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Washington, D.C.

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THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S PROPOSED FISCAL YEAR 2024
BUDGET

Wednesday, March 22, 2023

United States Senate

Committee on Environment and Public Works

Washington, D.C.

The committee, met, pursuant to notice, at 10:04 a.m. in room 406, Dirksen Senate Office Building, the Honorable Thomas R. Carper [chairman of the committee] presiding.

Present: Senators Carper, Capito, Cardin, Whitehouse, Markey, Kelly, Padilla, Cramer, Lummis, Boozman, Wicker, Sullivan, Mullin, Ricketts.

STATEMENT OF THE HONORABLE THOMAS R. CARPER, A UNITED STATES SENATOR
FROM THE STATE OF DELAWARE

Senator Carper. Good morning, everyone. A familiar face sits before us. Welcome.

I am going to ask you to introduce, who is the fellow sitting next to you, Mr. Regan, on your left?

Mr. Regan. Our EPB Budget Director.

Senator Carper. What is he doing here?

[Laughter.]

Senator Carper. We will see if his lips move when you speak.

Good morning, and I am pleased to call this hearing to order and join Senator Capito in welcoming back Administrator Michael Regan before our committee to discuss President Biden's Fiscal Year 2024 budget proposal for the Environmental Protection Agency.

I think it was about two years or so ago that you sat pretty much right here. I am trying to remember who was sitting right behind you in the audience, right behind you, he was a young guy, looked to be about 8 or 9 years old. Was his name Matthew?

Mr. Regan. The superstar of the Regan family, Matthew.

Senator Carper. I want to just say, we have a couple of new members on our team, some of you will recall, he was the best behaved 8 or 9 year old kid I have ever seen in my life. We said later on, we thought you probably had him medicated, to be able to behave that well.

Mr. Regan. No, just a promise of a lot of Pokémon cards.

[Laughter.]

Senator Carper. Whatever it takes.

We are happy to welcome you back today to discuss President Biden's Fiscal Year 2024 budget proposal for the Environmental Protection Agency. Over the years, I have often said that budgets are about priorities. Or as the late Jim Frock once said, anybody ever heard of Jim Frock? Probably not. But you have heard the saying, "Don't tell me where your priorities are, show me where you spend your money, and I will tell you what they are." Rest in peace, Jim Frock, wherever you are. You are gone, but not forgotten.

Budget proposals are an opportunity for our Presidents, Democrats, Republicans, and others as well, to lay out a forward-looking version for the people of our Country. I believe that President Biden's \$12 billion budget request for EPA, after years of starving the agency, starving the agency for years, prioritizes now the needs of the American people.

At this moment in history, Americans want a well-resourced EPA that takes action to protect our health and our environment, especially when tragic accidents occur like the recent Norfolk Southern train derailment in East Palestine, Ohio.

Communities throughout the U.S. that are overburdened by legacy pollution want a well-resourced EPA that works to clean up the air they breathe, the water they drink, as well as the contaminated land, which if cleaned up, could be used for economic development and job creation.

Those of us who are concerned about the future of our planet, and that is just about all of us, want a well-resourced EPA that takes

strong action to combat the greatest threat we face today on this planet, and that is our climate crisis, while at the same time creating millions of new jobs in the process.

Earlier this week, the United Nations Intergovernmental Panel on Climate Change released its latest report underscoring the urgent need to reduce greenhouse gas emissions. As many of us here know today, climate change is already impacting communities across our Country, large and small.

According to the National Oceanic and Atmospheric Administration, extreme weather fueled by climate change in the form of hurricanes, flooding, drought and wildfires cost American taxpayers nearly \$170 billion in 2022. I said \$170 billion in 2022. That is billion with a B. To put that figure into perspective, that is about 14 times the size of your budget, Mr. Regan, at EPA.

Fortunately, last Congress we worked to pass the American Rescue Plan, the Bipartisan Infrastructure Law and the Inflation Reduction Act. My thanks to everyone who worked on one or more of those bills. In doing so, we have directed EPA to do more than ever before to tackle climate change, address pollution and protect our health in a way that supports economic growth.

I am a recovering governor, and we have a couple of others here who are recovering governors. I am always looking for how do we support economic growth and job creation. It is never far from my mind, and it is especially here in my mind today. But how, you may ask?

Well, we have tasked EPA with overseeing historic investments in

clean drinking water free of contaminants like PFAS and lead. We have also invested in EPA's work to clean up legacy pollution from contaminated urban brownfields, abandoned wells leaking methane, acid mines leaching heavy metals and more. And we have empowered EPA to help build a clean energy economy, made here in America, made here in America with good-paying jobs and lower energy costs for households across our Nation.

The President's budget would build on our legislative progress by providing EPA with the resources needed to implement these new programs that Congress has created. Among them are the Clean School Bus Program, the Methane Emission Reduction Program, the Greenhouse Gas Reduction Fund, and new investments in wastewater facilities, all while continuing the important work of carrying out our Nation's bedrock environmental laws.

Make no mistake, the agency truly needs these investments. It is no secret that EPA has not always received the resources, at least in the last decade or so, resources required to be successful. In recent years, flat budgets and staffing shortages have severely undermined the agency's ability to do its job in many respects.

As EPA's responsibilities and workload continue to grow in the face of climate change and other human-caused environmental disasters, it should come as no surprise that the agency is overburdened.

That is especially true when we look at the agency's workforce. EPA's current number of staff, that is about 15,000, is well below the range of 16,000 to 18,000 that the agency had from 1990 through 2012, below the range we had in 2012. For years, we have asked EPA to do

more with less, much less.

Fortunately, instead of proposing to slash the agency's budget further as the previous Administration did, President Biden's budget proposal would increase the EPA's budget by roughly 19 percent in Fiscal Year 2024 as compared to the previous year. It is really a leveling up to where we ought to be if we had not cut the budget so much. The increase in funding under the President's budget for EPA is necessary as the agency works to rebuild itself and address emerging and ongoing challenges.

It is also worth noting that the President's budget would add nearly 2,000 full-time career staff at EPA. The staff levels have either been cut in recent years or actually frozen. At the same time, your workload has increased dramatically.

These additional staff would make a real difference in the agency's ability to do things like manage toxic chemicals under the Toxic Substances Control Act, which we passed by a big bipartisan vote in this committee a number of years ago. Still it is not being fully implemented because of the lack of staff at EPA to do that.

Other things that need to be done is to convert contaminated brownfields sites. Almost everybody on this committee can think of brownfields in our States that are contaminated and could be turned into areas for economic opportunity. Also, we need to replace a bunch of lead pipes throughout our Country, and probably throughout every State that is represented on this committee.

I am also pleased that EPA's budget would make good on President Biden's Justice40 initiative and ensure that all Americans, including

those in historically overlooked and underserved communities, receive their fair share of federal assistance from EPA.

As a co-founder of the Senate Environmental Justice Caucus, I am particularly grateful that this budget focuses on the needs of our most vulnerable, communities of color, as well as low-income and American Indian and Alaska Native communities. I call them the least of these.

That is something I know that you, Administrator Regan, continue to prioritize as well, along with the folks you lead. You should know that many members of this panel, including me, support your efforts to advance environmental justice. Indeed, we have a moral obligation to do so.

Let me close by saying that I believe President's Biden's budget represents a brighter vision of the future for our Nation, all of our Nation, from coast to coast, one that delivers on the promise of cleaner air and cleaner water in every zip code and better ensures that every American has an opportunity to live up to their God-given potential.

Administrator Regan, I know we are heading in that direction thanks to your outstanding leadership at EPA and the work of the team that you are privileged to lead during an especially challenging time in our Nation's history. We look forward to hearing your testimony today and to the responses you will give to the questions that we will be posing. Before I do that, I am delighted to turn to our Ranking Member, Senator Capito, for her opening remarks. Senator Capito?

[The prepared statement of Senator Carper follows:]

STATEMENT OF THE HONORABLE SHELLEY MOORE CAPITO, A UNITED STATES
SENATOR FROM THE STATE OF WEST VIRGINIA

Senator Capito. Thank you, Mr. Chairman, and thank you, Administrator Regan for being here. It is really good to see you.

While we both know we don't always agree on policies, I really appreciate your willingness to meet and talk and how seriously you take your commitment to testify. So I am very appreciative.

A lot has happened since you appeared here for last year's hearing. The EPA has received enormous funds, enormous amounts of funding. In addition to the annual appropriations for Fiscal Year 2023, the EPA received an astounding \$41.5 billion in additional funding as part of the so-called Inflation Reduction Act, which many of us refer to as the reckless tax and spending spree. For context, that is four times the appropriations that EPA would receive in a typical year.

As part of that funding, EPA received hundreds of millions of dollars specifically for administrative expenses, which could include hiring personnel for implementation of the IRA programs. With these eye-watering numbers, I was quite surprised to see in the Fiscal Year 2024 proposal that EPA requests another \$1.9 billion increase over last year's annual appropriations, including more money explicitly for the IRA program implementation.

Across the Country, with inflation, high energy prices, grocery prices, and rising interest rates, Americans are having to do more with less. But EPA got more, and still wants more.

I am particularly troubled by the largesse of this request

because I am not convinced that EPA is using the resources it already has effectively. I recently received a response from the Nuclear Regulatory Commission that had some eye-popping statistics about current office attendance and work culture. I would like to get similar answers from you today about the EPA workforce.

Last year when you testified before the Committee we discussed EPA employees, when would they be back to work in person, and you said, "All employees are scheduled to be back by the last period in April 2022." This year's budget proposal suggests however that back in the office does not mean actually present in the office.

We are heating and cooling massive, and nearly uninhabited buildings, three years after the pandemic started. Now with the public health emergency over I want to understand the agency's current work practices and how we can avoid some of this energy waste to the benefit of the environment and the taxpayer.

We need to do this before we can seriously consider any more administrative outlays, including the EPA's desire to hire approximately 2,000 additional FTEs. The need for so many additional workers is at best questionable given recent EPA announcements about how it is going to manage large buckets of money appropriated by the IRA.

The EPA is sitting on more money than it has had in its history, and I find it worrying that its method for handling some of these particularly significant new pots of money is to push implementation to groups outside the agency, and beyond traditional accountability and oversight. Take for instance the \$3 billion Climate and

Environmental Justice Block Grant program from the IRA. The EPA, with that program, receives a 7 percent administrative expenses set-aside. So that is \$210 million, a lot of money, even here in Washington.

According to the EPA's plans for initial awards under the program, all your staff is going to do is pick a limited number of third-party grantees outside the agency, which can then can take another 20 percent to administer and distribute grants to their subgrantees. That does not sound like an efficient way to use taxpayer dollars to me.

Unless current plans for the program change, the EPA will get \$210 million for doing not as much as I am sure the vision of those who voted for the IRA thought. These investments, which could be partisan, and could be environmentally meaningless, I guess that is in the eye of the beholder, will then have more than a quarter of those dollars that are going to be blown on administrative costs before it even gets started. So I would like to discuss my concerns today about the way the EPA is prioritizing certain regulatory actions.

The agency spent a lot of time and resources completely rewriting and finalizing a broad, new Waters of the United States definition but we are waiting for the Supreme Court to make a ruling in a pending case. That threw yet another definition of WOTUS into effect, and now that definition has already been stayed in, I believe just two States, but maybe more. The EPA could have minimized regulatory uncertainty by just waiting for the Supreme Court ruling.

During that same time, the Biden EPA took two years, two years, to develop a proposed drinking water standard, but believe me I am

happy you finally did, for PFOA and PFOS. It concerns me that the EPA Water office could have been prioritizing PFAS instead of writing the WOTUS rule, which is going to have to be changed in all likelihood after the Supreme Court makes its decision this summer.

Meanwhile, the agency continues to go full bore on a regulatory agenda targeting the energy and power sectors, one that is going to hurt my State's economy and further raise energy bills. The EPA continues to push forward with its so-called EGU, or Electric Generating Unit, Strategy.

As part of that strategy, the EPA recently finalized a water rule targeting coal plants called the ELG rule. It says the ELG rule is "aligned with other rules so that we can help the industry be very thoughtful about long-term investments for all the regulations that are coming out of the agency." That is kind of code word for me for how are you going to shut your plants down.

You went on to say, "not aimed at driving a specific outcomes in terms of companies' investment strategies." But I would disagree. I think it is clear what the Administration is doing: an accelerated transition from coal and natural gas seems to be the playbook here. The Biden Administration is calling the shots that were started during the Obama Administration's War on Coal.

Earlier this month, Mr. Goffman and I talked about the EPA modeling, and I know you and I talked about this actually at breakfast the other day, that the IRA is a gut punch to the coal and gas industry. The EPA modeling projects that the IRA could lead to transformative impacts on the power sector, including a dramatic

decrease in not just generation but also capacity. We see that in the projections generated from the EPA itself.

So I am concerned about potential job loss in Appalachia, all across the Country, in the natural gas industry, and I am very concerned about what we see coming out.

But today we are going to talk about the budget and other things. And I am worried about the oversight in terms of the Inflation Reduction Act since it looks like you are sort of outsourcing some of the oversight to these subgrantees. And I wonder what kind of oversight we would have there, not to mention the 27 percent in administrative costs that are going to be dedicated towards engaging those dollars. Thank you.

[The prepared statement of Senator Capito follows:]

Senator Carper. Thanks, Senator Capito. A tale of two cities here in the Environment and Public Works Committee today.

I want to reiterate something I said in my earlier statement. Earlier this week, the United National Intergovernmental Panel on Climate Change released its latest report underscoring the urgent need to reduce greenhouse gas emissions. It said it is actually getting worse faster rather than slower, and imparted a sense of urgency.

Someday, 10, 20, 30 years from now, folks are going to gather here in this room, serving on this committee, and they are going to either say, what were they thinking, what were we thinking, as we considered this budget and the priorities of this Administration and our Country, or they are going to say, thank God, they took some steps that needed to be taken to make sure that our children and our grandchildren have a future.

My wife and I have three sons and we have four grandchildren. I want to make sure that they have a planet to grow up on. I want to make sure they have a planet to grow old on. The work that we are doing here today is really with that in mind. Almost all of us have kids or grandchildren. I think we want the same thing for them.

With that in mind, Mr. Regan, thanks for joining us. Thanks for your statement and for being with us today. We will begin with hearing from you. Go right ahead. Thank you.

STATEMENT OF THE HONORABLE MICHAEL REGAN, ADMINISTRATOR, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Mr. Regan. Thank you, Chairman Carper. I want to thank Ranking Member Capito and members of this committee.

I really do appreciate the opportunity to appear before you today to discuss the necessary vision laid out in the United States Environmental Protection Agency's proposed Fiscal Year 2024 budget request.

In this budget request, we lay out an ambitious and transformative plan for EPA with the goal of building a healthier, more prosperous Nation while ensuring global competitiveness, energy independence, and security.

President Biden's proposed Fiscal Year 2024 budget request for EPA provides \$12.1 billion to advance key priorities including protecting air quality, upgrading our Nation's aging water infrastructure, tackling the climate crisis, and rebuilding the core functions in our agency. Over the last year, we have made significant progress toward these goals. I am proud of the foundation we have laid and the partnerships we have developed to underpin the successes.

But there is still much more work to do to ensure that all of our children have safe, healthy places to live, learn and play, to build a stronger, more sustainable economy, and to advance American innovation and ingenuity. Simply put, investing in EPA is investing in America.

Across the Country, poor air quality still affects millions of people, perpetuating harmful health and economic impacts. For Fiscal Year 2024, the agency will protect our air quality by cutting

emissions from ozone-forming pollutants, particulate matter and air toxics.

The President's budget includes \$1.4 billion to improve air quality and to set standards that reduce pollution from mobile and stationary sources. EPA's work to set these standards provides certainty to the industry, builds on advances in technology, and reinforces market movement toward a cleaner energy system that provides reliable and affordable energy.

A thriving economy also requires clean and safe water for everyone. Although progress has been made, many still lack access to healthy water, face inadequate wastewater infrastructure, and suffer from the effects of lead pipes. America's water systems are also facing new challenges, including cybersecurity threats, climate change, and emerging contaminants such as PFAS.

The budget proposes more than \$4 billion to upgrade drinking water and wastewater infrastructure nationwide, with a focus on underserved communities. Over the last year, I have had the privilege of traveling across the Country from Jackson, Mississippi, to East Palestine, Ohio. I have visited communities in your States and seen first-hand the environmental and public health challenges that many of your constituents continue to face.

I have spoken to families who have been sickened by the air they breathe; I have met with people who live with toxic waste in their backyards. I have seen conditions that are simply unacceptable in the United States of America.

From investing in our Nation's climate resilience to cleaning up

contaminated land and water, there is no shortage of important work to be done. Members of this committee, I assure you that EPA is up for the task. We are eager to work with all of you to deliver for our fellow Americans and to secure our Nation's global competitiveness.

But we do need your support. Both the urgency and economic opportunity presented by climate change requires that we leave no stone unturned. We know the development, implementation, and enforcement of environmental laws, regulations, and policies, has not always ensured the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income.

In Fiscal Year 2024, EPA requests more than \$375 million and 265 FTE for the Environmental Justice Program. The funding will help to expand support for community-based organizations, indigenous organizations, tribes, States, local government and other territorial governments, so that they can identify and develop solutions to their environmental justice concerns through multi-partner collaborations.

The Fiscal Year 2024 President's budget positions the EPA to create durable environmental policy, investing in America and setting our Nation on a path to win the 21st century. It will allow for us to meet the pressing needs faced by millions of Americans and fundamentally improve people's lives for the better.

Thank you all for the opportunity to be here today and to submit this testimony for the record. I look forward to our continued partnership to achieve these ambitious yet necessary goals. I welcome all of your questions. Thank you again.

[The prepared statement of Mr. Regan follows:]

Senator Carper. Thank you, Mr. Regan.

Let me ask for the record, the IRA, Inflation Reduction Act, is it fully paid for? Is it fully offset? Or does it increase our deficit?

Mr. Regan. It is fully paid for.

Senator Carper. It is fully paid for. Imagine that.

Are we losing jobs in this Country over the last couple of years or gaining jobs, any idea?

Mr. Regan. We are gaining significant jobs.

Senator Carper. If I told you the number is 10.7 million jobs that have been created in the last two plus years, would you believe that? Well, it is true. The unemployment rate, what is the unemployment rate today? It is 3.4, which I think, the last time I checked, is the lowest it has been in how many years? A long time. I think that is a good thing for us to keep in mind as we take up these issues.

I say, and my colleagues get tired of hearing me say this, it is possible to do good things for this planet, cleaner air, cleaner water, climate change, and create jobs. We are doing it, and we can continue to do it. We need to do it in a fiscally responsible way. I will get off my soapbox.

In his budget, President Biden has clearly prioritized protecting public health and the environment. EPA needs more people and additional funding to do the critically important, lifesaving and planet-saving work we are asking you to do. This includes reducing the greenhouse gas pollution that is driving climate disasters,

working with industry to support a host of new, well-paying jobs and clean energy industries, and ensuring that EPA can effectively respond to chemical disasters like the one that you visited in East Palestine, Ohio and Darlington Township, Pennsylvania.

Mr. Regan, how would the additional people and funding recommended by the President in his budget help the agency you lead fulfill your mission to protect public health and the environment with an eye toward reducing emissions, promoting economic growth, and increasing resiliency to natural and man-made disasters?

Mr. Regan. Thank you, Chairman Carper. I want to start by thanking you and this committee for your leadership in passing the Omnibus Bill, the Bipartisan Infrastructure Law as well. These pieces of legislation have helped the agency move the ball forward to invest in America.

The town of Ellenboro, West Virginia, has received \$1.5 million to address aging infrastructure, the town of Temple, Oklahoma, approximately \$1 million in loan forgiveness to upgrade its water treatment facility, and Chairman, in your own city of Wilmington, Delaware, expected to receive a half a million dollars to upgrade its de-watering process to remove PFAS in the wastewater treatment facilities.

In order for us to continue the great work like this, we need additional resources to continue investing, included in the proposed budget. Additional funds would invest in our infrastructure more than \$4 billion to upgrade drinking water and wastewater infrastructure for all people. We do know that we received a lot of resources through

the Bipartisan Infrastructure Law for water infrastructure, but we also know that those resources pale in comparison to the size of the problem.

Once we move beyond clean and safe drinking water, additionally in the 2024 budget request, it would enable EPA to fully realize the promise of the bipartisan TSCA law that this committee wrote, getting protective chemical safety rules on the book. Also, getting the innovative new chemistries needed to propel the semiconductor, automotive and battery sectors forward is extremely important for us. Last year's appropriations helped, but this year we needed a little bit more.

Senator Carper. All right, thank you.

My next question is, environmental justice communities, front-line communities and disadvantaged communities are disproportionately affected, as you know, by environmental hazards. I am a firm believer, I know you are as well, in something called the Golden Rule. I think if you asked the question of everyone on this panel, they would say, we are all in favor of the Golden Rule, treat others the way we want to be treated. We are in the same situation.

That means we must ensure fair and equitable treatment for these communities, too. I know that you share a similar desire to assist and uplift those communities that have been affected by toxic pollution. How does this budget proposal do, what does it do to help the communities that need it the most, including those economically volatile and environmental justice communities?

Mr. Regan. Senator, I believe in the Golden Rule and I believe

that rising tides lift all boats. I would like to start by saying 85 percent of this budget request goes to States and tribes.

Senator Carper. Say that again.

Mr. Regan. Eighty-five percent of the budget request goes to our States, our tribes, our local governments, which as a former State regulator, I believe that our State and communities know better than the Federal Government, and they have the solutions.

I have traveled all across the Country, from the backyards of Jackson, Mississippi, to Mandan, North Dakota, to McDowell County, West Virginia. I have heard the stories; I have seen with my own eyes the struggle many families have for clean air and clean water.

This new national program and these resources create a laser-focused opportunity on environmental justice. We can do that while providing a clear point of accountability for both our internal and external stakeholders in coordinating this EJ work.

So we are excited to see that many States are actually revising the definitions of disadvantaged communities for the State Revolving Loan Fund programs as a result of our guidance. We are excited to see that our State, tribal and local partners are embracing these resources to create equity in all of our communities.

So this budget does request additional resources so that we have the capacity to ensure that every person in this Country has access to clean air and clean water.

Senator Carper. My time has almost expired. I am going to yield to Senator Capito, who has stepped out of the room for just a moment. Who would be next? Senator Cramer, would you mind?

Senator Cramer. Oh, if I must.

[Laughter.]

Senator Cramer. I am happy to, thank you.

I am afraid I might jump ahead of Senator Capito, even in the questions, on my first question. She brought it up in her opening statement.

First of all, Administrator, thank you for being here. Thank you again for your trip to North Dakota. As I mentioned to Assistant Administrator Fox last week, it was a fun day. I hope you found it useful.

I know that you implemented some of the things you heard from our landowners and farmers concerning Waters of the United States, and while we think it still comes up way, way short, you were there. Showing up matters. You did listen, and we appreciate that, and continue to look forward to working with you more.

The Chairman said that we asked the EPA to do more with less. I am asking you to do less with less. He talked about a tale of two cities, I am talking about a tale of two philosophies. And I will start by challenging you a little bit on what I think Senator Capito probably wants to talk to you about as well, and that is why the EPA went ahead with the WOTUS rule, a durable WOTUS rule, durable considering we are in the middle of a case in the Supreme Court, the Sackett case, and now awaiting that ruling.

This durable wording of the rule, of course, was to prevent the ping-ponging of the rule. Twenty-four States have already challenged your new rule. Wouldn't it have made sense to just wait until after

the EPA, and maybe have a more durable rule, and then free up all that time and all those resources to do something high-priority, perhaps?

Mr. Regan. Senator Cramer, I think maybe my count is right now we have two States that have challenged the rule, maybe more will join. When I embarked upon my listening tour, I think farmers and ranchers asked for certainty and durability, recognizing that the Trump Navigable Waters rule had been vacated and that there was no Obama Clean Water rule in place, which means we were faced with a pre-2015 scenario.

So we worked really hard. We held regional listening sessions all across the Country, went through a very thorough regulatory process. Basically, we looked at the pre-2015 regulation and what we did was we codified two Supreme Court rulings post-2015, and then in this rule I think we threaded a very good needle. What we did was codify over eight exemptions that were requested by the ranching and farming community, in addition to providing this durability or this certainty to move forward.

Now, we recognize that the Sackett case will have some impact on the rule. But what we didn't want to do was wait until after June, wait for the Supreme Court and then start a two-year process which would have left farmers and ranchers in limbo.

Senator Cramer. All right. We are going to disagree on that, for sure. I don't want to get into the details of WOTUS right now, because I do want to move on.

You said 85 percent of the money in the IRA for EPA goes to States or something to that effect. The authority rests with States,

that is the area where I am most concerned, with regard to another Supreme Court ruling, of course, on the Clean Air Act ruling, West Virginia v. EPA.

I worry that the EPA is still presuming authority that it doesn't have. After that ruling, and I will be real specific, in the IRA, there is \$45 million specifically for perhaps using within Section 111, which is what of course West Virginia v. EPA was all about, to engage in even more Clean Air Act intervention, if you will, on the part of the EPA.

Is there anything in the IRA in addition to the \$45 million that gives the EPA this authority to go at the source and to fuel change, or to suggest fuel changing or require fuel changing for generation? Is there new authority that you didn't have before?

Mr. Regan. What I would say is, the Supreme Court made it clear that it was not permissible for EPA to base emissions guidelines under Section 111 on generation shifting.

Senator Cramer. Right.

Mr. Regan. So the court's decision did not draw any conclusions regarding any other control measures, but it was specific there.

So we are designing, we have an obligation, the law requires that we put forward a regulation around greenhouse gas emissions. We are following the Supreme Court's ruling, we are following our Clean Air Act authority. We have engaged extensively with the power sector on this rule.

So I can assure you that we are going to stay well within the guardrails. But our rule will set the structure for the opportunities

in this Country, especially those that come about because of the Inflation Reduction Act.

Senator Cramer. I do prefer States' authority, of course. I think the Supreme Court does as well.

I was going to ask next about the methane rule, because I think it is similar. It is another one of those things where State primacy is being dictated or overwritten by the EPA, perhaps. As I always like to say, please don't impose the Federal Government's mediocrity on my State's excellence. They just do it so much better. And it doesn't cost as much.

Thank you, Mr. Chairman.

Senator Carper. Thanks, Senator Cramer.

A couple of unanimous consent requests. I ask unanimous consent to submit for the record recent economic data from the U.S. Bureau of Labor Statistics, which shows that our economy added, this last month, in February, another 311,000 jobs, 311,000 new jobs, surpassing economic estimates which had called for about 200,000.

The unemployment rate remains near an historic low, just 3 and a half percent. That is the lowest rate on unemployment in this Country in almost, ready for this, 54 years. Fifty-four years.

I also ask unanimous consent to submit for the record a December 20, 2022 fact sheet from the EPA that confirms its new WOTUS rule does not impact longstanding permitting exemptions provided in the Clean Water Act for agriculture activities. The Clean Water Act has exempted normal ongoing farming activities from permitting since 1977, and President Biden's WOTUS rule does not change that. This fact

sheet explains the new rule actually includes new exclusions long sought by the agriculture community, including a definition for prior converted crop land and exclusions for certain ditches of irrigation, areas and artificial lakes and ponds.

With that having been said, I am happy to yield to my --

Senator Wicker. Reserving the right to object. Do either of those documents speak to the inflation rate that consumers are having to pay for products like eggs and groceries and agriculture products?

Senator Carper. I am going to check, and I will get back to you right after this hearing.

Senator Wicker. I withdraw my reservation.

Senator Carper. Thanks so much.

[The referenced information follows:]

Senator Carper. I would note, for the last six, seven months, each month, you may have noticed the rate of inflation is going down, down, down. If the Federal Reserve continues to do their job and we do our job, maybe it will just keep coming down. I hope so.

Senator Wicker. With respect, I haven't noticed it going down, down, down. There have been upticks in certain sectors and down in others, inflation is a serious problem. I just wondered if those documents reflected that.

Senator Carper. Senator Cardin?

Senator Mullin. Sir, hold on, I would like to just object. If you are putting your labor statistics into the record, I want to object to it, too. Because I am reading the labor statistics from the Bureau of Labor Statistics, and it said actually the unemployment rate edged up to 3.6 percent from February 2022, not the lowest that we have seen in record history. In fact, if you start looking at it, people that left the workforce is 5.1 million in the last four weeks, which is what almost doubled the unemployment rate.

So your statistics aren't accurate to what you are saying for your unemployment. So your staff either, one, didn't brief you right on that, or they didn't read the same Department of Labor statistics which I am reading.

Senator Carper. So you are saying the unemployment rate has gone up from 3.5 percent to 3.6 percent. I am not going to get into --

[Simultaneous conversations.]

Senator Mullin. It is not accurate when you say that it has actually dropped.

Senator Carper. Regular order. Thank you.

All right, who will be next?

Senator Cardin. I am.

Senator Carper. Senator Cardin.

Senator Cardin. Thank you.

I appreciate your visits to Maryland. We know it is easy on your travel budget when you visit our State, so we always welcome you to the State of Maryland.

I also want to thank you for your help in regard to our priorities for the Chesapeake Bay and the Chesapeake region. The budget provides \$47.6 million in Fiscal Year 2024 from the Bipartisan Infrastructure Bill, Bipartisan Infrastructure Bill that provided \$238 million to the Chesapeake Bay over a five-year period. So we appreciate those funds being made available. We also appreciate your budget that increases the Bay Program directly by \$100,000.

I really want to acknowledge and urge you to continue to work with the surrounding States in the Chesapeake Bay watershed as well as other agencies, including the Army Corps, as we develop strategies to move forward with the Chesapeake Bay.

A second issue, I want to just acknowledge the challenges you have in regard to the work that you are doing for the Phase 3 Greenhouse Gas Emissions for Heavy Trucks. Maryland is home to Volvo Mack Truck, 1,500 jobs in Hagerstown. They are working on the electric vehicles, electric trains, I should say the electric drive trains for new clean trucks.

My concern is, and we have mentioned this before to you, is that

as you develop your rule, be mindful of this infrastructure or structures that are available to implement this in transition. We think the work being done in Hagerstown is important to that. We want to preserve that manufacturing here in the United States, to make sure we can comply within a reasonable period of time of any of the new requirements that are made.

Let me go to one of the public health challenges. You said you are prepared to meet these public health challenges. You have been to Back River Wastewater Treatment Plant in Baltimore. You know the challenges we have there.

Just recently, there was an explosion and fire. Fortunately, no one was hurt. But we do know that that plant discharges an excess amount of nutrients and bacteria. And Baltimore is not alone. This is a problem that we see in man of our older wastewater plants throughout this Country.

My question is, it needs resources, but it also needs help in developing the proper management structure in order to meet the needs going forward. You indicated you are up to the task. Tell me how you are going to be up to the task to help us in Baltimore and other places in this Nation that have real challenges in their wastewater treatment plans.

Mr. Regan. Thank you, Senator Cardin, for that question. We are up for the challenge. Part of our strategy there is to leverage our strong regional leadership. We have 10 regions across the Country that work in very close partnership with our State regulators.

So we are heavily engaged with the Department of Environment in

Maryland and Baltimore City around how we look at this particular issue, the Back River issue, Blackwater issue. And we have our regional administrator, Adam Ortiz, who has his finger on the pulse there.

Senator Cardin. He is doing a great job. I really want to acknowledge his incredible work in Region 3.

Mr. Regan. Thank you. He is doing an incredible job. Part of that is ensuring that these States get the resources they deserve.

So as part of the Bipartisan Infrastructure Law, when we look at the \$50 billion or so dollars, there are significant, hundreds of millions of those dollars that we are providing directly to States for technical assistance.

Senator Cardin. I think that technical assistance will be very important. We do have a resource problem, but we also have a management issue. So I hope the technical assistance will be sensitive to meet those needs.

Mr. Regan. Absolutely. Absolutely.

Senator Cardin. Let me raise one additional issue in the time I have remaining. That is on the lead abatement issues that you are dealing with. There are two grants that are going to be funded, I think to the tune of about \$219 million in the President's budget.

Tell me how you are going to target those funds, particularly to the underserved communities that have had the challenges in the past in dealing with lead poisoning in their homes and schools? How do we target it to make sure it gets to the communities of greatest need?

Mr. Regan. That is one of the really important tasks, not only

of the entire agency, but of our new Office of Environmental Justice and External Civil Rights. Number one, we are grateful for the language in the bill that basically stipulates a certain percentage of these resources must go to disadvantaged communities. We also know that many States already have a lead inventory, and those that don't are continuing to develop that.

So we do have a formula in place. We do have a structure in place that ensures that those who need these resources the most will get them first. We are grateful for the \$15 billion in the bill that targets eradicating lead pipes. But we all know that there are more financial needs in this Country than the \$15 billion. That is why this budget request is so important.

Senator Cardin. Thank you. Thank you, Mr. Chairman.

Senator Carper. Thank you, Senator.

And Senator Capito has graciously yielded to Senator Lummis for the next round of questions. Senator Lummis, you are on.

Senator Lummis. Thank you, Mr. Chairman, and thank you, Ranking Member. I appreciate it.

Administrator Regan, welcome. I would comment first before I ask a question about PFAS that it is simply impossible for EPA to absorb and responsibly spend the amount of money that is being requested. I look forward to visiting with you about, if this amount of money is thrown at EPA, how you think you could possibly spend it responsibly. At any rate, that is just an editorial comment.

Administrator Regan, I have heard from public wastewater utilities concerned that a CERCLA listing for PFAS could leave them

liable to bear the costs of contamination, putting the onus on local communities and households. Public water and wastewater utilities did not produce or benefit from PFAS, but since it flowed through their systems, they could be left bearing the costs associated with cleanup, which will mean higher rates in people's water bills.

If the designation moves forward, does EPA plan to hold public wastewater utilities and local communities liable for PFAS contamination under CERCLA?

Mr. Regan. Thank you for the question, Senator. Our goal is to use all of our enforcement authority to hold the companies responsible, accountable. That is goal number one.

Number two, we do not want the burden and the onus to fall on our wastewater treatment facilities, especially those smaller ones in our rural communities.

That is why there is \$8 billion in the Bipartisan Infrastructure Law, thanks to many of you all, that got that in that law, that will provide some financial reassurance to these smaller communities as we begin to pursue this regulation.

Senator Lummis. Does EPA have authority to provide exemptions? Because exercising enforcement discretion doesn't seem sufficient.

Mr. Regan. We do have enforcement discretion. I think that we have to look at the tools that we have within our tool box. Enforcement discretion is one, but it is a very powerful tool that we can use.

Senator Lummis. Do you have statutory authority to provide exemptions?

Mr. Regan. We don't. We have the enforcement discretion tool.

Senator Lummis. Can EPA use its regulatory authority to strengthen existing Federal exclusions under CERCLA, including the federally permitted release and normal application of fertilizer, by clarifying that these apply to public wastewater utilities adhering to their Clean Water Act permits?

Mr. Regan. I will have to take a look into that request.

Senator Lummis. Perfect. Thank you for that answer. And I am going to submit some other questions for you for the record.

But with my remaining time, I would like to switch to the Good Neighbor Rule and ozone transport. In your most recent Ozone Transport Rule, the EPA released updated modeling showing Wyoming's contribution to downwind States at .68, which is below the .7 parts per billion national standard for ozone threshold. The EPA should have approved Wyoming's State implementation plan rather than deferring. Any other action is arbitrary and not in accordance with the law.

So, do you have a time frame of when the agency is going to act on Wyoming's plan?

Mr. Regan. I would like to say I have enjoyed my conversations with Governor Gordon. I think our teams are working extremely well together. I think it is because of that productive relationship that we deferred action on Wyoming.

I don't have a particular timeline with me now, but will follow up with that. I think it is instructive that the conversation we had with Wyoming was one of the reasons that the Good Neighbor Rule was as

targeted as it is, using the best available information, having these constructive conversations, not only with governors, but with State regulators I believe produced the best results for the Country.

Senator Lummis. Thank you. I do believe that the EPA should have approved Wyoming's State implementation plan rather than deferring, because we fall below EPA's own updated modeling in a way that makes us compliant. So the fact that this hasn't been approved is a source of frustration.

I have some questions, Mr. Chairman, about small refinery exemptions, RFS and coal combustion residual and some other things, that I will submit for the record, and look forward to continuing some of these conversations with you. Thanks so much, Administrator Regan. I yield back.

Mr. Regan. Thank you.

Senator Carper. Senator Lummis, thank you.

Senator Padilla, how old are you?

[Laughter.]

Senator Carper. How old are you, really?

Senator Padilla. Turning 50 today, sir.

Senator Carper. Turning 50. So 50 years ago today, you made your first appearance. Is your Mom still alive?

Senator Padilla. We lost Mom a couple of years ago.

Senator Carper. Well, we are grateful to her for bringing you into the world and sharing you with all of us. With that having been said --

Senator Lummis. Mr. Chairman, would you yield the floor for a

second?

Senator Carper. Sure.

Senator Lummis. Fifty is a good time for a mid-life crisis. I scheduled mine, because I wanted to have one. But I was too busy, so I scheduled it.

[Laughter.]

Senator Lummis. And I went to Surf Divas in your home State of California, which is an all-women's surfing school for pencil-pushing women. It was absolutely tremendous. So I recommend that you schedule your mid-life crisis. And I wish you a very happy birthday.

[Laughter.]

Senator Carper. I don't know how to top that. You are recognized.

[Laughter.]

Senator Padilla. Thank you, Senator. I would think about scheduling it, but I think it would conflict with another hearing of the Environment and Public Works Committee.

[Laughter.]

Senator Padilla. I will choose to go to committee instead of a crisis.

Thank you, Mr. Chair. I want to begin by also thanking Administrator Regan for your staff and their close collaboration with me and my office on so many pressing issues, for the Country, but specifically for California in the areas of chemical cleanup, clean water, and clean air challenges.

Earlier this month, if your scheduling process is anything like

mine, it might not have gotten to your eyes yet, but you do have an invitation from me to come to California and visit the South Coast Air Basin to see again first-hand how pressing air quality challenges are impacting the community, particularly as a result of the tremendous amount of goods movement that we see in southern California.

We are proud to play such an important role for not just our region, but our national economy. But it doesn't come without impact, as you can appreciate. So we do hope to see you in the Los Angeles area very soon.

As you know, and as you will see, air pollution from mobile sources like freight trucks, ships, and locomotives disproportionately impacts the health of lower-income communities, communities of color, tribal communities, and other marginalized communities. While California is certainly doing all it can, we have leaned in at the State level and at the local level to tackle sources of air pollution under State jurisdiction and local jurisdictions, these heavily polluting mobile sources that remain our biggest challenges are under Federal jurisdiction.

So we need to continue this collaboration with the EPA to expedite reductions in pollution from these mobile sources.

I also want to recognize, in all fairness to you, that years of underfunding during the Trump Administration has made it particularly challenging for EPA to fulfill its obligation to these disproportionately impacted communities.

But thanks to your leadership these past two years, there has been this new life that has been taken into the agency. Your rules,

like the EPA's recent rule strengthening emissions standards for heavy duty vehicles, are establishing some of the most significant protection that we have seen in decades.

But EPA has a mission to also protect public health and advance environmental justice. That work cannot be done without sufficient resources and staff. I know Chairman Carper asked generally about staffing needs. I want to ask you to specifically address how increased funding for EPA's Office of Air and Radiation can enable the agency to move forward on this work to cut pollution and to save lives.

Mr. Regan. Thank you for that, Senator Padilla, and thank you for your partnership.

Absolutely, if you talk to my staff, they are very grateful for last year's budget. But we are still in need of significant resources. There are some that might suggest that we can't absorb these increases. That is a hard message to give to people who are already overworked and working six and seven days a week.

So absolutely, when we look at the challenges facing our Country, especially on the transportation side, the amount of skills and resources and bodies that we need to keep pace with a changing economy and technologies, we absolutely need these bodies that we are requesting.

We did publish a Heavy Duty Truck Rule in December of 2022 focused on NOx. But as you are noting, we have another obligation to do another truck rule focused on greenhouse gas emissions. So we are continuing to move forward with these regulations that quite frankly

are technology standards. They are really driving the markets of where technology is going, and we have to keep pace with that.

So in the Office of Air and Radiation, when we look at a Good Neighbor Rule, our transportation rules, our 111 focusing on the power sector, our Mercury and Air Toxics Rule, these are the same individuals focusing on significant regulations that have to capture the market, analyze technologies, and do all of these things in a way that we can remain globally competitive.

Senator Padilla. Thank you very much.

Time is zipping by fast, so I will just raise another issue and submit it in the form of questions for the record after the hearing. That is acknowledging the vision and leadership that you are providing, as well as the significant amount of investments that Congress has approved in recent years through the Bipartisan Infrastructure Rule, through the Inflation Reduction Act, and how we advance this whole-of-government approach, bringing along other departments and agencies to advance this priority of again, not just environmental protection broadly, clean air specifically, and bringing all the other powers and resources of the Federal Government to bear.

So we will follow up with you and your team.

Thank you, Mr. Chairman.

Senator Carper. Senator Padilla, thanks again for sharing part of your birthday with all of us. Happy birthday from all of us across the aisle and on the same side of the aisle. Happy you are with us.

Senator Capito is next. She has yielded graciously to Senator Mullin. Then whenever she wants to ask a question, she will be

recognized.

Senator Mullin. Fortunately, I haven't reached that 50-year mark and I don't plan on getting there any time soon or any time faster than I have to. So I don't know about the mid-life crisis yet, but I will take your advice.

[Laughter.]

Senator Mullin. For the record, Mr. Chairman, I sit on the committee that has jurisdiction over the Department of Labor, and that is why I wanted to correct the statistics to which you were quoting. And I will do so, if you say something that isn't actually correct statistically speaking, I will be happy to make sure we understand for the record.

Senator Carper. Please do.

Senator Mullin. So going to WOTUS for a little bit, and I want to talk about heavy trucks, a Federal court recently struck down or actually put a preliminary injunction stopping the implementation of WOTUS in two States, Texas and Idaho. I am sure you are familiar with that. Thankfully, the court didn't grant Chevron deference.

You consistently said that you want a "durable rule" by the end of the day, but at least 25 States, which is half the Country, are suing to prevent WOTUS Rule from going into effect. Are you familiar with that?

Mr. Regan. Yes.

Senator Mullin. Given that everything is happening in the courts, aren't you just gambling on this one, hoping that the courts will apply Chevron deference to the WOTUS?

Mr. Regan. We didn't see it as that. We looked at this rule, and we have 45 years of experience in terms of what has happened in the past.

Senator Mullin. Right.

Mr. Regan. We took a look at the fact that the Trump rule was vacated, there was no Obama rule. So this rule basically tries to take advantage of every experience --

Senator Mullin. You have half the Country, which means half of the local jurisdiction over their backyard, over their environment, is saying, whoa, we don't want this. EPA is overstepping here. Half the Country.

You don't think that is something that you should take into consideration? I mean, Washington, D.C. doesn't rule the rest of the world. Nor does it rule the rest of the Country. I mean, there are States that have the right to oversee and regulate if they are able to do so. And we have 25 States that are saying, we don't want WOTUS.

Do you not take that into consideration at all? Are you just saying, hey, Washington knows best, forget you all, we are going to do what we want?

Mr. Regan. I basically have to say that the Constitution and the statutory authorities and the request by Congress for us to execute on safe and clean drinking water laws is what guided my actions. I understand --

Senator Mullin. WOTUS, when you start looking at the Clean Water Act, if you want to get into that, it specifically talked about navigable bodies of water.

Mr. Regan. Sure.

Senator Mullin. Intermittent streams that eventually flow into navigable bodies of water is not what Congress covered. Congress is very specific underneath the Clean Water Act when it stated a navigable bodies of water is to which we would have jurisdiction over. So how are we overreaching in this? And that is where I get into this, is where something I think you need to take into consideration.

I respect the job you did in North Carolina, and we spoke about that. But I think we need to take into consideration the rest of the Country.

Going to, what is your definition of environmental justice? You mentioned that in your statement, that is why I say that.

Mr. Regan. I think the definition, not mine, but the definition is that everyone, despite your race, your community, your zip code, your income, everyone deserves equal protection under the law from environmental pollution.

Senator Mullin. So the 25 States you just ignore, it is half the Country.

Mr. Regan. Twenty-five States --

Senator Mullin. Twenty-five States are saying they don't want WOTUS, and you are talking about clean water, clean air, environmental justice. WOTUS does do with that, 25 States are saying they don't want it. And you are going around it.

Mr. Regan. We will continue this conversation, but the intention is that you have what the Clean Water Act requires us to do. You have Justice Kennedy's opinion, you have Justice Scalia's opinion. Then

you have where we are today. I think we did our best job to look at what Congress has requested, took a look at those two Justices, to look at what the Obama Administration and the Trump Administration failed to do, and to respond in terms of --

Senator Mullin. Communities that live in this environment, communities that live right where they stay, like my family has been in Oklahoma, right where we are at, since the 1830s. I think we know our backyard better than the EPA.

And no one takes more pride in it than we do. No one plays in the creek and swims in the creek that my kids play in, nobody from the EPA that I know of, they never have.

I promise you no one has better interest in it than I do. And I would just like the EPA to take that in consideration.

Real quick, going to heavy trucks, I know we are talking about zero emissions. But has EPA taken into consideration the safety and health and the hazard it would cause on the roads? Because when you take combustible out and you put in electric vehicles, you are going to add a minimum of 5,000 pounds to it, plus you are going to add length to it.

So you are going to have a two-to-one option that you are going to add for every truck that is on the road, the congestion that has already taken place in California, which is causing a humungous backlog on our supply chain. And if you take and consider their rule, they are going to have a de facto by saying that they go to zero emissions, isn't that going to affect interstate commerce, how we are going to get equipment to and from the rest of the United States, not

to mention that we are going to add a tremendous amount of traffic on the road?

EPA needs to be considering this, because we don't have the infrastructure to add these additional trucks on the road. So before we just continue down this road, we need to once again, sir, take all this in consideration.

I am sorry I am out of time. Sir, if you want to give him time to respond, you can. But I am out of time, so I will yield.

Senator Carper. Very briefly.

Mr. Regan. Yes, I would love to continue the conversation. The statements suggest that we have not taken those things into account. When you see the proposed rule that is coming out in the weeks to come, I think you will see much of that taken into account. But we can have that conversation.

Senator Carper. Before recognizing Senator Kelly, I ask unanimous consent to submit for the record several letters that are collectively co-signed by over 100 stakeholder groups, including some in my home State of Delaware. There are letters in support of the 2023 WOTUS rule, describing the negative impacts that a Congressional Review Act resolution to repeal the rule would have on water, wildlife, and human health.

These letters reflect that the stakeholders who support the 2023 WOTUS rule span both urban and rural areas, and include small business owners, as well as millions of Americans who rely on outdoor recreation for their livelihood.

[The referenced information follows:]

Senator Carper. Senator Kelly.

Senator Kelly. Thank you, Mr. Chairman.

Mr. Regan, good to see you again. Almost three years ago, the EPA announced the creation of the Office of Mountains, Deserts, and Plains, which is a new regional office focused on effectively cleaning up abandoned mines and mine lands across the west, and accelerating the cleanup of Superfund sites on western lands.

The EPA needs to do more to clean up the hundreds of abandoned uranium mines on the Navajo Nation. There are more than 500 of them. Tribal leaders, just like tribal leaders, I am concerned that these sites fail to compete well for annual Superfund appropriations funding. I believe that a properly funded and authorized Office of Mountains, Deserts, and Plains can make meaningful progress on these projects.

But, Administrator Regan, I noticed that the Fiscal Year 2024 EPA budget does not include funding for the Office of Mountains, Deserts, and Plains. Can you explain why that is?

Mr. Regan. Yes, and I will echo your sentiments. We absolutely understand the importance of this particular office.

This particular office receives its funding through the Superfund Emergency Response and Removal and Superfund Remedial program, which in this budget, the Fiscal Year 2024 budget, the President is proposing to transition to Superfund Tax Receipts. So it is definitely built in, it is just built in under the Superfund program.

Senator Kelly. So you say the EPA budget does include, my question was, my understanding was it doesn't include funding. But

you are saying it does include funding, but it is coming from another source?

Mr. Regan. Yes, it is coming from the Superfund program, primarily from the Superfund Tax Receipts program.

Senator Kelly. And do you have an amount of funding?

Mr. Regan. Our chief financial officer indicated that we are anticipating collecting over \$2 billion this year to be used for the subsequent year.

Senator Kelly. So you say the Office of Mountains, Deserts, and Plains will be funded at that level?

Mr. Regan. It will get a percentage, it will get some of those resources coming out of those \$2 billion.

Senator Kelly. All right. Could you get back to me on what that number is?

Mr. Regan. We can.

Senator Kelly. Okay. I have introduced legislation with Senator Lummis to authorize the Office of Mountains, Deserts, and Plains. Did you support this legislation?

Mr. Regan. We have absolutely provided technical assistance to previous legislation. So we have weighed in there. Any additional or new legislation, we would be happy to continue to provide that technical assistance, to be sure that we are accomplishing the shared goal.

Senator Kelly. And can you share with us any ways that you think that Congress, what can we do to ensure that the Office has the authorities it needs to support Superfund cleanups in the western

United States?

Mr. Regan. We feel pretty confident right now that we have the authorities. I would love to continue this conversation, if there is some perceived indications that we don't. But we believe right now we have those authorities.

Senator Kelly. Great.

In the remaining time, I want to talk about PFAS for a second. So I am going to shift gears here. It is important to Arizona, cleaning up PFAS. Groundwater is our backup source of drinking water for both Phoenix and Tucson. It is going to become more critical if this extended drought gets worse in Arizona.

Our groundwater aquifers in both Phoenix and Tucson, they have growing PFAS plumes. I understand the EPA has just finalized a drinking water standard for PFAS just last week, and more regulations may be finalized soon. So taken in combination with funding from the Infrastructure Law, I am hopeful that these actions can help make a difference for Arizona communities.

Administrator, will the new proposed drinking water standards, will that speed up any of the EPA's timelines on releasing the Bipartisan Infrastructure Law funds for treating contaminants like PFAS?

Mr. Regan. It absolutely will. We will have them timed to coincide with this regulation and the needs that these communities have. Over \$10 billion in BIL are focused on PFAS and emerging contaminants; \$5 billion of that specifically focused on PFAS.

So yes, all of these things, our regulations and that law, are

working in concert.

Senator Kelly. Thank you.

Senator Carper. Senator Kelly, thanks for joining us today.

Now, Senator Capito is recognized.

Senator Capito. Senator Capito. Thank you, Mr. Chairman, and thank you again, Mr. Administrator.

These should be pretty easy questions. How many people are full-time equivalents at EPA right now today?

Mr. Regan. Right now, we have 14,900 employees.

Senator Capito. Fourteen thousand nine hundred, and what is the max, 15?

Mr. Regan. Fifteen thousand, yes.

Senator Capito. And this budget is asking for an additional 2,000. Of the 14,900, how many are in the office five days a week?

Mr. Regan. Most of our employees are working on a hybrid schedule, just like the rest of the Federal Government and corporate America. But I would like to say that we are definitely meeting all of our performance targets. So our staff is fully engaged --

Senator Capito. So you don't have a percentage of how many people actually come in every day?

Mr. Regan. We can get you that percentage.

Senator Capito. Yes, I would like to see that. Because in your budget, you talk about hoteling, which means you are going to share space. You have a vision of some sort of shared space arrangement, where somebody would use an office and then the next person who comes in uses the same office. Is that correct?

Mr. Regan. What we are trying to do is do what everyone else is doing, which is think about, how do we have a responsible policy in place that leverages our workforce. Whether you are in corporate America, State government or the Federal Government, people have hybrid working conditions. We are trying to make sure we are accommodating that schedule while meeting our mission.

Senator Capito. Yes. I would also like to see when you give me the statistics of how many people are in the office three days every two weeks. This is the same statistic we have from the NRC.

You and I have talked about this a little bit, something that I am deeply concerned about, what kind of culture we are creating here if nobody is seeing anybody and nobody is in the same workplace. This is reflected not just in government, but also in the private sector. We can get those statistics from you.

I am going to put two charts up here that were generated by, I used them with Mr. Goffman last week. Basically I just want a quick answer from you. These were generated by your EPA. They basically are showing that in coal capacity and natural gas generation, that because of the IRA, coal capacity will be significantly lower than it would be had we not had the IRA. And the same with natural gas generation. These are models that he stands by.

I would like confirmation that this is EPA's firm projection of where the IRA is driving our energy production.

Mr. Regan. Yes, those models look consistent.

Senator Capito. So the IRA will directly cause closures of natural gas and coal-powered plants in all certainty.

Let me ask you about, because I talked about this in my opening statement, I want to give you a chance to respond, the \$3 billion Climate Environmental Justice Block Grant program. I was shocked to see that EPA gets 7 percent administrative expenses, \$210 million, to basically give money to sub-grantees, and that they get another 20 percent for administrative.

Is that an efficient way to use government money? What kind of oversight, and who are these people?

Mr. Regan. We definitely have very good oversight over our grant program.

Senator Capito. Well, you might, but do we? We are the ones who are providing the dollars. Is that something that you are going to be fully transparent on, so we can see where these dollars are going?

Mr. Regan. Absolutely. We will have the same transparency for all of the resources that Congress affords to EPA. This won't be treated any differently.

Senator Capito. Who are these groups? Who are the groups that are going to get the bulk of the \$3 billion Climate and Environmental Justice? Do you have a list?

Mr. Regan. Some of the groups I am sure we do have a list, and maybe some we don't have a full list.

Senator Capito. I need to see the list.

Mr. Regan. Sure. These grantees will meet all requirements and oversight principles that all of our grantees do. We are not treating anyone any differently, they are treated in a responsible way.

Senator Capito. Doesn't it seem like 27 percent of the dollars

that the IRA, which none of us voted for, which is billions of dollars, is going to go to administrative costs, is that really providing environmental justice? Twenty-seven percent of that is already out the door.

Mr. Regan. These are similar percentages to all of our administrative oversight and cost dollars for pass-throughs and grant programs. This may be an issue that we have with the Government's grant programs. But this program is not being treated any differently than any other grant program that EPA administers.

Senator Capito. Well, I think one of the issues here is the enormity of the dollars. EPA received \$41 billion, and yet the President wants another 19 percent increase, 2,000 more people, when with the \$41 billion you are allowed to hire people to move forward with these programs. To me it is just mind-boggling in this time of fiscal restraint where people are really watching their dollars, this kind of overreach and overspending. It just seems so exorbitant to me.

Mr. Regan. We are not solely an energy agency. We focus on environmental protection. So IRA and BIL don't afford dollars to very critical programs that oversee TSCA, pesticides, herbicides. But we have a lot of programs that are in need of resources that don't fit neatly under the umbrella of IRA and BIL.

So I would say that while the percentage seems high, the dollar amount that EPA is asking for of an agency this size and the scope and magnitude of our responsibility is a catch-up game. We have been in decline for decades, not just one or two Administrations, for decades.

So we are trying to develop a workforce that can keep pace with a very challenging and growing economy.

Senator Capito. What increase did you get last year from your previous budget, percentage-wise?

Mr. Regan. I think we are estimating a 5 percent increase, but we will get you that.

Senator Capito. All right, thank you.

Senator Carper. Thanks, Senator Capito. Thanks for yielding all your time and being so patient.

Next, Senator Ricketts. Good to see you. Welcome, thanks for coming.

Senator Ricketts. Thank you, Mr. Chairman, and thank you, Mr. Regan, for being here today. I appreciate it.

So I am going to go back to the Waters of the U.S. You said in your opening remarks that you want a durable and certain law, and that is going to be, I think we have agreed, it is best for everybody, correct?

Mr. Regan. I am sorry?

Senator Ricketts. You want to have a durable rule, correct?

Mr. Regan. Yes.

Senator Ricketts. And that would be best for everybody, people would have certainty, whether it is farmers or ranchers or small businesspeople, correct?

Mr. Regan. That is correct.

Senator Ricketts. And you are familiar with the 1972 Clean Water Act, correct?

Mr. Regan. Yes.

Senator Ricketts. And do you know how many times in that Act the word navigable water appears?

Mr. Regan. No, I haven't counted that.

Senator Ricketts. It is 50 times, 50 times in that Act it says navigable waters. And I am going to pull up the Merriam Webster Dictionary here of the definition of navigable. And it says, navigable, 1(a), deep enough and wide enough to afford passage to ships. Navigable waters. That is 1(a).

Then it goes on to 1(b), capable of being navigated, like navigable terrain, and 2 is capable of being steered. But the definition is pretty clear.

Now, I am from a landlocked State. We don't have lots of oceans around Nebraska. But to me navigable means you can put a boat on it and go someplace. And you cannot do that from a pond on a farm, you can't do it from a roadside ditch that is temporary, and you can't do it from a puddle on a construction site.

And yet it seems that is what you are trying to do with this rule, is extend that very clear definition of navigable to waterways that are clearly not navigable.

And you talked about exemptions, but you don't need exemptions when you are very clear, that it is very clear what Congress' intent was. Congress' intent could not have been more clear. Navigable waters, where you can put a boat and take a ship and go someplace. And that does not account for the things that you are trying to extend it to.

This to me seems to be an expansion of executive power. By the way, don't take it personally, Mr. Regan, because you are not the first Administration to try and expand executive power. But you are trying to expand the definition beyond what is here.

My question then goes to, with the Sackett case, won't the Sackett case, is it your opinion the Sackett case is not actually going to clarify what navigable is with regard to these definitions?

Mr. Regan. I really wish it was as simple as you laid out. But to your point, multiple Administrations haven't gotten it right since 2015. The Supreme Court has weighed in multiple times. So it is not quite as clear as that picture you painted.

I do agree that the Sackett case will have some impact on the rule. Part of our calculation is this rule is designed to absorb whatever ruling the Sackett case renders, so that so that we can move forward with that latest version of the law. The reason we did not wait is because we have a rule in place that will be impacted, we don't know how much potentially, by Sackett. And we will adjust that rule and move forward.

If we had waited until this ruling in June, we would have had to start a two-year process, if not more. That would have left a lot more uncertainty because of the vacatur of the Trump rule and because the Obama rule was not in place.

Senator Ricketts. So if the Sackett rule, the Supreme Court comes back and says, no, navigable actually means navigable as defined by Merriam Webster and what Congress' intent was in 1972, aren't you going to have to go through that two-year waiting period?

Mr. Regan. No. We believe there are other aspects of WOTUS that we have already taken care of. Then we will adjust to that new definition. WOTUS is a little bit more expansive and impactful than just navigable waters. So we have taken care of all those other externalities. We would adjust whatever decision we get from Sackett, and then we would be moving forward on what we predict to be a much shorter time frame.

Senator Ricketts. Okay. I also note, and this is just a yes or no question, you mentioned the regional listening sessions. Did your staff clarify that those listening sessions are not, don't count as official comments for the rule? Is that accurate?

Mr. Regan. One of the reasons to do that, number one, is it never hurts to listen. Number two, we developed a very strong partnership --

Senator Ricketts. It is a yes or no question, Mr. Regan. Did your staff clarify those don't count as official comments for the rule?

Mr. Regan. But it helps with the implementation.

Senator Ricketts. But it doesn't count for official, is that right? Yes or no?

Mr. Regan. In terms of?

Senator Ricketts. I think your staff clarified those comments don't count for the official comments on the ruling.

Mr. Regan. But they count towards how the rule is implemented and how we partner with the USDA and the resources that USDA can bring to bear to help with the implementation of the rule. So those

listening sessions were extremely valuable for both EPA and USDA.

Senator Ricketts. So I want to switch gears on you real quick with the few seconds I have left. With the new RFS rule, the EPA put out biomass guidelines for three years that are all below what EPA says is the 3.1 billion gallon capacity that the industry already has. Why did you set the targets below what the industry was already creating?

And if you are going to do that, I would ask, do it for one year, don't make it something for three years when we know we are already at the capacity of 3.1 billion gallons and you have it below 3 billion gallons. Why did you set it below that?

Mr. Regan. I think that when we look at the lack of progress that had been made in previous years, we had to go back and do the homework of a previous Administration and catch up for 2020, 2021 and 2022. So now we are looking at setting rules in the future. We are trying to set these volumes for multiple years so that we can create some certainty in this space for the industry, which is what the industry has requested that we do.

So I think the industry was pretty satisfied with where we landed on 2021. Now they are looking for that same trajectory and certainty in those out years.

Senator Ricketts. Well, I am talking about 2023, though. You are setting the amount below 3.1 billion gallons, which is where the industry capacity is already at. Why did you set the biomass goal below what the capacities are at right now?

Mr. Regan. I will take a look into how to answer that question

accurately.

Senator Ricketts. Okay, thank you.

Senator Carper. Thank you, Senator Ricketts. We are joined by Senator Sullivan.

Before I yield to him, I am going to ask unanimous consent to enter into the record a letter submitted to the Senate leadership from sportsmen's organizations, such as the Theodore Roosevelt Conservation Partnership, the American Sports Fishing Association, the Back Country Hunters and Anglers.

The letter expresses support for President Biden's Waters of the U.S. Rule and emphasizes the impact of clean water on hunting and fishing opportunities, as well as the economic benefits of hunting and fishing, which is valued at some \$200 billion per rule.

Without objection.

[The referenced information follows:]

Senator Carper. All right, Senator Sullivan. Welcome.

Senator Sullivan. Thank you, Mr. Chairman.

Mr. Regan, good to see you again, sir. Thanks for coming.

I have a chart that I keep trotting out to all your nominees and everything. This is the global emissions chart, it is fact-checked, from 2005 to 2020. It shows the fact that isn't often discussed in our national media that the U.S. is the leader, leader by far of any Country in the world on global greenhouse gas emissions reductions. Here, that is America. Some of our allies, Germany, U.K., and then of course, you have the dirty countries, particularly China, that is the greenhouse gas emission machine of a coal plant a month.

So I asked your nominees, I am sure you have hopefully seen this, do you understand why that happened? What was the major reason that the United States has been the leader in the world on emissions reductions? Do you know? And I will give you a hint. It is not because of EPA regulations.

Senator Regan. I think that is pretty clear, and I think I have been pretty clear that the markets over the past 10 years have really steered this Country to be as competitive as it is.

I would also say that the power sector has asked for more certainty so that they can make longer-term investments, which is why we have worked to kind of bundle what the Clean Air Act requires us to do in terms of some of these regulations --

Senator Sullivan. So the answer to my question, that is primarily, the reason for that is the revolution in the production of natural gas in America, the private sector, American innovators,

American entrepreneurs undertook some great innovations and made clean-burning American Alaska natural gas the predominant power generation source, which dramatically helped us lead the world in emissions reduction. So that is a fact, so you guys should all know that.

So here is my question. You are the G7 delegate, you play an important role in the G7 negotiations. Well, let me just back up here. If the rest of the world could undertake a chart and record like that, meaning you move from power generation sources into natural gas, you lower your emissions dramatically, wouldn't that help global emissions, if other countries had this profile like we do?

Mr. Regan. I think that our Country --

Senator Sullivan. Mr. Administrator, these are really easy questions. You should just say yes, right? Wouldn't it help?

[Simultaneous conversations.]

Mr. Regan. I reject the premise of the statement that natural gas is the reason emissions are where they are. There is a combination of --

Senator Sullivan. You reject that statement? You have got to go do your homework, there.

Mr. Regan. No, I have done a lot of homework.

Senator Sullivan. Okay, and you --

Mr. Regan. There are combinations of technologies --

Senator Sullivan. The primary reason for that chart is --

Mr. Regan. There are combinations of technologies that are driving our emissions reductions in this Country. That is just a

fact.

Senator Sullivan. You don't think the primary reason for the emissions reductions in America was the movement from coal-powered generation to natural gas, revolution in the production of natural gas?

Mr. Regan. I absolutely --

Senator Sullivan. That is a fact, too.

Mr. Regan. I absolutely --

Senator Sullivan. And as the EPA Administrator, you guys are amazingly good at like avoiding this fact. I don't know why. You should be proud that America is the leader in emission reduction, and you should know the reasons why it is. So let's move on.

Mr. Regan. But there is no accounting of the transportation sector in your statement. We know that transportation --

Senator Sullivan. Let's move on. Let's move on.

Mr. Regan. All right.

Senator Sullivan. G7, the Japanese want to make LNG and energy security a key part of their G7 presidency, which you are member of in terms of G7 delegates. We have been hearing that some members of the Administration were trying to thwart the Japanese on this, that makes complete sense, particularly given this chart.

So a number of us sent a bipartisan letter to Ambassador Emanuel, and I would like to submit it for the record, Mr. Chairman, have written saying we support that and we should have the Japanese support that. We were hearing it was John Kerry, so I actually had a discussion with John Kerry down in Houston a couple weeks ago. He

said no, it is not him, he is supportive of a strong G7 presidency by the Japanese that emphasizes energy security, particularly LNG.

So can I get your commitment as the G7 delegate on the energy and environment side to also support our ally Japan's strong desire to want to make this G7 about energy security lowering emissions, helping our allies, particularly in the aftermath of the brutal invasion of Ukraine by Russia?

Can I get your support to do that, which is what our allies are trying to do? John Kerry says he is good to go with it, so nobody else should be problematic on that issue.

Mr. Regan. I haven't stood in the way of the conversations you just laid out.

Senator Sullivan. The Japanese are making that an important element of their G7 presidency. Will you be supportive of that as the G7 delegate?

Mr. Regan. I have had a number of conversations with Ambassador Emanuel, and I will continue to converse with him. I don't see any daylight in these conversations that he and I have had. I can't purport to know all of what you just laid out, and I haven't talked to Secretary Kerry about this issue in particular.

But EPA, Michael Regan, we have not weighed in on any LNG discussions that may or may not benefit the country of Japan.

Senator Sullivan. Well, I mean, it benefits all of us, right? This is part of the G7 negotiations that you are a part of?

Mr. Regan. Absolutely.

Senator Sullivan. Okay, thank you, Mr. Chairman. I have a

couple additional questions for the Administrator for the record. It would be good to get your view, we can send you things that relate to this chart.

It is very important to have common understanding here. And I think the common understanding is that the revolution in the production of natural gas has played a critical role in emissions reductions in America and the world, and that is a good thing we should all celebrate. Thank you.

Senator Carper. Thank you, Senator Sullivan. I ask unanimous consent to enter into the record findings from PolitiFact showing that the United States is not leading the world in reducing global emissions.

What is PolitiFact? An independent fact-checking journalism website. The article finds, "Relative to the scale of emissions, other leading economies, other countries show much deeper emission reductions." The article also finds that carbon dioxide emissions per person in the United States remained high compared to four leading countries between the years of 2005 and 2019.

I ask unanimous consent. Without objection, so ordered.

[The referenced information follows:]

Senator Carper. I am prepared to ask questions next in this round. Senator Capito, I think you have some more questions, too, don't you?

Senator Capito. I have an additional question, then I am going to have to scoot.

Senator Carper. Do you want to go first?

Senator Capito. That would be nice, thank you.

Mr. Administrator, one of the issues, and we talked about this at the derailment with the EPA official who was there is the mixed communication as to what is safe and crisis communications that EPA has moved forward with. If you don't have specific and detailed information, the gaps get filled with misinformation. It is concerning.

So I want to ask you about, I congratulate you on finally setting the maximum, the MCL levels for PFAS, we talked about that. But at the same time, oh, gosh, several months ago, you put out something called a health advisory level. The health advisory level is so low that it can't be measured, so nobody knows whether the health advisory level is safe or not.

So basically now you have two levels. You have a health advisory level, which is very low and unmeasurable, and then you have the four parts per trillion that you set last week, I believe, that was considered safe. However, when Assistant Administrator Radhika Fox was here, so said there is no safe level for PFAS in drinking water.

This is a very sensitive, as you know, we all know, very sensitive issue across the Country, and very grave implications on how

do we fix it, yes.

But on the health side, what does this really mean? How is that kind of communication helping the American public, the mom with the kids or the grandparents with frail health, or anybody who is drinking? How are they really going to know with the Assistant Administrator saying nothing is it, very low health advisory, and then the maximum contaminant level being slightly higher?

How do you square that to the American who is turning on their tap every day?

Mr. Regan. Thank you for that question. This has been a challenge with communication for a long period of time. Obviously whether it is lead, whether it is PFAS, the agency traditionally puts out what we call a health advisory level that really does follow the science and determine at what levels things are or are not safe.

We put that out there because we want to educate the public, because there are actions that can be taken beyond those actions that can be taken by the Federal Government. So our standards are required based on what is detectable, and then the technologies available to get them to that level. Just because something can be detected at a certain level and a technology can reduce it to that level doesn't mean that therefore it is 100 percent fully safe. There is that gap there.

So there may be things that you can do as an individual or that a State or local can do to get even lower vulnerabilities or risk or exposure to that health advisory level.

Senator Capito. So what I am hearing you say is that the safe

drinking level that you set last week is not really safe? Is that what you are saying?

Mr. Regan. What we are saying is --

Senator Capito. Why would you set it there?

Mr. Regan. We have set a level that is more protective of public health, meaning we have set it at that four parts per trillion level because we can detect it at that level, and we have the technology to reduce it to that level. It is more protective than if we had not had a regulation in place.

Senator Capito. Well, I mean, I am glad. I am glad that we have this MCL. I applaud it. I have been complaining for years that we can't get this level. So under your EPA, you set the level. So thank you.

But you are really saying, I don't know, now I am confused. Because what I am hearing you say is, well, we set a level because that is all we can detect, but we are not really sure it is safe. See, if you are sitting at home thinking, well, what does that mean, in terms of turning on the tap and drinking?

So I just think we have to be really careful what we tell the Americans. I went through a water crisis with heavy chemicals in my own municipal system. It is a crushing thing to live through, and to try to figure out who is telling you the truth and what is safe and what isn't.

So I would just implore you to be, I don't know why you wouldn't want to be unified with your health advisory level and your maximum drinking level so that people can be assured that your science is

telling me that this is safe. So this is a discussion we need to have, because I do think it foments confusion. I think it is difficult for water systems, but it is difficult just for regular folks to figure out with everything in the news about PFAS what is really safe in my drinking water and am I using the best methods that I can use.

So we can talk about it. I just wanted to say there is a lot of confusion here, and I think we could avoid that. Thank you.

Mr. Regan. Absolutely, thank you, Senator.

Senator Carper. Senator Capito, I know you need to leave, but I am going to ask you just to bear with us for a couple more minutes. I need to take a call. In the meantime, I yield to Senator Ricketts, and I will be right back. Thank you.

Senator Ricketts. Great, thank you, Mr. Chairman.

Mr. Regan, as you know, actually, you may not know, I was previously Governor of Nebraska, and then I joined Governors from across the Midwest to formally request, to permanently remove the one pound volatility waiver to allow States to sell gasoline with E15 all year round. This is an important point, because one of the things, I love this committee because I get to talk about this, and now that Chairman Carper is gone, I can say this and he won't get on my case. Last time he corrected me, and ended my time.

Ethanol is something that will help consumers save money at the pump. I just filled up my tank at Hi-Vee a couple of days ago when I was back in Nebraska, and I saved 60 cents a gallon. That was just E10. It helps clean up the environment.

I know you know how much it reduces things like particulate matter and NOx and all that sort of stuff coming out. Then of course, it is also great for our farmers and ranchers. So we asked to be able to sell E15 all year round.

The Clean Air Act states that the Administrator should publish the regulation resolving this action no later than 90 days after receipt of a notification from a governor, but our renewable fuels industry and producers or refiners didn't receive anything until March 1st. This should have been done in July.

So call you tell me why, explain why it took more than the 90 days that is in the Clean Air Act to respond to this regulation? And what are your plans for E15 this summer? I know that you have a rule for 2024 to be able to allow it. But can you talk to me a little bit about that, please?

Mr. Regan. Absolutely, and thank you for the letters. I understand why this is important, and I know it was important to you before you took this position. So we are excited about moving toward the waiver for 2024. We know the timing is different than what was initially requested. And I believe our folks were being responsive to fuel distribution companies so that they could be prepared for next year, not this year.

I recognize that we are on a slightly different clock. I will get you a more specific answer as to what took longer than the 90 days to figure out. But I can say that we are excited about 2024. And for 2023, what we will have to do is do what we did last year, which is assess it case by case as we get closer to that time.

Senator Ricketts. All right, very good. And I also want to get back to the biomass thing, very quickly. Because I do think it is important that as we look to take carbon out of the environment, we look at an all-of-the-above strategy. Biomass is important.

One of the things I wanted to call out in that is, I was talking to people in the industry, and do you know, when we talk about heavy trucks, the difference in the cost of a vehicle that can use biodiesel versus an electric vehicle, do you know what the ballpark difference is? It is pretty big. I take it by the way you are looking at me that you don't really know that answer.

It is \$180,000 to buy that tractor, versus \$500,000 to buy an electric tractor. I think my colleague Senator Mullin pointed out that when you have electric vehicles, it is a lot heavier, which means you are not going to be able to carry as much with you, and you are also not going to, you have the whole distribution issue, and it is also going to beat up the roads.

So again, that is one of the reasons why I think I might really like you to re-look at that biomass thing. I think that is going to be important for us as we look at an all-of-the-above kind of strategy.

And then one other question I have is, getting back to your budget request, you are asking for 2,000 new people. Help me with this part of it. So I believe part of the justification, and correct me I if am wrong, has to do with the Inflation Reduction Act and all the programs that are in that that you are assigned to be able to tackle.

When this goes through the budget process, like when I was Governor of Nebraska, and we would have a bill, my administration would score a bill to say, hey, if you pass this legislation, we are going to need X amount of people, and that would go into a fiscal note.

Does that happen, or did that happen with this, so that when the Inflation Reduction Act was being talked about, you had a chance to weigh in and say, hey, if you pass this I am going to need 2,000 or 1,000 more people or anything like that? Is that part of the process?

Mr. Regan. We can provide technical assistance as these pieces of legislation are developed. I will give you some real numbers, when we think about the Greenhouse Gas Reduction Fund, .5 percent of that is for administrative.

So when we look at some of these bills, like TSCA for example, that was passed in 2016, some of these bills are passed, and they don't give the agency the adequate resources to keep pace with what the legislation requires. That is just part of the reality.

It is not new with the Inflation Reduction Act. Again, going back to TSCA, we were facing that similar situation.

So that happens, and we try to reconcile some of this through the budget process. A good deal of that is what we are trying to do now.

Senator Ricketts. So we need to do a better job on our side as is what I hear in making sure that we are consulting with different agencies to make sure we get an accurate budget reading when we are passing these bills. Is that a fair statement?

Mr. Regan. We do the best that we can to provide the technical

assistance to any piece of legislation to say, this would be the human capital impact to our agency, along with what we think we need to execute or implement that legislation.

Senator Ricketts. Thank you very much.

Senator Carper. Thank you, Senator Ricketts.

Mr. Regan, we thank you for joining us today and responding to our questions. I want to ask a couple of questions. One deals with investments in State and tribal air offices and permitting. It is easy to forget how large a role that States and tribes and local governments play in implementing our clean air laws.

EPA's budget provides, I think, \$423 million, a \$158 million increase over Fiscal Year 2023 in financial support to tribal, State and local partners to implement air quality management programs, including air permitting.

Could you please provide our committee with some insights on why these additional funds to States, to tribes, and to local governments are needed, and how could these funds help with local air permitting and other local air and climate issues?

Mr. Regan. It is a great question, Senator. As you know, for most of our water and State programs, we have delegated authority to the States for the implementation. So again, 85 percent of our budget request on average goes to our State, local and tribal partners. They use these resources to, number one, do a lot of public engagement, not just with communities, but with the companies that reside in their districts, those who are regulated by the agency.

Number two, they invest in air quality monitoring and other

practices to be sure that they have the latest and greatest data, so the permits can be set at the accurate levels. So again, these State agencies know their communities better than the Federal Government. That is why they need these resources, to continually engage, not only with the regulated community, but the communities that are impacted by the pollution.

Senator Carper. All right, thank you. Another question dealing with certainty and predictability, a heavy duty NOx rule. Throughout my time in public service, which has been a while, I hear more often than not from the private sector about the need for Federal Government and State government and local government as well to provide certainty and predictability. I hear it all the time.

Businesses need certainty and predictability to make long-term investments and decisions. That is especially true for vehicle and engine manufacturers who are making investments today for the vehicles of the future.

This past December, I was fortunate enough to join your celebration of the signing of the Heavy Duty Vehicle NOx rule. This rule will reduce smog-contributing pollution from heavy duty vehicles by 48 percent by 2045, 48 percent by 2045. I believe many companies were there celebrating with us.

How is the Heavy Duty Vehicle NOx rule a good example of an EPA action that is good for public health and good for predictability and certainty for businesses that need it and ask for it all the time? Go ahead.

Mr. Regan. It is a great example of how, under this

Administration, we have engaged with industry, with the unions, with our communities to try to get the best technology standards possible.

So we are proud of this rule. We engaged heavily with the industry looking at where the markets and the technologies are going. We engaged heavily with the unions to ensure that there wasn't an adverse impact but actually a jobs component to this. And we engaged with those communities, especially vulnerable communities that are disproportionately exposed to NOx emissions.

Where we think we calibrated this action was toward a rule that satisfies all three constituencies. We are going to do the exact same thing as we continue to roll out other technology standards for the transportation sector. We are looking forward to rolling something out in the coming weeks on greenhouse gas emissions reduction for heavy duty and light duty as well.

Senator Carper. All right, thank you.

I am going to ask another question. Would you elaborate on how streams and adjacent wetlands are very directly connected to the health of our Nation's navigable waterways? Is that why the 2023 Waters of the U.S. rule includes protection for streams and wetlands?

Mr. Regan. Absolutely. We know that the Clean Water Act requires that we protect and not degrade our stream and our wetlands. We also know that our wetlands serve as natural filters to reduce pollution to some of our larger bodies of water.

So it was really important for us to be sure that we were protecting not only our ecosystem and our waterways, but giving our farming community and our ranching community the flexibility to

perform the way that they normally do, which is in a protected manner.

We have done our best to look at multiple exemptions, codify certainty, while also following the law to be sure that we don't expose ourselves to litigation while we are protecting the ecosystem. We try to strike that balance to understand that everybody is not satisfied, but we are trying to follow the law, follow science and work with our partners like USDA to be sure that we are not overly burdening our ranching and farming community.

Senator Carper. All right, thanks. I am going to ask you to elaborate by responding for the record on how the 2023 Rule responded to concerns from stakeholders and is narrower than the 2015 Obama rule on isolated wetlands. I will ask you to respond for the record on that.

Mr. Regan. This is for the record?

Senator Carper. Yes, on the record.

Mr. Regan. Yes, sir.

Senator Carper. All right, thanks.

Senator Sullivan has rejoined us. Senator Sullivan, please.

Senator Sullivan. Thank you, Mr. Chairman. I am doing this for the Ranking Member, she didn't have time to ask unanimous consent to enter into the record letters opposing the EPA's Waters of the U.S. final rule, supporting efforts to reverse the rule under the Congressional Review Act. These letters are from the National Federation of Independent Businesses, the National Association of State Departments of Agriculture, representing our State officials most knowledgeable on the concerns of farmers, the Associated Builders

and Contractors and a coalition letter from more than 40 organizations opposing the rule, from organizations including the American Farm Bureau, Association of Home Builders, National Association of Manufacturers, U.S. Chamber. So I ask unanimous consent.

Senator Carper. Without objection.

[The referenced information follows:]

Senator Sullivan. I also ask unanimous consent to enter into the record a coalition letter from many of these same stakeholder groups explaining specifically why the current WOTUS rule is significantly worse for farmers, ranchers, energy producers, manufacturers, construction workers in the pre-2015 guidance that would take effect if there was a CRA resolution of disapproval passed and signed.

Senator Carper. Without objection.

[The referenced information follows:]

Senator Sullivan. Thank you, Mr. Chairman.

So, Mr. Administrator, two final quick questions for you on topics you and I have talked a lot about. One is, in December, you and I had what I thought was a constructive discussion regarding EPA's use of its 404(c) authorities. Particularly we talked about particular mining projects in Alaska. You committed to me that any use of those authorities would not be precedent setting when the EPA finalized its recent 404(c) action on the already-denied Pebble Mine.

I appreciated your statement at the press event where you said by no means is this meant to send any signal as a precedent beyond this specific project. Last week, Assistant Administrator Fox committed to me essentially the same thing that you had, both in our meeting in December, when you said publicly, since you are here in front of the EPW Committee, this is a bit pro forma, but you have already committed to me on this.

But for the record, will you make the same commitment about this not being precedent-setting, that you have in our conversations, and then in your press statement?

Mr. Regan. Absolutely. It is definitely case by case, not meant to send any signals. This is a tool that we use very sparingly, I think only three times in 30 years. So I think the record for that speaks for itself, and I think Assistant Administrator Fox and I are 100 percent aligned on that.

Senator Sullivan. Great, thank you.

Let me turn to the issue of, I know environmental justice, racial equity are important to you. I want to raise an environmental

injustice in Alaska, an issue against the Alaska Native people that unfortunately some people in this Administration consistently overlook. This is another one, though, that you and I have talked about, where I believe you and your administration have been helpful.

We have over 1,000 sites that are contaminated land sites that are owned by the Alaska Native people after the passage of the Alaska Native Claims Settlement Act, that was 44 million acres of land and the largest land settlement in history, probably in the world, for Native people. And yet, in many cases, that land that the Federal Government provided to the Native people was contaminated.

Now, I am not saying the Feds knew it was contaminated. But it is very contaminated, a lot of that land. Initially, believe it or not, it was unclear whether the EPA and the Federal Government was going to come after these Native organizations and tribes for liability to clean up land that the Feds had given to them that was contaminated.

Fortunately, in this committee, and I thank the Chairman, we worked together in a bipartisan way to say, hey, that would be nuts to hold them liable, since they were the ones given the land that was already polluted.

But what we need to start working on now is helping these indigenous people in my State clean up the lands. So will you agree that this is an environmental injustice that we have to work on, to get them lands? And an important landmark agreement, but a lot of the lands were very polluted and they can't use them.

Mr. Regan. I will absolutely agree that we need to work

diligently together to clean up these lands that were unfortunately impacted.

Senator Sullivan. Good, thank you. And I will say, the EPA under your leadership, has been helping us on this, so I appreciate that. It is going to take money, of course, to clean up. But the one thing I would just like to get a commitment from you on is working with us on some innovative approaches.

You and I have talked about the mitigation banks for wetlands and things like that where you might be able to get credit for cleaning up, if someone as opposed to putting land in a mitigation bank was able to help clean up these lands. Same kind of overall goal to help the Native people clean up their contaminated lands that were provided to them by the Federal Government.

Will you commit to me again, Mr. Administrator, to help on not just the funding, which you guys have been doing a good job on, and I commend you on that, but on some innovative ideas that we have talked about? The Trump Administration had some really good ones, and I would like to continue to follow up on that with you.

Mr. Regan. Our folks are laser-focused on innovation, along with these resources. So absolutely.

Senator Sullivan. Good. And finally, let me just ask, can I get your commitment that in working with us on these issues to ensure that tribes and Alaska Native Corporations, remember ANCs were created by Congress, a lot of people forget that, that they are eligible for the brownfields grants to clean up contaminated lands?

Right now in Alaska there is confusion on who qualifies for that.

From our perspective, if you want to help the indigenous people it is through tribal help. It is also through ANC help. There shouldn't be any real differences. As a matter of fact, the ANCs are the ones that own the vast, vast majority of the lands. So not including them on brownfields grants kind of defeats the purpose.

Can I get your commitment on that?

Mr. Regan. We have a \$20 million grant program specifically for ANCSA for last year and this year in the budget request.

Senator Sullivan. Great, so ANCs and tribes?

Mr. Regan Yes.

Senator Sullivan. Great. Okay, thank you. Thank you, Mr. Chairman.

Senator Carper. Thanks, Senator Sullivan. We have been joined by Senator Whitehouse and Senator Markey. Senator Whitehouse, you are recognized and you will be followed by Senator Markey. Thank you.

Senator Whitehouse. Thanks very much. Administrator Regan, welcome, glad to have you back at the Environment and Public Works Committee again. Congratulations on the progress that seems to be coming on GHG emissions rules and regulations. I appreciate that very much.

You may have said it in your prepared testimony, but do you have a general idea of what the schedule is for the rollout of GHG emissions rules in the months ahead?

Mr. Regan. We do. I would say for the 111 rules, we are looking at late April, which focuses on controlling greenhouse gas emissions from our power sector. We have rules coming out for our heavy duty

vehicles and light duty vehicles in the coming weeks, which we are excited about.

Senator Whitehouse. Ahead of the power plant ones?

Mr. Regan. Ahead of the power plant rules. And then we hope to have soon a rule that is focused on our risk and our Mercury Air Toxics Standard as well, which is important, because it is an air toxics rule. But we are trying to provide some regulatory certainty and a picture for the industry and for our communities on how all of these things coincide with one another.

Senator Whitehouse. It matters a lot to us in Rhode Island, and I suspect in Massachusetts as well, and I suspect Delaware as well, as downwind States. We get a lot of that stuff that comes our way. I can remember when the plan for dealing with pollutants coming out of power plants was to raise the smokestacks higher so that it shot farther up into the air and traveled away from the polluting State and landed more on our States. Thanks a bunch.

So you guys being there to regulate that is really important to us. Because when the home polluting State, their solution is that they dump it higher up into the atmosphere so it falls on other States more, that is not a great solution.

Let's talk about methane. You guys have a terrific methane rule rolling along. We have talked before about how bad the reporting is of methane leakage, and there are organizations that have taken a hard look at it, and are concerned that we are really under-reporting by a lot.

What are you doing to make EPA methane reporting more accurate to

the actual methane leakage that is out there?

Mr. Regan. We have been engaged in a lot of robust conversations with the industry, with the private sector, with non-profits, looking at the best available technologies and best management practices that we can all use and coincide with, or collaborate on. We do have a proposed rule and a supplemental that is coming out.

Senator Whitehouse. Will it improve the reporting accuracy?

Mr. Regan. It is going to improve the reporting, the data collection, and the innovation around the technologies that can be used to control methane. That, coupled with the \$1.5 billion from IRA will go directly to the States to help with some on-the-ground community-led projects, abatement projects. It is going to be transformational for this sector and for methane.

Senator Whitehouse. We had your colleague in the Cabinet, Attorney General Garland, in the Judiciary Committee. In response to my questions, he acknowledged that the Department of Justice was going to put together a task force to look at enforcement against methane leaks across the various departments and divisions within Justice.

I asked him to keep building it out, that I would like to see a whole-of-government enforcement approach in which EPA, Interior, Treasury, Justice, and also potentially State and local enforcement officials had a role designing strategies to, when you find a leak, fix the leak, and make sure that the response is quick by the lawyers to make sure it gets fixed.

What is your status with respect to interagency cooperation on methane enforcement, once a leak is detected?

Mr. Regan. I am proud to say that we have a very strong relationship with DOJ on all of our enforcement programs. This one won't be any exception. So our folks are conversing. We are definitely prepared to take a look at this new regulation and the supplemental, and how it will be implemented and enforced along with these resources, the \$1.5 billion that we are doling out to the States to hold them accountable for oversight and implementation and execution on how these resources will be put in place.

So we feel pretty good about it.

Senator Whitehouse. Good. I urge you to support a completely broad, across the government, multi-agency, not just you and a DOJ task force to respond.

Last of all on methane, I know that the IRA was a big deal. Even with the IRA, we are still not on a pathway to climate safety. We are not even really close. We still need other major interventions.

One of the most important interventions is the social cost of carbon. I know there is one baked into your methane regulation and that that is working through the administrative process. I urge you to make sure that the administrative process is as rapid and robust, not rabid and robust, although rabid might not be a bad way to look at it these days.

[Laughter.]

Senator Whitehouse. As rapid and robust as it can be, to get that social cost of carbon into law as quickly and firmly as possible. Will you do that?

Mr. Regan. Absolutely.

Senator Whitehouse. Thank you.

Senator Carper. Thank you, Senator Whitehouse, for interjecting a little levity into a committee that needs it right now.

Senator Markey, you are on.

Senator Markey. Actually, rabid is how dark money groups view Senator Whitehouse every day.

[Laughter.]

Senator Carper. Strike that from the record.

Senator Markey. He is like Javert.

Senator Whitehouse. Point of honor for me. I don't resent that description at all. But I am taking Senator Markey's time, so let me yield it back.

Senator Markey. Thank you, Mr. Chairman. Obviously, the U.N. this week made it very clear that the world is now on thin ice, and that we have to do even more. So these regulations that the EPA is about to announce, they are our response, they are the answer that we have to have, for light trucks, heavy trucks, for utilities, for mercury. Strong new regulations send the right signal to the rest of the world that we are serious about this, that we are going to be the leader, that we lost time during the Trump Administration, but now the United States is back not as the laggard but as the leader.

So it is just so important that those regulations be the strong regulations that the planet needs, especially what was just announced this week by the United Nations.

As well, and we thank you, Mr. Regan, for your leadership, you understand better than any Administrator ever how local, hyperlocal so

many of the effects of pollution are, and that hyperlocal air quality monitors can identify air pollution hot spots, empower residents with information about the problems and the solutions of the injustice of poor air quality. Because we can't manage what we don't measure.

I have been introducing legislation for years on environmental justice, air quality monitoring, and a lot of funding was included in the Inflation Reduction Act to accomplish that goal. The Administration has already awarded over \$53 million for 132 community air monitoring projects across the Country, including Bedford, Massachusetts.

As we know, it is tribal, low-income communities, communities of color that have been living as sacrifice zones. It is just so important for us to ensure that healthy air is no longer determined by zip code.

Mr. Administrator, will the EPA have a strategy to ensure that additional investments outlined in your proposed budget to ensure air monitoring data can be used to address those sources of pollution and empower communities to take action?

Mr. Regan. Absolutely. The 2024 budget maintains that \$100 million commitment for air monitoring. We are going to build on that with what we have received in the American Rescue Plan starting out, and then those resources in the Inflation Reduction Act.

To your point, it is critical that these local communities have the technological ability to measure the air quality impacts that they are seeing on the front lines, feed that trusted data in concert with our State agencies' regulations to ensure that the permit reflects the

adequate protection for the community.

Senator Markey. Beautiful. In terms of the budget that you have, you are the watchdog on the beat. Is the budget you are submitting allowing you now at the EPA to build your workforce, both through recruitment and retention, so they can properly perform their incredibly important job of protecting the air we breathe and the water we drink?

Mr. Regan. It is definitely putting us on a trajectory to do that. The percentage increase that we received last year was the first step. This year, I know 19 percent sounds like a lot. But when you look at the dollar amount and the needs of the agency, it is not. But it is positioning the data to help this Country stay globally competitive and keep up with the 21st century.

Senator Markey. Thank you. On PCBs, asbestos, lead, they continue to poison our schools, households, workplaces across the Country. We absolutely have to provide the resources to make sure we are focusing on those issues. How necessary is this increased budget if we want EPA to actually be able to address toxic substances in communities and in our schools as well as to get them out of our economy to begin with where they are completely unnecessary?

Mr. Regan. It is extremely important. I know that TSCA was a bipartisan victory that you and others hold high. I know it was one of the more personal motivators for you.

When I think about illnesses that are caused by toxics like TCE and the fact that are just decades later finally getting to the point where we can propose the rights kinds of protections, it demonstrates

how much of an uphill battle controlling these hazardous toxics are. We need the workforce, we need the resources, and we are ready to do it.

Senator Markey. Yes. I only had two unions endorse me in my first race for Congress. One of them was the Asbestos Workers. Joe Zampitella, Sr. died from asbestosis, ultimately. That is why I was always interested in that issue.

So to the extent to which in the 2016 Bill, Mr. Chairman, that passed on TSCA, it is just so important that we get the resources to the Administrator so that job can continue to be worked upon.

I might add as well something that is very near and dear to the heart of the Chairman and myself, it is the Climate Bank that we know you are working on to make sure it is constructed in a way that will maximize the incredible potential which it has. I want to thank you for working with us in terms of the construction of it, so that it can ensure that every community in America has access to the tens of billions of dollars which can be unleashed with a kind of bank that is properly constructed.

So I thank you for working with us.

Mr. Regan. Absolutely. We will continue to work with you and your staff every step of the way.

Senator Markey. Thank you, Mr. Administrator. Thank you, Mr. Chairman.

Senator Carper. Senator Markey, thank you. Thank you for your good work and allowing me to be a partner on the Green Bank and the Methane Emission Reduction program and much other important work that

we and others on this committee have done.

They are waiting for me in the Finance Committee, but not for long, in order to get there and ask questions. So I am going to close out very quickly.

In doing so, I am going to ask for the record if you have any final comments you would like to make. And this is for the record, not for right now. Any final comments you would like to make, maybe a question you weren't asked but would have liked to have been asked. And if you had been, what your answer would have been. That is one I like to close with.

Also, I want to thank you for joining us today and hearing our questions and responding to them at some length. Leading EPA is not without its difficulties. I think you are, and it is not just my belief, but I have actually heard it from some of my Republican colleagues here today, that you are doing good work. You don't hear that every day in this room with us. You are doing an exemplary job, and we thank you and the team that you lead.

For EPA to be successful in protecting human health and the environment while also providing greater certainty and predictability to stakeholders, the agency needs robust funding and a strong leadership team in place. With that in mind, I am hoping that this committee can lead, again by example, and work together in bipartisan way to ensure that EPA has the resources and the leadership team that the American people deserve.

Before we adjourn, a little bit of housekeeping. Senators will be allowed to submit written questions for the record through the

close of business on Wednesday, April 5th. We will compile those questions and send them to you, to our witness and your team. We will ask you to reply by Wednesday, April 19th.

Again with heartfelt thanks, this hearing is adjourned. Thanks.

[Whereupon, at 12:10 p.m., the hearing was adjourned.]