

Congress of the United States
House of Representatives
Washington, DC 20515-0529

HENRY A. WAXMAN
29TH DISTRICT, CALIFORNIA

April 20, 2001

The Honorable Christine Todd Whitman
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Whitman:

I am writing regarding your decision to revoke modern standards to protect the public from exposure to arsenic in drinking water.

As you know, in June 1999, the National Academy of Sciences released a comprehensive study of arsenic that found that the contaminant was a known and extremely potent human carcinogen. The Academy found that exposure to arsenic in drinking water causes lung, bladder, and skin cancer, and concluded that the arsenic in drinking water standard should be strengthened "as promptly as possible." In addition, EPA has found that arsenic exposure is also linked to liver and kidney cancer. And, a new study has indicated that arsenic disrupts the human endocrine system.

In explaining your decision to revoke the 10 parts per billion (ppb) standard, you recently testified that "[W]hen you look at the record of this Administration on the environment, the important thing is to understand that we will judge each issue on its merit individually."¹ And you have said that insufficient time, scientific uncertainty, and inadequate opportunity for public comment influenced your decision, after spending "about an hour and a half" on this matter.²

Since EPA has been studying arsenic for three decades, and the 10 ppb arsenic standard was the result of almost ten years of research and analysis, I would like additional information on the specific rationales you have provided for your decision.

¹Testimony of EPA Administrator Christine Todd Whitman, House Energy and Commerce Subcommittee on Environment and Hazardous Materials, *Drinking Water Needs and Infrastructure*, (March 28, 2001) (hereinafter "Whitman congressional testimony").

²*All Things Considered*, National Public Radio, March 22, 2001. Three days later on March 25, 2001, you stated on the television program *Late Edition* that you may have spent as much as two hours on the decision to revoke modern arsenic protections.

I. PRESSURE FROM AFFECTED INDUSTRY

You testified before Congress that, “[I]t may be hard for anyone to understand this, but I got no pressure from the White House on this rule. None. I didn’t talk to any member, no member of the President’s staff. . . . Nobody associated with the President called about this rule.”³

You also testified that “I had heard a lot of concern about the arsenic rule overall”⁴ You testified repeatedly that this was a “controversial”⁵ rule, yet stated, “I never read a letter from the timber industry, and I never read a letter from a miner.”⁶ You also stated, “I did not take any calls from any industry members.”⁷ Further, while you testified that “I know that there are letters in the record on both sides,” you also stated that “I did not know that the timber industry was opposed”⁸

Yet, on April 2, 2001, you wrote in the *Washington Post*, “I reached this decision after being told by numerous parties that the decision to move the rule before the end of the Clinton administration precluded sufficient scientific and cost-benefit review.”

Further, while you have stated “it was the decision of the EPA, not anybody else; we were the ones who made the decision,”⁹ EPA staff have contradicted this assertion. “Our impression is that she was so blindsided by the White House on carbon dioxide that she is not making the decisions at all,” one senior agency staffer has been quoted as saying. “Now we are wondering whether they are putting the clamps on her and reining her in.”¹⁰

Additionally, you appeared to contradict yourself at a recent meeting of the Business Roundtable, where reportedly you “said explicitly that [you were] concerned about how cutting

³Whitman congressional testimony, *supra* note 1.

⁴*Id.*

⁵*Id.*

⁶*Id.*

⁷*Id.*

⁸*Id.*

⁹*All Things Considered*, National Public Radio (March 22, 2001).

¹⁰Chris Mondics, *Bush’s Reversals Testing Whitman*, Philadelphia Inquirer (March 25, 2001).

arsenic levels might affect business," naming small and mid-sized water companies.¹¹

I am interested in gaining an understanding of which parties provided you with input on the arsenic decision. The White House's role in weakening environmental protections has been well documented in the press. Others have publicly stated their interest in the arsenic regulation. For example, according to the *New York Times*,¹² John Grasser, a spokesman for the National Mining Association, called the decision to withdraw the arsenic rule a source of significant relief. Additionally, Mel Pine of the American Wood Preservers Institute stated, "We're very relieved and delighted about what we hear."¹³ The American Wood Preservers Institute supported the mining industry in a lawsuit over the arsenic standard.

To ensure that the public record is as accurate as possible, please respond to the following questions:

1. You testified before Congress that you were unaware that there was a lobby which did not want protections from arsenic updated. The Environmental Arsenic Council (EARC) is a trade organization which takes this precise position. Robert Fensterheim is the Executive Director of EARC. Have you ever met with, spoken to, or corresponded with Mr. Fensterheim? Have you ever met with, spoken to, or corresponded with any other representative of EARC? Have representatives from EARC had contact with either the White House or EPA?
2. The Utility Solid Waste Activities Group (USWAG), a consortium of 80 electric utilities and associations, has also opposed updating the arsenic standard. Have you ever met with, spoken to, or corresponded with any representative of USWAG? Have representatives from USWAG had contact with either the White House or EPA?
3. James Connaughton was a member of the EPA transition team. Mr. Connaughton has most recently been employed as a Partner at the firm of Sidley & Austin. ASARCO is a major client of Sidley & Austin. ASARCO is a member of the Environmental Arsenic Council which sent a letter to EPA opposing any revision of the arsenic standard on November 20, 2000. Have you or your staff communicated regarding this issue with James Connaughton or other members of the EPA transition team?
4. Who were the "numerous parties" you discuss in your April 2 Washington Post op-ed?

¹¹Melinda Henneberger, *Despite Appearances, Whitman Says She and Bush Agree on Environment*, *New York Times* (April 17, 2001).

¹²*EPA to Abandon New Arsenic Limits for Water Supply*, *New York Times* (March 21, 2001).

¹³*Id.*

Please provide the dates, times, and locations of the meetings at which these parties told you of their concerns with the arsenic rule.

5. What letters in the record were you aware of that stated opposition to the arsenic standard?

II. SUFFICIENCY OF TIME TO PROMULGATE THE STANDARD

On March 21, 2001, you stated:

This was a rule that was done faster than I think any rule has come out of the agency, probably because they hadn't worked on it before. And Congress had said we need to come up with the new standards by June of this year. So they were reacting to a June deadline but they didn't start on it until about a month and a half or two months before the end of the administration, so they really rushed this thing through.¹⁴

You later reiterated this theme saying, "It was a last minute thing that was pushed through."¹⁵ You have testified before Congress that "I did not feel in asking questions of the staff that there have been enough time for them to do what ordinarily would have been in getting all the input from the rest of the country to fully understand the implications."¹⁶

As one of the lead authors of both the 1986 and 1996 Safe Drinking Water Act Amendments, I have a different perspective. Far from being developed over a "month and a half or two months," this standard was developed over many years. This point has been made by EPA's professional staff. According to the *Philadelphia Inquirer*, "some agency staffers . . . pointed out that the agency had studied the matter for nearly a decade before issuing" the new arsenic standard.¹⁷

In fact, in 1996, when EPA had still not updated the original 1942 standard, Congress decided to act. Congress amended the Safe Drinking Water Act, establishing a new statutory deadline for EPA to examine and issue an arsenic standard. Congress required that EPA propose a drinking water standard for arsenic not later than January 1, 2000, and finalize the standard not

¹⁴ *Inside Politics*, CNN (March 21, 2001).

¹⁵ *Late Edition*, CNN (March 25, 2001).

¹⁶ Whitman congressional testimony, *supra* note 1.

¹⁷ Chris Mondics, *Bush's Reversals Testing Whitman*, *Philadelphia Inquirer* (March 25, 2001).

later than January 1, 2001. This matter was a major point of contention in 1996 with many, including myself, arguing that a new arsenic standard should be adopted without delay. But industry interests argued that more time and additional studies were needed, and their proposal for a delay until 2001 prevailed.

EPA proposed a new arsenic standard of 5 ppb in May 2000. An appropriations rider extended the deadline for finalizing the standard from January 2001 to June 2001.

It is important to note that the first standard for arsenic in drinking water was established in 1942 by the U.S. Public Health Service. It has been in place for 59 years, longer than any other current drinking water standard. The arsenic standard predates the EPA, which was established in 1970, by 28 years. At the time this standard was developed arsenic was not even known to be a carcinogen.

You have also specifically stated that the public comment period has been inadequate. On March 25, 2001, you stated that the science was not the problem, and that “there was not the public comment period that needed to be made.”¹⁸ You again stated this concern on March 28, 2001: “[M]y concern is that the previous rulemaking did not allow adequate time for us to hear of what I have seen of what we were able to get from all of the stakeholders, and all those affected.”¹⁹

But in apparent contradiction to your statements, EPA has described its public involvement as “extensive and far-reaching.”²⁰ EPA conducted six stakeholder meetings. Five states provided written comments on implementation issues. Representatives of 8 federal agencies, 19 state offices, 16 associations representing the public water system community, 13 corporations, 14 consulting engineering companies, 2 environmental organizations, 3 members of the press, 37 public utilities and cities, 4 universities, and one Indian tribe attended the stakeholder meetings. EPA presented information on the arsenic rulemaking to 25 tribal council members and water utility operators from 12 Indian tribes. In addition, EPA provided updates on the rulemaking at the national and regional meetings of various groups and trade associations. EPA participated in the American Water Works Association’s technical workgroup meetings. EPA posted and circulated discussion papers to stakeholder participants and others who expressed interest. EPA also received over 1,100 comments on the June 22, 2000, proposed rule, which were considered in developing the final rule.

To clarify your public comments, please provide answers to the following questions.

¹⁸*Late Edition*, CNN (March 25, 2001).

¹⁹Whitman congressional testimony, *supra* note 1.

²⁰Fed. Reg. Vol. 66, No. 14 at 7024 (January 22, 2001).

1. Please provide information on the federal contribution to research, staff hours, contractor resources, and other federal resources used relating to arsenic in drinking water between January 1, 1990, and January 30, 2001.
2. Please provide estimates of resources devoted to this issue from nonfederal sources between January 1, 1990, and January 30, 2001.
3. Please provide information which forms the basis for your view that the public comment period was inadequate for the arsenic rule.
4. Please provide information regarding the length of comment periods for each national primary drinking water standard that has been promulgated in the last 10 years and a list of EPA conducted stakeholder meetings and any other workgroup meetings for each standard.

III. SCIENTIFIC CERTAINTY

On March 20, 2001, you stated "[T]he scientific indicators are unclear as to whether the standard needs to go as low as 10 ppb."²¹ Also, you have implied that the new arsenic standard is not based on "sound science."²²

Your statements regarding the adequacy of the science were not consistent with statements by EPA's own scientists and experts. One newspaper reported:

"There has been a lot of research all over the world, and all the research says the same thing": that exposure to arsenic at the lower levels has been implicated in lung cancer and other diseases, one EPA staffer said. "It [the EPA research] was very supportable."²³

In fact, by March 25, 2001, you appeared to doubt that science was really the problem. On the television program *Late Edition*, you stated that the issue was "Not the science, we know

²¹Press release, "EPA to Propose Withdrawal of Arsenic in Drinking Water Standard; Seeks Independent Reviews," U.S. Environmental Protection Agency, March 20, 2001.

²²Douglas Jehl, *EPA to Abandon New Arsenic Limits for Water Supply*, New York Times (March 21, 2001).

²³Chris Mondics, *Bush's Reversals Testing Whitman*, Philadelphia Inquirer (March 25, 2001).

that they have been studying the science for a long time.”²⁴

However, only two days later, you stated “there's no scientific study that definitively says that ten is the magic number.”²⁵ The following day you reiterated to Congress that more scientific study was necessary.²⁶ When questioned why additional scientific study was necessary, you stated, “Simply because I would love nothing better than to have the definitive study that says that it is 10, and that's it, or it is five, and that's it.”²⁷ Yet, when you were questioned about the possibility of a definitive study, you testified:

We are not going to get it. We need to make a decision without everything that we would like to have. . . . And I am not saying that we are going to hold up a decision on this until we get that kind of a study, because I don't think that we ever will get that kind of a study with arsenic. So we have to be prepared to make a decision without everything that we would like to have. That is what I would love to have, but we are prepared to go forward.²⁸

While you insisted on March 19, 2001, that there is “no consensus on a particular safe level,”²⁹ you testified to Congress on March 28, 2001, that 10 ppb “is becoming more and more a common[ly] accepted number.”³⁰ And in your testimony, you conceded that as Governor of New Jersey, you agreed to establish a 10 ppb standard as a matter of state policy. In fact, the New Jersey Department of Environmental Protection has recommended that public water systems and private well-owners take action to reduce exposure when arsenic levels exceed 5 parts per billion.³¹

²⁴ *Late Edition*, CNN (March 25, 2001).

²⁵ *Good Morning America*, ABC (March 27, 2001).

²⁶ Whitman congressional testimony, *supra* note 1.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *EPA Revokes Drinking Water Rule*, Washington Post (March 20, 2001).

³⁰ Whitman congressional testimony, *supra* note 1.

³¹ Don Stancavish, *DEP Urges Testing For Arsenic in Wells; Wants NJ to Meet Proposed EPA Standard*, The Record (Bergen County, NJ) (June 3, 2000).

These seemingly conflicting statements were further complicated on April 7, 2001, when you announced the likelihood that you would recommend an arsenic standard that is stricter than 10 ppb. In a period of 18 days, you went from saying “the scientific indicators are unclear as to whether the standard needs to go as low as 10 ppb”³² to “there's a very good likelihood” that a review now under way might result in a recommendation of an even tougher standard.³³

To help explain your views of the scientific understanding of arsenic in drinking water, please answer the following questions:

1. Please explain the discrepancies between your statements on March 20, 2001, and March 25, 2001.
2. Please explain the discrepancies between your statements on March 25, 2001, and March 27, 2001.
3. Please explain the discrepancies between your statements on March 27, 2001, and April 7, 2001.

IV. COST ANALYSIS

On March 21, 2001, you stated that in addition to scientific concerns with the rule, “we hadn't considered what the impact would be on particularly rural communities and people who depend or living right on the edge and where their water bills could skyrocket.” You also stated, “we haven't done the kind of economic analysis that we are also required to do by law that would look at what the impact is going to be on people.”³⁴

These comments were confusing, since EPA did conduct an economic analysis. The EPA analysis estimated that the total monthly cost for compliance per household by system size would

³²U.S. Environmental Protection Agency, *EPA to Propose Withdrawal of Arsenic in Drinking Water Standard; Seeks Independent Reviews*, press release (March 20, 2001).

³³Douglas Jehl, *Whitman Calls for Patience on Environmental Policies*, New York Times (April 7, 2001).

³⁴*Inside Politics*, CNN (March 21, 2001).

be as follows:³⁵

System Size	Monthly Cost
< 100	\$27.23
101-500	\$13.54
501-1000	\$5.89
1001-3300	\$4.85
3300-10000	\$3.14
> 10000	< \$3.00

On March 22, 2001, your concern appeared to shift from whether EPA had performed the analysis to the adequacy of EPA's analysis. You stated, "[EPA] had not done an adequate job in looking at what we are required to look at by law, and that is the impact of the cost on everyone who would come under this rule."³⁶ You restated this concern on March 25, 2001: "The problem was that, when they pushed through the rule at the end, they didn't allow enough time for the full economic study."³⁷

However, the General Accounting Office (GAO) has stated, "Our review indicates that EPA complied with the applicable requirements" regarding cost-benefit analysis, the Regulatory Flexibility Act, Unfunded Mandates Reform Act, Administrative Procedure Act, Paperwork Reduction Act, Executive Order No. 12866, and Executive Order No. 13132.³⁸

Regardless of GAO's findings, you testified before Congress that "We are required by law to look at cost benefit. That is something that is in the [Safe Drinking Water Act], and we need to meet that obligation, and unfortunately I did not feel that that had been satisfactorily addressed during the original rule promulgation."³⁹ You also testified:

³⁵Fed. Reg. Vol. 66, No. 14, at 7011 (January 22, 2001).

³⁶*All Things Considered*, National Public Radio (March 22, 2001).

³⁷*Late Edition*, CNN (March 25, 2001).

³⁸Letter from Kathleen Wannisky, Managing Associate General Counsel, General Accounting Office, to Sen. Bob Smith and Rep. Billy Tauzin (February 5, 2001).

³⁹Whitman congressional testimony, *supra* note 1.

And again while the staff has definitely done a fiscal impact, and they have looked at what the potential impact is, they then did an averaging across the country, and when you look at how that comes into effect, it is very different .⁴⁰

Your press release emphasizes the importance of accurate economic data for the “balancing of costs.”⁴¹ This statement appears to contemplate weakening the arsenic standard based on economic considerations. However, when you testified before Congress, you stated:

The concern that I have is not that we have any lesser standard because of the cost, but that we fully understand what the costs are, and we make sure that we have in place the tools necessary, whether it be strictly financial or technical, what we need to do to help those small and mid-sized communities where arsenic is a naturally occurring substance, and to be able to reach whatever the standard is that we set.”⁴²

I believe the Clinton Administration was also sensitive to these concerns and finalized a rule which allowed five years for compliance with the standard, so that the necessary tools could be put in place to help small and mid-sized communities. You testified that you intend to require compliance with a new arsenic standard in only three years.⁴³

Please respond to the following questions to help clarify your position regarding EPA’s economic analysis.

1. Please provide the legal basis for your belief that EPA has not met its legal requirements under the Safe Drinking Water Act, or any other applicable law.
2. Please provide the analysis which formed the basis for your critique of EPA’s economic analysis.

⁴⁰*Id.*

⁴¹U.S. Environmental Protection Agency, *EPA to Propose Withdrawal of Arsenic in Drinking Water Standard; Seeks Independent Reviews*, press release (March 20, 2001).

⁴²Whitman congressional testimony, *supra* note 1.

⁴³*Id.*

3. Will it be easier to “make sure that we have in place the tools necessary, whether it be strictly financial or technical” to help small and mid-sized communities if we have the regulatory certainty of knowing what the standard is for three years or five years?
4. Will you weaken arsenic protections based on cost considerations?
5. Are you examining options to provide financial assistance to small water systems if necessary? If so, please provide information on these funding options.

V. YOUR PLAN FOR GOING FORWARD

In your March 20, 2001, press release, EPA announced that it will seek independent reviews of both the science behind the standard and of the estimates of the costs to communities of implementing the rule.⁴⁴ More specifically, you testified, “We are going to ask for outside review by the National Academy of Sciences if there is any new science to be taken into account, and then those who look at cost benefit”⁴⁵ Consistent with these statements on April 18, 2001, you announced that EPA would ask the National Academy of Sciences to perform a scientific review of the arsenic standard. Additionally, you announced that you will convene a subgroup of the National Drinking Water Advisory Council to review the economic issues associated with a standard.⁴⁶

You have made efforts to emphasize the speed with which you will develop a new standard. On March 22, 2001, you stated “There will be a new arsenic standard, and we hope to have it ready to go soon.”⁴⁷ The *New York Times* cited a senior EPA official saying that the administration would have a recommendation by this summer.⁴⁸

⁴⁴U.S. Environmental Protection Agency, *EPA to Propose Withdrawal of Arsenic in Drinking Water Standard; Seeks Independent Reviews*, press release (March 20, 2001).

⁴⁵Whitman congressional testimony, *supra* note 1.

⁴⁶U.S. Environmental Protection Agency, *EPA Administrator Whitman Establishes Process to Evaluate Arsenic in Drinking Water Standard*, press release (April 18, 2001).

⁴⁷Letter from Christine Todd Whitman to the Editor, *New York Times* (March 22, 2001).

⁴⁸*EPA to Abandon New Arsenic Limits for Water Supply*, *New York Times* (March 21, 2001).

However, on March 28, you testified that you would seek an extension to the current deadline of June 2001.⁴⁹ In the media you have been more specific, stating that you will ask Congress to extend the deadline from June 2001 “until the end of the calendar year.”⁵⁰ But your April 18, 2001, press release goes even further. You announced that the effective date of the modern arsenic standard would be delayed for an additional nine months, until February 22, 2002.⁵¹

This is of great concern to me, because EPA currently has a statutory duty to have a new standard in place by June 22, 2001.⁵²

Additionally, your March 20, 2001, press release stated, “EPA . . . expects to release a timetable for review within the next few weeks.”⁵³ However, your April 18, 2001, announcement does not provide a timetable. Instead, it merely further delays modern arsenic protections pending review.

Please answer the following questions, so that I may understand your intent going forward:

1. Please provide a specific timetable for review of the arsenic standard, as well as a schedule for proposing, finalizing, and implementing a new arsenic standard. Please include the dates that any public comment periods will begin and end, and when all reviews will be completed.
2. Your April 18, 2001, press release stated that the Academy is being asked to perform a review of “a range of three to 20 parts per billion for the establishment of a new drinking

⁴⁹Whitman congressional testimony, *supra* note 1.

⁵⁰John Heilprin, *Bush Vows to Reduce Arsenic in H₂O*, Associated Press (March 29, 2001).

⁵¹U.S. Environmental Protection Agency, *EPA Administrator Whitman Establishes Process to Evaluate Arsenic in Drinking Water Standard*, press release (April 18, 2001).

⁵²Pub. L. No. 106-377, 114 Stat. 1441 at A-41 (October 27, 2000).

⁵³U.S. Environmental Protection Agency, *EPA Administrator Whitman Establishes Process to Evaluate Arsenic in Drinking Water Standard*, press release (April 18, 2001).

water standard.”⁵⁴ Has the Academy agreed to do this review?

3. Historically, the National Academy of Sciences does not recommend specific standards. Do you anticipate that the Academy will recommend a specific standard in the case of arsenic in drinking water? If so, why is this case different than other EPA standards where the Academy has not made specific recommendations?
4. What economic issues will you ask the National Drinking Water Advisory Council to review? Will the Council review the cost-benefit analysis for the arsenic standard?
5. Would the current standard need to be revoked if EPA were planning to establish a standard more stringent than 10 ppb?
6. When will you submit legislation to Congress with your proposal for extending the deadline for modern arsenic protections as you described on March 28, 2001?
7. You are proposing to delay the effective date of the arsenic standard eight months beyond the statutory deadline for a new arsenic standard. Does EPA believe that it needs additional authorization from Congress to carry out this action? If not, how long, in your view, could EPA delay the effective date without additional authorization? Indefinitely?

VI. COMPROMISING PUBLIC HEALTH

You have stated repeatedly that the new arsenic standard was not scheduled to have an effective date until 2006. On March 20, 2001, you stated:

This decision will not lessen any existing protections for drinking water. The standards would remain the same, whether the rule went through or not, until it was time to enforce it under the compliance schedule five to nine years from now.

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⁵⁴*Id.*

⁵⁵U.S. Environmental Protection Agency, *EPA to Propose Withdrawal of Arsenic in Drinking Water Standard; Seeks Independent Reviews*, press release (March 20, 2001).

You stated to the media, “The rule . . . would not have gone into effect until 2006. So there is no change to America’s water anywhere in the country, today, tomorrow or next week, because of the decision to withdraw.”⁵⁶ You even testified before Congress that “The arsenic rule . . . would not have become effective, or is not due to become effective until 2006. We will have a new regulation in place that will have an effective date of 2006.”⁵⁷

You even went so far as to state “I am having a difficult time understanding how there is a public health issue if the new standard of 10 parts per billion would not have been effective until 2006. . . .”⁵⁸ Most confusingly, you’ve stated, “The important thing about arsenic to know, is we are not pulling back any arsenic standards.”⁵⁹

I am concerned that you have been misinformed as to the effective date of this regulation. The effective date was to be March 23, 2001.⁶⁰ Upon the effective date, states and drinking water providers would know what the new standard is and would begin to comply with it. Additionally, the new arsenic standard has important right-to-know provisions which go into effect immediately. You are revoking these provisions as well.

You have stated that “In the end, we will produce a rule that will protect the health and safety of all within the **exact same time frame of the**” new arsenic standard.⁶¹ This is obviously impossible since March 23 has already passed, and you are seeking a delay beyond June 2001 for establishing a new standard.

You have testified that: “We will ensure that we have enforcement ready for 2006, the same as this particular rule would have required.”⁶² And, rather than allowing five years for all water systems to achieve compliance with the standard, as finalized by the previous

⁵⁶*All Things Considered*, National Public Radio (March 22, 2001).

⁵⁷Whitman congressional testimony, *supra* note 1.

⁵⁸*Id.*

⁵⁹*Inside Politics*, CNN (March 21, 2001).

⁶⁰Fed. Reg. Vol. 66, No. 14 at 7053 (January 22, 2001).

⁶¹Letter from Christine Todd Whitman to the Editor, *New York Times* (March 22, 2001) (emphasis added).

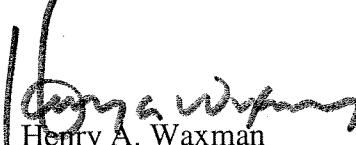
⁶²Whitman congressional testimony, *supra* note 1.

Administration, you have stated, "They could do it in 3 years."⁶³

1. The effective date of the arsenic rule was March 23, 2001. Had the rule been permitted to become effective, states and drinking water providers would have begun to monitor for arsenic, develop compliance strategies, plan for the installation of treatment technologies, and informed the public regarding arsenic in drinking water. What other activities would states and drinking water providers have undertaken prior to 2006 if the rule had become effective on March 23, 2001?
2. In the face of an uncertain standard, in your view, will communities that would have cleaned up their drinking water next year, now wait for the results of your review?
3. In your view, what will the effect of uncertainty over the new standard be upon research for arsenic removal technologies?
4. You have promised that enforcement will begin in 2006 as established by the previous Administration. Will you also commit to having right-to-know measures begin in the same timeframe as the previous Administration?
5. Cutting the compliance period from five years to three years seems like a decision with a potentially significant impact on communities. Please provide information that supports your assertion that "They could do it in 3 years."
6. Section 1412(b)(9) of the Safe Drinking Water Act states that if EPA reviews and revises the arsenic drinking water standard EPA must "maintain, or provide for greater, protection of the health of persons." Do you believe EPA can weaken the arsenic standard from 10 ppb and still comply with the legal requirement to maintain, or provide for greater, protection of the health of persons? If so, please explain the rationale for this belief.

I appreciate your cooperation on this important matter, and would appreciate your responding to this letter by May 18, 2001.

Sincerely,


Henry A. Waxman
Member of Congress

⁶³*Id.*