affecting people's health across the
393 globe. Unchecked climate change could lead to 6 million to 7.9

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394 million acres of forest being destroyed by wildfires at a cost
395 of \$940 million to \$1.4 billion. It could also lead to the
396 destruction of ecosystems, such as coral reefs that support
397 economic activity, including 35 percent of the coral reefs in
398 Hawaii, at an economic loss of \$1.2 billion.

399 Both clean water and climate change are huge issues, but ones
400 I am confident the EPA can address and ensure that American lives
401 are protected.

402 Now I know my colleagues would like to greatly reduce or
403 eliminate the EPA, but what would we have without the EPA? If
404 you have doubts, just visit Beijing or Kolkata, and you will find
405 out.

406 Thank you, Mr. Chairman. I yield back.

407 Mr. Whitfield. The gentleman yields back.

408 And that concludes the opening statements. And so, at this
409 time, Ms. McCarthy, I would recognize you for five minutes for
410 your opening statement.

411 Be sure to turn the microphone on and get it real close.

412

413

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422 STATEMENT OF GINA McCARTHY, ADMINISTRATOR, U.S. ENVIRONMENTAL
423 PROTECTION AGENCY

424

425 Ms. McCarthy. Thank you so much.

426 Mr. Whitfield. Thank you.

427 Ms. McCarthy. Thank you, Chairman Whitfield, Chairman
428 Shimkus, Chairman Upton, Ranking Member Tonko, Ranking Member
429 Pallone, and all the members of the subcommittee. Thank you for
430 the opportunity to appear before you to discuss EPA's proposed
431 fiscal year 2017 budget. I am joined today by the agency's Deputy
432 Chief Financial Officer, David Bloom.

433 EPA's budget request of \$8.267 billion for the 2017 fiscal
434 year lays out a strategy to ensure steady progress in addressing
435 environmental issues that affect public health. For 45 years,
436 our investments to protect public health and the environment have
437 consistently paid off many times over. We have cut air pollution
438 by 70 percent and cleaned up half of our nation's polluted
439 waterways. All the while our national economy has tripled.

440 Effective environmental protection is a joint effort of the
441 EPA, states, and by tribal partners. That is why the largest part
442 of our budget, \$3.28 billion, or almost 40 percent, is provided
443 directly to our state and tribal partners.

444 In fiscal year 2017, we are requesting an increase of \$77

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million in funding for state and tribal assistance categorical grants in support of critical state work in air and water protection, as well as continued support for our tribal partners.

This budget request also reinforces EPA's focus on community support by providing targeted funding and support for regional coordinators to help communities find and determine the best programs to address local environmental priorities.

The budget includes \$90 million in brownfields project grants to local communities. That is an increase of \$10 million, which will help to return contaminated sites to productive reuse.

This budget prioritizes actions to reduce the impacts of climate change and support the President's Climate Action Plan. It includes \$235 million for efforts to cut carbon pollution and other greenhouse gases through common-sense standards, guidelines, and voluntary programs.

The EPA's Clean Power Plan continues to be a top priority for the EPA and for our nation's inevitable transition to a clean energy economy. Though the Supreme Court has temporarily stayed the Clean Power Plan Rule, states are not precluded from voluntarily choosing to continue implementation planning. And EPA will continue to assist states that voluntarily decide to do so.

As part of the President's 21st Century Clean Transportation

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468 Plan, the budget also proposes to establish a new mandatory fund
469 for the EPA, providing \$1.65 billion over the course of 10 years
470 to retrofit, replace, or repower diesel equipment and up to \$300
471 million in fiscal year 2017 to renew and increase funding for the
472 Diesel Emission Reduction Grant Program.

473 The budget also includes a \$4.2 million increase to enhance
474 vehicle engine and fuel compliance programs, including critical
475 testing capabilities.

476 We also have to confront the systemic challenge that
477 threatens our country's drinking water and the infrastructure
478 that delivers it.

479 This budget includes a \$2 billion request for the State
480 Revolving Loan Fund and \$42 million in additional funds to provide
481 technical assistance to small communities, loan financing to
482 promote public/private collaboration, and training to increase
483 the capacity of communities and states to plan and finance
484 drinking water and wastewater infrastructure improvements.

485 The EPA requests \$20 million to fund the Water Infrastructure
486 Finance and Innovation Act, our WIFIA program, which will provide
487 direct financing for the construction of water and wastewater
488 infrastructure by making loans for large, innovative projects of
489 regional or national significance.

490 This budget also provides \$22 million in funding to expand

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491 the technical, managerial, and financial capabilities of drinking
492 water systems. Included is \$7.1 million for the Water
493 Infrastructure and Resilience Finance Center and the Center for
494 Environmental Finance that will enable communities across the
495 country to focus on financial planning for upcoming public
496 infrastructure investments, expand work with states to identify
497 financing opportunities, in particular for rural communities, and
498 enhance partnership and collaboration with the U.S. Department
499 of Agriculture.

500 EPA is also seeking a \$20 million increase to the Superfund
501 Remedial Program, which will accelerate the pace of cleanup,
502 supporting states, local communities, and tribes in their efforts
503 to assess and clean up sites and return them once again to
504 productive reuse.

505 EPA's fiscal year 2017 budget request will let us continue
506 to make a real and visible difference to communities and public
507 health every day and provide us with a foundation to revitalize
508 the economy and improve infrastructure across the country.

509 Thank you for the opportunity to testify today, and I look
510 forward to answering your questions.

511 [The prepared statement of Ms. McCarthy follows:]

512

513 ***** INSERT 1*****

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514 Mr. Whitfield. Thank you, Ms. McCarthy. We appreciate
515 that statement.

516 And I will recognize myself for five minutes to get started
517 here.

518 Soon after the Supreme Court issued the stay on the Clean
519 Energy Plan, I was reading an article and it said that in a letter
520 you said that the rule had been suspended and has no legal force,
521 the rule being the Clean Energy Plan. I was curious, who did you
522 write that letter to? Was that letter sent to all the states or
523 was this a letter that just was an interagency letter to members
524 that work at EPA and colleagues?

525 Ms. McCarthy. I don't know which letter you are referring
526 to.

527 Mr. Whitfield. It says, "While Administrator McCarthy has
528 suggested that her agency will continue to provide tools and
529 outreach to states, none of these efforts by EPA should be
530 perceived as requiring states to act. The rule has been suspended
531 and has no legal force," the letter stated.

532 So, did you send the letter to the states saying that the
533 rule has been suspended and has no legal force?

534 Ms. McCarthy. That would be an accurate statement, sir, and
535 I assume that I did notice people, but I don't know which
536 particular letter. I just don't recall.

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537 Mr. Whitfield. So, you don't recall? You don't recall
538 sending out a letter? You don't recall sending a letter to the
539 states?

540 Ms. McCarthy. I certainly have said that in person and in
541 letters to a number of individuals explaining that there is a stay
542 in place and EPA won't be implementing or enforcing the law, and
543 that it has to work through the courts, but we would certainly
544 continue to work voluntarily with states that voluntarily want
545 to continue --

546 Mr. Whitfield. But you don't recollect yourself sending a
547 letter to the states saying that?

548 Ms. McCarthy. I actually believe that I did, sir, but I
549 haven't -- you know, reading a portion of it doesn't give me
550 complete enough recollection to be able to confirm it positively.

551 Mr. Whitfield. Well, did you send a letter to every --

552 Ms. McCarthy. I did send a letter to states letting them
553 know what happened, yes, sir.

554 Mr. Whitfield. Okay. Okay. Now, prior to the Supreme
555 Court stay, each state was expected, by September of this year,
556 to submit a State Implementation Plan to EPA, is that correct?

557 Ms. McCarthy. That is correct, yes.

558 Mr. Whitfield. And have they been notified that that State
559 Implementation Plan is no longer expected by September?

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560 Ms. McCarthy. I believe everybody is aware of that, yes,
561 sir.

562 Mr. Whitfield. Okay. And now, Ms. McCabe has talked a lot
563 about, and you have also, saying you are working with states that
564 want to proceed. How many states would that be?

565 Ms. McCarthy. Well, we are certainly working with many
566 states. Every day that changes. I know that 25 or so states have
567 indicated publicly that they are doing some portion of planning
568 and continuing to think about it. But many states understand that
569 there is a transition in the energy world right now and that the
570 Clean Power Plan is on hold, but it is going to be looked at on
571 its merits, and they are continuing to think about --

572 Mr. Whitfield. But they can do the transition without the
573 Clean Energy Plan, correct?

574 Ms. McCarthy. Well, the energy transition is happening
575 regardless of that, yes.

576 Mr. Whitfield. Yes, I mean, it is all about pricing
577 primarily.

578 Ms. McCarthy. Right.

579 Mr. Whitfield. But two component parts that Ms. McCabe
580 keeps stressing is the Clean Energy Incentive Program and the
581 Model Rules. Those are an integral part of the Clean Energy Plan.
582 Without those, the Clean Energy Plan would not be very effective.

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583 Would you agree with that?

584 Ms. McCarthy. No, sir. The Clean Power Plan actually is
585 a rule that is moving forward on its own through the courts. The
586 Model Rule was something that the states suggested that we do for
587 them, and part of the Model Rule is how the states might handle
588 the CEIP. So, both of those are related, and those are efforts
589 that the states have asked us to do separate, and also related,
590 but on its own separate.

591 Mr. Whitfield. Well, she refers to those as two key pieces,
592 the Clean Energy Incentive Program and the Model Rules, key
593 pieces. But she says it will be done consistent with the Court
594 ruling.

595 Ms. McCarthy. Yes.

596 Mr. Whitfield. How do you determine that it is consistent
597 with the Court ruling?

598 Ms. McCarthy. Well, the Clean Energy Incentive Plan is part
599 of the Clean Power Plan as it stands that the Court is going to
600 look at. Separate from that, there is a question of how states
601 might look at the Model Rule and how that might be also an
602 opportunity to take comment on it and look more specifically at
603 how states might look at their Clean Energy Incentive Program.

604 So, those are being done for the benefit of the states'
605 understanding, and it is being done at the request of states that

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606 voluntarily want to think about how they might comply and think
607 about the planning process.

608 Mr. Whitfield. Might comply with what?

609 Ms. McCarthy. Might think about complying consistent with
610 the Clean Power Plan, but it is not an underlying rule of the plan.
611 It is all voluntary and it is the states asking us to help them
612 as they are doing their voluntary planning moving forward.

613 Mr. Whitfield. My time has expired.

614 At this time I recognize the gentleman from New York, Mr.
615 Tonko, for five minutes.

616 Mr. Tonko. Thank you, Mr. Chair.

617 And thank you again, Administrator McCarthy, for being here
618 today.

619 The fiscal year 2016 Omnibus included \$863 million for the
620 Drinking Water SRF, which was a \$44 million decrease from fiscal
621 year 2015. So, I was grateful that the administration has
622 recognized a critical need to invest in our drinking water systems
623 by increasing its request by \$158 million for this year. But can
624 you please explain the relationship between the Clean and Drinking
625 Water SRFs?

626 Ms. McCarthy. Yes. I mean, both of those are SRF programs.
627 One manages our wastewater system, the other our drinking water
628 system. We tend to look at them together, but we also tend to

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629 look at what the outstanding needs are in both. Clearly, both
630 of them are necessary for clean drinking water, let's make that
631 clear, and rivers and streams that are clean.

632 But, when we looked back at what the demand was for each over
633 a period of time, looking out to 2030, we realized that drinking
634 water at this point is in dire need of additional assistance, and
635 we balanced that in terms of how we are looking at both in this
636 budget.

637 Mr. Tonko. So, you acknowledge, then, that there is this
638 flexibility to shift funds between the two SRFs in order to address
639 their specific needs, is that right?

640 Ms. McCarthy. They have that opportunity to be able to shift
641 as well. There is quite a bit of flexibility in terms of the use
642 of both funds.

643 Mr. Tonko. Yes, and it is why I am disappointed to see the
644 \$1 billion request for drinking water was at the expense of over
645 a \$400 million decrease in clean water. The combined total is
646 some \$250 million less than last year's enacted level, and even
647 worse when compared to the last budget request.

648 So, can you explain the decision to offset the drinking water
649 increase with the clean water? I know you are concerned for,
650 obviously, having to grow the one account, but, overall, it
651 appears as though there is a dire need to have very robust funding.

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652 Ms. McCarthy. Yes. I think there needs to be a very serious
653 and larger conversation about this, as I am sure you would agree,
654 overall. Our challenge was to meet the funding levels that were
655 in the bipartisan Budget Act of 2015. So, we didn't have an
656 opportunity to look for significant new funding.

657 Every time that those numbers are increased, it is at the
658 expense of EPA's operating budget. Frankly, with a budget that
659 is only looking for a 2-percent bump-up, it will be very hard for
660 the agency to continue operating at an efficient and successful
661 level if we have to continue to look at significant more investment
662 within our budget for those activities.

663 Mr. Tonko. Right, which speaks to the role of Congress here,
664 as we control the purse strings. It appears as though we have
665 to do a much more, again, robust effort for our water issues.

666 While I understand the budgets are tight, robbing Peter to
667 pay Paul doesn't seem to be the appropriate solution. I am sure
668 you would agree that both drinking and wastewater systems, as you
669 are indicating, need additional federal support. And so, we must
670 ensure that both are adequately funded.

671 As I mentioned earlier, the EPA estimates that there is this
672 20-year capital needs level of some \$384 billion. This estimate
673 has increased in each report since 1995, and I would guess the
674 next estimate will follow that trend. So, we have spent 20 years

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675 funding the SRF between \$800 million and \$1 billion. This request
676 appears to be much of the same.

677 I have heard from the mayors in my district, from town
678 supervisors in my district, that cash-strapped local government
679 simply cannot come up with the financing on their own. And I have
680 had tremendous glaring examples of painful consequences of
681 underfunding.

682 The Administrator of the EPA does a lot of work with state
683 and local governments. In your experience, will we make
684 significant progress in closing this \$384 billion gap by
685 maintaining the current federal funding levels?

686 Ms. McCarthy. No, it doesn't even come close or consider
687 the fact that we are looking at new, emerging contaminants that
688 simply won't be resolved through the technologies we have in hand.

689 Mr. Tonko. And do you believe that a more lucrative, a more
690 robust, sustained commitment is needed to reduce the
691 infrastructure project backlog that exists?

692 Ms. McCarthy. I think there needs to be a much larger
693 conversation about how you can start investing in a way that is
694 commensurate with the challenge and the core needs of our
695 communities and families.

696 Mr. Tonko. I thank you for that.

697 Earlier I had mentioned the AQUA Act that I have introduced.

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698 It is driven by the Recovery Act funding levels. And so, that
699 defines our first-year commitment in that legislation of \$3.1
700 billion and, then, ramping up to \$5.5 billion. Again, we would
701 call for tremendously-focused attention to the water
702 infrastructure in this country.

703 I thank you, Administrator McCarthy, for, again, responding
704 in a way that I think is deeply rooted in commitment to helping
705 our state and local governments.

706 Mr. Chair, I hope this is an issue that we can continue to
707 investigate to ensure communities across this nation are getting
708 support to meet their public health, public safety, and
709 infrastructure needs, all very important. I think some of the
710 flare-ups we have seen across this nation in all geographic
711 regions remind us that our work is far from done.

712 So, with that, I will yield back.

713 Mr. Whitfield. The gentleman's time has expired.

714 At this time I recognize the gentleman from Illinois, Mr.
715 Shimkus, for five minutes.

716 Mr. Shimkus. Thank you, Mr. Chairman.

717 So, again, welcome, Administrator.

718 The good news is we got your letter today in response to
719 statements for the record from Acting Assistant Administrator
720 McCabe, who testified before us in October. The bad news is they

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721 create some more questions. And so, I want to read the story,
722 and maybe you can help get this clarified for us.

723 The basis of my questions in the statement for the record
724 was to ask about the Regulatory Impact Analysis that was used to
725 promulgate the CO2 regulations. So, throughout the transcript,
726 I continue to kind of push McCabe on give us how you calculated
727 how many power plants would be operating, because if you are going
728 to do a Regulatory Impact Analysis and the cost, basic Economics
729 101 says supply and demand. There is a 31-gigawatt difference
730 between the Energy Information Agency and what this Regulatory
731 Impact Analysis says from your agency.

732 So, we were hoping that, for the record, we would get back
733 what was the formula that the EPA used to calculate the amount
734 of power plants that were going to be decommissioned. What we
735 got was a statement. The EPA discussed the assumptions
736 underlying each of these projections in the Regulatory Impact
737 Analysis accompanying the final Clean Power Plant.

738 So, the questions I asked to be clarified using the
739 Regulatory Impact Analysis were responded by a letter that says
740 refer to the Regulatory Impact Analysis. If you could help us
741 get the real data and a better answer, I would appreciate that.

742 Ms. McCarthy. Mr. Chairman, I will do the very best I can
743 to answer your questions today or to provide you followup on it.

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744 Mr. Shimkus. Yes. I mean, it is just the bottom line is,
745 if you have lost 70 power plants, that does have an effect on --

746 Ms. McCarthy. Yes.

747 Mr. Shimkus. And we just want to find out how you all figured
748 that out versus the Energy Information Agency. And so, we are
749 glad you got that letter to us punctually. Otherwise, I would
750 have had to send another letter. So, thank you.

751 Since we have talked about TSCA a little bit, as you know,
752 we are hoping to get something to the President. There are three
753 questions. Do you have any idea what it might cost you to assess
754 10 chemicals in a given year? This is what we need. So, 10 or
755 20. And then, really, the third question is, did you consider
756 what would be a budget baseline for operating a reformed TSCA
757 program and if fees were capped at \$18 million per year? We are
758 trying to get an idea of, if there are fees, what are your costs?
759 Are they in the ballpark and stuff?

760 Ms. McCarthy. Well, that is well within the range of the
761 technical information that both you and Congressman Pallone have
762 been asking for. I am more than happy to support, to provide you
763 with whatever information I can.

764 Mr. Shimkus. Thank you. Thank you very much.

765 And I am glad you mentioned Ranking Member Pallone. He has
766 been very, very helpful on movement of this, and we are hopeful

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767 we will get to some agreement in the future.

768 My last question, because I have a minute-and-a-half left,
769 is I did mention in my opening statement Superfund cleanup,
770 CERCLA. Has the ratio of administrative cost to cleanup cost
771 changed over the last few years and, if so, how?

772 My big concern is always we have the Superfund. A lot of
773 it goes for the administration and the litigation cost. What is
774 the ratio between that portion of the fund and actually cleanup
775 cost?

776 Ms. McCarthy. Yes.

777 Mr. Shimkus. And do you know if there has been any
778 significant change in that? I want money to go to cleanup more
779 than bureaucracy.

780 Ms. McCarthy. I don't know the answer, but we will certainly
781 follow up.

782 Mr. Shimkus. Okay. Thank you.

783 Since I have 45 seconds left, I will yield back my time and
784 thank the chairman.

785 Mr. Whitfield. The gentleman yields back.

786 At this time the Chair recognizes the gentleman, Mr. McNerney
787 of California, for five minutes.

788 Mr. McNerney. Thanks for indulging and confusing, Mr.
789 Chairman.

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790 [Laughter.]

791 Administrator McCarthy, I know the EPA is working to deal
792 with drought issues.

793 Ms. McCarthy. Yes.

794 Mr. McNerney. Of course, I am from California. We know
795 about drought.

796 Can you explain some of the ways that EPA is working to
797 address drought through technology and innovation?

798 Ms. McCarthy. Yes, sir. We are working pretty hard through
799 our National Resilience effort. We are working with other
800 agencies to develop tools that communities can use to identify
801 both what the drought challenge is and a variety of tools in which
802 they can design systems more effectively. Those are everything
803 from stormwater to their drinking water systems, looking at
804 potential impacts, keeping our communities safe, making sure that
805 our water and wastewater facilities are operating correctly. And
806 so, we have a variety of tools that we work.

807 We also have people that go to the communities. We have
808 regional folks that go to communities and work with them and try
809 to help design solutions, so they can manage the kind of adaptive
810 behavior that they need to have in a changing climate.

811 Mr. McNerney. Do you believe that California can become
812 regionally self-sufficient? In other words, different parts of

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813 California can become water self-sufficient ultimately?

814 Ms. McCarthy. You know, there are smarter people in
815 California than I that know the answer to that question. But I
816 know that we are available to work with anyone in California that
817 wants to roll up their sleeves and look at this issue.

818 Mr. McNerney. Thank you.

819 I have been a proponent of water use efficiency, and it is
820 important, especially considering threats to our water supply,
821 for us to protect our water sources and to conserve our water
822 supply. One program that aims to help communities conserve water
823 and promote long-term sustainable infrastructure is the
824 WaterSense Program. Can you please describe some of the
825 successes of the WaterSense Program?

826 Ms. McCarthy. Well, I am more than happy to supply you with
827 a lot.

828 But WaterSense is beginning to be seen, and it has been used
829 in California, as a really good opportunity. Basically, it does
830 the boring work of water conservation. It allows you to take a
831 look at where your water is going, how much it costs, where it
832 is leaking, and how do you take advantage of that, everything from
833 how you can conserve in a household to how you can look at it from
834 a systems approach, from a community or a region. So, we have
835 some really dedicated people that are doing great work at all

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836 levels on WaterSense.

837 Mr. McNerney. Well, moving on, the gas leak in California
838 has raised the public awareness of how gas is leaking into the
839 environment. I know it is not exactly related, but do you believe
840 there is sufficient data related to loss and accountable gas, so
841 that we understand how much gas is actually leaking into the
842 environment across the country?

843 Ms. McCarthy. Actually, we have been learning recently,
844 most recently, through our last Greenhouse Gas Inventory how
845 little we actually have known about the methane leaks in our oil
846 and gas sector in our pipelines. We are getting educated. It
847 is more than we ever thought before, but there clearly needs to
848 be a continued effort to gather information. We fully intend to
849 do that.

850 Mr. McNerney. So, what do we have to do to get a hold of
851 this and to stop the leakage or to reduce the leakage?

852 Ms. McCarthy. Well, we have announced that we are actually
853 going to put out an information collection request to the industry
854 to get information from the oil and gas sector, in particular.
855 And then, the challenge will be what are the cost-effective and
856 available technologies that can reduce those leaks, look at the
857 operating practices that need to be done differently to maintain
858 those.

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859 But the good news about methane, in particular, and natural
860 gas is that it is a product that is leaking, not a byproduct. And
861 so, the more you can capture it, the more it is a very
862 cost-effective way to do business.

863 Mr. McNerney. There is an economic driver, in other words?

864 Ms. McCarthy. Yes, that's right.

865 Mr. McNerney. Very good.

866 So, what is the current state of carbon sequestration?

867 Ms. McCarthy. Carbon sequestration is available. It
868 continues to be something that we are going to be relying on more
869 and more. The Department of Energy has a robust program that is
870 looking at carbon sequestration as well as use in sequestration.
871 It is being utilized in a number of facilities in the U.S. We
872 would like it to be more used. We would like the cost to go down
873 considerably as it is being used, so that it becomes more and more
874 available. It is most cost-effective when it is joined with
875 enhanced oil recovery. That is when you have a good system or
876 when it is used to actually produce chemicals.

877 Mr. McNerney. So, can we save the coal industry with carbon
878 sequestration?

879 Ms. McCarthy. I actually think that carbon sequestration
880 is going to be important, not just domestically, but, clearly,
881 internationally. Coal is going to be around, whether it is in

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882 the U.S. or it is in other countries. And it is important for
883 us to have technologies that can allow coal to continue to be part
884 of the energy system.

885 Mr. McNerney. Thank you.

886 Mr. Chairman, I yield back.

887 Mr. Whitfield. The gentleman yields back.

888 We do have a series of four votes on the Floor. But, before
889 we go, I am going to get Mr. Upton and Mr. Pallone. And then,
890 once they complete, we will try to come back here at 3:30 to give
891 everyone else an opportunity to ask questions.

892 Ms. McCarthy. Yes, sir.

893 Mr. Whitfield. Mr. Upton, you are recognized for five
894 minutes.

895 The Chairman. Great. And thank you, Mr. Chairman.

896 Again, Ms. McCarthy, we are glad that you are here today.

897 I want to thank you just real quickly for your support of
898 the bill that we passed. Every member of this committee supported
899 it on the House Floor, H.R. 4470, which did pass 416-to-2, to try
900 to clear up the confusion and close the gaps when communities like
901 Flint are known. We are hoping that that gets to the President's
902 desk in some form when it comes back from the Senate.

903 A couple of questions. We are going to have a hearing in
904 two of our subcommittees together next month that really looks

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905 to the future on this issue, not pointing fingers. It is my
906 understanding that we are working with your Assistant
907 Administrator for Office of Water, Joel Beauvais --

908 Ms. McCarthy. Yes.

909 The Chairman. -- to be our EPA person who is going to come
910 testify.

911 A question that I had for you, a couple of questions as it
912 relates to the future, I know in the Protecting America's Waters
913 book, I will read you briefly, it says, "In FY 2017, the EPA will
914 begin to fund WIFIA projects. EPA expects that entities with
915 large-scale, complex water and wastewater projects will be
916 attracted to WIFIA through the EPA....will work to provide
917 assistance through a diverse set of projects."

918 How many communities do you think may apply for funds once
919 that program is out?

920 Ms. McCarthy. Yes, we are requesting \$20 million --

921 The Chairman. Right.

922 Ms. McCarthy. -- 15 of which would be used for leveraging
923 opportunities. It is not clear to me how many that would --

924 The Chairman. Fifty communities? Thirty? Twenty?

925 Ms. McCarthy. It depends upon the size.

926 The Chairman. Any idea? Will there be some accommodation
927 for rural areas, I mean some setaside for rural communities that

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928 are under 100,000 population?

929 Ms. McCarthy. Yes, we haven't yet determined that, sir.
930 I'm sorry.

931 The Chairman. Okay.

932 Ms. McCarthy. But I am happy to take your comments or
933 concerns about that, if you would like me to.

934 The Chairman. Yes. I know that you are working on a new
935 Copper and Lead Rule. What is your expectation as to when that
936 will be ready to be put out for comment?

937 Ms. McCarthy. We would like it to be done as soon as
938 possible, but I think the tragedy in Flint has made it very clear
939 to us that we have to tackle this in a substantive way. So, our
940 goal is to get a rule both proposed and finalized next fiscal year.

941 The Chairman. As you look at the entire country, how many
942 communities -- I know Flint is in terrible distress over what
943 happened. I would hope that there are no other communities in
944 that same position. But how many communities do you think or how
945 many states have communities like that that are in need of
946 resources that could replace some of their lead lines to their
947 residents? How widespread of a problem is that? We have seen
948 stories in different publications. USA Today has had some good
949 ones in the last number of days in terms of communities. What
950 would your estimate be?

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951 Ms. McCarthy. Let me give you a sense of this. I want to
952 make sure I answer your question. There are about 68,000 public
953 water systems that have to report to us under the Lead and Copper
954 Rule. About 96 percent of those have had no exceedances of the
955 action level over the past three years.

956 So, what I am trying to do is, I think Flint is unique, but
957 I think there are challenges in communities. One of the things
958 that I did was to write to every governor and to write to every
959 what we call the primacy agency, the agency that is responsible
960 for that at the state level, to ask them to do a few things; to
961 get back to us to make sure that they are following and
962 implementing the current statute; to ask them to identify where
963 their lead lines are publicly and put it on the web; to start
964 publishing their results --

965 The Chairman. And that is a little bit of a requirement that
966 we had in our bill, right, H.R. 4470, if you found a problem, right?
967 You would do that?

968 Ms. McCarthy. That is exactly right. That is exactly the
969 same thing. Because one of the things we realize is, with Flint
970 happening, you are right, it is a failure of government --

971 The Chairman. Knowing that my time is expiring, and I want
972 to let Mr. Pallone have the balance before these votes, do you
973 think that it is possible that, when we convene again next month,

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974 when we have this hearing on looking to the future, do you think
975 you will have some of that information available that you can
976 provide to us prior to the hearing?

977 Ms. McCarthy. We will. We know there is about 10 million
978 lead lines, but the challenge is to treat water so that it is not
979 corrosive, to systemically get rid of the lead lines, and then,
980 to address the lead that is actually in people's plumbing
981 fixtures. So, it is a multifaceted challenge, and it is one we
982 have to tackle.

983 The Chairman. Thank you.

984 Yield back.

985 Mr. Whitfield. The gentleman yields back.

986 At this time the Chair recognizes the gentleman from New
987 Jersey, Mr. Pallone, for five minutes.

988 Mr. Pallone. Thank you.

989 We have got to be quick because we are going to go vote, and
990 I have to cover both Superfund and beaches in one fell swoop here.

991 Ms. McCarthy. Yes.

992 Mr. Pallone. So, on the Superfunds, cleaning up toxic
993 Superfund sites not only reduces health risk, it helps create jobs
994 during the cleanup and through newly-uncontaminated and
995 productive land ready for redevelopment, as you know.

996 Unfortunately, Congress has failed to reinstate the

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997 Superfund tax, leading to fewer resources for the program. In
998 fact, the resources have essentially been cut in half over the
999 last two decades. Without those revenues, important Superfund
1000 cleanups have been delayed. The backlog of sites has grown and,
1001 of course, that shifts it to the taxpayers.

1002 So, let me ask you first, would you say that the success of
1003 the Superfund program depends directly on the funding it receives?

1004 Ms. McCarthy. Yes.

1005 Mr. Pallone. And would more funding, then, mean more
1006 cleanups?

1007 Ms. McCarthy. Absolutely. We are requesting an additional
1008 \$20 million, which would get us three to five more started, but
1009 we certainly have a significant backlog.

1010 Mr. Pallone. I appreciate that. I think that it is clear
1011 that the Superfund and brownfields programs show that creating
1012 jobs and cleaning up the environment are not mutually-exclusive.

1013 Now let me get to my beaches questions. Representing a
1014 coastal district, it has always been one of my top priorities to
1015 ensure that water at our nation's beaches is not contaminated and
1016 dangerous for those who visit them to swim, surf, and fish. And
1017 that is why, as you know, I was disappointed to see that the BEACH
1018 Act Grant Program has been zeroed-out again in the President's
1019 budget. States utilize these funds to monitor water quality and

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1020 notify the public when our coastal waters are not safe for
1021 swimming.

1022 So, my question is, do you believe EPA's BEACH Grants have
1023 been successful over the years in expanding the number of beaches
1024 tested nationwide and keeping swimmers out of contaminated
1025 waters?

1026 Ms. McCarthy. Yes, I believe that it has been a good
1027 program. I think where we have challenges is that it was supposed
1028 to start up to make sure that communities and states have the
1029 ability to monitor and do this effectively. We believe that that
1030 ability is now there, which is why we think in a tight budget it
1031 is one of the areas in which we can be a little bit tighter in
1032 terms of --

1033 Mr. Pallone. Well, you know I disagree because I think that
1034 a lot of these towns don't have the resources.

1035 Ms. McCarthy. Right. I know.

1036 Mr. Pallone. So, I am going to try to work with you and my
1037 colleagues, as we did last year, to restore this funding --

1038 Ms. McCarthy. Yes.

1039 Mr. Pallone. -- that helps address these health risks.

1040 The other issue related is another successful method is
1041 spotting spilled oil in commercial areas like the New York-New
1042 Jersey Harbor and collecting it before it damages the environment.

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1043 It was the helicopter. You know that in 2014 EPA cancelled the
1044 Helicopter Monitoring Program in EPA Region 2, but operated it
1045 in the summer to monitor the waters in the Harbor and to identify
1046 debris, oil slicks, and algae blooms. Since the Helicopter
1047 Monitoring Program was cancelled, how is EPA engaging and
1048 participating in the Floatables Action Plan in the New York and
1049 New Jersey Region.

1050 Ms. McCarthy. We are certainly monitoring the activities
1051 that both of the states have taken to have boots on the ground
1052 there, to make sure they see the oil as it occurs and are able
1053 to address it. And we have a task force that, I think you know,
1054 we pulled together to make sure that we understand what the
1055 implications of having disinvested in that helicopter might be,
1056 if any. So, we want to continue to work with it with you, sir,
1057 on this issue because I know it is important to you.

1058 Mr. Pallone. When we spoke about this last year, you said
1059 that there would be, basically, a web of protection in place to
1060 guarantee no gaps in coverage with respect to monitoring the New
1061 Jersey coast. Has the EPA taken some specific actions to fill
1062 the gaps left by the cancellation of the helicopter?

1063 Ms. McCarthy. Well, I think we felt that the helicopter at
1064 this point, because of the actions that the states have taken,
1065 was not as necessary as it was before. We didn't feel like we

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1066 would be putting the water at risk by not continuing to fund it.

1067 And so, we do feel that there is a robust system in place.

1068 Mr. Pallone. See, the problem that I have with both the
1069 BEACHES Act and the helicopter is that, you know, using New Jersey
1070 as an example, but I am sure New York is the same, you know, the
1071 state and the towns and the counties all complain that they have
1072 less money and that they can't fill the gap. And so, that is why,
1073 if there was any way, obviously, to get the BEACHES Grants back
1074 in place or to get the helicopter back in place, and to pay for
1075 it federally, it would make a big difference. Because I know you
1076 believe that the states and the localities can make up the
1077 difference, but I really don't think that is the case.

1078 Ms. McCarthy. I appreciate that, sir. Thank you.

1079 Mr. Pallone. Thank you, Mr. Chairman.

1080 Mr. Whitfield. The gentleman yields back.

1081 Ms. McCarthy, once again, I apologize for this interlude,
1082 but I want you to know we have one of the best subway sandwich
1083 stores in the basement.

1084 [Laughter.]

1085 We will be back at 3:30, hopefully.

1086 Ms. McCarthy. Thank you so much.

1087 Mr. Whitfield. We will recess until 3:30.

1088 [Recess.]

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1089 Mr. Whitfield. We will reconvene the meeting and the
1090 hearing.

1091 Thank you for your patience, Ms. McCarthy.

1092 At this time I would like to recognize for five minutes the
1093 gentleman from Texas, the vice chairman of the Energy and Power
1094 Subcommittee, Mr. Olson.

1095 Mr. Olson. I thank the Chair.

1096 And welcome, Ms. McCarthy.

1097 We have had our disagreements. Some are pretty strong. But
1098 there are some things we agree upon, like the Houston Astros going
1099 to Yankee Stadium and kicking the tar out the New York Yankees
1100 3-to-zip last September.

1101 [Laughter.]

1102 Ms. McCarthy. Totally agree on that one.

1103 Mr. Olson. There we go.

1104 And I appreciate the positive steps you have taken on
1105 exceptional events in that new rule. Thank you for that.

1106 That being said, though, I have heard recently that EPA has
1107 a proposal to change the rules on how locals work with you all
1108 on transportation issues, projects, highway projects. I am told
1109 that the changes to transportation and air modeling could add
1110 months' delay and hundreds of thousands of dollars to highway
1111 projects.

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1112 States are saying that this new, quote/unquote, "AERMOD
1113 Model" is more complex and less accurate than current models.
1114 Apparently, the Federal Highway Administration's concerns may
1115 have fallen on deaf ears with EPA.

1116 So, my question is, did EPA know of FHA's concerns? If so,
1117 were they ignored, and why are they ignored, if so, as well?

1118 Ms. McCarthy. I am sorry, I am afraid that I am going to
1119 have to get back to you on that. I am not familiar with any recent
1120 changes to the AERMOD Model. But, certainly, our goal in any
1121 model change is to get more accurate as well as more simple in
1122 terms of how you can ensure compliance and work can continue.

1123 Mr. Olson. I like accurate and simple. That sounds good,
1124 yes, ma'am. Let's work together to make this stuff work. Work
1125 with me to get some information and make sure there is no problem
1126 here.

1127 Ms. McCarthy. That would be great.

1128 Mr. Olson. Great. Thank you.

1129 Question No. 2 is, last week I introduced a bipartisan new
1130 bill on the National Ambient Air Quality Standards, H.R. 4775.
1131 It has almost a dozen revisions that would make the implementation
1132 of the ozone standards and other NAAQS practical and
1133 cost-effective. I don't know if you have had a chance to look
1134 at that bill yet. Have you seen that yet, ma'am? Or it is

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1135 probably too quick?

1136 Ms. McCarthy. I have not studied it, sir, no.

1137 Mr. Olson. Can I get you to promise to work with me to get
1138 that bill at least discussed, where we can come to work together
1139 to get some commonsense, if that is the right term for it, but
1140 something that guys could achieve out there? Because I am
1141 concerned about right now many counties are in non-containment
1142 with the current standards. And going lower, let them get full
1143 attainment, and then, let them go lower. So, let's work on that
1144 together. Can we do that, please?

1145 Ms. McCarthy. Well, sir, I will be happy to continue to talk
1146 to you on it. I do know, if this is on the -- is this ozone that
1147 we are talking about?

1148 Mr. Olson. It is ozone, yes, ma'am, mostly, yes.

1149 Ms. McCarthy. Yes. Okay.

1150 Mr. Olson. And Question No. 3, as states struggle to
1151 implement EPA's Ambient Air Quality Standards, they send SIPs,
1152 State Implementation Plans, to you, EPA. You approve these
1153 plans, so that states can go about their business of having cleaner
1154 air. Your budget documents indicate that at the end of 2015, FY
1155 2015, EPA had 557 backlogged SIPs.

1156 Ms. McCarthy. Yes.

1157 Mr. Olson. And while the Clean Power Plan is in limbo now

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1158 because of the courts, the Supreme Court, can you shift that money
1159 to get rid of this backlog of these SIPs? Can you take it from
1160 the Clean Power Plan and make it address these backlogs of SIPs?
1161 Is it money you need or what do you need to get this backlog fixed?

1162 Ms. McCarthy. Actually, the challenge for us -- and we do
1163 have a plan that we have worked on with the states that is racheting
1164 down the backlogs in the system.

1165 You mentioned the exceptional events.

1166 Mr. Olson. Yes.

1167 Ms. McCarthy. What we found was our failure to address
1168 exceptional events well and to make that a streamlined opportunity
1169 for states to talk about when they have an anomaly that they want
1170 credit for, we found that in California the minute we did an
1171 exceptional event policy for high-wind events, they could release
1172 200 State Implementation Plans.

1173 Mr. Olson. Yes, yes, yes.

1174 Ms. McCarthy. So, it is more than money. It is really
1175 looking at what the substantive issues are and making sure we are
1176 doing our job to speak to the policy itself, so that the regions
1177 are comfortable in going through the approval process and getting
1178 that done.

1179 Mr. Olson. Great. And one final invitation, olive branch
1180 per se. Mr. McNerney from California talked about carbon capture

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1181 sequestration.

1182 Ms. McCarthy. He is.

1183 Mr. Olson. You mentioned that EPA has some projects that
1184 are viable for enhanced oil recovery. That is right there in my
1185 district. It is called the Paris Power Plant, the Petra Nova
1186 Project.

1187 Ms. McCarthy. Yes.

1188 Mr. Olson. Come on down and see it. They have got four coal
1189 generators and four natural gas. They are capturing coal out of
1190 one generator, putting it in a pipeline. There is an oil field
1191 about 65 miles to the south. Getting that in there, pressure,
1192 more oil; it pays for itself. Come down and see it personally.

1193 Ms. McCarthy. Thank you, sir. I appreciate the
1194 invitation.

1195 Mr. Olson. You are welcome.

1196 Thank you.

1197 Mr. Whitfield. The gentleman yields back.

1198 At this time the Chair recognizes the gentleman from Texas,
1199 Mr. Green, for five minutes.

1200 Mr. Green. Thank you, Mr. Chairman.

1201 Administrator McCarthy, thank you for being here today. It
1202 is always a pleasure to have you before the committee. And I thank
1203 you for coming to Houston last month for the CERAWEEK, and I am

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1204 glad they treated you well there at that energy conference.

1205 Ms. McCarthy. They did. Thanks.

1206 Mr. Green. One of my questions -- and we talked about it
1207 when you were in Houston -- families in our district in eastern
1208 Harris County, they are very concerned about the Dioxin and the
1209 pollutants found in the San Jacinto River waste pits. Now the
1210 waste pits were declared a Superfund site eight years ago, and
1211 to date, no final decision has been made.

1212 Ms. McCarthy, when will EPA make a final decision on
1213 remediating the San Jacinto River waste pits?

1214 Ms. McCarthy. Sir, I will have to get back to you when the
1215 final decision is. I know that the concern is to make sure that
1216 we address the interim measures that we need to keep the
1217 opportunity to have that safe and go through the process to define
1218 the final remedy.

1219 Mr. Green. Okay. Local stakeholders in our district are
1220 concerned that EPA will decide to keep the Dioxin in the river
1221 underneath a temporary armored cap that was put in place a few
1222 years ago. Our communities fear that the armored cap would fail,
1223 as it did recently either during a major flood/hurricane or the
1224 damage by the barge which happened recently.

1225 CERCLA requires and prefers remedies that will permanently
1226 and significantly reduce the volume, toxicity, and movement of

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1227 the hazardous substances for the protection of human health and
1228 the environment. And I join the local stakeholders in calling
1229 that for removal.

1230 The concern I have, Ms. McCarthy, is leaving Dioxin in the
1231 flood plain in an aquatic environment is not an appropriate
1232 permanent solution. What would prevent the EPA from adopting the
1233 most preventative remedy possible for the Superfund site, like
1234 building a container wall and, then, removing that Dioxin
1235 facility?

1236 Ms. McCarthy. Generally, what we do, sir, is when we put
1237 out for comment a proposed remedy, when you look at a proposed
1238 plan, we will put a range of options out, and we look at that from
1239 how protective they are, how certain we are that they are going
1240 to remain protective, as well as look at the costs associated with
1241 that. So, I am sure you will see that we will put out a full range
1242 of options for folks to comment on, and I appreciate the fact that
1243 you have communicated with me strongly about the interests of your
1244 constituents here.

1245 Mr. Green. And I appreciate EPA having a hearing in
1246 Channelview, Texas --

1247 Ms. McCarthy. Yes.

1248 Mr. Green. -- six weeks ago or so, and I was glad to be
1249 there.

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1250 I also notice, is it true that EPA requested \$1.13 billion
1251 for Superfund for the next fiscal year, the lowest request in 14
1252 years? Is it \$1.13 billion, the budget request?

1253 Ms. McCarthy. I am not aware of how low it is compared to
1254 other years. I know that it is an increase over what we had
1255 requested last year of \$20 million.

1256 Mr. Green. And is it true that EPA completed work on only
1257 eight Superfund sites in fiscal year 2014, the lowest number of
1258 construction completions since 1997?

1259 Ms. McCarthy. I can get back to you on that as well, sir.

1260 Mr. Green. Okay. Given the low number of sites, which
1261 includes the San Jacinto River, I would hope our budget proposal
1262 would be much higher than what the EPA requested.

1263 Last month in your visit to Houston we discussed our quality
1264 and monitoring. We are challenged in Houston, and I want to work
1265 with you and improve our situation as rapidly as possible. Can
1266 you give me a quick overview of EPA's budget on air monitoring
1267 and improvement?

1268 Ms. McCarthy. Yes, sir. We have a robust monitoring
1269 network, but we are requesting an additional \$40 million for
1270 monitoring technology for the states. As you know, we have
1271 requested an increase in state and tribal categorical grants of
1272 about \$77 million.

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1273 So, we do think we have good monitors out there. We need
1274 more ability to be able to support state efforts. One other thing
1275 that I think is important to remember is that in your area I think
1276 that your community is working very hard, the communities in that
1277 area are. There are significant challenges in port areas.

1278 Mr. Green. Yes.

1279 Ms. McCarthy. And that really is something that our DERA
1280 Program has supported. We are looking for \$10 million again this
1281 year, but the President has also proposed a climate infrastructure
1282 fund that could really ramp up our ability to be able to support
1283 reductions in pollution in the port areas. That could have
1284 appreciable difference in the quality of air in Houston.

1285 Mr. Green. Well, thank you. Having the Port of Houston,
1286 an industrial port, it is important, particularly with our
1287 industries on the side.

1288 Ms. McCarthy. And they do a good job. I have actually been
1289 there to give them some awards before. They are doing a great
1290 job.

1291 Mr. Green. Well, we are trying. In fact, I know we have
1292 one refinery who has problems, and I suggested to EPA that that
1293 refinery ought to be able to monitor their own fenceline.
1294 Because, again, in our area we have literally
1295 fenceline-to-fenceline of industry, and we want to know who the

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1296 bad actors are or the ones who need help. That fenceline
1297 monitoring by the industry would be helpful.

1298 Ms. McCarthy. And the technology is there. In fact, our
1299 most recent changes to the refinery rule are going to start
1300 requiring that. So, we are interested in the same thing, sir.

1301 Mr. Green. Mr. Chairman, I thank you for your patience.

1302 I would like to submit a question on methane emissions to
1303 the Administrator, and appreciate you responding.

1304 Mr. Whitfield. Without objection.

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1305 At this time the Chair recognizes the gentleman from Ohio,
1306 Mr. Latta, for five minutes.

1307 Mr. Latta. Thank you, Mr. Chairman.

1308 And, Administrator, thanks so much for being with us today.

1309 Last October the EPA revised its 2008 Ozone Standards. Is
1310 that correct?

1311 Ms. McCarthy. Yes. Yes, sir.

1312 Mr. Latta. How many counties does EPA expect will be
1313 designated to be in non-attainment with the 2015 standards?

1314 Ms. McCarthy. Actually, to the best of my recollection --
1315 and I can get back to you on that -- it is going to amount to,
1316 we estimated about a dozen areas potentially, in addition to some
1317 areas in the State of California which face particularly unusual
1318 challenges because of the geology.

1319 Mr. Latta. But do you know how many counties, just not the
1320 states?

1321 Ms. McCarthy. That is how many areas that we are looking
1322 at.

1323 Mr. Latta. Because looking with the Congressional Research
1324 Service, based on their most recent data, they are looking at
1325 probably 241 counties in 33 states. Does that sound correct?

1326 Ms. McCarthy. I think that may be an overestimate on the
1327 basis of what we believe our current on-the-books rules will do

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1328 in terms of reducing NOx and VOC emissions.

1329 We have taken a lot of steps, as you know, to reduce air
1330 pollution, and we think they will have an appreciable difference
1331 in terms of the years. We are not looking at what is out of
1332 attainment now because attainment isn't until 2017. So, we are
1333 looking at data from 2014, 2015, and 2016 to make a judgment on
1334 what is in non-attainment. We don't think that is going to amount
1335 to a significant amount of designated areas.

1336 Mr. Latta. Okay. But, just out of curiosity, then, why did
1337 CRS come up with 241? Weren't they looking at the data?

1338 Ms. McCarthy. I would be happy to go back and take a look
1339 at that and, also, to verify the number of areas we are talking
1340 about. I apologize, but --

1341 Mr. Latta. Yes, if you can do that, I would appreciate if
1342 you would get back to the committee on that.

1343 Ms. McCarthy. I am happy to do that.

1344 Mr. Latta. Okay. Then, also, going right along with that,
1345 because, again, in my district I have 60,000 manufacturing jobs
1346 in northwest plus central Ohio. Has the EPA done any analysis
1347 of the impacts of either the 2008 or the 2015 standards on
1348 manufacturing in areas designated as being in non-attainment?

1349 Ms. McCarthy. We certainly have done an impact assessment.
1350 Our understanding of this is that we are focused more on what the

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1351 impacts are and what it means for individual states and in
1352 counties. I don't recall a specific impact on industries in those
1353 areas. I know there will be challenges, but I don't think we have
1354 understood them to be appreciable.

1355 Mr. Latta. Let me ask this, could you define, when you say
1356 you have done impact assessment, how would you define that impact
1357 assessment, especially if you say you haven't really been looking
1358 on the manufacturing side? But, again, there is just massive
1359 thrust in Ohio. Also, when we look at what happened in the last
1360 several years, we are at least about 74-75 percent coal-fired
1361 power plants in Ohio, and it is down in the 70 percent now. But
1362 how would you define, then, the term "impact assessment"?

1363 Ms. McCarthy. I am sorry, can we reclarify again, sir, what
1364 you are talking about?

1365 Mr. Latta. Well, right. You said that you had been working
1366 on some impact assessments.

1367 Ms. McCarthy. Which rule are we talking about, sir?

1368 Mr. Latta. Pardon me?

1369 Ms. McCarthy. Which rule?

1370 Mr. Latta. Okay. This would be the 2008 and, also, 2015,
1371 when we look at the non-attainment.

1372 Ms. McCarthy. Okay. Right.

1373 Mr. Latta. Right.

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1374 Ms. McCarthy. Well, you know, we have done some analysis,
1375 sir, to look at the impact of designation on industries and whether
1376 or not they can continue. I think you know that it does put a
1377 burden when you are in non-attainment in order to not make the
1378 unhealthy air more unhealthy as industries grow. So, there are
1379 opportunities to look at offsets that can continue to expand
1380 industries. We just have not identified that those are
1381 insurmountable in any area. They are more challenging in
1382 California than anywhere else. But, usually, when you are
1383 looking in other states, you find opportunities for offsets at
1384 reasonable cost that can allow even new industries to locate in
1385 non-attainment areas.

1386 Mr. Latta. Okay. Just to follow up on that again, because
1387 I am not sure I caught what you just said a little bit earlier,
1388 you said whether they can continue. Are you talking about the
1389 manufacturing or the power, or both?

1390 Ms. McCarthy. I was talking about manufacturing. At the
1391 levels they are manufacturing and even with new facilities coming
1392 in, you need to account for the emissions that you may add into
1393 the area, but you can do that using offsets, which means you can
1394 look at your permitting process and identify the least-expensive
1395 way to get NOx reductions and utilize that for new facilities
1396 coming in, which is what I understood to be the major issue.

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1397 Mr. Latta. Okay. Mr. Chairman, if I could ask, also, if
1398 maybe we could follow up on that question and, then, also, maybe
1399 the earlier question to the Administrator and get back to the
1400 committee?

1401 Mr. Whitfield. Absolutely. Without objection, so
1402 ordered.

1403 At this time the Chair would recognize the gentleman from
1404 Iowa, Mr. Loesback, for five minutes.

1405 Mr. Loesback. Thank you, Mr. Chair.

1406 Good to see you, Madam Administrator, as always.

1407 Ms. McCarthy. You, too.

1408 Mr. Loesback. I appreciate the work you are doing.

1409 A couple of questions. The first one, as you know, the
1410 Department of Energy states, using ethanol as a vehicle fuel has
1411 measurable CHG emissions benefits compared with using gasoline.
1412 Carbon dioxide released when ethanol is used in vehicles is, in
1413 fact, offset by the CO2 captured when crops used to make ethanol
1414 are grown.

1415 Now, given the role of renewable fuels, given the role that
1416 renewable fuels play in cutting down greenhouse gases, shouldn't
1417 the recent RFS Renewable Volume Obligations, RVOs, be increased
1418 to achieve this goal?

1419 Ms. McCarthy. We certainly are looking to be as aggressive

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1420 as we can, knowing that the U.S. is a leader in biofuels.

1421 Mr. Loesback. Right.

1422 Ms. McCarthy. In looking at the aggressive nature of the
1423 renewable fuels standard, we are looking for every opportunity
1424 to both make it aggressive, but also recognize that it has to be
1425 achievable at the same time.

1426 Mr. Loesback. Right. Because you are working on 2017, I
1427 assume, is that correct?

1428 Ms. McCarthy. Yes, that is correct.

1429 Mr. Loesback. Yes.

1430 Ms. McCarthy. Yes.

1431 Mr. Loesback. And you will be hearing from a lot of us, no
1432 doubt --

1433 Ms. McCarthy. Yes.

1434 Mr. Loesback. -- as you did in the past when it came to
1435 the past renewable fuel standard. I know it is controversial.
1436 Not everybody is onboard with it on either side of the aisle, for
1437 that matter, as well.

1438 Ms. McCarthy. But, sir, you have spoken to me from Congress.
1439 I am implementing the law as it is, and that is what I do.

1440 Mr. Loesback. Yes, and I look forward to continuing to have
1441 that conversation. In fact, I have some corn growers here in the
1442 audience. I just happened to meet with them prior to this

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1443 meeting. And so, that is something that is clearly important to
1444 them and to the whole State of Iowa, for that matter, but not just
1445 Iowa, many other places around this country as well.

1446 The second one has to do with WOTUS.

1447 Ms. McCarthy. Yes.

1448 Mr. Loesback. I am sure all my colleagues are in agreement
1449 that providing clean water is critical for all of us. Folks in
1450 the agricultural community recognize as well that we have got to
1451 have clean water.

1452 One program, in particular, of course, the Waters of the
1453 U.S., has had a bit of an uphill battle over the years, as we have
1454 seen. It is in the courts as we speak. But I think everybody
1455 can agree that we have to have clarity on the rules before anything
1456 else. That is the one thing I hear from folks in the agricultural
1457 community in Iowa more than anything else.

1458 I have been taken out to ditches, and folks there are
1459 frightened, to be quite honest, that without necessary clarity,
1460 that all kinds of lawsuits and all kinds of actions could be taken
1461 against them. And I have to say I understand their concerns. I
1462 want to have clean water. I want to make sure we do the right
1463 thing, but so do those folks in rural areas.

1464 But we have got to have the clarity when it comes to things
1465 like not just streams and rivers, but ditches and ponds, and what

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1466 have you. There is real concern in farm country that there still
1467 isn't that kind of clarity with respect to WOTUS. Can you speak
1468 to that?

1469 Ms. McCarthy. Well, I think that we tried to actually
1470 provide greater clarity. That is what the Clean Water Rule was
1471 intended to do. I actually think we accomplished that in many
1472 ways, and we need to have a really good conversation about that,
1473 knowing that it is in the courts at this point.

1474 But let me give you an example on ditches. Believe me, I
1475 never created the word "ditch". It is in the statute, which is
1476 why we had to deal with it. But we made it really clear that
1477 ditches exclude intermittent and ephemeral ditches. It is only
1478 when a ditch has been constructed in an existing stream or wetland
1479 that it becomes significant enough to warrant protection.

1480 Mr. Loesback. Can you tell me what "intermittent" means?
1481 Sorry to interrupt. What does "intermittent" mean?

1482 Ms. McCarthy. Basically, you are talking seasonal or just
1483 when it rains. I mean, that is what we are talking about.

1484 So, we have tried to make it clear that these intermittent,
1485 these only have water in them every once in a while, do not
1486 constitute a jurisdictional water.

1487 Mr. Loesback. Well, you know, I have heard the stories like,
1488 what if there is 7 inches of rain and it is not intermittent?

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1489 Ms. McCarthy. Yes.

1490 Mr. Loesback. But that creates an environmental problem as
1491 such. And a DNR person comes out and checks it out, and all of
1492 a sudden the farmer is in trouble because it happened to rain 7
1493 inches that night.

1494 Ms. McCarthy. Well, that is why what we did here is make
1495 it much clearer than the existing rule actually does. We made
1496 it clear that that does not constitute a jurisdictional water.
1497 Only if it was a stream to begin within and you have channeled
1498 it. So, we tried to get clearer.

1499 We have also gotten clearer on erosional features, to make
1500 the case that, if it rains hard, it looks like there are streams
1501 everywhere.

1502 Mr. Loesback. Right.

1503 Ms. McCarthy. Those don't count.

1504 Mr. Loesback. Right.

1505 Ms. McCarthy. It only has to be something that is
1506 constructed or natural that really can impact the downstream water
1507 --

1508 Mr. Loesback. Well, my time is almost up.

1509 Ms. McCarthy. Otherwise, there is no connection.

1510 Mr. Loesback. And I do appreciate this conversation. I
1511 hope we continue to have this conversation. I know you came to

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1512 the Iowa State Fair a few years ago.

1513 Ms. McCarthy. I did.

1514 Mr. Loesback. I will personally invite you out there if you
1515 are willing to come.

1516 Ms. McCarthy. Well, thank you.

1517 Mr. Loesback. And I can guarantee you we can get some folks
1518 in the agricultural community together and have a conversation.

1519 Ms. McCarthy. I will take every opportunity I can. Thank
1520 you very much.

1521 Mr. Loesback. Thank you.

1522 And thank you, Mr. Chair, for letting me go over. Thank you.
1523 I yield back.

1524 Mr. Whitfield. The gentleman yields back.

1525 At this time the Chair recognizes the gentleman from West
1526 Virginia, Mr. McKinley, for five minutes.

1527 Mr. McKinley. Thank you, Mr. Chairman.

1528 And thank you again, Ms. McCarthy, for coming.

1529 I am curious, you have given us kind of a smorgasbord of
1530 things to go after here a little bit this morning. If I could
1531 just touch base on one, I want to get it clarified. You said that
1532 there was more than one facility using carbon capture. You didn't
1533 mean coal-fired power plants, did you? Because there is only one
1534 coal-fired power plant using carbon capture, is that not correct,

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1535 in America?

1536 Ms. McCarthy. I would have to go back and check, sir. I
1537 haven't looked recently.

1538 Mr. McKinley. That is what you said to me two years ago and
1539 last year. So, I hope you do get back to us on that. But Kemper
1540 is the only one. You know that. It is the only one.

1541 Ms. McCarthy. I do know. I know Kemper, yes.

1542 Mr. McKinley. So, my other question, have you ever visited
1543 the West Virginia coal fields or been in a West Virginia
1544 coal-powered plant?

1545 Ms. McCarthy. Not that I am aware of, sir.

1546 Mr. McKinley. Have you ever been to one in Kentucky or
1547 Wyoming?

1548 Ms. McCarthy. No, sir.

1549 Mr. McKinley. That is what I was afraid of. So, I am just
1550 curious, you are part of this bureaucracy that is passing all of
1551 these legislative fiats and regulations, but never really
1552 touching base with the people that you are affecting their lives.

1553 When he was here the other day, the Secretary said he wants
1554 to come to West Virginia and he wants to see because he had heard
1555 about the Longview Power Plant. Do you know anything about the
1556 Longview Power Plant?

1557 Ms. McCarthy. No, sir, I don't.

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1558 Mr. McKinley. That is one of the most efficient, if not the
1559 most efficient, power plant in America, and it doesn't use carbon
1560 capture.

1561 So, I would extend the invitation to you again and again.
1562 I have done that. And whatever your schedule is, it has never
1563 permitted you to come West Virginia. So, I think we had better
1564 take this seriously, the impact we are having on people's lives.

1565 In the last couple of weeks, some of the candidates have been
1566 saying that we need to move away from coal and other fossil fuels
1567 in their campaigns. One of them said we are going to put a lot
1568 of coal miners out of work. Do you agree with that? Is that good
1569 for the economy, to put our coal miners out of work?

1570 Ms. McCarthy. Well, it is certainly not good for anybody
1571 to be out of work in an economy.

1572 Mr. McKinley. So, you would disagree? You would disagree
1573 with that premise that someone said we ought to put them out of
1574 work?

1575 Ms. McCarthy. Personally, I do not agree that anyone in the
1576 United States of America should go without a job who wants to work.

1577 Mr. McKinley. Thank you. Okay.

1578 So, if I could go back to part of your testimony, also, you
1579 talked about a stable climate.

1580 Ms. McCarthy. Yes.

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1581 Mr. McKinley. And you want to maintain a stable climate,
1582 but, unfortunately, the rest of the world doesn't seem to be
1583 following in those footsteps in that stable climate. We have got
1584 a chart someplace they are going to put up here in a minute that
1585 shows -- my clock is ticking.

1586 Ms. McCarthy. Technology is always tricky.

1587 Mr. McKinley. Yes, it is always. Well, thank you.
1588 Unfortunately, Mr. Chairman, I was told that chart would be up.

1589 It shows that China is going to increase its production or
1590 use of coal by 460 gigawatts of power and India another 360
1591 gigawatts of power. I don't know what it is going to take. The
1592 world is not following our leadership.

1593 So, I am curious, two or three years ago, I raised the same
1594 question to you. You were going to get back to me and I never
1595 heard back from you again. That was that, according to the IPCC
1596 with the United Nations, it said that, if we terminated all
1597 coal-fired power plants in America, so that we didn't burn one
1598 ton of coal in America, the total reduction to CO2 on the globe
1599 would only be two-tenths of 1 percent. Do you think that is a
1600 measurable impact on the climate of the world, especially given
1601 that the other nations aren't going to follow? So, if we
1602 terminate two-tenths, but, yet, the other nations of China and
1603 India are going to way more than make up for that loss, that it

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1604 is worth it to our economy to put all our people and our coal
1605 companies out of work for something that is not measurable?

1606 Ms. McCarthy. Sir, I am not looking at making any choices
1607 on the kinds of energy that are generated. I am really trying
1608 to keep my eye on my job, which is to try to reduce pollution in
1609 ways that are reasonable.

1610 Mr. McKinley. But you are taking -- someplace along the
1611 line, it was not yours, but others. The Interior just put 33
1612 percent of our coal reserves in the western coal on federal land,
1613 they put it on the shelf and said we don't have access to it to
1614 generate power. Forty percent of America's power comes from coal
1615 from federal lands, and 33 percent of our reserve comes from
1616 federal lands. And they just put 33 percent on the shelf. We
1617 can't access it.

1618 So, it may not be your Department, but you are part of that
1619 administration that has this war on coal that is saying we are
1620 not going to use coal. And even your successors are talking the
1621 same language. I don't understand. If it doesn't have an impact
1622 on climate change around the world, why are we subjecting our
1623 hardworking taxpayers and men and women in the coal fields to
1624 something that has no benefit?

1625 Ms. McCarthy. I think, sir, we see it as having had enormous
1626 benefit in showing sort of domestic leadership as well as

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1627 garnering support around the country for the agreement we reached
1628 in Paris.

1629 Mr. McKinley. But even though no one is following this?
1630 China has doubled. Since that Paris accord, China has already
1631 announced that they are going to put up 360. India has announced
1632 that they are going to double their use of coal since the Paris
1633 accord.

1634 I am afraid my time is over.

1635 Mr. Whitfield. The gentleman's time has expired.

1636 We will ask the staff to get that chart and we will include
1637 it in the record.

1638 [The information follows:]

1639

1640 ***** COMMITTEE INSERT 2 *****

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1641 Mr. Whitfield. At this time I recognize the gentleman from
1642 Oregon, Mr. Schrader, for five minutes.

1643 Mr. Schrader. Thank you very much, Mr. Chairman. I
1644 appreciate it.

1645 And I appreciate the Secretary for being here. It is always
1646 a good time, very interesting comments so far. I learn a lot at
1647 these types of hearings about my friends and colleagues around
1648 the country.

1649 We have a big issue out in Oregon, and I think we saw it
1650 nationally, with our forest burning up during this last summer,
1651 unprecedented wildfires, unprecedented carbon pollution into the
1652 atmosphere, exactly the opposite I think of what we are trying
1653 to do with all these programs at EPA.

1654 Ms. McCarthy. Yes.

1655 Mr. Schrader. In that regard, we are trying to use and work
1656 our forests in a much more sustainable manner. There is an
1657 opportunity for more active timber management, I think, that would
1658 take that carbon fuel, if you will, out of the forests and make
1659 it healthier. The devil is always in the details, just to say.

1660 One thing I would ask you to look at in your Department, and
1661 in trying to encourage use of a carbon-neutral life-cycle resource
1662 like wood and like our forests, is look at some of the standards
1663 that you have. In September the agency put out some standards

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1664 regarding government procurement --

1665 Ms. McCarthy. Yes, we did.

1666 Mr. Schrader. -- you know, dealing with different
1667 third-party verification processes. I am very concerned that it,
1668 inadvertently I hope, discriminates against a large part of our
1669 land mass, particularly in the West, where there is alternate ways
1670 to look at certification of these forests for sustainable
1671 practices or FSC. Out where we are, it is a lot of SFI. I won't
1672 bore the committee with all the acronym evaluations here, but you
1673 understand where I am going with that.

1674 Ms. McCarthy. Yes.

1675 Mr. Schrader. I would urge you to take a look at that. My
1676 evaluation on your website is that they all meet the criteria you
1677 have put out there. I have gone through an appendix from your
1678 agency that talks about the different pieces or evaluations that
1679 each goes through. It looks almost exactly the same when it comes
1680 to species, monitoring, control, and response to disease and
1681 disturbances, these sorts of things, reforestation. There is a
1682 difference maybe in the acreage size. That is the only thing I
1683 can see there.

1684 Frankly, rural Oregon is not doing well. Rural America
1685 isn't doing well. They have not recovered from the Great
1686 Recession. I see that Portland is doing great. But I am

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1687 interested in how the rest of the country is doing.

1688 What has happened, because of these artificial standards
1689 that I think are misapplied and could stand some revision -- these
1690 forests could be put back to sustainable use. Decrease our carbon
1691 footprint and, hopefully, employ lots of people in this country,
1692 folks in my state.

1693 I will give you a quick example. In Oregon there is over
1694 4.3 million acres that are certified by the three big programs
1695 that are out there. EPA's current recommendation, current
1696 interim rule, would exclude over 4.1 million of those 4.3 million
1697 acres. That just doesn't seem right, Madam Secretary.

1698 We all want to be in the same place, I think, on this. I
1699 think you would get broader support for some of the rules and some
1700 of the work you are trying to do at EPA if you opened up a little
1701 bit to some of these other certification programs that are just
1702 as valid, very well certified by third-party people. If you could
1703 do that, I would really appreciate it. But maybe get back to
1704 myself and maybe members of the committee on how you are going
1705 to be looking at that.

1706 Ms. McCarthy. Well, sir, I really appreciate your comments.
1707 We did hear that we were too narrow in the interim. You know,
1708 we went with the standard that the Department of Energy was using,
1709 which is why it seemed like a reasonable first step.

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1710 Mr. Schrader. Sure.

1711 Ms. McCarthy. But in no way was it the only step that we
1712 are taking. So, we are taking a look already at all the other
1713 standard-setting opportunities that we have to see if they are
1714 comparable, equally aggressive, how we would take account of
1715 those. And we recognize that there is work to be done, and we
1716 are starting that work now.

1717 Mr. Schrader. All right. Well, very good, because there
1718 is a lot of lives, jobs, and community sustainability at stake
1719 here -- Ms. McCarthy. I agree.

1720 Mr. Schrader. -- as well as our forests.

1721 Ms. McCarthy. Thank you.

1722 Mr. Schrader. Thank you.

1723 With that, I will yield back, Mr. Chairman.

1724 Mr. Whitfield. The gentleman yields back.

1725 At this time the Chair recognizes the gentleman from
1726 Virginia, Mr. Griffith, for five minutes.

1727 Mr. Griffith. Thank you, Mr. Chairman. I appreciate it.

1728 Mr. McKinley was talking earlier and raised concerns about
1729 the fact that coal on U.S. federal lands are off-limits. Many,
1730 many jobs have been lost. You acknowledge that it is always bad
1731 for folks to be unemployed. Large numbers of people in Mr.
1732 McKinley's district and in my district are now unemployed as a

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1733 result of policies of this administration, including your agency
1734 itself.

1735 And you indicated -- and correct me if I got it wrong -- you
1736 indicated that you were just doing your job, trying to set
1737 examples. But I would submit that, because of the concerns that
1738 Mr. McKinley raised with China increasing, even after the Paris
1739 accord was reached by the President, and India, according to Mr.
1740 McKinley, is going to be doubling their use of coal. Of course,
1741 they want to be energy-independent, as many nations want to, and
1742 they have some coal.

1743 I am just concerned that we are actually doing more harm to
1744 the world's environment, particularly in relationship to the air,
1745 because when we take our previously-reasonable regulations and
1746 we ratchet it up and we throw folks out of work, we raise the cost
1747 of energy in our country and we put our manufacturers at a
1748 disadvantage. And then, they decide that it is easier in some
1749 cases, in some not, but in some cases they decide it is easier
1750 to go places where they don't have those regulations, whether it
1751 be Mexico or China or India, or some other nation, but where they
1752 don't have the regulations that we have. So, we are actually
1753 creating a net increase in air pollution.

1754 I am just wondering, have you all not looked at that? Now
1755 I understand your job is just the United States. But when you

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1756 are putting my folks out of work and Mr. McKinley's folks out of
1757 work, and I think that there is a good likelihood that there is
1758 a net increase, I am just wondering, have you all looked at the
1759 possibility that you may be inadvertently creating -- and we can
1760 disagree about what is and isn't a pollutant -- but are you
1761 inadvertently creating a net increase in the Northern Hemisphere
1762 for the air that we all breathe, whether it is in China or India
1763 or in Salem, Virginia?

1764 Ms. McCarthy. Well, if you are looking at greenhouse gases,
1765 sir, it doesn't matter where it is emitted. I think it matters
1766 to all of us.

1767 I will say that we have been working with a lot of businesses,
1768 a lot of international businesses, that are actually expressing
1769 serious concern that we do take notice of climate change and take
1770 action on it.

1771 But I will also say that the administration, I think, is very
1772 cognizant that the coal communities, the communities that rely
1773 on coal are facing significant challenges. We are interested in
1774 really moving forward with the President's POWER Plus proposal
1775 to see how we can build an economy that will be more sustainable
1776 and lasting.

1777 Mr. Griffith. Look, I don't disagree with that. That is
1778 an area where I think we have got to put some resources there --

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1779 Ms. McCarthy. Yes.

1780 Mr. Griffith. -- to try to help these communities. But
1781 that being said, what do you do in a community where we had a
1782 dispute over a piece of land because in Dickenson County in my
1783 district there were two pieces of flat land in the entire county
1784 that could be built on, and they needed a new high school. So,
1785 they had to use eminent domain to take one of the two pieces.

1786 How are we going to reinvent the economy? They have
1787 mountains, they have water, and they have trees.

1788 Ms. McCarthy. Yes.

1789 Mr. Griffith. We don't have flat land. In Buchanan County,
1790 the largest chunk of our flat land is formerly a surface mine that
1791 leveled things out, but folks think that is bad. So, it really
1792 puts us in a dilemma.

1793 And then, I have another dilemma that I think I have to bring
1794 up. That is many of my constituents don't understand an EPA that
1795 has eight buildings in the Washington, D.C., area. It has got
1796 12 different zip codes. It has got so many employees floating
1797 around up here. And they say to me, "Why don't you defund the
1798 EPA completely?" And I have always defended by saying, "Well,
1799 let's look at our clean water programs. There are other things
1800 that the EPA does that I think are good."

1801 And then, we have the Flint, Michigan problem.

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1802 Ms. McCarthy. Yes.

1803 Mr. Griffith. I don't know how I am going to tell those folks
1804 now where we have got these programs like clean water, when,
1805 clearly -- and I know that there was some dispute in another
1806 committee earlier this week -- but, clearly, the EPA dropped the
1807 ball.

1808 It looks like to me -- I was in on one of those hearings in
1809 O&I, in our Government Reform Committee -- it looks clearly to
1810 me like one of your employees was doing a coverup, told Ms. Walters
1811 of Flint, Michigan that they had handled Del Toral. The employee
1812 of the EPA who it appears was punished for blowing the whistle
1813 on the lead out there, I think that is a problem.

1814 Then, a former employee now, Ms. Hedman, comes in and says
1815 that she didn't think she did anything wrong. My constituent,
1816 Mark Edwards, a Virginia Tech professor -- and, look, I don't know
1817 his politics, but Blacksburg is not a conservative area. It is
1818 one of the most liberal areas of Virginia and one of the most
1819 liberal areas in my district. But he says, if you are part of
1820 a government agency, it means you don't have to say you are sorry,
1821 and said that she was "willfully blind, unremorseful, and
1822 completely unrepentant, and unable to learn from her mistakes".

1823 How do I defend an EPA that that is the condemnation coming
1824 out of my district from the professor, Dr. Edwards? That is the

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1825 thing I have always pointed to as being one of the good things.

1826 My time is up. I don't know if the chairman will allow you
1827 to answer that or not. I apologize, Mr. Chairman. I yield back.

1828 Mr. Whitfield. Did you want to respond or not?

1829 Ms. McCarthy. I am sure it is not an easy answer, sir. But,
1830 you know, I have asked the office of our Inspector General to take
1831 a look at this.

1832 I think the distinction I was trying to make is Flint is,
1833 no doubt, a tragedy. I know how it came about. Why I don't know,
1834 but I know how it came about.

1835 The question for EPA is, did we respond quickly enough when
1836 we found out that there was a problem? Did everybody raise it
1837 as quickly as they could, so that we could address it? That is
1838 a significant issue of accountability that we need to face, and
1839 we will face that.

1840 The individual in the region did resign, knowing it was on
1841 her watch. But we will see what the Office of the Inspector
1842 General says.

1843 Mr. Griffith. I don't think it is just the Inspector
1844 General, Madam. I believe it is also you. You are the boss.

1845 Ms. McCarthy. Yes, yes.

1846 Mr. Whitfield. The gentleman's time has expired.

1847 At this time the Chair recognizes the gentlelady from

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1848 California, Ms. Capps, for five minutes.

1849 Mrs. Capps. Thank you, Mr. Chairman, Ranking Members.

1850 Thank you for holding this hearing.

1851 Thank you, Administrator McCarthy, for being here today.

1852 Clean drinking water, wastewater treatment, stormwater
1853 management systems, these are critical to our nation's basic
1854 functioning. Accessible water for agriculture is paramount to
1855 our economy and food security.

1856 But, unfortunately, and as has been discussed, our nation's
1857 water infrastructure is aging and deteriorating, and the impacts
1858 of this deterioration are significant and they are costly.

1859 We also know that climate change is directly threatening our
1860 ability to guarantee the delivery of safe and reliable drinking
1861 water, and at the same time it exacerbates the inadequacies of
1862 our nation's water infrastructure. So, it is kind of a perfect
1863 storm.

1864 One effect of climate change that has been particularly
1865 devastating to my home State of California is drought, a word we
1866 hadn't talked about it for a little while, but it is always there.
1867 While parts of California have had a little rain recently as a
1868 result of some kind of ongoing El Nino, this relief has not been
1869 equally felt across the State and we are by no means out of the
1870 woods.

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1871 For example, in my district is a lake called Lake Cachuma.
1872 It is the source of our drinking water for over 220,000 residents
1873 in and around Santa Barbara. This vitally-important reservoir
1874 has less than 15 percent of the water it can hold. Given the
1875 impacts of climate change, drought will, unfortunately, continue
1876 to be a pervasive issue, not only in California, but in other
1877 states as well.

1878 We have to act now to minimize the impacts of the changes
1879 and ensure that we are prepared. We have to do everything at once,
1880 juggle a lot of balls for the challenges that are ahead.

1881 I know EPA is working to address these issues. And just
1882 yesterday the President announced the establishment of the
1883 National Drought Resilience Partnership, NDRP -- they always get
1884 an acronym right away -- as part of his Climate Action Plan. NDRP
1885 will help to coordinate drought-related efforts, which is good,
1886 communities to mitigate the effects of the drought and build
1887 resilience. Those are the keywords, mitigation and resilience
1888 against future droughts. Everything has to be done at the same
1889 time. The NDRP will help coordinate it, do all of this, and I
1890 applaud the President for these efforts, as it clearly needs to
1891 be a priority for us all.

1892 I have a few questions for you, if we can kind of zip through
1893 them. I wanted you to just briefly describe EPA's role in the

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1894 NDRP.

1895 Ms. McCarthy. Well, EPA is part of the project.

1896 Mrs. Capps. Yes.

1897 Ms. McCarthy. EPA brings to it a level of expertise in how
1898 communities can work through these issues. We provide tools.

1899 Mrs. Capps. So, you are at the table?

1900 Ms. McCarthy. Oh, absolutely, yes.

1901 Mrs. Capps. Okay. So, are there some existing programs
1902 that you have already that will help to implement this initiative?

1903 Ms. McCarthy. Yes. We have been leading really a federal
1904 effort to look at resiliency issues and to develop tools that
1905 communities can use to understand opportunities for capturing
1906 water, keeping it local, and preserving it and conserving it.

1907 Mrs. Capps. And can I go home and talk about how the EPA's
1908 drought-related efforts will assist communities like ours right
1909 on the central coast --

1910 Ms. McCarthy. Yes, you can.

1911 Mrs. Capps. -- because they are waiting for some good news?

1912 Ms. McCarthy. Yes.

1913 Mrs. Capps. Okay. They look to the sky and the rain doesn't
1914 come enough. And now, they are going to look to you,
1915 Administrator McCarthy.

1916 As part of the NDRP, what kind of outreach and education

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1917 strategies will be utilized? A lot of this is in how we present
1918 ourselves in the community. You know, are we here to work with
1919 existing partnerships? And there are many of them on the ground.

1920 Ms. McCarthy. Well, we certainly, as part of our proposal,
1921 are looking for some more additional money to look at making sure
1922 we have basically what we call circuit riders, which is
1923 individuals with expertise in this area, so that they can be
1924 available full time to go work with communities on this issue.

1925 Mrs. Capps. Can you describe that? There is another minute
1926 left on my time. It goes fast.

1927 Ms. McCarthy. Yes.

1928 Mrs. Capps. I would like to hear more about these circuit
1929 riders? That is kind of a western term.

1930 Ms. McCarthy. Well, circuit riders mean that you can't
1931 build expertise everywhere and afford to get everybody up to a
1932 certain level. So, you, basically, have people in each region
1933 whose job it will be to work with communities, identify
1934 opportunities for tools that are available to us. We actually
1935 have a whole local community package on our web page of tools that
1936 they can look at and make available to themselves. Hopefully,
1937 it will help them jumpstart. Then, we share best practices. We
1938 look at what communities like yours that we could marry with and
1939 make progress moving forward.

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1940 Mrs. Capps. Thank you.

1941 I am going to suggest what you are saying. Hopefully, there
1942 is a way I can do that with some of my district folks.

1943 What has happened now with this word drought that is looming
1944 large of us is that this suddenly has everybody's attention. We
1945 have got all these constituencies all needing water. And so,
1946 reclaiming, recycling, we are building a desal plant, we have to
1947 look to you as a partner at the table.

1948 Ms. McCarthy. One of the issues we need to look at is how
1949 that is connected with infrastructure and investments like
1950 drinking water, stormwater. You need to keep water local.
1951 Drinking water systems like the one in Flint loses 30 to 40 percent
1952 of its water in leaks alone. We simply can't afford that.

1953 Mrs. Capps. No, we can't afford that. We need that water
1954 that is leaking in Flint in my district.

1955 Ms. McCarthy. Yes.

1956 Mrs. Capps. Thank you.

1957 Mr. Whitfield. The gentlelady's time has expired.

1958 At this time the Chair recognizes the gentleman from Ohio,
1959 Mr. Johnson, for five minutes.

1960 Mr. Johnson. Thank you, Mr. Chairman.

1961 And, Administrator McCarthy, thanks for being with us today.

1962 Ms. McCarthy. Thank you for having me.

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1963 Mr. Johnson. As you know, America's brick industry, brick
1964 and tile industry is struggling in our current economy. It is
1965 made up largely of small family-owned businesses that have been
1966 in business for generations and for the most part or in many cases
1967 are the only source of employment in the communities in which they
1968 reside, where they provide jobs and a tax base for their
1969 communities.

1970 The House recently passed bipartisan legislation that would
1971 impose a legislative stay of the Brick MACT Rule, pending judicial
1972 review. Administrator McCarthy, is the EPA willing to provide
1973 an administrative stay to protect these small businesses,
1974 especially given what happened to this industry before the rule
1975 was vacated in 2007, after they had already come into full
1976 compliance with a previous rule in 2003?

1977 Ms. McCarthy. We actually think that, when we met with small
1978 businesses, we did, I think, a good job at listening to the
1979 flexibility they needed in the rule itself. We provided very
1980 flexible options for smaller businesses, so they could comply.
1981 We actually gave maximum time as well for compliance.

1982 So, we believe that the rule as written should continue to
1983 move through the courts. Hopefully, we will have that on the
1984 books because it yields significant reductions in toxic
1985 pollutants in a way that we think small businesses can manage --

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1986 Mr. Johnson. Yes, I am going to get to that aspect of it
1987 in a moment. But here's the problem: the industry doesn't see
1988 it the way that you just described it.

1989 Ms. McCarthy. Yes.

1990 Mr. Johnson. They spent hundreds of millions of dollars to
1991 comply with the 2003 rule, only to have it set aside by the courts
1992 in 2007. Then, when the EPA started formulating this new Brick
1993 MACT, they started with a baseline of where the 2007 rule that
1994 was set aside ended off --

1995 Ms. McCarthy. Yes.

1996 Mr. Johnson. -- giving the industry very little credit for
1997 the accomplishments of the reductions that they had achieved with
1998 the hundreds of millions of dollars that they had invested for
1999 control technology between 2003 and 2007.

2000 So, here they are again under stress. I mean, there are only
2001 about 7,000 jobs in America attributed to the brick industry. The
2002 industry is telling us that many of these small businesses will
2003 close down. And here is the real crux of the issue: we don't
2004 import brick in America. We have got a brick and tile industry
2005 that makes our construction materials. We don't import it from
2006 anybody else.

2007 Ms. McCarthy. No.

2008 Mr. Johnson. I mean, unless we want to start making

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2009 buildings and homes out of sticks and straw, we had better figure
2010 this out because these companies cannot continue to stand up under
2011 this duress. And we are not suggesting that we not move forward
2012 with the rule. We are just suggesting that we delay the rule,
2013 an administrative stay, work with your Department to do that,
2014 until the judicial reviews are completed. If the courts say,
2015 fine, go ahead, then we have something else to talk about. But
2016 that seems to be the prudent thing to do, rather than put this
2017 industry through another round of egregious compliance that the
2018 courts could come back and set aside, but, then, the damage will
2019 have been done again and we may lose a lot of our brick
2020 manufacturing capability.

2021 Ms. McCarthy. Well, sir, I think the administration has
2022 already submitted a SAP indicating that we really don't want to
2023 give up what amounts to 30 tons of reduction of toxic emissions.

2024 Mr. Johnson. So, they are willing to give up bricks and our
2025 ability to build buildings and homes for that?

2026 Ms. McCarthy. No, sir. We think that small businesses have
2027 been given enough flexibility in the rule as it has been designed.
2028 But I certainly understand your concern.

2029 Mr. Johnson. We disagree.

2030 Ms. McCarthy. If we have the Congress and the President move
2031 forward, we will certainly abide by it.

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2032 Mr. Johnson. Well, we disagree strongly.

2033 Your agency has recently proposed an update to the
2034 Cross-State Air Pollution Rule. Many states and stakeholders
2035 have raised concerns about the feasibility of implementing EPA's
2036 proposal, especially within a short period of time. It has got
2037 a proposed implementation of this summer or the summer of 2017.

2038 So, has your Department, your agency, done a specific
2039 analysis of this latest proposal on the reliability of the
2040 electricity grid and, if not, why not?

2041 Ms. McCarthy. I certainly know that we have done a
2042 regulatory impact assessment on this rule. This rule, it used
2043 to be called the Cross-State Air Pollution Rule. I think we still
2044 do call it that. But this is an actually very sophisticated and
2045 should be very successful trading program. So, it does provide
2046 lots of flexibilities to get these reductions, and it is a rule
2047 that we just proposed. We are in the comment period. We
2048 certainly want to take cognizance of the comments that come in
2049 and anticipate any adjustments that are necessary before the rule
2050 might be finalized.

2051 Mr. Johnson. I know I am over my time, Mr. Chairman.

2052 But would the EPA consider reproposing this rule, given the
2053 concerns that have been raised about the likely unworkability of
2054 the proposal?

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2055 Ms. McCarthy. Well, we just proposed it, sir. It is going
2056 to be important for us to see what the comments look like when
2057 they come in.

2058 Mr. Johnson. Mr. Chairman, I yield back.

2059 Mr. Whitfield. The gentleman's time has expired.

2060 At this time the Chair recognizes the gentlelady from
2061 Colorado, Ms. DeGette, for five minutes.

2062 Ms. DeGette. Thank you so much, Mr. Chairman.

2063 Thanks, Administrator McCarthy, for coming over today.

2064 In 2005, when Congress passed the Energy Act, they exempted
2065 hydraulic fracturing from the Safe Drinking Water Act, as you
2066 know. In 2009, our former colleague Maurice Hinchey and I, we
2067 secured funding for the EPA to study the effects of hydraulic
2068 fracturing on drinking water. Up to that date, the research on
2069 fracking was very limited and it mostly consisted of reviews of
2070 similarly-limited literature.

2071 So, especially being from Colorado, where we have a lot of
2072 fracking going on, I thought it was important that we understood
2073 the impacts of hydraulic fracturing on drinking water. So, last
2074 June the agency issued a draft version of the assessment, and it
2075 found that there were mechanisms by which hydraulic fracturing
2076 activities could impact drinking water resources.

2077 But, then, at the same time, the press release and the

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2078 executive summary that came out also prominently stated that
2079 hydraulic fracturing has not led to, quote, "wide systematic
2080 impacts," end quote, to the drinking water of the United States.

2081 I was, frankly, surprised in this press release that it would
2082 say that because the study that we authorized was designed to
2083 develop the understanding of specific ways that contamination
2084 could occur with hydraulic fracturing. Frankly, I am glad that
2085 we haven't had wide systematic impacts, but it doesn't matter
2086 whether we have had it, if it could occur.

2087 And so, what we were trying to do is to say figure out the
2088 preliminary research that could characterize the currently little
2089 understood or unknown pathways to contaminating of drinking water
2090 from hydraulic fracturing, not in broad proclamations.

2091 And then, in the draft version of the study the EPA said,
2092 quote, "The limited amount of data collected before and during
2093 hydraulic fracturing activities reduces the ability to determine
2094 whether hydraulic fracturing affected drinking water resources
2095 in cases of alleged contamination." End quote.

2096 And then, the Scientific Advisory Board charged with
2097 reviewing the study agreed that the broad declarations in the
2098 summary and press materials, quote, "are presented ambiguously
2099 and are inconsistent with the observations, data, and levels of
2100 uncertainty presented in the report". So, basically, this

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2101 preliminary version that was released last June, it just created
2102 even more confusion, which is what we have had since 2005.

2103 And so, what I am worried about is that the EPA doesn't know
2104 still, and cannot estimate still, what the potential impacts of
2105 drinking water contamination are. The assessment identifies
2106 several mechanisms by which a spill, leak, or migration of
2107 hydraulic fracturing fluids could potentially contaminate
2108 drinking water, but the scope of the study didn't have the EPA
2109 evaluate how those events would affect human health.

2110 So, pretty soon here, I am hoping in the next few months,
2111 the EPA will release the final report. I am hoping what it will
2112 do is more clearly emphasize the risk, the real scientific risk,
2113 to drinking water resources and what we can do, how we can get
2114 that data to ensure that our drinking water is safe.

2115 Anyway, you might want to comment on that in one minute and
2116 four seconds.

2117 [Laughter.]

2118 Ms. McCarthy. Okay. My only comment is I think that it was
2119 clearly a necessary study for us to do. I think very often, when
2120 we put out a science study, people will pick and choose --

2121 Ms. DeGette. Right.

2122 Ms. McCarthy. -- sentences in it. You know, basically,
2123 we said we didn't have evidence of widespread systemic impacts

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2124 to drinking water, but we clearly did identify that there are
2125 potential mechanisms in the water system where impacts could
2126 occur, but there were also opportunities for offsetting those by
2127 taking the right preventive measures --

2128 Ms. DeGette. Right.

2129 Ms. McCarthy. -- like looking at how you construct a well,
2130 understanding your groundwater flow and pattern before you even
2131 consider inserting hydro-frack fluid into the groundwater --

2132 Ms. DeGette. Right.

2133 Ms. McCarthy. -- or below the groundwater.

2134 So, there are challenges here, but we did suffer from having
2135 little real data, significant amounts of data, to more effectively
2136 be able to speak with certainty about what was going on.

2137 Ms. DeGette. Well, I am just hoping that, when you all issue
2138 the final results of the study, that you can clearly say where
2139 the gaps still are. Because that is exactly why we need the study,
2140 to be able to say how you can do fracking in a safe way that protects
2141 our drinking water, which I think it can happen, but we need to
2142 get that data to know how.

2143 Ms. McCarthy. In many ways, we are relying on states like
2144 Colorado.

2145 Ms. DeGette. Thank you. Okay. Thank you.

2146 Mr. Whitfield. The gentlelady's time has expired.

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2147 At this time the Chair recognizes the gentleman from North
2148 Carolina, Mr. Hudson, for five minutes.

2149 Mr. Hudson. Thank you, Mr. Chairman.

2150 And thank you, Administrator McCarthy, for joining us today.

2151 Ms. McCarthy. Yes.

2152 Mr. Hudson. Administrator, I am sure you are familiar with
2153 EPA's proposed rule released last July that proposed new
2154 greenhouse gas standards for medium and heavy-duty trucks.

2155 Ms. McCarthy. Yes, sir.

2156 Mr. Hudson. Are you aware that in the middle of that
2157 proposed rule there is a proposal by EPA to make it illegal to
2158 modify vehicles used solely for competition?

2159 Ms. McCarthy. No, sir, I don't believe that that is what
2160 it says, but I certainly understand the section that you are
2161 talking about.

2162 Mr. Hudson. Well, I can read the language to you. It says,
2163 "Certified motor vehicles and motor vehicle engines and their
2164 emission control devices must remain in their certified
2165 configuration even if they are used solely for competition or if
2166 they become non-road vehicles or engines."

2167 It seems pretty clear to me. In your opinion, are owners
2168 of vehicles that have been modified so they can be used for
2169 competition now abolished in the law?

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2170 Ms. McCarthy. Sir, there is a clear exemption in the statute
2171 that addresses NASCAR and other professional raceways and why we
2172 do not regulate those vehicles. I think we were very directly
2173 trying to make sure that we are doing no more than what we have
2174 done before in terms of either compliance or enforcement. And
2175 we are trying to recognize that exemption and that rule.

2176 Now I fully recognize that this has raised a lot of confusion
2177 and we need to address this confusion moving forward, because
2178 there is no way -- NASCAR has been a great partner of EPA. They
2179 do great work on biofuels. The last thing I want to do is alienate
2180 them. That is for sure.

2181 Mr. Hudson. I appreciate that, but NASCAR is one facet.

2182 Ms. McCarthy. Yes.

2183 Mr. Hudson. But what about the man or woman who likes to
2184 take a car in their backyard and fix it up and take it down to
2185 the local drag strip and race it? I mean, that kind of
2186 modification it appears very clearly is now ruled out.

2187 Ms. McCarthy. Well, we have never ever enforced on an
2188 individual of that nature. What we are trying to do is get at
2189 manufacturers of these devices, that they sell and make sure that
2190 they sell them only for competitive dedicated vehicles. Because
2191 it is really challenging to us to make sure that the certified
2192 vehicles remain in compliance with air regulations.

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2193 Mr. Hudson. Well, I appreciate what you are saying, but it
2194 says here emission fuel devices must remain a certified
2195 configuration, even if they are used solely for competition. I
2196 mean, it sounds different; the rule sounds different from what
2197 you are explaining.

2198 Ms. McCarthy. We will do the very best we can. We have had
2199 substantial amounts of discussion. Whatever we can do to clarify
2200 this, we are going to be able to take those steps.

2201 Mr. Hudson. Well, I think taking the words "solely used for
2202 competition" out --

2203 Ms. McCarthy. I will have to see it in its entirety, and
2204 I am not a lawyer. I appreciate the need to use common-sense
2205 language. I know that what I have told you is what our intent
2206 was. We will make sure that the language matches that.

2207 Mr. Hudson. Okay. Well, I certainly appreciate that
2208 because not only is this an important way of life for a lot of
2209 Americans who enjoy taking cars and modifying them, so they can
2210 race, but it is a billion-dollar industry of aftermarket folks
2211 who make parts for people to use in competition.

2212 I remember, back in February, you testified before the
2213 committee and you made the point that not one EPA regulation has
2214 ever cost one job. I am telling you this is a billion-dollar
2215 industry that would be wiped out if we can't clarify this and make

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2216 sure the intent you have expressed is reflected in the regulation.

2217 Ms. McCarthy. Thank you, sir.

2218 Mr. Hudson. Thank you.

2219 With that, Mr. Chairman, I yield back.

2220 Mr. Whitfield. The gentleman yields back.

2221 At this time the Chair recognizes the gentleman from North
2222 Dakota, Mr. Cramer, for five minutes.

2223 Mr. Cramer. Thank you, Mr. Chairman.

2224 Thank you, Ms. McCarthy, for being with us.

2225 Ms. McCarthy, I have a couple of questions, maybe a statement
2226 and a request. Are you familiar or how familiar are you with a
2227 series of enforcement actions that your agency is working with
2228 the DOJ on using Section 114 to basically find consent, I guess,
2229 or a consent decree with a number of North Dakota oil companies?
2230 How familiar are you with that action?

2231 Ms. McCarthy. I am somewhat familiar with it, sir.

2232 Mr. Cramer. Yes. Does it seem like it makes sense to use
2233 a consent decree or to bully, if you will -- my term, bully, and
2234 many companies' term, by the way -- bully companies into some sort
2235 of agreement apart from a transparent process?

2236 Ms. McCarthy. Well, actually, sir, settlement agreements
2237 are reached in order to get compliance and make it easier for both
2238 the industry as well as --

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2239 Mr. Cramer. Let me ask, are you familiar with a memo from
2240 Cynthia Giles from your office, the enforcement shop, to Regional
2241 Directors where she discusses the EPA's plan of, quote,
2242 "innovative enforcement" to force upon companies the compliance
2243 tools that go well beyond the regulations and laws as they
2244 currently exist? Are you familiar with that memo?

2245 Ms. McCarthy. I am not sure what --

2246 Mr. Cramer. Are you familiar with the term "innovative
2247 enforcement"?

2248 Ms. McCarthy. Well, we actually are using a lot of
2249 innovation to make sure that we can use our resources wisely, take
2250 advantage of new technologies that are out there.

2251 Mr. Cramer. Okay. Technologies such as perhaps FLIR
2252 cameras? Are you familiar with the use of FLIR cameras to capture
2253 images of --

2254 Ms. McCarthy. Yes.

2255 Mr. Cramer. -- methane gas escaping?

2256 Ms. McCarthy. Yes.

2257 Mr. Cramer. Do you know that FLIR cameras do not measure
2258 the amount of methane that is being leaked from a --

2259 Ms. McCarthy. Yes, sir.

2260 Mr. Cramer. Okay. So, how do you, then, justify going to
2261 a company and saying, "You are not in compliance" based on this

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2262 FLIR camera which does not measure the amount of the emission and,
2263 then, I guess threaten them with a fine of several thousand dollars
2264 per days since the construction? Are you familiar with threats
2265 of fines of millions, tens of millions, hundreds of millions, even
2266 multiple billions of dollars against companies?

2267 Ms. McCarthy. I am aware that we have reached settlements
2268 using that as a --

2269 Mr. Cramer. You have not reached any settlement in North
2270 Dakota with an oil company yet. You have with Mobil, a gas
2271 company, very different than oil --

2272 Ms. McCarthy. Yes.

2273 Mr. Cramer. -- in Colorado; Colorado, a non-attainment
2274 state, and North Dakota, an attainment state.

2275 My point is this: by attainment -- you seem confused -- that
2276 means attaining, meeting the compliance, compliant with your
2277 Ambient Air Quality Standards. North Dakota does that.

2278 My point is this: this is a State Health Department issue,
2279 in my view, not an appeal issue. North Dakota is a compliant
2280 state, not a non-compliant state. Our industry, in response to
2281 early notices from the EPA, well over a year ago, nearly two years
2282 ago now, our State Health Department, our Oil and Gas Division
2283 which operates under the North Dakota Industrial Commission,
2284 which is three elected officials, the governor, attorney general,

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2285 and the commissioner, working with industry, came up with a
2286 comprehensive plan, a global plan to deal with 100 percent of the
2287 emissions.

2288 Your agency, ignoring that, rather than participating in
2289 that, has picked one company at a time -- there are now somewhere
2290 around half a dozen to a dozen companies -- to try to find consent,
2291 in other words, admission of guilt to something that I don't
2292 believe they are guilty of, by using this innovative enforcement
2293 activity. I find it, frankly, reprehensible. Frankly, I find
2294 it illegal.

2295 But, when companies are forced, especially with \$40-a-barrel
2296 oil to less, forced to either pay millions of dollars in attorneys'
2297 fees to fight this or comply or consent, sometimes it is cheaper
2298 to consent. I don't think that is an appropriate regulatory
2299 regime, quite honestly.

2300 I would rather see, here is what I would in the last minute.
2301 I want to ask you this closing question, and I am looking for a
2302 really good answer. Will you commit today to, instead of using
2303 these 114, this bullying tactic -- again, my term -- extortion
2304 tactics, would you, instead, work with our State and work with
2305 our Health Department, work with our Industrial Commission, our
2306 Oil and Gas Division, and our industry who want to comply 100
2307 percent -- they all want to comply -- work with them on a global

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2308 solution that actually reaches attainment rather than a fine or
2309 a penalty? How about we do that? You agree to that today and
2310 we will have a great industry.

2311 Ms. McCarthy. I will say 114 is an information-collection
2312 request.

2313 Mr. Cramer. Yes, it is.

2314 Ms. McCarthy. And the tool that you are talking about is
2315 a screening mechanism that asks the question whether or not we
2316 think there may be significant violations of emissions of volatile
2317 organic compounds. And that is why you ask for the information
2318 from the companies. I wouldn't characterize it as a bullying
2319 tactic.

2320 Mr. Cramer. Well, except I think an issue is used to try
2321 to extort huge fines --

2322 Ms. McCarthy. It is used to see whether or not they are in
2323 compliance, and that has nothing to do with non-attainment. That
2324 has to do --

2325 Mr. Cramer. Explain that to the DOJ attorneys.

2326 My time has expired.

2327 Mr. Whitfield. Well, I appreciate your raising that issue
2328 because all of us have heard about that issue, and I am glad that
2329 he brought it to your attention.

2330 Ms. McCarthy. Could I just mention, and we are certainly

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2331 happy to -- we are in discussions with the State of North Dakota
2332 on this, and we would love to be able --

2333 Mr. Cramer. Well, we could save a lot of your budget money
2334 if you would just let the State handle it.

2335 [Laughter.]

2336 Mr. Whitfield. At this time the Chair recognizes the
2337 gentlelady from North Carolina, Ms. Ellmers, for five minutes.

2338 Mrs. Ellmers. Thank you, Mr. Chairman.

2339 And thank you, Ms. McCarthy and Mr. Bloom, for being here
2340 today for this subcommittee hearing.

2341 Administrator McCarthy, the 2015 ozone standards
2342 immediately apply to preconstruction permits that businesses need
2343 to grow and create jobs. That means businesses will have to
2344 immediately show their projects meet the 2015 Ozone Standard,
2345 something that may be hard to demonstrate in an area that it is
2346 or may be going into non-attainment status.

2347 What preconstruction permitting relief will EPA provide for
2348 areas in this situation?

2349 Ms. McCarthy. I am sorry, what preconstruction -- what did
2350 you say?

2351 Mrs. Ellmers. What preconstruction permitting relief will
2352 the EPA provide for areas in this situation? What are the options
2353 for a non-attainment status area for preconstruction permitting?

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2354 Ms. McCarthy. Right. The non-attainment designation
2355 isn't even going to be made until 2017. So, we are working with
2356 states to make sure that they understand what their attainment
2357 status might look like, but there is a fairly-lengthy process.
2358 We work back and forth with the governor of each state to identify
2359 non-attainment areas.

2360 Mrs. Ellmers. Okay. So, that does not go into effect until
2361 2017?

2362 Ms. McCarthy. We haven't even finished collecting that data
2363 that would go into determining non-attainment yet. That is
2364 through 2016.

2365 Mrs. Ellmers. Okay. So, the Obama administration pledged
2366 the United States would reduce greenhouse gas emissions by 26 to
2367 28 percent below 2005 levels by 2025. Were you consulted? Was
2368 the EPA consulted on that? I mean, how did the President come
2369 up with that number by 2025?

2370 Ms. McCarthy. This has to do with reductions of greenhouse
2371 gases nationally. That is a determination that is made by the
2372 White House in consultation with all of the agencies, including
2373 EPA, that look at what existing authority we have, what is planned,
2374 what is reasonable, and what is achievable.

2375 Mrs. Ellmers. So, can you explain that process then? So,
2376 you are saying that EPA was involved. No. 1, what other agencies

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2377 were involved? And describe that process to us of how that became
2378 the determining number.

2379 Ms. McCarthy. Actually, I wasn't involved in the
2380 calculation of that number. EPA's job was to look at our
2381 regulatory authority, what we thought was reasonable and
2382 achievable under our existing authorities. We provided that
2383 information to the White House. Other agencies similarly did
2384 that. And that was the commitment, and the accounting was done
2385 behind that to submit for our commitment.

2386 Mrs. Ellmers. Was the public consulted on this beforehand?

2387 Ms. McCarthy. I apologize.

2388 Mrs. Ellmers. No problem. Was the public, was there a
2389 comment period for the public on this? Again, I am trying to find
2390 out how we came up with that number and was there consideration
2391 of public comment.

2392 Ms. McCarthy. I am not aware of that process.

2393 Mrs. Ellmers. Okay. Well, I guess what I am asking now is,
2394 can you provide for the committee what it was or the sources that
2395 the EPA used to -- I know you said that this has more to do with
2396 jurisdiction, the involvement of regulations and authority. Can
2397 you provide for the committee, you know, what information you used
2398 to come up with the EPA's authority on that?

2399 Ms. McCarthy. I can see what I can make available to you

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2400 --

2401 Mrs. Ellmers. Okay.

2402 Ms. McCarthy. -- and at what level. The reason I am just
2403 double-checking is I believe that number was by 2030, not 2025.

2404 Mrs. Ellmers. Not 2025? Okay.

2405 Ms. McCarthy. I could be wrong, but I am just having trouble

2406 --

2407 Mrs. Ellmers. Okay. Questionable 2030. Okay. All
2408 right.

2409 I just want in the time I have left -- I only have about 40
2410 seconds left -- EPA's budget document states that the Clean Power
2411 Plan is, quote, "The President's highest priority for the EPA and
2412 the central element of the U.S. domestic climate mitigation
2413 agenda."

2414 Ms. McCarthy. Yes.

2415 Mrs. Ellmers. Is the Obama administration's pledge to
2416 reduce emissions by 26 to 28 percent below 2005 levels contingent
2417 on the Clean Power Plan?

2418 Ms. McCarthy. Well, the Clean Power Plan was a reflection
2419 of what we thought the direction of the energy transition was
2420 heading. What we are seeing already is that the energy transition
2421 is happening towards the low-carbon sources even more quickly than
2422 we had anticipated. So, we fully expect the Clean Power Plan,

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2423 when it is looked at on its merits, would be found to be legally
2424 solid. We don't think we are going to lose any ground in terms
2425 of our ability to make those commitments real.

2426 Mrs. Ellmers. Okay. So, just in closing, because I am
2427 actually over time, you don't believe that there would be a delay
2428 further at the court level as far as the Clean Power Plan goes?

2429 Ms. McCarthy. I think that the Clean Power Plan will be
2430 found to be legally solid and it will move forward, and that we
2431 will not be in a position to have lost ground in the end, when
2432 it is fully implemented.

2433 Mrs. Ellmers. Thank you very much, and I yield back.

2434 Mr. Whitfield. At this time the Chair recognizes the
2435 gentleman from Indiana, Dr. Bucshon, for five minutes.

2436 Mr. Bucshon. Thank you very much.

2437 Sorry.

2438 Ms. McCarthy. I am sorry.

2439 Mr. Bucshon. No, no, no, I just totally paused my time while
2440 you had to get some counsel from your staff.

2441 Ms. McCarthy. Yes.

2442 Mr. Bucshon. A couple of things. First of all, earlier in
2443 your testimony you mentioned carbon capture and sequestration,
2444 facility sites that are working in the United States. Can you
2445 give me the name and the address of all of those places that are

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2446 --

2447 Ms. McCarthy. I would be happy to do that.

2448 Mr. Bucshon. And whether or not they are in continuous
2449 operation?

2450 Ms. McCarthy. Yes.

2451 Mr. Bucshon. Because that I am aware of -- I mean, maybe
2452 I am wrong -- but there aren't any. There is a couple of -- one
2453 in Illinois and one up in Canada. If there are some down in the
2454 South, maybe Louisiana that are working --

2455 Ms. McCarthy. We definitely want to --

2456 Mr. Bucshon. -- I would be interested in knowing because
2457 you made it sound like this is an ubiquitous thing across the
2458 country, that carbon capture is --

2459 Ms. McCarthy. I would be happy to do that, sir. I do
2460 realize that --

2461 Mr. Bucshon. -- is working because --

2462 Ms. McCarthy. But it is used not just on coal facilities,
2463 on generating facilities. It has other applications where it is
2464 being used today.

2465 Mr. Bucshon. Okay. So, are there any coal facilities that
2466 it is working on right now today?

2467 Ms. McCarthy. I believe it is in Kemper here and I believe
2468 there is a dam in Canada where it is being fully utilized.

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2469 Mr. Bucshon. Yes, and the one in Canada is going broke, by
2470 the way, and the one in Illinois --

2471 Mr. Whitfield. And Kemper is not operating.

2472 Mr. Bucshon. And Kemper is not operating.

2473 Ms. McCarthy. Okay.

2474 Mr. Bucshon. So, the idea is that was misleading, I think,
2475 to say that carbon capture and sequestration, when we were talking
2476 about coal-fired power plants, is commercially-viable. In
2477 Indiana I have every coal mine in the State. So, to my knowledge,
2478 it is not commercially-viable or economically-viable to implement
2479 that in Indiana. If it was, I would be in favor of it being on
2480 all of our coal-fired power plants.

2481 Just so you know, I agree the temperature is changing. I
2482 agree that, with technology and innovation, we should always be
2483 advancing how to use all of our fuels. I agree with that premise.
2484 What I don't agree with is federal agencies setting regulations
2485 that can't be met with current technology, and that is what this
2486 is doing.

2487 So, with that said, I am going to change course a little bit
2488 and talk about athletic fields.

2489 Ms. McCarthy. Okay.

2490 Mr. Bucshon. We have noticed that, I think, in recent media
2491 reports in the press about alleged potential adverse health

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2492 effects young people might experience from playing on crumb rubber
2493 athletic fields. Almost two months after the committee sent you
2494 a letter asking a number of questions about this situation, Dr.
2495 Thomas Burke signed a letter stating that, although the EPA was
2496 aware of the number of studies that showed no elevated health
2497 risks, the studies are limited and did not comprehensively address
2498 the concerns about risks to children's health from these
2499 exposures.

2500 Ms. McCarthy. Yes.

2501 Mr. Bucshon. EPA then said that, in order to fill in the
2502 gaps, it was planning to work with the State of California on a
2503 comprehensive evaluation of tire crumb. Ultimately, the EPA
2504 decided not to work with California and now is collaborating with
2505 the Centers for Disease Control and Prevention and the Consumer
2506 Product Safety Commission on a one-year study.

2507 So, the question I have is, what changed the EPA's mind about
2508 working with California. I mean, I am just generally interested
2509 in getting the information, so that all of us can make an
2510 assessment of whether this is or is not a problem for kids.

2511 Ms. McCarthy. Well, I appreciate that. Part of the
2512 challenge that we were facing was that some of the studies, the
2513 earlier studies that had been done, really weren't looking at the
2514 material that is being used currently in most fields. We are

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2515 finding that the material themselves, those small balls that are
2516 being used, actually have an opportunity for potential exposures
2517 that we hadn't really looked at. And the materials themselves
2518 are changing. So, we felt that it was prudent, given the
2519 concerns, to just take a look at it because the material itself
2520 is changing.

2521 Mr. Bucshon. Sure.

2522 Ms. McCarthy. How it is being utilized is different. We
2523 thought we should at least close the loop to make sure that there
2524 weren't human exposure potentials that we hadn't yet evaluated.

2525 Mr. Bucshon. Okay, and I appreciate it. So, the study, is
2526 it one year? You are planning on a one-year study --

2527 Ms. McCarthy. Yes.

2528 Mr. Bucshon. -- that will have the impacts?

2529 Ms. McCarthy. We are hoping to have good data by the end
2530 of this year.

2531 Mr. Bucshon. Okay. Tell me the kind of description of it
2532 because I was a healthcare provider before I was a doctor, and
2533 sometimes it takes many, many years to determine the health
2534 impacts. If you do a study for a year --

2535 Ms. McCarthy. Yes.

2536 Mr. Bucshon. If you do a study for a year, then you may not
2537 know what the health impacts are for 5 or 10 years later. I am

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2538 just kind of interested in that.

2539 Ms. McCarthy. When we got together, we realized that there
2540 were studies being done, but people were concerned. And the
2541 scientists said the first question to look at is whether there
2542 was any potential exposure route. If I can't ingest it, if it
2543 can't get in my blood, if it can't get into my system -- so, this
2544 is really about identifying whether there is an exposure route.

2545 Mr. Bucshon. That makes total sense. Okay. So, it is just
2546 the initial study is about exposure, only about exposure, not --

2547 Ms. McCarthy. It is not what that exposure results in in
2548 terms of health impacts.

2549 Mr. Bucshon. Okay. Okay. That clarified it.

2550 Well, this seems to me a developing important issue related
2551 to athletic fields not only for children, but other athletes. And
2552 so, I appreciate your work.

2553 Thank you for being here.

2554 I yield back.

2555 Ms. McCarthy. Mr. Chairman, I apologize. I raised
2556 confusion. I think it is 26 to 28 percent by 2025. I had a little
2557 brain freeze. So, I just wanted to thaw it out while I had a
2558 moment.

2559 Mr. Whitfield. Thank you very much for bringing that to our
2560 attention.

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2561 At this time I recognize the gentleman from Oklahoma, Mr.
2562 Mullin, for five minutes.

2563 Mr. Mullin. Thank you, Mr. Chairman.

2564 Administrator, thank you for being here today. I cannot
2565 imagine how bad your head must be hurting going through this entire
2566 line of questioning, but we do appreciate your time and your effort
2567 for being here.

2568 I have a couple of questions. On January 14th of this year,
2569 I sent a letter, along with 14 other members who sit on this
2570 committee and subcommittees, with three questions about your
2571 agency's plan to send U.S. federal employees overseas to help
2572 countries meet emission chart targets that were set at the
2573 Conference of Paris at the end of last year. We requested the
2574 answers by January 29th. It is now March 22nd, and we have yet
2575 to hear from anybody. Are you aware of this letter? Have you
2576 received this letter?

2577 Ms. McCarthy. I am sure the agency has. I will
2578 double-check on the response. Is this specific to Paris or is
2579 this more broad?

2580 Mr. Mullin. This is specific to Paris, to a statement that
2581 you made while speaking to send federal employees, EPA employees,
2582 over to other countries to help them identify emissions. Are you
2583 familiar with that?

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2584 Ms. McCarthy. Not particularly, but I will certainly look
2585 at it.

2586 Mr. Mullin. You gave a speech at the Council of Foreign
2587 Relations --

2588 Ms. McCarthy. Okay.

2589 Mr. Mullin. -- and you mentioned that the EPA would deploy
2590 employees to certain countries to help these countries learn how
2591 to identify and measure sources of greenhouse gas emissions.

2592 The letter that we sent to you specifically asked three
2593 different questions. Now, one, I do have a letter here with me
2594 that I will be happy to give to you, and I would like to submit
2595 it, also, for the record. I have a copy for you to have.

2596 [The information follows:]

2597

2598 ***** COMMITTEE INSERT 3*****

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2599 Mr. Mullin. It asks three questions. And those three
2600 questions, since you are here today, I am going to go ahead and
2601 ask you. One, how many U.S. federal employees will be deployed
2602 to participate in these countries?

2603 Ms. McCarthy. I don't know the answer to that question, sir.
2604 I think you are referring to the work we do with the Department
2605 of State to do capacity-building in other countries. Very often,
2606 that is --

2607 Mr. Mullin. That may be true, but in your statement you said
2608 that the EPA was going to deploy these.

2609 Ms. McCarthy. The EPA does do that, but we often resource
2610 from the Department of State for those --

2611 Mr. Mullin. So, how many employees do you plan on sending?
2612 I mean, you are here today to talk about your budget, and I am
2613 kind of concerned that the EPA is using taxpayer dollars to send
2614 employees to other countries to help them with a non-binding
2615 agreement that was set in Paris.

2616 Ms. McCarthy. Well, the kind of resources that we have in
2617 our international unit is actually very small. If we want to
2618 utilize more for a purpose like this, which is our
2619 capacity-building, related to the Paris agreement, then it
2620 usually is the Department of State provides us those direct
2621 resources.

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2622 Mr. Mullin. We have reached out personally from my office.
2623 The Oversight Committee has also reached out, to zero response,
2624 none.

2625 Ms. McCarthy. Yes, sir.

2626 Mr. Mullin. Your office has yet to respond back to us. We
2627 asked for January 29th. And so, once again, I will ask these three
2628 questions. If you don't have the answers, I would really
2629 appreciate your getting back to us --

2630 Ms. McCarthy. Okay.

2631 Mr. Mullin. -- in a timely manner --

2632 Ms. McCarthy. Yes.

2633 Mr. Mullin. -- which hasn't happened so far.

2634 One was, how many federal employees are going to be deployed?
2635 Second, how long will these employees be deployed? And third,
2636 what will the cost be to deploy?

2637 Ms. McCarthy. Okay. So, I will go check on the response
2638 and --

2639 Mr. Mullin. Do you have any answers to that right now?

2640 Ms. McCarthy. I do not know the answers to those questions.

2641 Mr. Mullin. Do you think it is appropriate to send
2642 individuals from the EPA that are being paid by taxpayer dollars
2643 from the United States to help countries meet a non-binding
2644 agreement?

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2645 Ms. McCarthy. Sir, we do work internationally because
2646 pollution knows no boundaries.

2647 Mr. Mullin. How much do you spend in the EPA working in other
2648 countries? Is it EPA? I mean, because we have a hard enough time
2649 dealing with you guys in the United States, much less in other
2650 countries.

2651 Ms. McCarthy. We have very few resources in this regard,
2652 but we utilize them in --

2653 Mr. Mullin. What are the resources you --

2654 Ms. McCarthy. We spend a lot of time training trainers in
2655 other countries to --

2656 Mr. Mullin. When you say "very little," what is that number?
2657 I mean, you are referring to a specific number by saying "very
2658 little". How much is that number?

2659 Ms. McCarthy. Well, let me tell you.

2660 Mr. Mullin. I would appreciate that.

2661 Ms. McCarthy. This has to do with the total number of grants
2662 is less than 1 percent.

2663 Mr. Mullin. What is that 1 percent? What does that
2664 represent in dollar amounts?

2665 Ms. McCarthy. One point six million.

2666 Mr. Mullin. One point six? And that is not including what
2667 the State Department helps offset, is that correct?

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2668 Ms. McCarthy. That would be our resources. The State
2669 Department would --

2670 Mr. Mullin. Can you give me --

2671 Ms. McCarthy. Oh, I am sorry. I am sorry. That includes
2672 State Department.

2673 Mr. Mullin. That includes the State Department?

2674 Ms. McCarthy. Is that what you said?

2675 Mr. Bloom. Or come from other federal agencies.

2676 Ms. McCarthy. Let me get back to you.

2677 Mr. Mullin. I would appreciate the total numbers, if you
2678 don't mind.

2679 Ms. McCarthy. I don't want to be incorrect.

2680 Mr. Mullin. I am out of time, but I would make sure in a
2681 timely manner that you respond back to us, because, once again,
2682 this is talking about budget and we are talking about dollars spent
2683 here. Thank you.

2684 Mr. Whitfield. And also, I mean, that is a very good point.
2685 We would like to know the total dollar value of the grants given
2686 to other countries by EPA.

2687 Mr. Mullin. Yes.

2688 Thank you, Mr. Chairman.

2689 Mr. Whitfield. The gentleman's time has expired.

2690 At this time the Chair will recognize the gentleman from

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2691 Missouri, Mr. Long, for five minutes.

2692 Mr. Long. Thank you, Mr. Chairman.

2693 And, Ms. McCarthy, I understand that the EPA has set a
2694 standard of 70 parts per billion for the 2015 Ozone Standards.
2695 Does this mean that counties over 70 parts per billion will be
2696 designated as being in non-attainment, I think is the phrase you
2697 use, with the 2015 standards?

2698 Ms. McCarthy. It means that we are looking at 2014, 2015,
2699 and 2016, using a specific formula to identify those that are in
2700 non-attainment.

2701 Mr. Long. But the ones that will be in non-attainment are
2702 the ones that are over 70 parts per billion, correct?

2703 Ms. McCarthy. Yes.

2704 Mr. Long. Okay.

2705 Ms. McCarthy. Using that formula.

2706 Mr. Long. And will those counties become subject to new
2707 planning requirements like State Implementation Plans, and other
2708 obligations?

2709 Ms. McCarthy. Yes, sir.

2710 Mr. Long. Counties that are below 70 parts per billion will
2711 not be subject to these same planning requirements, is that
2712 correct?

2713 Ms. McCarthy. They may be subject to earlier requirements,

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2714 depending upon whether --

2715 Mr. Long. No, I am not talking about earlier requirements.
2716 I am talking about this requirement.

2717 Ms. McCarthy. No, sir, they would not be.

2718 Mr. Long. Okay. The EPA has said that most areas will be
2719 in compliance with the 2015 standards by 2025 under existing
2720 regulations and programs. Once these counties meet the standards
2721 in 2025, will the non-attainment designation automatically be
2722 lifted or is there a process for that, also?

2723 Ms. McCarthy. No, there is a process for that.

2724 Mr. Long. Okay. My understanding is that, once an area is
2725 designated to be a non-attainment, it is locked into a complex
2726 bureaucratic process to meet these standards, followed by an
2727 additional 20 years of the maintenance plan and oversight from
2728 the EPA. How is it that the county that is just over 70 parts
2729 per billion gets locked in a 20-year-plus process while similar
2730 counties just barely under 70 parts per billion do not have to
2731 undergo this process? Could you explain --

2732 Ms. McCarthy. Yes.

2733 Mr. Long. -- the wisdom of that to me?

2734 Ms. McCarthy. I think that what we try to make sure that
2735 we do is, when you are designated as non-attainment, we try to
2736 make sure that whatever actions the state took to drive down the

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2737 pollution that level and to achieve healthy air does not
2738 backslide. So, it is just a question of maintaining those
2739 actions, so that you can continue moving forward, knowing that
2740 you have not only achieved it on a given date, but you don't
2741 backslide and start allowing emissions that would, then, drive
2742 you into non-attainment again.

2743 Mr. Long. But the ones that barely got under the 70 billion,
2744 do they have to worry about backsliding?

2745 Ms. McCarthy. No, they don't because we have determined
2746 that that is the level that we are seeking to achieve to provide
2747 healthier air, and there is no reason why, legal reason why we
2748 would want them to do more. We want everybody to stay below that
2749 70 level.

2750 Mr. Long. Is there any way to reduce the 20-year regulatory
2751 burden on counties that are just barely out of the window?

2752 Ms. McCarthy. Well, we are talking to the states because
2753 I think there is an opportunity to streamline that process, and
2754 we are working with states all the time to try to make sure that
2755 we do that, to streamline the process of redesignating them as
2756 areas of attainment and, also, that we make sure that we don't
2757 overburden them with this obligation for anti-backsliding.

2758 We know that states worked hard to get there. They don't
2759 want to backslide. We just want to make sure that we have a system

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2760 in place that maintains that. But if there are ways in which we
2761 can streamline it, we certainly want to do it.

2762 Mr. Long. Okay. Thank you, Mr. Chairman. I yield back.

2763 Mr. Whitfield. The gentleman yields back.

2764 At this time I recognize the gentleman from Mississippi, Mr.
2765 Harper, for five minutes.

2766 Mr. Harper. Thank you, Mr. Chairman.

2767 Administrator McCarthy, I know it has been a long day. We
2768 thank you for coming, though, to help us understand some of these
2769 issues in a better manner.

2770 The Clean Power Plan includes various compliance deadlines
2771 for states ranging from September of this year, when plans would
2772 have been due, through 2030. Assuming that the rule is upheld,
2773 won't each deadline under the rule be extended by the amount of
2774 time for completion of judicial review?

2775 Ms. McCarthy. Well, that is not actually what the Supreme
2776 Court said, but we assume that the courts will make that judgment
2777 over time or leave that to EPA to make their own judgment. It
2778 is usually spoken to, but not at this stage.

2779 Mr. Harper. Well, let me ask you, are you aware that in the
2780 filings submitted to the Supreme Court that the Solicitor General
2781 explicitly said that the effect of the stay would be toll every
2782 sequential step of the rule's implementation?

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2783 Ms. McCarthy. I think what he was speaking to was that the
2784 request for a stay included that in it, but the Supreme Court did
2785 not choose to make that determination. They simply said that it
2786 would be stayed until it made its way back. And we expect that
2787 it will be there in due time and that the courts really will speak
2788 to that or give it to EPA to make that determination. But I don't
2789 know what choice they are going to make until they go and make
2790 it.

2791 Mr. Harper. Sure. The Solicitor General also said that
2792 granting the stay -- and I am quoting what he said -- "would toll
2793 all of the rule's deadlines, even those that do not come due until
2794 many years after" the case would be resolved, for the period of
2795 time between the rule's publication and the ultimate disposition
2796 of this suit. Was the Solicitor General right or wrong when he
2797 --

2798 Ms. McCarthy. No, he was speaking to the full breadth of
2799 what folks were looking for who were seeking a stay. But the
2800 Supreme Court didn't speak to that issue. The only thing they
2801 spoke to was the stay of the rule. They didn't speak to any
2802 tolling or what it meant in terms of compliance timelines.

2803 Mr. Harper. Sure. Are you encouraging states and
2804 utilities to continue to work with EPA in the event that the rule
2805 is upheld?

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2806 Ms. McCarthy. We are certainly encouraging states to
2807 continue to look at where their energy system is moving forward,
2808 and we have made ourselves available to states that voluntarily
2809 want to keep looking at their implementation options. And we will
2810 keep working with them on that, but we certainly won't do anything
2811 that implements or enforces the rule, consistent with the Supreme
2812 Court stay dictates.

2813 Mr. Harper. The point of the stay was to protect the
2814 economic interests of states and stakeholders, regardless of
2815 whether the rule is overturned. So, you appear to be signaling
2816 the states that they must continue to take action and expend
2817 resources, and signaling to utilities that they must respond to
2818 the potential rule, which appears to undermine the purpose of the
2819 stay. If you can't respect the purpose of the Supreme Court's
2820 stay, it appears that Congress may have to take steps to come in
2821 and prevent you from taking any action that effectively undermines
2822 the state.

2823 Ms. McCarthy. Well, as I have said, sir, EPA is not
2824 dictating any implementation of this rule or telling any state
2825 they have to do anything. We are just offering an ability to
2826 support them, as we always do.

2827 Mr. Harper. So, that is not happening in any conversations
2828 with any utilities that you are aware of?

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2829 Ms. McCarthy. No, not that I am aware of, sir.

2830 Mr. Harper. In your testimony you state, "Although the
2831 Supreme Court has stayed the Clean Power Plan Rule, the stay does
2832 not preclude all continued work on the CCP." Has EPA discontinued
2833 any of its previously-planned activities relating to the Clean
2834 Power Plan since the stay was issued and, if they have, what
2835 activities have been discontinued?

2836 Ms. McCarthy. Well, we have been working with the
2837 Department of Justice, and it is very clear we have discontinued
2838 our implementation and enforcement of the rule. What we have not
2839 discontinued is our willingness to work with states that want to
2840 voluntarily keep moving forward to look at planning, but we
2841 certainly are not indicating to states that we expect to see their
2842 preliminary plans come in or that they should be working on those
2843 at this point in time.

2844 Mr. Harper. Has there been any action to encourage the
2845 utilities or states to continue to work with you? Any incentives
2846 or anything of any nature?

2847 Ms. McCarthy. We have not provided any incentive for that,
2848 no.

2849 Mr. Harper. Has EPA reassigned any of its staff to other
2850 projects as a result?

2851 Ms. McCarthy. I can't answer that specifically. I don't

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2852 manage the staff at that level.

2853 Mr. Harper. Yes. I believe my time is close enough. I
2854 will yield back.

2855 Mr. Whitfield. The gentleman yields back.

2856 At this time the Chair recognizes the gentleman from Texas,
2857 Mr. Flores, for five minutes.

2858 Mr. Flores. Thank you, Mr. Chairman.

2859 Administrator McCarthy, thank you for joining us today.

2860 In November of 2014, the EPA proposed a new, more stringent
2861 standard for ozone prior to finalizing the implementation
2862 standards for the standard set in 2008. In fact, what this did
2863 is it forced states to make decisions under a new standard without
2864 final implementation rules on the prior standard, all again coming
2865 from your agency. And so, not only from an air quality
2866 standpoint, but also from an administrative standpoint, does it
2867 make sense to permit the 2008 standard to be fully implemented
2868 prior to doubling down and creating a new standard?

2869 Ms. McCarthy. Actually, that is not the way the law has been
2870 worked or has been implemented. The prior standards remain in
2871 place. Some states achieved those. In fact, we have had great
2872 success in NOx reductions or ozone compliance since we first
2873 started identifying health-based standards and moving forward.

2874 So, we do not believe you have to -- in fact, I don't think

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2875 the law says that we are supposed to wait until one is done before
2876 we do and take a look at whether the health-based standard needs
2877 to be adjusted. It is required for us to look at that every five
2878 years, regardless of attainment status.

2879 Mr. Flores. Well, but you rolled out a new set of rules at
2880 the same time right after you rolled out the implementation
2881 standards for the 2008 rules. And so, what you basically created
2882 is two sets of standards that states have to follow.

2883 The National Association of Clean Air Agencies testified to
2884 EPA that the new ozone standard will have a profound impact on
2885 the work of state and local air pollution control agencies, which
2886 differs from what you just said. Did the EPA assess the impact
2887 that implementing the new ozone standards would have on state and
2888 local agencies that were already trying to implement the 2008
2889 standard?

2890 Ms. McCarthy. We did look at that impact, sir, and we did
2891 a cost/benefit analysis of that. And we determined that the
2892 benefits far exceeded the cost, but there is no question that it
2893 provides the need for both EPA and states to actually expend more
2894 resources. And for that reason, this budget includes both
2895 additional resources for EPA for that implementation as well as
2896 a request that state resources be also boosted up as a result of
2897 this.

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2898 Mr. Flores. Wouldn't it make more sense for these standards
2899 to be harmonized, so that you could flow from the 2008 standard
2900 to the 2015 standard, instead of trying to worry about the dual
2901 implementation?

2902 Ms. McCarthy. Well, sir, we do the best we can to make sure
2903 that we are not requiring duplication of the states as they move
2904 forward with their implementation planning.

2905 Mr. Flores. Now the EPA chose to project the cost of its
2906 new ozone standard to 2025. In a sense, EPA bases its entire
2907 economic analysis on predicted 2025 air quality.

2908 Ms. McCarthy. Yes.

2909 Mr. Flores. Would the agency support extending compliance
2910 deadlines under the standards to 2025?

2911 Ms. McCarthy. We have not considered that at this point,
2912 sir. We are actually following the statutory timelines.

2913 Mr. Flores. In the budget, EPA has requested funding for
2914 implementation of new National Ambient Quality Standards. I have
2915 got two parts to this question. One, when will EPA begin the
2916 process of implementing the 2015 standards?

2917 Ms. McCarthy. We are already in the process of providing
2918 guidance to the states on that. We have yet to complete 2016 and
2919 see what that data looks like because the actual attainment
2920 decisions and non-attainment decisions are based on 2014, 2015,

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2921 and 2016 data. And then, we have the process of working with
2922 governors from that point forward to see where the non-attainments
2923 areas they would suggest, and we look at those. So, we are talking
2924 about non-attainment designations in 2017. That is when we also
2925 make determinations on how difficult the attainment process is,
2926 which dictates how quickly attainment needs to be achieved. And
2927 then, that is how they do their state implementation plans to
2928 coordinate with achieving those reductions in those time --

2929 Mr. Flores. Right, but when you established the last set
2930 of standards in 2008 --

2931 Ms. McCarthy. Yes.

2932 Mr. Flores. -- it almost immediately, EPA almost
2933 immediately began reviewing that standard, but it didn't finalize
2934 the implementation for seven years, until 2015. So, shouldn't
2935 we have a system where we prioritize implementation of existing
2936 regulations before we expend resources on a new implementation?

2937 Ms. McCarthy. Well, I think the way we look at it -- and
2938 you are right, we should be avoiding duplication as much as
2939 possible or any extra work -- but it is almost as if we now know
2940 what the health-based goal is. And getting there is the
2941 challenge. The fact that we get partway there with one decision
2942 and further along with another is not shifting direction. It is
2943 all moving to the direction of healthy air.

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2944 Mr. Flores. I would submit that you have created a lot of
2945 confusion in the real world, and that is something that, you know,
2946 you and I are going to disagree on that.

2947 Ms. McCarthy. Yes.

2948 Mr. Flores. Just I am going to throw out one last thing.
2949 I sent you a letter on May 29th of last year regarding the Regional
2950 Haze Plan for Texas. I got a letter from the Region 6 Director
2951 about two months later in 2015, and he said he couldn't comment
2952 on anything because you were in the rulemaking process. I never
2953 did get a followup to that letter. So, I would like, now that
2954 you have completed your rulemaking for the Regional Haze Project,
2955 I would like to get a followup letter to answer the six questions
2956 I put in my May 29th letter --

2957 Ms. McCarthy. Yes, sir.

2958 Mr. Flores. -- from 2015.

2959 So, Mr. Chairman, I yield back.

2960 Mr. Whitfield. The gentleman yields back.

2961 And that concludes the questions today.

2962 Ms. McCarthy, I just want to make a couple of comments, and
2963 Mr. Tonko may or may not want to make some summary statements.

2964 First of all, I think anyone who has worked with you likes
2965 you because you have a great personality and you are effective
2966 in what you do. But I think you also recognize that America really

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2967 is a divided country today and there really is a red and blue
2968 America.

2969 And one of the reasons, certainly not the only reason, but
2970 one of the reasons those of us on our side of the aisle, when we
2971 go back to our districts, a common theme that we hear is the excess
2972 authority and pushiness, for lack of a better word, of the EPA.
2973 That comes about for a lot of different reasons, the Clean Power
2974 Plan being one of those.

2975 Congress had nothing to do with that. Now I recognize that
2976 many on the left side of this dais support it. But that was
2977 initiated by the executive branch entering into international
2978 agreements, non-binding, and the EPA has been driven because of
2979 that.

2980 Twenty-seven states filed lawsuits to try to delay it. I
2981 talked in an opening statement about the Brick MACT. You all lost
2982 that in the U.S. Court of Appeals, the Utility MACT, the Tailoring
2983 Rule, the Clean Energy Plan. So, many people out there in the
2984 country say here's EPA going right down the road trying to
2985 accomplish their goals set by this administration without a lot
2986 of input from the Congress, and many times being overruled by the
2987 courts. Now I recognize that a stay is not a decision on the
2988 substantive part of a rule, but it is a probability or they would
2989 not have issued the stay.

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2990 So, I just want to point out that you all have the Clean Air
2991 Act, you have the Clean Water Act. All of us want to protect the
2992 environment, but I just want you to know personally that there
2993 are many people out there who do feel that EPA particularly is
2994 being overly-aggressive. And I don't know what the final outcome
2995 of that is going to be, but it is something that should concern
2996 all of us. Like I said, America is divided. There is no question
2997 about that. We know that.

2998 But I want to thank you for spending the entire day testifying
2999 before the Appropriations Committee, our committee, about your
3000 budget. We appreciate your willingness to work with us, and we
3001 will be submitting the individual requests that members have made
3002 about additional information they have requested. And we will
3003 keep the record open for 10 days here for additional comments.

3004 I now recognize Mr. Tonko for whatever time he might want.

3005 Mr. Tonko. Thank you, Mr. Chair, and thank you for the
3006 hearing.

3007 And thank you, Administrator, for joining us and for all of
3008 your cooperation and for your leadership.

3009 Rather than focusing on our divided nation, I will talk about
3010 a united nation that is united in its need for clean water. It
3011 affects every life; it affects every job.

3012 And so, we look forward to working with you and EPA on

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3013 advancing clean drinking water as an outcome that provides
3014 resources to our states and local governments, and will have a
3015 strong outcome, I think, for both residential opportunities,
3016 families and children, and for businesses alike.

3017 So, thank you again.

3018 Mr. Whitfield. Thank you, Mr. Tonko.

3019 And that concludes today's hearing, and thank you again.

3020 [Whereupon, at 5:17 p.m., the subcommittees were adjourned.]

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