

01268-EPA-3262

Gina McCarthy/DC/USEPA/US

To Bob Perciasepe

01/04/2010 01:57 PM

cc Bob Sussman, Cynthia Giles-AA, Lisa Heinzerling, Richard Windsor

bcc

Subject Re: Interesting NYC Air Info

Good seg-way to a hearty THANK YOU from me on the outcome of the passback discussions thus far - in particular the STAG grants and most notably the monitoring money!!! It's like a real life miracle or something!

(b)(5) Deliberative

Great start to a new year. Again, thanks!

Bob Perciasepe

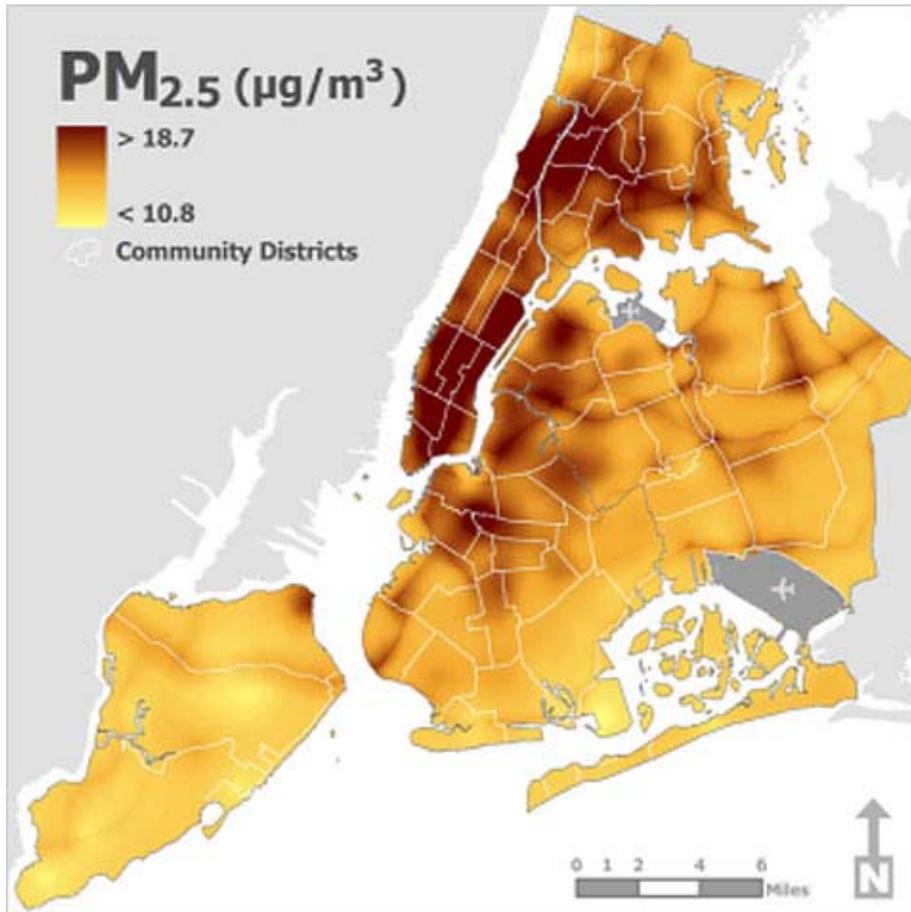
Interesting NYC Air Data. Makes the c...

01/04/2010 12:57:55 PM

From: Bob Perciasepe/DC/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA, Cynthia Giles-AA/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA  
Date: 01/04/2010 12:57 PM  
Subject: Interesting NYC Air Info

Interesting NYC Air Data.

(b)(5) Deliberative



## **Survey Finds Street-Level Air Pollution in Manhattan**

**By [SEWELL CHAN](#)**

Department of Health and Mental Hygiene This map shows particulate-matter concentrations as measured last winter.

New York City health officials on Tuesday released the results of the first survey of street-level air quality ever taken in the city. While the key finding — that Manhattan and other built-up, high-traffic parts of the city have the worst concentrations of particulates — will come as little surprise to those who live and work in Manhattan, it will stand in contrast to most indicators that show Manhattan leading the city's five boroughs in indicators of social and economic well-being.

Over all, the [Community Air Survey](#) [pdf], conducted last winter, showed wide variations in air quality. Not only vehicular traffic, but also concentrations in oil-burning boilers in commercial and residential buildings, accounted for particulate concentrations.

Mayor [Michael R. Bloomberg](#) discussed the study, begun as part of his [PlaNYC](#) strategy for long-term environmental stability, at the United Nations Climate Change Conference in Copenhagen.

“This study clearly demonstrates the impacts that pollution from vehicles and certain oil-burning boilers has on our neighborhoods — and it shows us that the most densely populated areas are also the most polluted,” he said.

Researchers collected and analyzed air samples from 150 sites across the five boroughs last winter. The survey found that fine-particle and sulfur dioxide pollution was concentrated in areas where more buildings burn oil for heat, and levels were especially high in areas where buildings use so-called residual oil (also known as No. 4 and No. 6 oil) in their boilers.

Such pollutants can cause respiratory disease and premature death, and they put young and elderly people at particular risk.

01268-EPA-3263

**Daniel Gerasimowicz/DC/USEPA/US**  
01/04/2010 05:06 PM

To Paul Anastas, Alecia Allston, Barbara Bennett, Heidi Ellis, Christopher Busch, Clay Diette, Stephanie Owens, Bob Perciasepe, Craig Hooks, Michelle DePass, Steve Owens, Peter Silva, Peter Grevatt, Sarah Pallone, Mathy Stanislaus, Cynthia Giles-AA, Gina McCarthy, Alicia Kaiser, Lawrence Elworth, Seth Oster, Katharine Gage, Stephanie Washington, Diane Thompson, Arvin Ganesan, Marcus McClendon, Ray Spears, Sarah Dale, Georgia Bednar, Carla Veney, Scott Fulton, Bob Sussman, Allyn Brooks-LaSure, Richard Windsor, Eric Wachter, (b)(6) Robert Goulding, Lisa Heinzerling, David McIntosh

cc

bcc

Subject Tuesday, January 5, 2010 Schedule for Lisa P. Jackson

\*\*\* do not copy or forward this information \*\*\*

**Schedule for Lisa P. Jackson EPA Administrator  
Tuesday, January 5, 2010**

Notes:

Drivers

Shift Leaders

Staff Contact

(b) (6)

Eric Wachter  
202-596-0246

07:15 AM - 08:00 AM	Residence	Depart for Old Ebbitt Grill
08:00 AM - 09:00 AM	Old Ebbitt Grill 675 15th St., NW Washington, DC	Breakfast Subj: Pamela Miller 202-693-1890 Reservations for 2 confirmed under Heidi Ellis
09:00 AM - 09:30 AM	Old Ebbitt Grill	Depart for Arlington, VA
09:30 AM - 10:30 AM	Top of the Town Conference Facility 1400 14th Street North Arlington, VA	Chesapeake Bay Executive Council Transition Event  Advance Contact: Megan Cryan (OA) 564-1553 Ct: Travis Loop (CBPO) 410-267-5758 Location Ct: Kate Burn 703-387-3023  The Administrator will assume her position as Chair of the Chesapeake Executive Council  VA Governor Tim Kaine will participate with the Administrator  Agenda:  9:30 - 10 AM - Administrator Jackson and Gov. Kaine meet  10 - 10:30 AM - Administrator Jackson and Gov. Kaine provide remarks
10:30 AM - 11:00 AM	Arlington, VA	Depart for Ariel Rios
11:30 AM - 12:30 PM	Bullet Room	Briefing to discuss Environmental Justice in Rulemaking

Ct: Linda Huffman (OECA) 564-2440

Staff:

Bob Perciasepe, Diane Thompson (OA)  
 Craig Hooks (OARM)  
 Gina McCarthy, Janet McCabe, Rob Brenner (OAR)  
 Cynthia Giles, Catherine McCabe, Lisa Garcia, Charles Lee (OECA)  
 Steve Owens, Jim Jones (OPPTS)  
 Linda Travers (OEI)  
 Barbara Bennett (OCFO)  
 Scott Fulton (OGC)  
 Bill Roderick (OIG)  
 Michelle DePass (OIA)  
 Paul Anastas, Lek Kadelı (ORD)  
 Mathy Stanislaus (OSWER)  
 Mike Shapiro, Macara Lousberg (OW)  
 Lisa Heinzerling, Louise Wise (OPEI)  
 Jane Diamond (R9) - by phone  
 Allyn Brooks-LaSure (OPA)

(hookup to Admin's conference line needed)

12:30 PM - 01:00 PM	Administrator's Office	No Meetings
01:00 PM - 01:30 PM	Administrator's Office	1 on 1 with Cameron Davis Ct: Cameron Davis (R5 GLPO) 312-886-4040  Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)
01:30 PM - 02:15 PM	Bullet Room	Briefing on the Next Steps for Endangerment Ct: Don Maddox (OAR) 564-7404  Staff: Bob Perciasepe, Bob Sussman, Diane Thompson, Larry Elworth (OA) David McIntosh, Arvin Ganesan (OCIR) Gina McCarthy, Janet McCabe, Joe Goffman (OAR) Lisa Heinzerling (OPEI) Seth Oster (OPA)
02:30 PM - 03:15 PM	Bullet Room	Meeting with Canadian Ambassador to the United States, Gary Doer Ct: Virginia Robertson (Embassy of Canada) 202-448-6543  Staff:  Michelle DePass, Shalini Vajjhala, Gary Waxmonsky, Michael Stahl, Pete Christich (OIA) Gina McCarthy, Beth Craig, Brian McLean (OAR) Pete Silva, Mike Shapiro (OW) Optional attendee: Diane Thompson (OA) Joseph Freedman (OGC)  Attendees: Ambassador Gary Doer Marc LePage, Special Advisor for Climate Change and Energy Christina Jutzi, Program Officer

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Duncan Stewart, Program Officer

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03:30 PM - 04:00 PM    Administrator's Office    Briefing to discuss Asian Carp  
Ct: Georgia Bednar (OA) 564-9816

Staff:  
Bob Sussman, Bob Perciasepe, (OA)  
Cameron Davis (R5 GLPO) - in person  
Pete Silva (OW)  
Scott Fulton (OGC)

(hookup to the Admin's conference line needed)

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04:00 PM - 04:30 PM    Administrator's Office    Office Time

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04:30 PM - 05:00 PM    Administrator's Office    Briefing to discuss Rapanos  
Ct: Georgia Bednar (OA) 564-9816

Staff:

Diane Thompson, Bob Perciasepe, Bob Sussman (OA)  
Arvin Ganesan (OCIR)  
Scott Fulton, Avi Garbow (OGC)  
Pete Silva (OW)  
Cynthia Giles (OECA)  
Mathy Stanislaus (OSWER)

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\*\*\* 01/04/2010 04:59:50 PM \*\*\*

01268-EPA-3265

**Richard Windsor/DC/USEPA/US**  
01/04/2010 09:02 PM

To Michael Moats  
cc Allyn Brooks-LaSure  
bcc

Subject Re: DECISION letter to the NYer on cookstoves

Looks great. Tx.  
Michael Moats

----- Original Message -----

**From:** Michael Moats  
**Sent:** 01/04/2010 06:55 PM EST  
**To:** Richard Windsor  
**Cc:** Allyn Brooks-LaSure  
**Subject:** DECISION letter to the NYer on cookstoves

Administrator, pasted below is a draft letter responding to a 12/21 New Yorker piece on cookstoves and black carbon (attached). (b)(5) Deliberative

[Redacted]

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(b)(5) Deliberative

[Redacted]

[attachment "Cookstoves New Yorker December 21.pdf" deleted by Richard Windsor/DC/USEPA/US]

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Michael Moats  
Speechwriter  
US EPA | Office of the Administrator  
Office: 202-564-1687  
Mobile: 202-527-4436

01268-EPA-3270

**Daniel  
Gerasimowicz/DC/USEPA/US**  
01/05/2010 04:59 PM

To Lisa Garcia, Paul Anastas, Alecia Allston, Barbara Bennett, Heidi Ellis, Christopher Busch, Clay Diette, Stephanie Owens, Bob Perciasepe, Craig Hooks, Michelle DePass, Steve Owens, Peter Silva, Peter Grevatt, Sarah Pallone, Mathy Stanislaus, Cynthia Giles-AA, Gina McCarthy, Alicia Kaiser, Lawrence Elworth, Seth Oster, Katharine Gage, Stephanie Washington, Diane Thompson, Arvin Ganesan, Marcus McClendon, Ray Spears, Sarah Dale, Georgia Bednar, Carla Veney, Scott Fulton, Bob Sussman, Allyn Brooks-LaSure, Richard Windsor, Eric Wachter, (b)(6) Robert Goulding, Lisa Heinzerling, David McIntosh

cc

bcc

Subject Wednesday, January 6, 2010 Schedule for Lisa P. Jackson

\*\*\* do not copy or forward this information \*\*\*

**Schedule for Lisa P. Jackson EPA Administrator  
Wednesday, January 6, 2010**

Notes:		
Drivers	Shift Leaders	Staff Contact
(b) (6)		Robert Goulding 202-596-0245
07:30 AM - 08:15 AM	Residence	Depart for Ariel Rios
08:15 AM - 08:45 AM	Administrator's Office	1 on 1 with Cynthia Giles Ct: Linda Huffman (OECA) 564-2440  Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)
08:45 AM - 09:15 AM	Administrator's Office	Daily Meeting
09:30 AM - 10:00 AM	Administrator's Office	OMB CCR Meeting Pre-Brief Ct: Georgia Bednar (OA) 564-9816  Staff: Bob Sussman (OA) Lisa Heinzerling (OPEI) Mathy Stanislaus (OSWER)
10:00 AM - 10:30 AM	Administrator's Office	Meeting with Michael Dell (Dell Computers) Ct: Seth Oster (OPA)  Staff: Bob Perciasepe (OA))
10:30 AM - 11:00 AM	Administrator's Office	No Meetings
11:00 AM - 11:30 AM	Administrator's Office	Meeting with Secretary Salazar Ct: Joan Padilla (DOI) (b)(6) Privacy

Subj: Red Devil Site

Attendees:  
Secretary Salazar (DOI)

Staff:  
Bob Sussman (OA)  
Mathy Stanislaus (OSWER)  
Cynthia Giles (OECA)

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11:45 AM - 12:00 PM	Ariel Rios	Depart for EEOB
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12:00 PM - 01:00 PM	EEOB 208	<p>CCR Meeting with Peter Orszag Ct: Leandra English (Orszag's Office) 202-395-4840</p> <p>Staff: Bob Sussman (OA) Mathy Stanislaus (OSWER) Lisa Heinzerling (OPEI)</p>
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01:00 PM - 01:15 PM	EEOB	Depart for Ariel Rios
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01:30 PM - 01:45 PM	Administrator's Office	<p>Call with Governor C.L "Butch" Otter Ct: Bobbi-Jo Muelenman (Governor's Scheduler) 208-334-2100</p> <p>Subj: ARRA</p> <p>The Governor will call the Administrator on 202-564-4700</p> <p>Staff: Sarah Pallone (OCIR) Craig Hooks (OARM)</p>
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02:00 PM - 02:45 PM	Bullet Room	<p>Coal Ash Meeting</p> <p>Ct: Georgia Bednar (OA) 564-9816 Ct: Lisa Evans (EarthJustice) (b)(6) Privacy</p> <p>Staff: Bob Sussman, Bob Perciasepe, Diane Thompson (OA) Mathy Stanislaus, Lisa Feldt, Barry Breen, Matt Hale, Matt Straus (OSWER) Mary-Kay Lynch, Laurel Celeste (OGC)</p> <p>Attendees: Lisa Evans, Senior Administrative Counsel - EarthJustice</p> <p>Marty Hayden, Vice President of Policy and Litigation - EarthJustice</p> <p>Eric Schaeffer, Executive Director - Environmental Integrity Project (EIP)</p> <p>Jeffrey Stant, Director of the Coal Combustion Waste Program- EIP</p> <p>Bruce Nilles, Director of the Beyond Coal Campaign - Sierra Club</p>
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Mary Anne Hitt, Deputy Director of the Beyond Coal Campaign - Sierra Club

Scott Slesinger, Legislative Director - Natural Resources Defense Council

Patrice Simms, Assistant Professor of Environmental Law - Howard University

Jackie Kruszewski, Legislative Associate - Southern Environmental Law Center (SELC)

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03:00 PM - 03:15 PM	Administrator's Office	<p>Interview Subj - Washington Post - Krissah Thompson in-person</p> <p>Ct: Allyn Brooks-LaSure (OPA) 564-1540</p> <p>Staff: Allyn Brooks-LaSure</p>
03:30 PM - 04:30 PM	Bullet Room	<p>FYI - Senior Policy Meeting Bob Perciasepe will lead this meeting</p> <p>Staff:</p> <p>Bob Perciasepe, Bob Sussman, Diane Thompson, Scott Fulton, Eric Wachter, Robert Goulding, Larry Elworth, Heidi Ellis (OA) David McIntosh, Arvin Ganesan, Sarah Pallone (OCIR) Lisa Heinzerling, Robert Verchick (OPEI) Cynthia Giles, Lisa Garcia (OECA) Pete Silva (OW) Steve Owens (OPPTS) Michelle DePass (OIA) Mathy Stanislaus, Lisa Feldt (OSWER) Gina McCarthy (OAR) Seth Oster, Allyn Brooks-LaSure (OPA) Craig Hooks (OARM) Barbara Bennett (OCFO) Paul Anastas (ORD)</p>
03:30 PM - 04:30 PM	Ariel Rios	Depart for Dulles Airport
05:40 PM - 08:59 PM	En Route to Phoenix, AZ	<p>En Route to Phoenix, AZ United Flight #953</p> <p>Arrives Phoenix, AZ at 8:59 PM local time</p>
09:00 PM - 09:30 PM	Phoenix, AZ	Depart for Hotel
09:30 PM - 11:59 PM	<p>Indigo Hotel 4415 N. Civic Center Plaza Scottsdale, AZ 85251</p>	No Meetings

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\*\*\* 01/05/2010 04:55:51 PM \*\*\*

01268-EPA-3271

**Richard Windsor/DC/USEPA/US**  
01/05/2010 06:18 PM

To David McIntosh  
cc windsor.richard  
bcc  
Subject Re: Fw: [905energycall] Dorgan retiring

wow

David McIntosh ----- Original Message ----- From: J... 01/05/2010 06:15:39 PM

From: David McIntosh/DC/USEPA/US  
To: windsor.richard@epa.gov  
Date: 01/05/2010 06:15 PM  
Subject: Fw: [905energycall] Dorgan retiring

Joseph Goffman

----- Original Message -----

**From:** Joseph Goffman  
**Sent:** 01/05/2010 06:14 PM EST  
**To:** David McIntosh; Arvin Ganesan  
**Subject:** Fw: [905energycall] Dorgan retiring

Joseph Goffman  
Senior Counsel to the Assistant Administrator  
Office of Air and Radiation  
US Environmental Protection Agency  
202 564 3201

----- Forwarded by Joseph Goffman/DC/USEPA/US on 01/05/2010 06:13 PM -----

From: Dan Weiss <dweiss@americanprogress.org>  
To: Joseph Goffman/DC/USEPA/US@EPA, "jessica\_holliday@epw.senate.gov" <jessica\_holliday@epw.senate.gov>, "Jessica Holliday (hollidayjessica@yahoo.com)" <hollidayjessica@yahoo.com>  
Date: 01/05/2010 06:10 PM  
Subject: FW: [905energycall] Dorgan retiring

!!!!

Daniel J. Weiss  
Senior Fellow and Director of Climate Strategy  
Center for American Progress  
Center for American Progress Action Fund  
202-481-8123 O  
202-390-1807 C  
dweiss@americanprogress.org

**From:** 905energycall@googlegroups.com [mailto:905energycall@googlegroups.com] **On Behalf Of** Matt

Ortega

**Sent:** Tuesday, January 05, 2010 6:07 PM

**Subject:** [905energycall] Dorgan retiring

<http://dorgan.senate.gov/newsroom/record.cfm?id=321298>

## **STATEMENT BY U.S. SENATOR BYRON DORGAN**

Tuesday, January 5, 2010

CONTACT: Justin Kitsch

or Brenden Timpe

PHONE: 202-224-2551

“Representing North Dakota in the U.S. Congress for nearly 30 years has been one of the great privileges of my life.

“The work I have been able to do to expand our economy, create new opportunities in energy and water development, invent the Red River Research Corridor with cutting-edge world class research, build a stronger safety net for family farmers and much more has been a labor of love for me.

“In recent years, becoming Chairman of key Senate Committees on Energy and Water, Indian Affairs, Aviation and more has given me much greater opportunity to help our state and country.

“For the past year, I have been making plans to seek another six-year Senate term in next year’s election. Those plans included raising campaign funds and doing the organizing necessary to wage a successful campaign.

“Even as I have done that, in recent months I began to wrestle with the question of whether making a commitment to serve in the Senate seven more years (next year plus a new six-year term) was the right thing to do.

“I have been serving as an elected official in our state for many years. Beginning at age 26, I served ten years as State Tax Commissioner followed by thirty years in the U.S. Congress by the end of 2010. It has been a long and wonderful career made possible by the people of North Dakota. And I am forever grateful to them for the opportunity.

“Although I still have a passion for public service and enjoy my work in the Senate, I have other interests and I have other things I would like to pursue outside of public life. I have written two books and have an invitation from a publisher to write two more books. I would like to do some teaching and would also like to work on energy policy in the private sector.

“So, over this holiday season, I have come to the conclusion, with the support of my family, that I will not be seeking another term in the U.S. Senate in 2010. It is a hard decision to make after thirty years in the Congress, but I believe it is the right time for me to pursue these other

interests.

“Let me be clear that this decision does not relate to any dissatisfaction that I have about serving in the Senate. Yes, I wish there was less rancor and more bipartisanship in the U.S. Senate these days. But still, it is a great privilege to serve and I have the utmost respect for all of the men and women with whom I serve.

“It has been a special privilege to serve with Senator Conrad and Congressman Pomeroy, who do an outstanding job for our state. And although he inherited an economy in serious trouble, I remain confident that President Obama is making the right decisions to put our country back on track.

Further, my decision has no relationship to the prospect of a difficult election contest this year. Frankly, I think if I had decided to run for another term in the Senate I would be reelected.

“But I feel that after serving 30 years, I want to make time for some other priorities. And making a commitment to serve in the Senate for the next seven years does not seem like the right decision for me.

“So, 2010 will be my last year in the Senate. I will continue to work hard for the best interests of our state and country during this coming year. We need to get the economic engine restarted and put people back to work. We need to reform our financial system to make sure that which happened to cause this deep recession will not happen again. And we need to get our fiscal and budget policies under control. The federal budget deficits are not sustainable.

“But even as we face all of these difficult issues, I am convinced that our country will rise to the challenge.

“We are a great nation. And I have a deep sense of optimism about the future of our country.”

01268-EPA-3272

**Gina McCarthy/DC/USEPA/US**

To Richard Windsor

01/05/2010 06:27 PM

cc

bcc

Subject Fw: Update on Estimated Number of Tailoring Rule  
Comments

FYI - Lots of comments!

----- Forwarded by Gina McCarthy/DC/USEPA/US on 01/05/2010 06:27 PM -----

From: Steve Page/RTP/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA  
Cc: Janet McCabe/DC/USEPA/US@EPA, Rob Brenner/DC/USEPA/US@EPA, Beth  
Craig/DC/USEPA/US@EPA  
Date: 01/05/2010 06:22 PM  
Subject: Update on Estimated Number of Tailoring Rule Comments

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Gina,

I wanted to update you on the estimated number of comments EPA received on the Tailoring Rule. Since this morning's staff meeting, we received an update from the EPA Docket Center significantly increasing the estimated number of comments to 402,000 total submissions (in comparison to 379,000 comments received in response to the Endangerment Finding). Apparently, a large block of comments have not yet been "uploaded" to the Docket system (the new 402,000 estimate includes both those in the Docket system and those that still need to be uploaded). The Docket is still categorizing the comments into similar issues/bins but we anticipate 400-500 substantive comment letters that pertain specifically to the tailoring rule.

I'll send you revised estimates as we get updates from the Docket.

01268-EPA-3273

Bob Sussman/DC/USEPA/US

To Richard Windsor

01/05/2010 07:42 PM

cc Seth Oster, Arvin Ganesan

bcc

Subject Fw: Environ Community PR

(b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 01/05/2010 07:39 PM -----

From: Gregory Peck/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Shawn Garvin/R3/USEPA/US@EPA, Early.William@epamail.epa.gov, Seth Oster/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA  
Date: 01/05/2010 04:35 PM  
Subject: Environ Community PR

**FOR IMMEDIATE RELEASE** – January 5, 2010

**Contacts:**

Janet Keating, Ohio Valley Environmental Coalition, (304) 522-0246

Judy Bonds, Coal River Mountain Watch, (304) 854-2182

Cindy Rank, West Virginia Highlands Conservancy, (304) 924-5802

Raviya Ismail, Earthjustice, (202) 667-4500 x221

Joe Lovett, Appalachian Center for the Economy & the Environment, (304) 645-9006

Oliver Bernstein, Sierra Club, (512) 477-2152

## **Environmental Protection Agency Approves Permit for Controversial WV Mountaintop Removal Coal Mine**

### **Decision opens the door for more destruction in Appalachia**

**Charleston, West Virginia** – Today the U.S. Environmental Protection Agency (EPA) announced that it would sign off on a Clean Water Act permit for Patriot Coal Corp.'s Hobet 45 mountaintop removal coal mine in Lincoln County, West Virginia. This controversial permit now goes to the Army Corps of Engineers, which issues such permits.

This decision highlights the urgent need for the U.S. EPA to protect streams from mining waste by revising Clean Water Act regulations gutted by the Bush Administration. The Sierra Club and other national and local environmental groups encourage the Obama Administration to begin a rulemaking to exclude mining waste from the definition of 'fill' as a material that can be dumped in waters of the United States.

This decision marks the first mountaintop removal mining permit to move forward of those mining

permits the agency earlier identified in 2009 as needing additional attention.

"Sadly, the coal industry's undue influence over decision-makers has traded people's health, communities, and water for profit," said **Janet Keating, Executive Director of the Ohio Valley Environmental Coalition**. "We're shooting ourselves in the future. After all the coal has been mined, what kind of economic development can happen when the water is unfit to drink and people have been driven away?"

The permit would allow Patriot to mine through more than three miles of streams, and to add millions of cubic yards of fill to existing valley fills offsite.

"We, the affected citizens that are living with the impacts of this destructive mining practice, pray that this decision is not a preview of other destructive mining permits being approved," said **Judy Bonds with Coal River Mountain Watch**. "We certainly hope this is the last destructive permit approved that will allow the coal industry to continue to blast our homes and pollute our streams."

In 2009 the EPA announced that it would conduct an enhanced review of dozens of permits to fill and otherwise destroy streams for mountaintop removal coal mining, including the Hobet 45 permit.

"Allowing this newest addition to the over 25 square miles of devastation at the Hobet complex to proceed makes one seriously question if EPA is truly interested in making a real difference," said **Cindy Rank, chair of the mining committee at West Virginia Highlands Conservancy**.

"While we understand that this short term deal means more mining and destruction but also the extension of employment to mine workers, we know that mountaintop removal coal mining is not a long-term economic strategy for Appalachia," said **Bill Price, environmental justice organizer for the Sierra Club in West Virginia**. "As Senator Byrd of West Virginia said last month, it is mechanization and the demand for coal that have eliminated jobs in West Virginia, and it's time to adapt to change and to embrace clean energy solutions."

Even with these alterations, the Hobet 45 mine would still have unacceptable adverse impacts on local waterways and therefore violates the Clean Water Act. Mining companies have already buried close to 2,000 miles of Appalachian streams beneath piles of toxic waste and debris. Entire communities have been permanently displaced by mines the size of Manhattan.

"The Obama administration rings in the new year by allowing coal companies to bury more miles of streams," said **Joan Mulhern, senior legislative counsel for Earthjustice**. "There is no excuse for approving this permit when the science is clear that mountaintop removal coal mining permanently destroys streams. The administration claims to be making progress on mountaintop removal, but in reality they are still following the flawed policies put in place by the Bush administration. It is time for them to make a commitment to ending this abominable practice."

---

Gregory E. Peck  
Chief of Staff  
Office of Water  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

202-564-5778

01268-EPA-3274

**Bob Sussman/DC/USEPA/US**  
01/05/2010 07:50 PM

To Seth Oster  
cc Arvin Ganesan, Richard Windsor  
bcc  
Subject Re: Fw: Environ Community PR

(b)(5) Deliberative  
[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Seth Oster (b)(5) Deliberative 01/05/2010 07:47:14 PM

From: Seth Oster/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA  
Cc: Arvin Ganesan/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA  
Date: 01/05/2010 07:47 PM  
Subject: Re: Fw: Environ Community PR

(b)(5) Attorney-Client, (b)(5) Deliberative  
[Redacted]

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Bob Sussman (b)(5) Deliberative 01/05/2010 07:42:23 PM

From: Bob Sussman/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Seth Oster/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA  
Date: 01/05/2010 07:42 PM  
Subject: Fw: Environ Community PR

(b)(5) Attorney-Client, (b)(5) Deliberative  
[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency  
----- Forwarded by Bob Sussman/DC/USEPA/US on 01/05/2010 07:39 PM -----

From: Gregory Peck/DC/USEPA/US

To: Bob Sussman/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Shawn Garvin/R3/USEPA/US@EPA, Early.William@epamail.epa.gov, Seth Oster/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA  
Date: 01/05/2010 04:35 PM  
Subject: Environ Community PR

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**FOR IMMEDIATE RELEASE** – January 5, 2010

Contacts:

Janet Keating, Ohio Valley Environmental Coalition, (304) 522-0246  
Judy Bonds, Coal River Mountain Watch, (304) 854-2182  
Cindy Rank, West Virginia Highlands Conservancy, (304) 924-5802  
Raviya Ismail, Earthjustice, (202) 667-4500 x221  
Joe Lovett, Appalachian Center for the Economy & the Environment, (304) 645-9006  
Oliver Bernstein, Sierra Club, (512) 477-2152

## **Environmental Protection Agency Approves Permit for Controversial WV Mountaintop Removal Coal Mine**

### **Decision opens the door for more destruction in Appalachia**

**Charleston, West Virginia** – Today the U.S. Environmental Protection Agency (EPA) announced that it would sign off on a Clean Water Act permit for Patriot Coal Corp.'s Hobet 45 mountaintop removal coal mine in Lincoln County, West Virginia. This controversial permit now goes to the Army Corps of Engineers, which issues such permits.

This decision highlights the urgent need for the U.S. EPA to protect streams from mining waste by revising Clean Water Act regulations gutted by the Bush Administration. The Sierra Club and other national and local environmental groups encourage the Obama Administration to begin a rulemaking to exclude mining waste from the definition of 'fill' as a material that can be dumped in waters of the United States.

This decision marks the first mountaintop removal mining permit to move forward of those mining permits the agency earlier identified in 2009 as needing additional attention.

"Sadly, the coal industry's undue influence over decision-makers has traded people's health, communities, and water for profit," said **Janet Keating, Executive Director of the Ohio Valley Environmental Coalition**. "We're shooting ourselves in the future. After all the coal has been mined, what kind of economic development can happen when the water is unfit to drink and people have been driven away?"

The permit would allow Patriot to mine through more than three miles of streams, and to add millions of cubic yards of fill to existing valley fills offsite.

"We, the affected citizens that are living with the impacts of this destructive mining practice, pray that this decision is not a preview of other destructive mining permits being approved," said **Judy Bonds with Coal River Mountain Watch**. "We certainly hope this is the last destructive permit approved that will allow the coal industry to continue to blast our homes and pollute our streams."

In 2009 the EPA announced that it would conduct an enhanced review of dozens of permits to fill and otherwise destroy streams for mountaintop removal coal mining, including the Hobet 45 permit.

"Allowing this newest addition to the over 25 square miles of devastation at the Hobet complex to proceed makes one seriously question if EPA is truly interested in making a real difference," said **Cindy Rank, chair of the mining committee at West Virginia Highlands Conservancy.**

"While we understand that this short term deal means more mining and destruction but also the extension of employment to mine workers, we know that mountaintop removal coal mining is not a long-term economic strategy for Appalachia," said **Bill Price, environmental justice organizer for the Sierra Club in West Virginia.** "As Senator Byrd of West Virginia said last month, it is mechanization and the demand for coal that have eliminated jobs in West Virginia, and it's time to adapt to change and to embrace clean energy solutions."

Even with these alterations, the Hobet 45 mine would still have unacceptable adverse impacts on local waterways and therefore violates the Clean Water Act. Mining companies have already buried close to 2,000 miles of Appalachian streams beneath piles of toxic waste and debris. Entire communities have been permanently displaced by mines the size of Manhattan.

"The Obama administration rings in the new year by allowing coal companies to bury more miles of streams," said **Joan Mulhern, senior legislative counsel for Earthjustice.** "There is no excuse for approving this permit when the science is clear that mountaintop removal coal mining permanently destroys streams. The administration claims to be making progress on mountaintop removal, but in reality they are still following the flawed policies put in place by the Bush administration. It is time for them to make a commitment to ending this abominable practice."

---

Gregory E. Peck  
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1200 Pennsylvania Avenue, N.W.  
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202-564-5778

01268-EPA-3275

Heidi Ellis/DC/USEPA/US  
01/06/2010 08:34 AM

To Lisa Garcia, Paul Anastas, Alecia Allston, Barbara Bennett, Heidi Ellis, Christopher Busch, Clay Diette, Stephanie Owens, Bob Perciasepe, Craig Hooks, Michelle DePass, Steve Owens, Peter Silva, Peter Grevatt, Sarah Pallone, Mathy Stanislaus, Cynthia Giles-AA, Gina McCarthy, Alicia Kaiser, Lawrence Elworth, Seth Oster, Katharine Gage, Stephanie Washington, Diane Thompson, Arvin Ganesan, Marcus McClendon, Ray Spears, Sarah Dale, Georgia Bednar, Carla Veney, Scott Fulton, Bob Sussman, Allyn Brooks-LaSure, Richard Windsor, Eric Wachter, (b)(6) Robert Goulding, Lisa Heinzerling, David McIntosh

cc

bcc

Subject \*\*\*REVISED\*\*\*Wednesday, January 6, 2010 Schedule for Lisa P. Jackson

\*\*\* do not copy or forward this information \*\*\*

**Schedule for Lisa P. Jackson EPA Administrator  
Wednesday, January 6, 2010**

Notes:		
Drivers	Shift Leaders	Staff Contact
(b) (6)		Robert Goulding 202-596-0245
07:30 AM - 08:15 AM	Residence	Depart for Ariel Rios
08:15 AM - 08:45 AM	Administrator's Office	Pre-Brief for Salazar Meeting Ct: Heidi Ellis (OA) Attendees: Bob Sussman (OA) Mathy Stanislaus (OSWER) Cynthia Giles (OECA)
08:45 AM - 09:15 AM	Deputy Administrator's Office Room 3412	FYI-Daily Meeting
09:00 AM - 09:30 AM	Adminsitrator's Office	Meeting with Secretary Salazar Ct: Joan Padilla (b)(6) Privacy  Attendees (DOI): Secretary Salazar David Hayes Bob Abbey Sylvia Baca Rachel Jacobson  Staff: Mathy Stanislaus (OSWER) Bob Sussman (OA) Cynthia Giles (OECA)

09:45 AM - 10:00 AM	Ariel Rios	Depart for WH
10:00 AM - 11:00 AM	Roosevelt Room, White House	Meeting with WH Leadership Ct: Stephen Moilanen (b)(6) Privacy  Subj: Clean Air Act  Staff: David McIntosh (OCIR) Gina McCarthy (OAR)
11:00 AM - 11:30 AM	EEOB Room 100	Meeting with Michael Dell (Dell Computers) Ct: Jerome Rutledge (b)(6) Privacy  Subj: talk about what Dell is doing on energy and environmental issues  Staff: David McIntosh (OCIR)
11:30 AM - 11:45 AM	WH	Depart for Ariel Rios
12:00 PM - 01:00 PM	Administrator's Office	NO MEETINGS
01:00 PM - 01:30 PM	Administrator's Office	Office Time
01:30 PM - 01:45 PM	Administrator's Office	Call with Governor C.L "Butch" Otter Ct: Bobbi-Jo Muelenman (Governor's Scheduler) (b)(6) Privacy  Subj: ARRA  The Governor will call the Administrator on 202-564-4700  Staff: Sarah Pallone (OCIR) Craig Hooks (OARM)
02:00 PM - 03:00 PM	Bullet Room	Coal Ash Meeting Ct: Georgia Bednar (OA) 564-9816 Ct: Lisa Evans (EarthJustice) (b)(6) Privacy  Staff: Bob Sussman, Bob Perciasepe, Diane Thompson (OA) Mathy Stanislaus, Lisa Feldt, Barry Breen, Matt Hale, Matt Straus (OSWER) Mary-Kay Lynch, Laurel Celeste (OGC)  Attendees: Lisa Evans, Senior Administrative Counsel - EarthJustice  Marty Hayden, Vice President of Policy and Litigation - EarthJustice

Eric Schaeffer, Executive Director - Environmental Integrity Project (EIP)

Jeffrey Stant, Director of the Coal Combustion Waste Program- EIP

Bruce Nilles, Director of the Beyond Coal Campaign - Sierra Club

Mary Anne Hitt, Deputy Director of the Beyond Coal Campaign - Sierra Club

Scott Slesinger, Legislative Director - Natural Resources Defense Council

Patrice Simms, Assistant Professor of Environmental Law - Howard University

Jackie Kruszewski, Legislative Associate - Southern Environmental Law Center (SELC)

---

03:00 PM - 03:15 PM	Administrator's Office	<p>Interview            Subj - Washington Post - Krissah Thompson in-person</p> <p>Ct: Allyn Brooks-LaSure (OPA) 564-1540</p> <p>Staff:            Allyn Brooks-LaSure</p>
03:30 PM - 04:30 PM	Bullet Room	<p>FYI - Senior Policy Meeting            Bob Perciasepe will lead this meeting</p> <p>Staff:</p> <p>Bob Perciasepe, Bob Sussman, Diane Thompson, Scott Fulton, Eric Wachter, Robert Goulding, Larry Elworth (OA)            David McIntosh, Arvin Ganesan, Sarah Pallone (OCIR)            Lisa Heinzerling, Robert Verchick (OPEI)            Cynthia Giles, Lisa Garcia (OECA)            Pete Silva (OW)            Steve Owens (OPPTS)            Michelle DePass (OIA)            Mathy Stanislaus, Lisa Feldt (OSWER)            Gina McCarthy (OAR)            Seth Oster, Allyn Brooks-LaSure (OPA)            Craig Hooks (OARM)            Barbara Bennett (OCFO)            Paul Anastas (ORD)</p>
03:30 PM - 04:30 PM	Ariel Rios	Depart for Dulles Airport
05:40 PM - 08:59 PM	En Route to Phoenix, AZ	<p>En Route to Phoenix, AZ            United Flight #953</p> <p>Arrives Phoenix, AZ at 8:59 PM local time</p>

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09:00 PM - 09:30 PM    Phoenix, AZ            Depart for Hotel

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09:30 PM - 11:59 PM    Indigo Hotel            No Meetings  
4415 N. Civic Center  
Plaza  
Scottsdale, AZ  
85251

---

\*\*\* 01/06/2010 08:33:21 AM \*\*\*

01268-EPA-3276

Bob Sussman/DC/USEPA/US

To Richard Windsor

01/06/2010 05:15 PM

cc

bcc

Subject Fw: More on Hobet 45 deal: Where is the media coverage?

A very nice story from ken ward.

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 01/06/2010 05:15 PM -----

From: Gregory Peck/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Shawn Garvin/R3/USEPA/US@EPA  
Date: 01/06/2010 02:43 PM  
Subject: More on Hobet 45 deal: Where is the media coverage?

---

## More on Hobet 45 deal: Where is the media coverage?

by Ken Ward Jr.



I scanned the front page of today's Charleston Daily Mail, but was amazed not to find any coverage of the Environmental Protection Agency deal to issue Patriot Coal's Hobet 45 mountaintop removal permit there.

The DM did post [this Associated Press story](#) on its Web site this morning. But it says

outcome here:

*The EPA assented after Patriot agreed to cut the number of stream miles to material removed during mining and direct mine drainage away from sensitive things.*

(To his credit, the DM's Ry Rivard did do [a lengthy story](#) about the problems coal mining causes, black lung benefits, and his editors put it at the top of their front page)

The AP's Tim Huber did [a story on Monday](#) about the Hobet 45 deal, but he didn't follow up with any details about the settlement and the changes in the permit.

Over at MetroNews (where Hoppy Kercheval has taken up the coal industry's mantra that the administration is waging a "war on coal"), we have a story headlined, ['Coal Companies Get a Brier Patch'](#). You might think that story was quoting someone from Patriot Coal, but it's not. The West Virginia Coal Association rant about how terrible it was that EPA officials approved a mining plan that reduced environmental impacts. Oddly enough, neither of the press releases [yesterday](#) and [today](#) mentioned anything about brier patches.

The Beckley Register-Herald weighed in [with a story](#) quoting local officials praising the Army Corps of Engineers to issue the permit. The Logan Banner [ran the detail-laden story](#). West Virginia Public Broadcasting, which usually does a great job with stories like this, did not mention what's happened with this EPA deal on Hobet 45, at least judging from its Web site. What's the big deal?

Well, generally, the local media in West Virginia have totally [peddled the coal industry's line](#) on the administration's review of mountaintop removal permits. But now that we've seen what the EPA permit reviews, reporters and columnists don't seem interested in telling that story. And what is that story?

Well, take a look at the [lead of my print story in today's Gazette](#):

*Patriot Coal will cut in half the length of streams buried by its Hobet 45 mountaintop removal permit but still produce nearly the same amount of coal as the company originally announced Tuesday by the Obama administration.*

The results of his EPA review show pretty clearly why EPA is getting involved in the permit process for mountaintop removal in the first place. Under the law, coal operators are supposed to avoid stream impacts where possible and minimize them where avoidance isn't possible.

In this instance, the Corps of Engineers was ready to give Hobet 45 a permit to bury streams. But [after EPA got involved, the length of stream lost was cut in half](#) — to just 10 miles. But Hobet was still able to remove nearly all of the coal it initially wanted to mine.

Now, not everybody is particularly happy about this deal. Environmentalists [harshly criticized the deal](#). The West Virginia Coal Association certainly doesn't seem to have anything nice to say about what happened.

seems to want to just keep encouraging a fight against any continued effort to reduce their posts [here](#) and [here](#)).

But what about the majority of West Virginians [who oppose mountaintop removal](#), in the issue and don't make fighting strip-mining the focus of their lives?

Do you think they might want to know that, because the Obama administration had will continue working and the environmental impacts will be cut in half?

---

Gregory E. Peck  
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01268-EPA-3277

**Richard Windsor/DC/USEPA/US**  
01/06/2010 05:30 PM

To Bob Sussman  
cc  
bcc

Subject Re: More on Hobet 45 deal: Where is the media coverage?

V nice indeed.  
Bob Sussman

----- Original Message -----

**From:** Bob Sussman  
**Sent:** 01/06/2010 05:15 PM EST  
**To:** Richard Windsor  
**Subject:** Fw: More on Hobet 45 deal: Where is the media coverage?

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Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 01/06/2010 05:15 PM -----

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To: Bob Sussman/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Shawn Garvin/R3/USEPA/US@EPA  
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The DM did post [this Associated Press story](#) on its Web site this morning. But it says nothing about the outcome here:

*The EPA assented after Patriot agreed to cut the number of streams affected by the deal, to limit the amount of material under excess material removed during mining and direct mine drainage, and to limit the amount of water, among other things.*

*(To his credit, the DM's Ry Rivard did do [a lengthy story](#) about the problems coal mining causes, including black lung benefits, and his editors put it at the top of their front page)*

The AP's Tim Huber did [a story on Monday](#) about the Hobet 45 deal, but he didn't fill it with any details about the settlement and the changes in the permit.

Over at MetroNews (where Hoppy Kercheval has taken up the coal industry's mantra that the current administration is waging a "war on coal"), we have a story headlined, ['Coal Companies' Brier Patch](#). You might think that story was quoting someone from Patriot Coal, but it's not. It's the West Virginia Coal Association rant about how terrible it was that EPA officials approved the mining plan that reduced environmental impacts. Oddly enough, neither of the press stories [yesterday](#) and [today](#) mentioned anything about brier patches.

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Well, generally, the local media in West Virginia have totally [peddled the coal industry's](#) administration's review of mountaintop removal permits. But now that we've seen what the EPA permit reviews, reporters and columnists don't seem interested in telling that story. And what is that story?

Well, take a look at the [lead of my print story in today's Gazette](#):

*Patriot Coal will cut in half the length of streams buried by its Hobet mountaintop-removal mine, but still produce nearly the same amount of coal as the company originally hoped, under a deal announced Tuesday by the Obama administration.*

The results of his EPA review show pretty clearly why EPA is getting involved in the permit process for mountaintop removal in the first place. Under the law, coal operators are required to avoid stream impacts where possible and minimize them where avoidance isn't possible. In this instance, the Corps of Engineers was ready to give Hobet 45 a permit to bury streams. But [after EPA got involved, the length of stream lost was cut in half](#) — to just 10 miles, but Hobet was still able to remove nearly all of the coal it initially wanted to mine. Now, not everybody is particularly happy about this deal. Environmentalists [harshly](#) [Association certainly doesn't seem to have anything nice to say](#) about what happened. The group seems to want to just keep encouraging a fight against any continued effort to reduce mountaintop removal (see their posts [here](#) and [here](#)).

But what about the majority of West Virginians [who oppose mountaintop removal](#), who are concerned about the issue and don't make fighting strip-mining the focus of their lives?

Do you think they might want to know that, because the Obama administration had approved the deal, the mine will continue working and the environmental impacts will be cut in half?

---

Gregory E. Peck  
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01268-EPA-3278

**Bob Sussman/DC/USEPA/US**

01/07/2010 08:23 AM

To Richard Windsor

cc Seth Oster, Shawn Garvin, Adora Andy

bcc

Subject Fw: WVDEP to stop processing fill permits, develop new rules

I like this. (b)(5) deliberative.

Robert M. Sussman  
 Senior Policy Counsel to the Administrator  
 Office of the Administrator  
 US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 01/07/2010 08:21 AM -----

From: Gregory Peck/DC/USEPA/US  
 To: Bob Sussman/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Shawn Garvin/R3/USEPA/US@EPA  
 Cc: Suzanne Schwartz/DC/USEPA/US@EPA, Kevin Minoli, Mike Shapiro/DC/USEPA/US@EPA  
 Date: 01/07/2010 08:00 AM  
 Subject: WVDEP to stop processing fill permits, develop new rules

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January 6, 2010

## **DEP to stop processing fill permits, develop new rules**

West Virginia regulators are going to stop processing surface mining permits that propose to dump waste rock in new guidelines that force coal operators to reduce water quality impacts downstream from valley fills.

By [Ken Ward Jr.](#)

Staff writer

CHARLESTON, W.Va. -- West Virginia regulators are going to stop processing surface mining permits that process in streams while they develop new guidelines that force coal operators to reduce water quality impacts downstream.

Randy Huffman, secretary of the state Department of Environmental Protection, revealed his plan Wednesday.

Huffman said his goal is to stop wasting DEP staff time on permits that change dramatically after they are re-examined by the Department of Environmental Protection Agency.

Also, Huffman said it's also become clear to him that the state must push coal companies to further reduce emissions to tackle the issue, rather than just complaining about the EPA or waiting for the federal government to come in.

"If EPA's not going to give us answers, we need to get our own," Huffman said. "We need to get our own posture on a reduction in the size and scope of these operations."

As things currently work, most coal operators first obtain surface mining permits from the DEP and then seek permits for valley fills from the U.S. Army Corps of Engineers.

But soon after taking office last year, the Obama administration announced it planned to take "unprecedented steps to reduce the impacts of surface coal mining in Appalachia. Among other things, the EPA has been re-examining fill permit

demanding that companies reduce stream impacts.

Earlier this week, the EPA announced the resolution of one such permit review. Under a deal with the EPA, Patriot will be able to mine nearly 10 miles the length of stream buried at its Hobet 45 mountaintop removal mine, but will also be able to mine near the stream for a limited period of operation.

But now, Patriot will also have to go back to the DEP to seek approval for amendments to its surface mining permit. The amendments were made to appease the EPA.

"It makes absolutely no sense to spend agency resources reviewing these permits when we know they are not going to be approved," Huffman said Wednesday evening.

Gov. Joe Manchin and other West Virginia political leaders have complained bitterly that the EPA is changing the rules. Huffman is making clear to mine operators what standards must be met for permits to be approved.

"Our opposition has been more about the process than it has been about the science," Huffman said. "There's been a lot of concern about the downstream impacts."

So, Huffman said DEP officials hope within a few months to issue their own "framework" to describe how to manage surface mining and what level of downstream impacts is considered unacceptable.

"It makes sense to say that, at a certain point, water quality is impairing aquatic life and you can't do that anymore," Huffman said.

But until those rules are set, Huffman said, it doesn't make sense for DEP staff to continue processing permits. "Valley fills will continue to be processed normally," Huffman said.

"The rules of the game for permits are changing, but they have not been settled yet," Huffman said. "Until the rules are settled, no kind of mining can proceed, it makes no sense for us to spend resources processing these permits."

Huffman said his halt to reviewing valley fill permits is unlikely to hurt the coal industry, because pending permits are still under the EPA's reviews.

Also, Huffman said, coal demand is down and companies are not seeking as many permits. And once demand is restored, the DEP believes companies will be asking for smaller permits without valley fills to avoid being hung up with the EPA.

"I think that's the change in direction everyone is going to have to make to meet the downstream water quality requirements. I don't see any choice but to reduce the impacts."

*Reach Ken Ward Jr. at [kw...@wvgazette.com](mailto:kw...@wvgazette.com) or 304-348-1702.*

---

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01268-EPA-3279

Bob Sussman/DC/USEPA/US

To Richard Windsor, Seth Oster, Arvin Ganesan, Adora Andy

01/07/2010 08:27 AM

cc

bcc

Subject Fw: From Ken's Blog

Robert M. Sussman  
 Senior Policy Counsel to the Administrator  
 Office of the Administrator  
 US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 01/07/2010 08:26 AM -----

From: Gregory Peck/DC/USEPA/US  
 To: Bob Sussman/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Shawn Garvin/R3/USEPA/US@EPA  
 Cc: Suzanne Schwartz/DC/USEPA/US@EPA, Kevin Minoli  
 Date: 01/07/2010 08:19 AM  
 Subject: From Ken's Blog

This is quite cool.

## WVDEP fill policy: Game changer or more of the same?

by Ken Ward Jr.

We're breaking the story in the Gazette print edition about a new West Virginia Department of Environmental Protection policy that essentially halts — temporarily at least — review by WVDEP of applications that propose valley fills.

There's a link to the Web version of that story [here](#).



Now, WVDEP Secretary Randy Huffman and I aren't exactly best friends, well, given that much of my job involves pointing out things that Randy will say that, unlike some previous top WVDEP officials, Randy always patiently answering my questions.

But it's not very often that Randy calls me up unsolicited. And that's what happened when folks in the agency saw the part of [one of my blog posts on the Hobet 45 Mine](#) where

***Over at the West Virginia Department of Environmental Protection, Randy Huffman would like to see EPA back off and let WVDEP regulate the state's mining. What measures will Huffman announce by which his agency would do what EPA does? How does WVDEP issue a SMCRA permit for a mine like this, only to sit back and watch? Is there a better permit with fewer impacts?***

And since, according to Randy, WVDEP was already working on a new policy, he t

about it ... Try as I might, I couldn't get him to just post a comment on Coal Tattoo. In short: WVDEP is going to stop processing permits for surface coal mines that pro U.S. EPA comes up with a firm policy on how those permits should be reviewed, or its own such policy.

Randy explained two reasons for this: First, since U.S. EPA is re-examining all of the changing dramatically. So, his theory goes, it's a waste of time for WVDEP staff to to change so radically after EPA gets its hands on them; and second, Randy says he's some sort of changes need to be put in place to reduce water quality impacts downstream. One of the more interesting things Randy told me was:

*Our opposition [to EPA's permit reviews] has been more about the process science. **There is a lot of validity to the concerns about the downs***



*Gazette photo by Rusty Marks.*

Randy and WVDEP have been under a lot of public pressure for many years about [direct action protests took on a new life](#), at least one former WVDEP Director [was c action](#) to deal with this issue, and [within the agency itself some staffers were becoming](#) about the direction things were headed. Some fairly high-up WVDEP staffers have s Creek [has been a wake-up call](#) within the agency.

And Randy's statements to me are a pretty big change from [his testimony last June t](#) which Randy practically mocked U.S. EPA's scientific studies about the downstream being done by mountaintop removal:

*Without evidence of any significant impact on the rest of the ecosystem beyond numbers of certain genus of mayflies, the State cannot say that there has been a narrative standard.*

Or his odd statement that seemed to put WVDEP in the position of being more concerned about coal than, well, protection of West Virginia's environment:

***The greater concern for the Department of Environmental Protection***

*of the State's water resources, is the unintended consequences of the Environmental Agency's recent actions that have the potential to **significantly limit all***  
So what now?

Well, EPA heard about this WVDEP policy from me. So we'll have to wait for their Officials from the West Virginia Coal Association were briefed on Randy's plans, but president Bill Raney he didn't want to comment yet. Perhaps it's a minor point, but coming up with a decent policy that will reduce impacts from future mining, wouldn't call in someone from a citizen group, tell them about it, and ask for their input and support. Someone more cynical than me might wonder if this isn't some Manchin administration on EPA to either lay off its permit reviews or hurry through some minor tweaking or change the size and scope of these mines or the damage they do.

Imagine ... the coal industry could easily jump on this and blame EPA, saying the Commission essentially prompted a permit moratorium by WVDEP. Think it couldn't happen? Then then-WVDEP Director Mike Castle blocked continued filling of valleys with mining *already permitted* in response to one of Judge Haden's mountaintop removal ruling



I asked Matt Turner, Manchin's communications director, for a comment on the new what he gave me:

*The governor supports Secretary Huffman and the direction DEP is taking the best possible way, and that will keep people in West Virginia's coal industry*  
No mention there of trying to reduce mountaintop removal's impacts ... And who knows WVDEP issues its "framework" for how to apply West Virginia's [water quality standard](#) controversial "narrative standard" that prohibits:

*... Any other condition that adversely alters the integrity of the waters of the*

*adverse impact to the chemical, physical, hydrologic, or biological components shall be allowed.*

That's the one EPA has been citing as its reason for going after major strip-mining permits. It issued some incredibly weak guidance, in the hopes of avoiding any tougher language in the standard or to take action about downstream pollution problems like [selenium](#) and [iron](#). But what if Randy Huffman and his staff at WVDEP are taking some advice from U.S. EPA, trying to "[embrace the future](#)"?

One thing is for sure, [the fact that EPA marched in and pushed Patriot Coal to cut the output of its still mine almost all of its coal](#) — at the Hobet 45 mountaintop removal mine sure shows that the Army Corps of Engineers haven't done their jobs in seeing that environmental effects are avoided. Maybe Randy and his staff don't want to see that happen again, and are going to reach for other things.

As Randy Huffman told me:

*I think that's the change in direction everyone is going to have to make to meet the quality requirements. I don't see any choice but to reduce the impacts.*

---

Gregory E. Peck  
Chief of Staff  
Office of Water  
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Washington, D.C. 20460

202-564-5778

01268-EPA-3280

**Bob Sussman/DC/USEPA/US**

01/07/2010 08:44 AM

To Richard Windsor, Adora Andy, Seth Oster

cc

bcc

Subject Fw: Late News from Patriot

(b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 01/07/2010 08:43 AM -----

From: Gregory Peck/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA  
Date: 01/07/2010 08:42 AM  
Subject: Late News from Patriot

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After some additional coordination with John Morgan, they have now determined they can recover more coal under the "EPA permit" at Hobet 45 than was in their original SMCRA permit. They expect to get 3 - 5% *more coal* than the 10% reduction we originally calculated.

(b)(5) Deliberative

---

Gregory E. Peck  
Chief of Staff  
Office of Water  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

202-564-5778

01268-EPA-3281

**Richard Windsor/DC/USEPA/US**  
01/07/2010 08:47 AM

To Bob Sussman  
cc  
bcc

Subject Re: From Ken's Blog

Wow!

Bob Sussman

----- Original Message -----

**From:** Bob Sussman  
**Sent:** 01/07/2010 08:27 AM EST  
**To:** Richard Windsor; Seth Oster; Arvin Ganesan; Adora Andy  
**Subject:** Fw: From Ken's Blog

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 01/07/2010 08:26 AM -----

From: Gregory Peck/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Shawn Garvin/R3/USEPA/US@EPA  
Cc: Suzanne Schwartz/DC/USEPA/US@EPA, Kevin Minoli  
Date: 01/07/2010 08:19 AM  
Subject: From Ken's Blog

---

This is quite cool.

## WVDEP fill policy: Game changer or more of the same?

by Ken Ward Jr.

We're breaking the story in the Gazette print edition about a new West Virginia Department of Environmental Protection policy that essentially halts — temporarily at least — review by WVDEP of applications that propose valley fills.

There's a link to the Web version of that story [here](#).



Now, WVDEP Secretary Randy Huffman and I aren't exactly best friends, well, given that much of my job involves pointing out things that Randy will say that, unlike some previous top WVDEP officials, Randy always patiently answering my questions.

But it's not very often that Randy calls me up unsolicited. And that's what happened when folks in the agency saw the part of [one of my blog posts on the Hobet 45 Mine](#) where

*Over at the West Virginia Department of Environmental Protection*

*Randy Huffman would like to see EPA back off and let WVDEP regulate the industry. What measures will Huffman announce by which his agency did in this instance? Why does WVDEP issue a SMCRA permit for a permit to sit back and watch EPA push for a better permit with fewer impacts? And since, according to Randy, WVDEP was already working on a new policy, he told me about it ... Try as I might, I couldn't get him to just post a comment on Coal Tattoo. In short: WVDEP is going to stop processing permits for surface coal mines that produce U.S. EPA comes up with a firm policy on how those permits should be reviewed, or WVDEP has its own such policy.*

Randy explained two reasons for this: First, since U.S. EPA is re-examining all of the permits, the science is changing dramatically. So, his theory goes, it's a waste of time for WVDEP staff to be reviewing permits that are going to change so radically after EPA gets its hands on them; and second, Randy says he's seen some sort of changes need to be put in place to reduce water quality impacts downstream. One of the more interesting things Randy told me was:

*Our opposition [to EPA's permit reviews] has been more about the science. **There is a lot of validity to the concerns about downstream impacts.***



*Gazette photo by Rusty Marks.*

Randy and WVDEP have been under a lot of public pressure for many years about more [direct action protests took on a new life](#), at least one former WVDEP Director [was called on for action](#) to deal with this issue, and [within the agency itself some staffers were becoming disillusioned](#) about the direction things were headed. Some fairly high-up WVDEP staffers have said that the [Creek has been a wake-up call](#) within the agency.

And Randy's statements to me are a pretty big change from [his testimony last June](#) to the public, which Randy practically mocked U.S. EPA's scientific studies about the downstream

being done by mountaintop removal:

*Without evidence of any significant impact on the rest of the ecosystem, diminished numbers of certain genus of mayflies, the State cannot be a violation of its narrative standard.*

Or his odd statement that seemed to put WVDEP in the position of being more concerned with coal than, well, protection of West Virginia's environment:

***The greater concern** for the Department of **Environmental Protection**, protector of the State's water resources, is the unintended consequence of the **Environmental Protection Agency's** recent actions that have the potential to **limit all types of mining** .*

So what now?

Well, EPA heard about this WVDEP policy from me. So we'll have to wait for their response. Officials from the West Virginia Coal Association were briefed on Randy's plans, but the president Bill Raney he didn't want to comment yet. Perhaps it's a minor point, but coming up with a decent policy that will reduce impacts from future mining, would be to call in someone from a citizen group, tell them about it, and ask for their input and suggestions. Someone more cynical than me might wonder if this isn't some Manchin administration ploy on EPA to either lay off its permit reviews or hurry through some minor tweaking of rules to change the size and scope of these mines or the damage they do.

Imagine ... the coal industry could easily jump on this and blame EPA, saying the Commission essentially prompted a permit moratorium by WVDEP. Think it couldn't happen? The then-WVDEP Director Mike Castle blocked continued filling of valleys with mining *already permitted* in response to one of Judge Haden's mountaintop removal ruling



I asked Matt Turner, Manchin's communications director, for a comment on the new what he gave me:

*The governor supports Secretary Huffman and the direction DEP is taking with its resources in the best possible way, and that will keep people in West Virginia industry working.*

No mention there of trying to reduce mountaintop removal's impacts ... And who knows if WVDEP issues its "framework" for how to apply West Virginia's [water quality standards](#) a controversial "narrative standard" that prohibits:

*... Any other condition that adversely alters the integrity of the watershed or has a significant adverse impact to the chemical, physical, hydrologic, or biological of aquatic ecosystems shall be allowed.*

That's the one EPA has been citing as its reason for going after major strip-mining permits. It issued some incredibly weak guidance, in the hopes of avoiding any tougher language in the standard or to take action about downstream pollution problems like [selenium](#) and [iron](#). But what if Randy Huffman and his staff at WVDEP are taking some advice from U.S. EPA trying to "[embrace the future](#)"?

One thing is for sure, [the fact that EPA marched in and pushed Patriot Coal to cut the production at its still mine almost all of its coal](#) — at the Hobet 45 mountaintop removal mine sure shows that the Army Corps of Engineers haven't done their jobs in seeing that environmental effects are avoided. Maybe Randy and his staff don't want to see that happen again, and are going to reach for other things.

As Randy Huffman told me:

*I think that's the change in direction everyone is going to have to make to meet the downstream water quality requirements. I don't see any choice but to accept the impacts.*

---

Gregory E. Peck  
Chief of Staff  
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202-564-5778

01268-EPA-3282

**Richard Windsor/DC/USEPA/US**  
01/07/2010 08:47 AM

To Bob Sussman, Seth Oster, Arvin Ganesan, Adora Andy  
cc  
bcc

Subject Re: From Ken's Blog

Double wow!  
Bob Sussman

----- Original Message -----

**From:** Bob Sussman  
**Sent:** 01/07/2010 08:27 AM EST  
**To:** Richard Windsor; Seth Oster; Arvin Ganesan; Adora Andy  
**Subject:** Fw: From Ken's Blog

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

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---

Gregory E. Peck  
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01268-EPA-3283

**Richard Windsor/DC/USEPA/US**  
01/07/2010 08:49 AM

To Bob Sussman  
cc Seth Oster, Shawn Garvin, Adora Andy  
bcc

Subject Re: WVDEP to stop processing fill permits, develop new rules

**(b)(5) deliberative**

Bob Sussman

----- Original Message -----

**From:** Bob Sussman  
**Sent:** 01/07/2010 08:23 AM EST  
**To:** Richard Windsor  
**Cc:** Seth Oster; Shawn Garvin; Adora Andy  
**Subject:** Fw: WVDEP to stop processing fill permits, develop new rules

I like this. **(b)(5) deliberative**

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 01/07/2010 08:21 AM -----

From: Gregory Peck/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Shawn Garvin/R3/USEPA/US@EPA  
Cc: Suzanne Schwartz/DC/USEPA/US@EPA, Kevin Minoli, Mike Shapiro/DC/USEPA/US@EPA  
Date: 01/07/2010 08:00 AM  
Subject: WVDEP to stop processing fill permits, develop new rules

January 6, 2010

## **DEP to stop processing fill permits, develop new rules**

West Virginia regulators are going to stop processing surface mining permits that propose to do so while they develop new guidelines that force coal operators to reduce water quality impacts do

By [Ken Ward Jr.](#)

Staff writer

CHARLESTON, W.Va. -- West Virginia regulators are going to stop processing surface mining permits that propose to do so while they develop new guidelines that force coal operators to reduce water quality impacts do from valley fills.

Randy Huffman, secretary of the state Department of Environmental Protection, revealed his plan in the West Virginia Gazette.

Huffman said his goal is to stop wasting DEP staff time on permits that change dramatically after they are approved by the Environmental Protection Agency.

Also, Huffman said it's also become clear to him that the state must push coal companies to fund the state's efforts. The state needs to try to tackle the issue, rather than just complaining about the EPA or waiting for the EPA to come up with its own guidelines, Huffman said.

"If EPA's not going to give us answers, we need to get our own," Huffman said. "We need to get our own answers. The result is going to be a reduction in the size and scope of these operations."

As things currently work, most coal operators first obtain surface mining permits from the DEP and "dredge-and-fill" permits for valley fills from the U.S. Army Corps of Engineers.

But soon after taking office last year, the Obama administration announced it planned to take a hard look at the environmental impacts of surface coal mining in Appalachia. Among other things, the EPA has been reviewing the corps proposes to approve, and demanding that companies reduce stream impacts.

Earlier this week, the EPA announced the resolution of one such permit review. Under a deal with the state, the company will reduce six miles to three miles the length of stream buried at its Hobet 45 mountaintop removal mine, and the coal it hoped to produce at the operation.

But now, Patriot will also have to go back to the DEP to seek approval for amendments to its surface mining plan changes made to appease the EPA.

"It makes absolutely no sense to spend agency resources reviewing these permits when we know the answer is looking anything like that," Huffman said Wednesday evening.

Gov. Joe Manchin and other West Virginia political leaders have complained bitterly that the state is not making clear to mine operators what standards must be met for permits to be issued.

"Our opposition has been more about the process than it has been about the science," Huffman said. "The concerns about the downstream impacts."

So, Huffman said DEP officials hope within a few months to issue their own "framework" to determine what standards should apply to surface mining and what level of downstream impacts is considered unacceptable.

"It makes sense to say that, at a certain point, water quality is impairing aquatic life and you have to act," Huffman said.

But until those rules are set, Huffman said, it doesn't make sense for DEP staff to continue processing surface mining permits without valley fills will continue to be processed normally, Huffman said.

"The rules of the game for permits are changing, but they have not been settled yet," Huffman said. "On policy on how this kind of mining can proceed, it makes no sense for us to spend resources processing permits."

Huffman said his halt to reviewing valley fill permits is unlikely to hurt the coal industry, because the industry is being delayed by the EPA's reviews.

Also, Huffman said, coal demand is down and companies are not seeking as many permits. A

again, Huffman said, the DEP believes companies will be asking for smaller permits without v  
the EPA reviews.

"I think that's the change in direction everyone is going to have to make to meet the downst  
Huffman said. "I don't see any choice but to reduce the impacts."

*Reach Ken Ward Jr. at [kw...@wvgazette.com](mailto:kw...@wvgazette.com) or 304-348-1702.*

---

Gregory E. Peck  
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1200 Pennsylvania Avenue, N.W.  
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202-564-5778

01268-EPA-3284

Richard Windsor/DC/USEPA/US  
01/07/2010 12:32 PM

To Seth Oster  
cc  
bcc

Subject Re: AMENDED -- REVIEW THIS VERSION -- REACTION TO W. VIRGINIA ANNOUNCEMENT

(b)(5) Deliberative

[Redacted]

If its over the top, tone down from there.  
Seth Oster

----- Original Message -----

**From:** Seth Oster  
**Sent:** 01/07/2010 10:59 AM EST  
**To:** Richard Windsor  
**Cc:** David McIntosh; Marcus McClendon  
**Subject:** AMENDED -- REVIEW THIS VERSION -- REACTION TO W. VIRGINIA ANNOUNCEMENT

Minor edits from Sussman -- but he and Peck both like it.

Awaiting your reaction.

Seth

**STATEMENT FROM EPA ADMINISTRATOR LISA P. JACKSON**

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-3285

Richard  
Windsor/DC/USEPA/US  
01/07/2010 01:03 PM

To Seth Oster  
cc  
bcc

Subject Re: Final Statement on West Virginia Announcement -- Being  
Issued Now

(b)(5) Deliberative

Seth Oster

----- Original Message -----

**From:** Seth Oster  
**Sent:** 01/07/2010 01:00 PM EST  
**To:** windsor.richard@epa.gov  
**Cc:** David McIntosh; Adora Andy; Marcus McClendon  
**Subject:** Final Statement on West Virginia Announcement -- Being Issued Now

### **STATEMENT FROM EPA ADMINISTATOR LISA P. JACKSON**

"Today's announcement from West Virginia's State government is a critical acknowledgement of the substantial environmental, water and health impacts that result from mountaintop mining operations. EPA's responsibility under the Clean Water Act is to ensure that mining activities do not degrade water quality used by communities, and we intend to ensure this requirement is met.

"The most effective path forward now is to work together to develop mining policies that protect the environment, ensure public health, and are cost-effective. The approval earlier this week of the Hobet 45 permit in West Virginia is an example of what can be achieved when mining operators work with EPA to develop their plans. The Hobet 45 mine permanently protects streams, maximizes coal recovery and reduces costs.

"Today's announcement from West Virginia puts us on a path towards closer coordination and dialogue among key stakeholders, from federal and state authorities to industry to environmentalists. EPA is committed to working with all parties to ensure that our country's energy, including coal based generation, is produced in a safe, healthier, and sustainable manner. That is the future of energy and the right future for coal. EPA will continue to rely on the best available science to evaluate mining projects and we strongly encourage West Virginia officials to work in conjunction, not apart, from EPA to develop future mining policy proposals that seek to protect water quality."

Seth Oster  
Associate Administrator

Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-3286

Bob Sussman/DC/USEPA/US

To Richard Windsor

01/07/2010 03:47 PM

cc

bcc

Subject Fw: "Bombshell" study released today.

Wanted to make sure you saw this (b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 01/07/2010 03:47 PM -----

From: Gregory Peck/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Shawn Garvin/R3/USEPA/US@EPA  
Date: 01/07/2010 02:19 PM  
Subject: "Bombshell" study released today.

---

Do we need a statement for this. I expect Ken Ward and others will call for an official reaction from the Agency.

## Bombshell study: MTR impacts ‘pervasive and irreversible

by Ken Ward Jr.

***“Mining permits are being issued despite the preponderance of impacts are pervasive and irreversible and that mitigation cannot offset the losses.”***



*Photo by Paul Corbit Brown*

That quote above is the conclusion of a blockbuster study being published tomorrow by a team of scientists, detailing the incredibly damaging environmental impacts of mountaintop removal mining and failed efforts at reclaiming mined land or mitigating the effects.

Based on a comprehensive analysis of the latest scientific findings, the paper calls on the Environmental Protection Agency and the federal Army Corps of Engineers to stay all new mountaintop removal mining unless new mining and reclamation techniques “can be subjected to rigorous peer review to solve these problems.”

According to the paper:

***.. Clearly, current attempts to regulate MTM/VF practices are in***

## ***Regulators should no longer ignore rigorous science.***

A press release explained that:

*In their paper, the authors outline severe environmental degradation taking place upstream and downstream. The practice destroys extensive tracts of deciduous forests and streams that play essential roles in the overall health of entire watersheds. Sediment enters streams that remain below valley fills and can be transported great distances by flows of water.*

The peer-reviewed paper, "Mountaintop Mining Consequences," is being published in *Science*, considered [one of the world's most prestigious scientific journals](#). *Science* is the academic journal of the [American Association for the Advancement of Science](#), and has an estimated readership of 100,000 people. The paper was authored by a dozen scientists from various fields — from biology to geology and ecology — including several members of the National Academy of Sciences. It is the most significant paper on mountaintop removal to ever hit a scientific journal. It cites nearly 100 published peer-reviewed papers, government studies and a first-ever detailed analysis of Environmental Protection Agency water quality data:

*Despite much debate in the United States, surprisingly little attention has been paid to the scientific evidence of the negative impacts of MTM/VF.*

*Our analysis of current peer-reviewed studies and of new water-quality data has revealed serious environmental impacts that mitigation practices cannot solve. Published studies also show a high potential for human health impacts.*

The authors note that the Surface Mining Control and Reclamation Act imposes requirements on the land and on natural channels, such as requiring that water discharged from mines meet water quality below established federal standards.

*Yet mine-related contaminants persist in streams well below valley fills, forested headwater streams are lost, and biodiversity is reduced; all of these demonstrate that mining causes significant environmental damage despite regulatory requirements. Current mitigation strategies are meant to compensate for lost stream habitat but do not; water-quality degradation caused by mining activities is neither prevented nor reversed by reclamation or mitigation.*

Lead author Margaret Palmer of the [University of Maryland Center for Environmental and Estuarine Science](#) explained: *The scientific evidence of the severe environmental and human impacts from mountaintop mining is strong and irrefutable. Its impacts are pervasive and long lasting and therefore cannot be reversed. Mitigation practices successfully reverse the damage it causes.*

Co-author Emily Bernhardt of [Duke University](#) explained:

*The chemicals released into streams from valley fills contain a variety of ionizing and non-ionizing radiation, heavy metals, and other toxic substances.*

*are toxic or debilitating for many organisms, which explains why biodiversity valley fills.*

Palmer and Bernhardt and some of the other authors are familiar to some Coal Tattoo coal industry. They've testified at [Congress](#) and [in court](#) cases about mountaintop removal serving as expert witnesses for citizen groups working to curb the practice. But, they was not funded by any non-profit groups, and that it underwent the most rigorous peer had ever seen.

Other authors included William H. Schlesinger, president of the [Cary Institute of Ecology](#), Eshleman of the [University of Maryland's Appalachian Laboratory](#), [Michael Hendry](#) and Orié Loucks of Miami University in Oxford, OH.

Among the specific findings:

– ***Burial of streams:*** *Burial of headwater streams by valley fills causes permanent critical roles in ecological processes such as nutrient cycling and production of organic food webs;*

– ***Downstream water quality impacts:*** *Below valley fills in the Central Appalachian by increases in pH, electrical conductivity, and total dissolved solids due to elevated (SO<sub>4</sub>), calcium, magnesium, and bicarbonate ions ... We found that significant linear concentrations of metals, as well as decreases in multiple measures of biological health increases in stream water SO<sub>4</sub> in streams below mined sites ... Recovery of biodiversity streams has not been documented, and SO<sub>4</sub> pollution is known to persist long after mining.*

– ***Selenium:*** *A survey of 78 MTM/VF streams found that 73 had [Selenium] water the 2.0p [micrograms per cubic liter] threshold for toxic bioaccumulation ... In some bioaccumulated to four times the toxic level; this can cause teratogenic deformities in concentrations above the threshold for reproductive failure, and expose birds to reproductive fish ...*

– ***Potential for human health impacts:*** *Even after mine site reclamation (attempts to conditions), groundwater samples from domestic supply wells have higher levels of n constituents than well water from unmined areas ... Adult hospitalizations for chronic hypertension are elevated as a function of county-level coal production, as are rates and chronic heart, lung, and kidney disease.*

– ***Mitigation effects:*** *Many reclaimed areas show little or no growth of woody vegetation storage even after 15 years ... Mitigation plans generally propose creation of interm off-site. Stream creation typically involves building channels with morphologies similar however, because they are on or near valley fills, the surrounding topography, vegetation water chemistry are fundamentally altered from the premining state ... U.S. rules ha*

*a valid form of mitigation while acknowledging the lack of science documenting its e*

---

Gregory E. Peck  
Chief of Staff  
Office of Water  
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1200 Pennsylvania Avenue, N.W.  
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202-564-5778

01268-EPA-3288

**Richard Windsor/DC/USEPA/US**  
01/07/2010 10:03 PM

To Seth Oster  
cc  
bcc

Subject Re: MTM and West Virginia -- Draft Blog Posting or Op-ed

Its a lovely piece but I want to sleep on what, if anything, to do with it.  
Seth Oster

----- Original Message -----

**From:** Seth Oster  
**Sent:** 01/07/2010 09:06 PM EST  
**To:** windsor.richard@epa.gov  
**Subject:** MTM and West Virginia -- Draft Blog Posting or Op-ed

(b)(5) Deliberative

I have not shared this with others beyond my staff at this point. Wanted to get your reaction.

Seth

## **MOUNTAIN TOP MINING – THE PATH AHEAD**

**By Lisa P. Jackson**

In my first year as EPA Administrator, few issues have generated as much

(b)(5) Deliberative

(b)(5) Deliberative

A large rectangular area of the document is completely redacted with black ink. The text "(b)(5) Deliberative" is centered at the top of this redacted area.A large rectangular area of the document is completely redacted with black ink.A large rectangular area of the document is completely redacted with black ink.A large rectangular area of the document is completely redacted with black ink.A large rectangular area of the document is completely redacted with black ink.

***Lisa P. Jackson is the Administrator of the Environmental Protection Agency***

01268-EPA-3289

**Richard Windsor/DC/USEPA/US**  
01/08/2010 10:11 AM

To Seth Oster  
cc  
bcc

Subject Re: MTM and Human Health - The Conclusions Reached by the Researcher

[Redacted] (b)(5) Deliberative

Seth Oster

----- Original Message -----

**From:** Seth Oster  
**Sent:** 01/08/2010 10:05 AM EST  
**To:** Richard Windsor; Bob Sussman; Peter Silva; Arvin Ganesan; Shawn Garvin; Diane Thompson; Bob Perciasepe  
**Cc:** Allyn Brooks-LaSure; Michael Moats  
**Subject:** MTM and Human Health - The Conclusions Reached by the Researcher  
There is an important point worth highlighting from today's Washington Post story on yesterday's announcement by the group of scientists who released their paper on MTM..

[Redacted] (b)(5) Deliberative

[Redacted]

[Redacted]

Seth

## Scientists say mountaintop mining should be stopped

By David A. Fahrenthold  
Washington Post Staff Writer  
Friday, January 8, 2010; A03

Mountaintop coal mining -- in which Appalachian peaks are blasted off and stream valleys buried under tons of rubble -- is so destructive that the government should stop giving out new permits to do it, a group of scientists said in a paper released Thursday.

The group, headed by a University of Maryland researcher, said it performed the most comprehensive study to date of the controversial practice, also known as "mountaintop removal."

Afterward, they did something that scientists usually don't: step beyond data-gathering to take a political stand.

"The science is so overwhelming that the only conclusion that one can reach is that mountaintop mining needs to be stopped," said Margaret Palmer, a professor at the University of Maryland Center for Environmental Sciences and the study's lead author.

The group's paper, published in the journal *Science*, was released in the same week that the U.S. Environmental Protection Agency -- which has been scrutinizing these mines -- angered environmentalists by supporting a new mine permit. The EPA [said](#) the Hobet 45 mine, in West Virginia, had made changes that would eliminate nearly 50 percent of the environmental impacts and protect 460 union mining jobs.

Palmer said the group's work did not echo the idea implicit in this EPA decision: that there could be a "good" mountaintop mine, whose environmental consequences were acceptable.

"The science is clearly against that," she said. Later in the day, the EPA issued a statement saying that the report "underscores EPA's own scientific analysis regarding the substantial environmental, water and health impacts" of these mines.

Chris Hamilton of the West Virginia Coal Association disputed the report's conclusions.

"It's just flat-out wrong," Hamilton said, adding that the "so-called lead scientists have a history of activism against mining."

The scientists rejected that, saying that they brought no bias to the topic and that their conclusions had been rigorously reviewed by other researchers.

Hamilton said that after a mountaintop mine is finished, the damage to nearby streams is usually "very short-term" -- not lasting more than 18 months.

But in their report, the scientists said the damage could last hundreds or even thousands of years.

"It obliterates stream ecosystems," said Emily Bernhardt, a professor of biology at Duke University and a co-author of the study. She said 1,500 miles of streams had been destroyed so far. "They've been wiped from the landscape."

Mountaintop mining occurs mainly in West Virginia and Kentucky, though there also are mines in far-Southwest Virginia and in Tennessee. At these sites, peaks are sheared off with heavy machinery and explosives, exposing the coal seams inside. Excess rock is used to fill steep Appalachian valleys, some with streams at the bottom, to the brim.

That jumbled rock is the problem, the scientists said. When rainwater falls on the filled-in valley, it trickles through the rubble and picks up pollutants off rocks that came from deep underground. The water emerges, they said, imbued with pollutants such as metals and chemicals called sulfates, which can be toxic to the insects and fish in small Appalachian streams.

"To us, it's like smoking and cancer. It's just so clear-cut" that streams below mine sites are left damaged, Palmer said.

The study also linked mountaintop mining to threats to human health, citing potentially toxic dust in the air, well water contaminated with chemicals from mines and fish tainted with toxic metals.

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Associate Administrator  
Office of Public Affairs  
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oster.seth@epa.gov

01268-EPA-3290

Bob Sussman/DC/USEPA/US

To Richard Windsor

01/08/2010 01:03 PM

cc Seth Oster, Mathy Stanislaus

bcc

Subject Some powerful Stuff on the ASTM Letter

## Activists Push Back On Industry Lobbying Against Strict Coal Ash Rules

Environmental groups seeking strict hazardous waste coal ash rules are pushing back against industry lobbying that has succeeded in delaying EPA's plan to regulate the waste, meeting with top EPA officials and challenging the standard setting organization ASTM International, which took the unprecedented step last month of warning against a hazardous waste classification.

Groups including the Sierra Club, Environmental Integrity Project (EIP) and Earthjustice at press time were slated to meet with EPA Administrator Lisa Jackson and agency waste chief Mathy Stanislaus Jan. 6 at the agency's request and planned to urge the agency to move forward with a strict hazardous waste regulation under the Resource Conservation & Recovery Act (RCRA).

The groups are especially interested in countering the Dec. 22 letter ASTM sent to Jackson warning that if the agency defines coal waste as hazardous the organization would drop its specification recommending its use as a material in concrete due to liability and public perception concerns -- eliminating a key driver for the beneficial reuse of coal ash (*Inside EPA*, Dec. 25).

Environmentalists have also scheduled a Jan. 8 meeting with ASTM where they hope to discourage the organization from what activists call advocacy and return to its role as a neutral testing body, one source says.

The Dec. 22 ASTM letter was seen by many as a game changer in EPA's effort to develop hybrid rules for the ash. The agency is seeking to designate discarded ash as hazardous subject to strict RCRA waste handling, storage and treatment requirements under subtitle C, while ash that is reused in concrete or elsewhere would be designated as nonhazardous under subtitle D as a way to promote its beneficial reuse.

But ASTM's warning that any hazardous classification would prompt the group to drop the material from its concrete specification effectively drove home industry arguments that a hazardous classification would impose a stigma on beneficial reuse. Industry officials are also arguing that even if the material could be reused, stricter waste management requirements would be cost prohibitive and could force many power plants to shut down, threatening electricity reliability.

However, environmentalists argue in a Dec. 28 letter to Stanislaus that the organization's

stance on potential legal liability stemming from a subtitle C designation is inconsistent because coal ash is already considered a "hazardous substance" under Superfund law. "Legal liability attaching to manufacturers or consumers of concrete made with fly ash need not be driven by the EPA's hazardous waste determination if legitimate beneficial uses are exempted from subtitle C classification," the activists' letter states.

They also argue that ASTM already sets specifications for products containing high levels of hazardous substances, such as the high metals levels contained in Portland cement -- a product for which ASTM has set specifications. "Certainly, ASTM would not recommend that Portland cement be removed as a concrete component, despite the legal liability these hazardous constituents pose to transporters and manufacturers," the activists say.

The groups also charge that the ASTM letter was written by individuals connected to the coal waste reuse industry, calling it an unprecedented departure from ASTM's mission of creating consensus standards.

The two signatories to the ASTM letter, Jenny Hitch and Anthony Fiorato "have significant financial interest in the marketing and reuse of coal ash," the environmentalists' letter says. Hitch is marketing director for Full Circle Solutions, which finds commercial markets for coal combustion products, and works for ISG Resources, America's largest marketer of coal combustion products, the letter says. Fiorato runs a for-profit subsidiary of the Portland Cement Association, which opposes a hazardous RCRA classification.

The activists' lobbying is aimed at shoring up support for long-awaited rules to regulate the ash produced by power plants. EPA Administrator Lisa Jackson had vowed that the agency would propose the rules by the end of 2009, partly in response to a massive December 2008 coal ash spill in Tennessee.

But on Dec. 17, days before the first anniversary of the spill, EPA announced that it was delaying the proposal due to the "complexity of the analysis" being conducted. Many sources say EPA is redoing the cost-benefit analysis which found no impact of RCRA rules on the beneficial reuse industry.

Although EPA has delayed issuance of the proposal, the agency may have little choice but to seek some hazardous waste designation, as agency lawyers have found that less stringent solid waste rules would be unenforceable at the federal level and create major permitting uncertainty (*Inside EPA*, Sept. 25).

An EPA spokeswoman said this week that the agency has no set time frame for issuing the proposal.

One EIP source says activists are now seeking to strongly rebut the the ASTM letter and what the source calls misleading claims by the Electric Power Research Institute (EPRI), a research group, that heavy metals in coal ash are similar to levels of the metals in rock, as well as EPRI's claims that as many as 400 power plants would be forced to shut down under hazardous RCRA coal waste rules.

The source says the EPRI comparisons of the arsenic levels in coal ash and rock -- contained in a presentation the group gave to OMB in October -- is a "card trick" because it is not done to scale. But when done at scale, it shows that arsenic in coal ash is 1,000 times higher than in rock, the source says.

Additionally, EPRI's plant shutdown claims are based on assumptions that all coal waste is treated as a high hazard, subject to the strictest waste handling requirements. "It is silly . . . and someone is going to have to write a rebuttal. What a waste of time," the source says, adding, "It is so primitive, but they are counting on people having 30 seconds to think about this issue," the source says. However, the claims are "so transparently misleading that . . . if that's what we're up against we've really got a lot of work to do. . . . [EPA] should look at [EPRI's] claims and see it for what it is and laugh, basically, not make us write up a rebuttal."

However, an EPRI source says that the presentation does note that arsenic levels in ash are about 10 times higher than in rock, while noting the overall composition of ash is similar to rock, "I think we always tell a fairly complete story but people don't always choose to see [it]," the source says.

The EPRI source adds that the report on plant shutdowns is in the midst of internal review and will not be released for a few months.

Additionally, the EIP source says activists will work to ensure that the ASTM signatories' industry ties are disclosed and also raise substantive issues, such as the fact that Portland cement is itself already a hazardous substance. "This is not a sissy industry. They are moving a product that carries some risk . . . It is a stretch to say [using coal ash even if it is declared hazardous] is not an issue they could manage."

The groups also have a meeting planned with ASTM Jan. 8 where the activists will seek to understand the organization's stance. "They set standards all the time for materials that have components that are hazardous waste. It is incredibly inconsistent for them to turn around and do what they did. We want to hear them out and let them know where we're at, and try to get them to be the neutral body they claim to be. However, our main focus is on EPA and OMB and how they view the letter," a third source says.

ASTM could not be reached for comment at press time.

Meanwhile, industry and environmentalist sources say industry groups have taken their concerns about EPA's planned rule up the chain to President Obama's Chief of Staff Rahm Emanuel in an effort to win his backing of their effort to convince EPA to propose a RCRA rule without including a hazardous classification as its preferred option. One industry source expects EPA to issue the proposal soon and says a menu of options without a preference "is about all they can do at this point. They've been backed into a corner."

The source adds industry groups may also seek a meeting with White House energy and

environment czar Carol Browner, who so far has not been publicly involved in the issue but may be integral behind the scenes. However, Browner, who served as EPA head under President Clinton, is not expected to back industry's position, since she supported hazardous waste rules for coal waste back in 2000 but was ultimately overruled, sources say. The industry source says a meeting with Browner would be more about "getting in front of her to explain the potential impacts and wearing her down."

One environmentalist, however, says Browner should be a key player in the White House involvement in the review of the EPA proposal but has been conspicuously absent. "I want to know where she is. . . . I assume she knows quite a lot about this because of her involvement 10 years ago. We are facing similar issues [now]. Industry has the playbook down and I'm hoping we know better this time." -- *Dawn Reeves*

INSIDEEPA-31-1-3

Lisa Feldt (b)(5) Deliberative 01/08/2010 07:52:48 AM

From: Lisa Feldt/DC/USEPA/US  
 To: Renee Wynn/DC/USEPA/US@EPA  
 Cc: Antoinette Powell-Dickson/DC/USEPA/US@EPA, Barbara Hostage/DC/USEPA/US@EPA, breen.barry@epa.gov, "Becky Brooks" <Brooks.Becky@epamail.epa.gov>, Ellyn Fine/DC/USEPA/US@EPA, George Hull/DC/USEPA/US@EPA, Glen Cuscino/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, Matt Hale/DC/USEPA/US@EPA, Matt Straus/DC/USEPA/US@EPA, Randy Deitz/DC/USEPA/US@EPA, Sue Priftis/DC/USEPA/US@EPA  
 Date: 01/08/2010 07:52 AM  
 Subject: Re: Fw: Coal Ash

(b)(5) Deliberative . I'll check with Mathy at the 9am and get back with you.

Lisa Feldt  
 Deputy Assistant Administrator  
 Office of Solid Waste & Emergency Response  
 U.S. Environmental Protection Agency  
 Phone: (202) 566-0200:  
 Fax: (202) 566-0207  
 feldt.lisa@epa.gov

Renee Wynn Matt and Others, (b)(5) Deliberative 01/07/2010 09:48:42 PM

From: Renee Wynn/DC/USEPA/US  
 To: Matt Hale/DC/USEPA/US@EPA  
 Cc: breen.barry@epa.gov, "Becky Brooks" <Brooks.Becky@epamail.epa.gov>, Glen Cuscino/DC/USEPA/US@EPA, Randy Deitz/DC/USEPA/US@EPA, Lisa Feldt/DC/USEPA/US@EPA, Ellyn Fine/DC/USEPA/US@EPA, Barbara Hostage/DC/USEPA/US@EPA, Matt Straus/DC/USEPA/US@EPA, Antoinette Powell-Dickson/DC/USEPA/US@EPA, Sue Priftis/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, George Hull/DC/USEPA/US@EPA  
 Date: 01/07/2010 09:48 PM  
 Subject: Re: Fw: Coal Ash

Matt and Others,

(b)(5) Deliberative

Ed,

(b)(5) Deliberative

Renee

Renee P. Wynn

Director for Office of Program Management  
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-----Matt Hale/DC/USEPA/US wrote: -----

To: Renee Wynn/DC/USEPA/US@EPA

From: Matt Hale/DC/USEPA/US

Date: 01/07/2010 06:38PM

cc: breen.barry@epa.gov, "Becky Brooks" <Brooks.Becky@epamail.epa.gov>, Glen Cuscino/DC/USEPA/US@EPA, Randy Deitz/DC/USEPA/US@EPA, Lisa Feldt/DC/USEPA/US@EPA, Ellyn Fine/DC/USEPA/US@EPA, Barbara Hostage/DC/USEPA/US@EPA, Matt Straus/DC/USEPA/US@EPA, Antoinette Powell-Dickson/DC/USEPA/US@EPA, Sue Priftis/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, George Hull/DC/USEPA/US@EPA

Subject: Re: Fw: Coal Ash

We're doing this under RCRA authority. As to when we issue the rule, I wouldn't say anything different from what we've said in press material to date. I've cc'd George Hull, who I assume will get his hands on what we said, and I see you've cc'd Mathy who may want to weigh in. Matt

Renee Wynn---01/07/2010 06:26:22 PM---Matt, I've received an inquiry through Ed Walsh, OCFO, from a House staffer. (See attached email.).

From: Renee Wynn/DC/USEPA/US

:

To: hale.matt

Cc: Matt Straus/DC/USEPA/US@EPA, stanislaus mathy, Feldt.Lisa, breen.barry, hostage.barbara, deitz randy, Powell-Dickson.antoINETte, fine.ellyn, "Becky Brooks" <Brooks.Becky@epamail.epa.gov>, priftis.sue, cuscino.glen

Date:01/07/2010 06:26 PM

Subj Fw: Coal Ash  
ect:

Matt,

I've received an inquiry through Ed Walsh, OCFO, from a House staffer. (See attached email.). Do we think the rule will be released before the HAC hearing on Feb 24? Also, by way of another email, same origin, what authority are we doing this under, RCRA?

Please get back to me as soon as you can.

Thanks.  
Renee

Ed Walsh

----- Original Message -----

**From:** Ed Walsh  
**Sent:** 01/07/2010 05:19 PM EST  
**To:** Renee Wynn  
**Subject:** Fw: Coal Ash

what do you think??

Thanks

Ed

Ed Walsh  
Appropriations Liaison  
Office of the Chief Financial Officer  
U.S. EPA  
202-564-4594

----- Forwarded by Ed Walsh/DC/USEPA/US on 01/07/2010 05:18 PM -----

From: "Benjamin, Darren" <Darren.Benjamin@mail.house.gov>  
To: Ed Walsh/DC/USEPA/US@EPA  
Date: 01/07/2010 05:15 PM  
Subject: RE: Coal Ash

Do you think the rule will come out before our hearing on the 24th?

-----Original Message-----

From: Walsh.Ed@epamail.epa.gov [ <mailto:Walsh.Ed@epamail.epa.gov> ]  
Sent: Monday, January 04, 2010 3:46 PM  
To: Benjamin, Darren  
Subject: Coal Ash

Here's the press release that went out on EPA not finishing the coal ash rule in 2009:

<http://yosemite.epa.gov/opa/admpress.nsf/9335cfcd942ef57f8525735900404439/85d3578e15c80db98525768f006a097b!OpenDocument>

So, to answer your question ,..... "no, we didn't do anything by the end of 2009."

Thanks

Ed

Ed Walsh  
Appropriations Liaison  
Office of the Chief Financial Officer  
U.S. EPA  
202-564-4594

01268-EPA-3292

**Richard Windsor/DC/USEPA/US**  
01/08/2010 02:18 PM

To "Lisa At Home"  
cc  
bcc

Subject Fw: Google Alert - lisa jackson epa

---

**From:** Google Alerts [googlealerts-noreply@google.com]  
**Sent:** 01/08/2010 07:07 PM GMT  
**To:** Richard Windsor  
**Subject:** Google Alert - lisa jackson epa

## Google News Alert for: **lisa jackson epa**

[Media Mayhem: Our media columnist's first annual 'Hot' or 'Not' list](#)

Mother Nature Network

**Jackson's EPA** so far has stopped short of adequate safeguards for mountaintop-removal coal mining and coal ash dumps. And some **EPA** steps have been hampered ...

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01268-EPA-3293

David  
McIntosh/DC/USEPA/US  
01/08/2010 06:40 PM

To windsor.richard, mccarthy.gina  
cc  
bcc

Subject Fw: House Democrat bids to block EPA regs (01/08/2010)

(b)(5) Deliberative

## House Democrat bids to block EPA regs (01/08/2010)

Robin Bravender, E&E reporter

North Dakota Democrat Earl Pomeroy has introduced a House bill aimed at blocking U.S. EPA regulation of greenhouse gases under the Clean Air Act.

The [legislation](#) marks the latest in a series of efforts to limit EPA's ability to curb heat-trapping emissions, but it is the first to be spearheaded by a Democrat.

Pomeroy's measure would strip EPA of its authority to regulate greenhouse gas emissions unless the agency was provided explicit authority to do so from Congress.

"Regulation of greenhouse gas emissions under the current provisions of the Clean Air Act is irresponsible and just plain wrong," Pomeroy said in a statement. "I am not about to let some Washington bureaucrat dictate new public policy that will raise our electricity rates and put at risk the thousands of coal-related jobs in our state."

The Obama administration last month issued a final determination that greenhouse gases endanger public health and welfare, and EPA is expected to issue greenhouse gas standards for light-duty vehicles by March. Once those standards are final, greenhouse gases will officially become regulated pollutants under the Clean Air Act, and large stationary sources will be required to install the best available pollution control technologies.

"However," said the statement from Pomeroy's office, "current control technologies and measures are either unproven or incredibly expensive and could, in effect, make new coal facilities impossible to build."

North Dakota Association of Rural Electric Cooperatives Executive Vice President and General Manager Dennis Hill said Pomeroy's bill is in line with his group's position that Congress should be in charge of setting the policy on climate change legislation.

"We've been working with our congressional delegation to adopt provisions in a comprehensive climate change bill that achieve carbon reductions at a pace that's fair, affordable and achievable," Hill said. "We believe any climate legislation should make clear that Congress, not the EPA, sets the policy on carbon."

Senate and House Republicans have recently announced several other efforts to block or limit EPA's regulatory authority. Sen. Lisa Murkowski (R-Alaska) could offer an amendment on the Senate floor as soon as Jan. 20 to limit EPA's climate regulations, although it remains unclear what the amendment would entail or whether she will seek a vote.

Murkowski may also pursue a resolution that would retroactively veto EPA's endangerment finding ([E&ENews PM](#), Jan. 4). House Republicans have also announced plans to introduce a formal resolution disapproving the endangerment finding ([Greenwire](#), Dec. 17, 2009).

Murkowski spokesman Robert Dillon said Pomeroy's bill is a signal that there is bipartisan support to block EPA regulations. "It shows that it's not just a partisan move, that there is legitimate concern about the damage EPA regulations could have on the economy and that the concern crosses party lines," he said.

Daniel Weiss, senior fellow at the Center for American Progress Action Fund, said it is important to note that the North Dakota Democrat was among 44 House Democrats to vote against the climate and energy bill that cleared the chamber in June.

"Representative Pomeroy is already on record in opposition to helping farmers grow their income from global warming legislation," Weiss said, adding that farmers could earn revenue through offsets and by renting land for wind turbines under the climate bill.

[Click here](#) to read the bill.

01268-EPA-3296

**Bob Sussman/DC/USEPA/US**

01/08/2010 07:42 PM

To Richard Windsor

cc Arvin Ganesan, Peter Silva, Shawn Garvin, Seth Oster, Bob Perciasepe, Diane Thompson, Seth Oster, Adora Andy

bcc

Subject Fw: Energy and Environment Cabinet news release - Kentucky Energy and Environment Cabinet Unveils Spoil Handling Protocol - Process reduces size and number of fills to minimize stream impacts from mining

[Lisa -- Kentucky has also announced an effort, using its SMCRA permitting authority, to reduce MTM stream impacts.](#) (b)(5) Deliberative

**From:** Brown, Dick (PPC)

**Sent:** Thursday, January 07, 2010 1:08 PM

**To:** Brown, Dick (PPC)

**Cc:** Potter, Linda (EEC)

**Subject:** Energy and Environment Cabinet news release - Kentucky Energy and Environment Cabinet Unveils Spoil Handling Protocol - Process reduces size and number of fills to minimize stream impacts from mining



## Commonwealth of Kentucky Energy and Environment Cabinet

Steven L. Beshear, Governor  
Len Peters, Secretary

FOR IMMEDIATE RELEASE  
CONTACT: Linda Potter

Richard Wahrer

502-564-6940

### **Kentucky Energy and Environment Cabinet Unveils Spoil Handling Protocol**

*Process reduces size and number of fills to minimize stream impacts from mining*

FRANKFORT, Ky. (Jan. 7, 2010) – A technical study group, created to analyze excess spoil fill

construction, recently completed development of the Fill Placement Optimization Process (FPOP), a design protocol to minimize the impact on streams from mining operations while maintaining Approximate Original Contour (AOC). The group of engineers represented the Kentucky Department for Natural Resources (DNR), the Army Corps of Engineers, the mining industry, a citizen's group, and the federal Office of Surface Mining (OSM). The goal was to develop an engineering spoil handling protocol that meets the Surface Mining Control and Reclamation Act (SMCRA), AOC requirements and the alternatives analysis for minimizing stream impact required by the Clean Water Act.

The FPOP promises to reduce the number and size of excess spoil fills and minimize stream impacts from coal mining. These reductions are accomplished by returning more spoil to mining areas and selecting fill locations that will either avoid any stream impacts by disposing spoil on pre-law mine benches or minimize the length of the stream affected by shrinking the fill footprint in the watershed.

DNR has formalized the process in a Reclamation Advisory Memorandum (RAM 145) that will accomplish the following:

- Provide an objective process for achieving AOC while ensuring stability of backfill material and minimization of sediment to streams.
- Provide an objective process for minimizing the quantity of excess spoil that can be placed in excess spoil disposal sites such as valley fills.
- Minimize watershed impacts by ensuring compliance with environmental performance standards imposed by SMCRA.
- Minimize impacts to aquatic and terrestrial habitats.
- Provide an objective process for use in permit reviews, as well as field inspections during mining and reclamation phases.
- Maintain the flexibility necessary for addressing site specific mining and reclamation conditions that require discretion by the regulatory authority as intended by SMCRA and Congress.

"The Fill Placement Optimization Process developed for Kentucky mining operations will provide a consistent and comprehensive procedure that will be supported by federal review agencies, resulting in an efficient and timely permit application review," said Energy and Environment Cabinet Secretary Len Peters. "This Kentucky protocol can be used as a template for other Appalachian coal states in developing alternative analyses and maximizing environmental protection."

According to Joe Blackburn, Kentucky Field Office Director for OSM, "The protocol detailed in RAM 145 will have significant impacts on the way surface mining is conducted in steep slope areas of eastern Kentucky. It serves as an outstanding example of what can be achieved when state and federal regulatory agencies work together with environmental advocacy groups and the mining industry."

DNR is moving forward with implementation and is hiring three engineers to review the enhanced permit applications.

###

Dick Brown

Executive Director  
Office of Communications and Public Outreach  
Public Protection/Energy and Environment/Labor Cabinets  
Office - 502-564-5525  
Cell - 502-545-1035

<http://www.courier-journal.com/article/20100107/GREEN/1070356/Kentucky+adopts+tougher+surface-mining+guidelines>

### **Kentucky adopts tougher surface-mining guidelines**

By Deborah Yetter • [dvetter@courier-journal.com](mailto:dvetter@courier-journal.com) • January 7, 2010

FRANKFORT, Ky. — Kentucky has issued tougher guidelines for surface coal mines that officials say will protect streams and lead to faster and better reclamation of hillsides and mountains.

The guidelines, hammered out over the past year by federal and state regulatory officials, environmentalists and coal-industry representatives, call on coal operators to place more "spoil" material disrupted by mining — such as dirt and rock — back on the mine sites, instead of dumping it into valleys and stream beds. They are already in effect.

Though the guidelines aren't mandatory, mine operators are expected to follow them because the state and federal agencies that issue permits for surface mining are part of the agreement and will base their permit decisions on it, said Linda Potter a spokeswoman for the state Department of Natural Resources.

"This is going to dramatically change the way mining is done," said Tom FitzGerald, a Kentucky environmental lawyer who helped broker the deal.

FitzGerald said the agreement carries out the intent of the "stream-saver bill," environmental legislation that failed in the last two sessions of the state legislature. Though the new agreement would affect so called "mountain-top removal" operations, it is far broader, applying to most surface-mining operations, he said.

Under the guidelines, mining companies will need to restore mined areas to their original contour and elevation more often, and they could be told to place waste rock in other nearby mined areas, instead dumping in it streams, FitzGerald said.

The amount of fill dumped in valleys will shrink, which will bury fewer miles of streams, he said. And he said the changes will result in reclamation beginning much sooner.

Rep. Don Pasley, D-Winchester, a sponsor of the past stream-saver bills, said Thursday he was delighted to hear the agreement had been worked out.

"That is fantastic," said Pasley, who said his concern is that smaller streams affected by mining feed into larger ones that provide drinking water to many Kentuckians.

Kentuckians for the Commonwealth also praised the agreement.

"Any action that eliminates toxic mining waste in streams is a step in the right direction," said Teri Blanton, a leader of the group concerned with social justice.

But in a statement the group said the guidelines do not replace the need for tougher state and federal laws, noting that an agreement could be changed.

The guidelines were issued Dec. 16 in a memo signed by state Natural Resources Commissioner Carl Campbell and apply statewide, Potter said.

Dave Moss, vice president of the Kentucky Coal Association, said his group participated in the agreement and is prepared to abide by it. While the changes likely will increase the costs of mining, industry officials realized stricter rules probably were inevitable, he said.

"We came to a solution we could live with," he said of the new guidelines.

A key federal agency involved is the U.S. Army Corps of Engineers, which must issue permits for operations that will affect streambeds. Jim Townsend, chief of the regulatory branch for the office in Louisville, which oversees most of Kentucky, Indiana and some of Illinois, said his agency is pleased with the outcome.

"This is a substantial change," he said. "It's a very good change."

Joe Blackburn, director of the Lexington field office of the U.S. Office of Surface Mining, also was involved and said he believes it will lead to better environmental practices.

"Most of all it will minimize stream loss and put more material back on the terrain," he said.

Reporter Deborah Yetter can be reached at (502) 582-4228. Reporter Jim Bruggers contributed to this story.

[http://www.kentucky.com/latest\\_news/story/1086985.html](http://www.kentucky.com/latest_news/story/1086985.html)

**Friday, Jan. 08, 2010**

### **State signs off on new rules to regulate streams buried by surface mining**

By Bill Estep - [bestep@herald-leader.com](mailto:bestep@herald-leader.com)

Far fewer stream areas in Eastern Kentucky would be buried by surface mining under new guidelines the state has adopted.

Under the guidelines, coal companies would put more excess rock and dirt back on the mined area rather than putting it in nearby hollows, which covers up stream areas.

For the last few years, the impact on stream areas had been a key source of growing criticism of surface mining in Appalachia.

The new guidelines represent a landmark change that will reduce the impact of mining on the environment, said Tom FitzGerald, executive director of the Kentucky Resources Council.

"This is probably the single most important change in mining practices in many years," FitzGerald said.

The state Energy and Environment Cabinet announced the new guidelines Thursday. The Department for Natural Resources is hiring three people to perform the enhanced review of surface-mining permit applications it will require, according to a news release.

When coal companies blast away the tops or sides of slopes in Eastern Kentucky to uncover coal, not all that material — called spoil — can be put back on the mined area. That's because the spoil swells.

Companies dump the excess spoil into what are called hollow fills or valley fills near the mined area.

Environmental groups have long complained that regulators did not make coal companies put enough rock and dirt back on the mined areas. That meant mining created more and larger fills than necessary, covering more stream areas, critics have argued.

The new state guidelines are in the form of an engineering advisory to coal companies on how to handle spoil while reclaiming a mined area.

Bob Zik, vice-president of operations for TECO Coal, said the new spoil-handling guidelines will mean added costs for the coal industry. The industry helped work out the changes and supports them, however, he said.

It is better to cooperate in resolving issues than going to court and being adversarial, Zik said.

"Nothing gets accomplished if everyone doesn't give a little," said Zik, who played a role in working out the guidelines.

The advisory calls for companies to look for areas such as abandoned mines or old mine cuts near the new mine where they could place spoil, rather than putting it into a new fill, and also to put more spoil back on the area being mined.

Coal companies are supposed to compact spoil back on the mined site to re-create the approximate original contour of the mountain.

However, the requirement to restore the approximate elevation of the mountain hasn't been properly enforced, FitzGerald said.

That means ridges are sometimes far shorter after mining than before. FitzGerald said the new reclamation advisory corrects that.

The use of the guidelines will result in far fewer fills being created, and the ones companies do create would be smaller, he said.

The advisory also will mean quicker reclamation, and could lead to reclamation of some areas that were mined and abandoned before Congress adopted new mining rules in 1977, FitzGerald said.

The state is encouraging coal companies to use the new guidelines, but it's not mandatory. However, federal agencies that have authority over some aspects of permit applications are requiring the use of the new practices, so as a practical matter, coal companies will use them, FitzGerald said.

The protocol creates a standard that could help coal companies avoid costly litigation, FitzGerald said.

If negotiators hadn't worked out the new guidelines, the Kentucky Resources Council would have sued regulators, alleging that they had failed to properly enforce reclamation rules, FitzGerald said.

Representatives from the U.S. Office of Surface Mining; the Kentucky Department for Natural Resources, which enforces federal mining rules; the Army Corps of Engineers; the Kentucky Resources Council; and the coal industry worked out the advisory over the last year.

The state enforces federal mining rules. Joe Blackburn, head of the OSM office covering Kentucky, said the reclamation advisory would not have been possible without the involvement of Carl Campbell, commissioner of the

state Department of Natural Resources.

"It serves as an outstanding example of what can be achieved when state and federal regulatory agencies work together with environmental advocacy groups and the mining industry," he said in a statement.

01268-EPA-3305

**Richard Windsor/DC/USEPA/US**  
01/11/2010 04:55 PM

To Robert Goulding  
cc  
bcc

Subject Re: memo for book for Freudenthal meeting

Tx

Robert Goulding

----- Original Message -----

**From:** Robert Goulding  
**Sent:** 01/11/2010 04:45 PM EST  
**To:** Richard Windsor  
**Cc:** Heidi Ellis  
**Subject:** Fw: memo for book for Freudenthal meeting

Administrator,

This didn't make the book, but Aaron will have a copy for you when you get in.

Robert Goulding  
US EPA - Office of the Administrator  
1200 Pennsylvania Ave., NW  
Washington, DC 20460  
(p) 202-564-0473 - (f) 202-501-1450

\*Please consider the environment before printing this e-mail

----- Forwarded by Robert Goulding/DC/USEPA/US on 01/11/2010 04:45 PM -----

From: David McIntosh/DC/USEPA/US  
To: ellis.heidi@epa.gov, goulding.robert@epa.gov  
Date: 01/11/2010 04:20 PM  
Subject: memo for book for Freudenthal meeting

Hi Heidi and Rob,

Attached, please find my memo for her meeting tomorrow with Governor Freudenthal. (b)(5) Deliberative

-David

[attachment "Memo for Freudenthal Mtg Jan 2010.doc" deleted by Richard Windsor/DC/USEPA/US]

01268-EPA-3306

**Daniel  
Gerasimowicz/DC/USEPA/US**  
01/12/2010 05:18 PM

To Lisa Garcia, Paul Anastas, Alecia Allston, Barbara Bennett, Heidi Ellis, Christopher Busch, Clay Diette, Stephanie Owens, Bob Perciasepe, Craig Hooks, Michelle DePass, Steve Owens, Peter Silva, Peter Grevatt, Sarah Pallone, Mathy Stanislaus, Cynthia Giles-AA, Gina McCarthy, Alicia Kaiser, Lawrence Elworth, Seth Oster, Katharine Gage, Stephanie Washington, Diane Thompson, Arvin Ganesan, Marcus McClendon, Ray Spears, Sarah Dale, Georgia Bednar, Carla Veney, Scott Fulton, Bob Sussman, Allyn Brooks-LaSure, Richard Windsor, Eric Wachter, (b)(6) Robert Goulding, Lisa Heinzerling, David McIntosh

cc

bcc

Subject Wednesday, January 13, 2010 Schedule for Lisa P. Jackson

\*\*\* do not copy or forward this information \*\*\*

**Schedule for Lisa P. Jackson EPA Administrator  
Wednesday, January 13, 2010**

## Notes:

Drivers

Shift Leaders

Staff Contact

(b) (6)

Robert Goulding  
202-596-0245

07:30 AM - 08:15 AM	Residence	Depart for Ariel Rios
08:15 AM - 08:45 AM	Administrator's Office	1 on 1 with Cynthia Giles Ct: Linda Huffman (OECA) 564-2440  Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)
08:45 AM - 09:15 AM	Administrator's Office	Daily Meeting
09:30 AM - 09:45 AM	MOSS Studio	Video Taping - Video to the WH Ct: Brendan Gilfillan (OPA) 202-564-2081  Staff: Brendan Gilfillan (OPA) Allyn Brooks-LaSure (OPA) Michael Moats (OPA) Ron Slotkin (MOSS)
10:00 AM - 10:10 AM	Administrator's Office	Photograph with the Winners of EPA Idol Ct: Janet L. Weiner (OPPTS) 202-564-2309  MOSS will be present to take the photograph  10 - 12 attendees are expected to attend
10:30 AM - 11:00 AM	Administrator's Office	Coffee Meeting Subj: Lisa Feldt (OSWER)

Ct: Teresa Hill (OSWER) 566-0184

11:00 AM - 12:00 PM	Bullet Room	<p>Briefing on the Pebble Mine Project in Alaska          Ct: Marianne Holsman (R10) 206-553-1237</p> <p>Staff:          Bob Perciasepe, Bob Sussman (OA)          Michelle Pirzadeh, Dan Opalski, Mike Bussell, Patti McGrath (R10) - in person          Greg Peck, Suzanne Schwartz, Gary Hudiburgh (OW)          Cynthia Giles, Susan Bromm (OECA)          Kevin Minoli (OGC)          Shalini Vajjhala (OIA)          Optional attendee: Diane Thompson (OA)</p> <p>(hookup to Admin's conference line needed)</p>
12:00 PM - 01:00 PM	Administrator's Office	No Meetings
01:00 PM - 01:45 PM	Administrator's Office	<p>Briefing on the Final Listing of the Gowanus Canal Site on the Superfund National Priorities Listing (NPL)          Ct: Ellyn Fine (OSWER) 566-2775</p> <p>Staff:          Bob Sussman (OA)          Barry Breen, Jim Woolford (OSWER)          Judith Enck, George Pavlou, Walter Mугan (R2) - in person          John Michaud (OGC)</p> <p>Optional attendee: Diane Thompson (OA)</p>
02:00 PM - 02:30 PM	Administrator's Office	<p>Meeting with Mary Nichols, Chairman of the California Air Resources Board (CARB)          Ct: Brian Turner (Gov. Schwarzenegger's Office) (b)(6) Privacy</p> <p>Staff:          Janet McCabe, Joe Goffman (OAR)          Lisa Heinzerling (OPEI)          David McIntosh (OCIR)</p> <p>Attendees:          Chairman Mary Nichols of CARB          Brian Turner - Washington DC Office of Governor Schwarzenegger</p>
03:00 PM - 03:45 PM	Bullet Room	<p>Briefing to discuss Geologic Sequestration Rulemaking          Ct: Lori Keyton (OW) 564-5768</p> <p>Staff:          Bob Sussman, Diane Thompson, Bob Perciasepe (OA)          Pete Silva, Mike Shapiro, Ann Codrington, Cynthia Dougherty, Bruce Kobelski, Joseph Tiago, Lee Whitehurst, Suzanne Kelly, Sean Porse, Steve Heare, MaryRose Bayer, Suzanne Schwartz, Paul Cough, Darrell Brown, Betsy Valente, David Redford, Macara Lousberg (OW)          Brian Mclean, Dina Kruger, Rona Birnbaum, Anhar Karimjee, Lisa</p>

Bacanskas, Mark DeFigueiredo (OAR)  
 Lisa Heinzerling, Louise Wise, Alexander Cristofaro, Lesley Schaaff,  
 William Nickerson (OPEI)  
 Scott Fulton, Avi Garbow, Carrie Wehling, Steve Neugeboren, Mindy  
 Kairis, Steve Sweeney (OGC)  
 Cynthia Giles, Adam Kushner (OECA)  
 Mathy Stanislaus, Matt Halle, Ross Elliott (OSWER)

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03:30 PM - 05:00 PM	CEQ, 722 Jackson Place	FYI - Steering Committee for the Interagency Climate Change Adaptation Task Force Bob Perciaseppe will attend for EPA
04:00 PM - 04:30 PM	Administrator's Office	1 on 1 with Craig Hooks Ct: Kimberly Wheeler (OARM) 564-4600  Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)
04:30 PM - 05:00 PM	Administrator's Office	1 on 1 with Pete Silva Ct: Lori Keyton (OW) 564-5768  Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)

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\*\*\* 01/12/2010 05:16:31 PM \*\*\*

01268-EPA-3307

Bob Sussman/DC/USEPA/US

01/12/2010 08:12 PM

To Richard Windsor

cc Mathy Stanislaus, Lisa Heinzerling, Lisa Feldt, Diane Thompson, Lawrence Elworth

bcc

Subject E-Mail to Department Heads on CCR Rulemaking

Lisa -- Here's the e-mail we would propose that you send to department heads on the CCR rulemaking. (b)(5) Deliberative

[Redacted]

(b)(5) Deliberative

Let us know whether we should proceed.

Dear : (b)(5) Deliberative

[Redacted]

[Redacted]

. Thanks for your help!

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency



01268-EPA-3309

**Daniel Gerasimowicz/DC/USEPA/US**  
01/13/2010 05:09 PM

To Lisa Garcia, Paul Anastas, Alecia Allston, Barbara Bennett, Heidi Ellis, Christopher Busch, Clay Diette, Stephanie Owens, Bob Perciasepe, Craig Hooks, Michelle DePass, Steve Owens, Peter Silva, Peter Grevatt, Sarah Pallone, Mathy Stanislaus, Cynthia Giles-AA, Gina McCarthy, Alicia Kaiser, Lawrence Elworth, Seth Oster, Katharine Gage, Stephanie Washington, Diane Thompson, Arvin Ganesan, Marcus McClendon, Ray Spears, Sarah Dale, Georgia Bednar, Carla Veney, Scott Fulton, Bob Sussman, Allyn Brooks-LaSure, Richard Windsor, Eric Wachter, (b)(6) Robert Goulding, Lisa Heinzerling, David McIntosh

cc

bcc

Subject Thursday, January 14, 2010 Schedule for Lisa P. Jackson

\*\*\* do not copy or forward this information \*\*\*

**Schedule for Lisa P. Jackson EPA Administrator  
Thursday, January 14, 2010**

Notes:

Drivers

Shift Leaders

Staff Contact

(b) (6)

Heidi Ellis 202-355-5212

07:30 AM - 08:15 AM	Residence	Depart for Ariel Rios
08:15 AM - 08:45 AM	Administrator's Office	1 on 1 with Steve Owens Ct: Lynda Garland (OPPTS) 564-0337  Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)
08:45 AM - 09:15 AM	Administrator's Office	Daily Meeting
09:20 AM - 09:30 AM	Administrator's Office	Call with Senator Bob Corker Ct: Ramona Lessen (Corker's Office) 202-228-5426  Subj: Coal Combustion bi-products  *The Administrator will call the Senator on 202-228-5426  Staff: Arvin Ganesan (OCIR) Bob Sussman (OA)
09:30 AM - 10:00 AM	Administrator's Office	1 on 1 with Peter Grevatt Ct: Peter Grevatt (OCHP) 564-8954  Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)
10:10 AM - 11:00 AM	Ronald Reagan Building	EPA MLK Observance Ct: Chris Emanuel, 202-564-7286 Advance Ct: Sarah Dale 564-6998

11:15 AM - 12:00 PM	Bullet Room	Briefing on Superfund Initiatives and Metrics Ct: Nelida Torres (OSWER) 566-0200
		Staff: Bob Perciasepe, Bob Sussman (OA) Mathy Stanislaus, Lisa Feldt, Barry Breen, Jim Woolford (OSWER) Rob Verchick, Louise Wise (OPEI) Barbara Bennett, Mary Ann Froehlich (OCFO) Arvin Ganesan (OCIR)
12:00 PM - 12:45 PM	Administrator's Office	No Meetings
12:45 PM - 01:00 PM	Ariel Rios	Depart for the Women's National Democratic Club (WNDC) Diane Thompson will travel with the Administrator
01:00 PM - 01:45 PM	1526 New Hampshire Avenue, NW Washington, DC 20036	Remarks at the Women's National Democratic Club (WNDC) Ct: Elaine L. Newman (b)(6) Privacy Advance Ct: Megan Cryan 564-1553
		Staff: Diane Thompson (OA)
01:45 PM - 02:00 PM	Women's National Democratic Club (WNDC)	Depart for Ariel Rios Diane Thompson will travel with the Administrator
02:00 PM - 02:30 PM	Administrator's Office	1 on 1 with Paul Anastas Ct: Nathan Gentry (ORD) 564-9084
		Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)
02:30 PM - 03:30 PM	Bullet Room	Briefing to discuss the Regulatory Determination for Perchlorate Ct: Lori Keyton (OW) 564-5768
		Staff: Bob Perciasepe, Bob Sussman (OA) Pete Silva, Mike Shapiro, Cynthia Dougherty, Eric Burneson, Elizabeth Doyle, Pamela Barr, Elizabeth Skane (OW) Paul Anastas, Lek Kadeli, Kevin Teichman, Peter Preuss (ORD) Lisa Feldt, Barry Breen (OSWER) Lisa Heinzerling, Louise Wise (OPEI) Jon Capacasa (R3) Alexis Strauss (R9) Peter Grevatt (OCHP) Scott Fulton, Pat Hirsch, Carrie Wehling (OGC) Optional attendee: Diane Thompson (OA)
		(hookup to Administrator's conference line needed)
03:30 PM - 05:00 PM	Bullet Room	Senior Policy Meeting Staff:  Bob Perciasepe, Bob Sussman, Diane Thompson, Scott Fulton, Eric Wachter, Robert

Goulding, Heidi Ellis, Larry Elworth (OA)  
David McIntosh, Arvin Ganesan, Sarah Pallone (OCIR)  
Lisa Heinzerling, Robert Verchick (OPEI)  
Cynthia Giles, Lisa Garcia (OECA)  
Pete Silva (OW)  
Steve Owens (OPPTS)  
Michelle DePass (OIA)  
Mathy Stanislaus, Lisa Feldt (OSWER)  
Gina McCarthy (OAR)  
Seth Oster, Allyn Brooks-LaSure (OPA)  
Craig Hooks (OARM)  
Barbara Bennett (OCFO)  
Paul Anastas (ORD)

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07:15 PM - 09:00 PM	Osteria Bibiana 1100 New York Ave Washington, DC 20005	Dinner Subj: Michele Norris and Mr. Norris  Reservations for 4 under PJackson
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Mr. Jackson will attend with the Administrator

---

\*\*\* 01/13/2010 05:07:46 PM \*\*\*

01268-EPA-3310

Bob Sussman/DC/USEPA/US

To "Lisa P. Jackson"

01/13/2010 07:32 PM

cc

bcc

Subject Fw: E-Mail to Department Heads on CCR Rulemaking

Bugging you (I'm sorry). Any thoughts about the draft e-mail?

Bob Sussman

----- Original Message -----

**From:** Bob Sussman

**Sent:** 01/12/2010 08:12 PM EST

**To:** Richard Windsor

**Cc:** Mathy Stanislaus; Lisa Heinzerling; Lisa Feldt; Diane Thompson;  
Lawrence Elworth

**Subject:** E-Mail to Department Heads on CCR Rulemaking

Lisa -- Here's the e-mail we would propose that you send to department heads on the CCR rulemaking. (b)(5) Deliberative

[Redacted]

[Redacted]

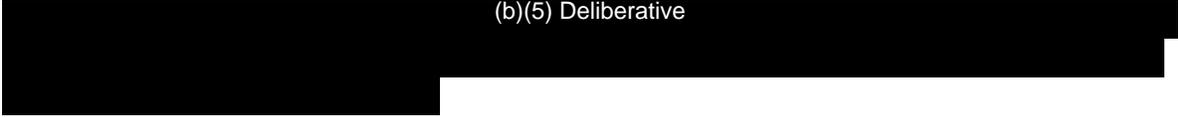
[Redacted]

Dear \_\_\_: (b)(5) Deliberative

[Redacted]

[Redacted]

(b)(5) Deliberative

A large black rectangular redaction box covers the majority of the page's content, starting below the header and ending above the signature block.

Thanks for your help!

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-3311

**Richard Windsor/DC/USEPA/US**  
01/14/2010 01:59 PM

To Adora Andy  
cc  
bcc  
Subject Re: HEADS UP: WaPo

Sounds fine.  
Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 01/14/2010 01:54 PM EST  
**To:** "Richard Windsor" <windsor.richard@epa.gov>  
**Cc:** "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>  
**Subject:** HEADS UP: WaPo

Please advise...

WHO: Juliet Eilperin, Washington Post WHAT: Story on "the assault on EPA's authority to regulate GHGs."

WHEN: Will run this weekend.

DEADLINE: Tomorrow, 10am

BACKGROUND: [REDACTED] (b)(5) Deliberative

KEY INTERVIEW [REDACTED] (b)(5) Deliberative

###

01268-EPA-3312

**Richard Windsor/DC/USEPA/US**  
01/14/2010 02:09 PM

To Adora Andy  
cc  
bcc

Subject Re: HEADS UP: WaPo

Call at 230.  
Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 01/14/2010 02:00 PM EST  
**To:** "Richard Windsor" <windsor.richard@epa.gov>  
**Cc:** "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>  
**Subject:** Re: HEADS UP: WaPo

To clarify, what I'm asking you is do you recall this conversation (b)(5) ? (b)(5) Deliberative

Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 01/14/2010 01:54 PM EST  
**To:** "Richard Windsor" <windsor.richard@epa.gov>  
**Cc:** "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>  
**Subject:** HEADS UP: WaPo

Please advise...

WHO: Juliet Eilperin, Washington Post WHAT: Story on "the assault on EPA's authority to regulate GHGs."

WHEN: Will run this weekend.

DEADLINE: Tomorrow, 10am

BACKGROUND (b)(5) Deliberative

KEY INTERVIEW (b)(5) Deliberative

###

01268-EPA-3313

**Richard Windsor/DC/USEPA/US**  
01/14/2010 02:27 PM

To "Aaron Dickerson"  
cc  
bcc

Subject Fw: HEADS UP: WaPo

What day did I go to dinner at (b) (6) house?  
Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 01/14/2010 02:00 PM EST  
**To:** "Richard Windsor" <windsor.richard@epa.gov>  
**Cc:** "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>  
**Subject:** Re: HEADS UP: WaPo

To clarify, what I'm asking you is do you recall this conversation (b)(5) ? (b)(5) Deliberative

Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 01/14/2010 01:54 PM EST  
**To:** "Richard Windsor" <windsor.richard@epa.gov>  
**Cc:** "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>  
**Subject:** HEADS UP: WaPo

Please advise...

WHO: Juliet Eilperin, Washington Post WHAT: Story on "the assault on EPA's authority to regulate GHGs."

WHEN: Will run this weekend.

DEADLINE: Tomorrow, 10am

BACKGROUND: (b)(5) Deliberative

KEY INTERVIEW

(b)(5) Deliberative

###

01268-EPA-3314

Aaron  
Dickerson/DC/USEPA/US  
01/14/2010 02:30 PM

To Richard Windsor  
cc  
bcc

Subject Re: Fw: HEADS UP: WaPo

(b)(6) Privacy

Richard Windsor What day did I go to dinner at (b) (6) 01/14/2010 02:27:36 PM

From: Richard Windsor/DC/USEPA/US  
To: "Aaron Dickerson" <dickerson.aaron@epa.gov>  
Date: 01/14/2010 02:27 PM  
Subject: Fw: HEADS UP: WaPo

What day did I go to dinner at (b)(6) Privacy house?  
Adora Andy

----- Original Message -----

From: Adora Andy  
Sent: 01/14/2010 02:00 PM EST  
To: "Richard Windsor" <windsor.richard@epa.gov>  
Cc: "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>  
Subject: Re: HEADS UP: WaPo

To clarify, what I'm asking you is do you recall this conversation (b)(5) Deliberative

Adora Andy

----- Original Message -----

From: Adora Andy  
Sent: 01/14/2010 01:54 PM EST  
To: "Richard Windsor" <windsor.richard@epa.gov>  
Cc: "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>  
Subject: HEADS UP: WaPo

Please advise...

WHO: Juliet Eilperin, Washington Post WHAT: Story on "the assault on EPA's authority to regulate GHGs."

WHEN: Will run this weekend.

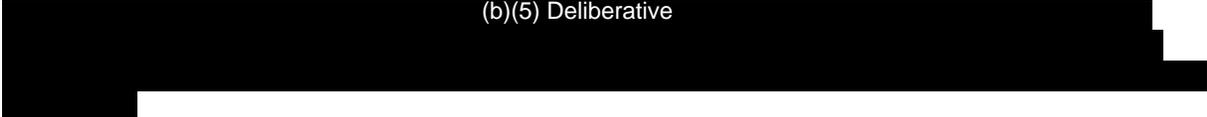
DEADLINE: Tomorrow, 10am

BACKGROUND: Story will say the stage was set with the Wax-Mark concessions. Story will talk about the implications for EPA's ability to regulate without the bill.

KEY INTERVIEW (b)(5) Deliberative

[Large redacted area]

(b)(5) Deliberative



###

01268-EPA-3315

**Richard Windsor/DC/USEPA/US**  
01/14/2010 02:32 PM

To Aaron Dickerson  
cc  
bcc

Subject Re: Fw: HEADS UP: WaPo

Tx

Aaron Dickerson

----- Original Message -----

**From:** Aaron Dickerson  
**Sent:** 01/14/2010 02:30 PM EST  
**To:** Richard Windsor  
**Subject:** Re: Fw: HEADS UP: WaPo

(b) (6)

Richard Windsor What day did I go to dinner at (b) (6) 01/14/2010 02:27:36 PM

**From:** Richard Windsor/DC/USEPA/US  
**To:** "Aaron Dickerson" <dickerson.aaron@epa.gov>  
**Date:** 01/14/2010 02:27 PM  
**Subject:** Fw: HEADS UP: WaPo

What day did I go to dinner at (b) (6) house?  
Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 01/14/2010 02:00 PM EST  
**To:** "Richard Windsor" <windsor.richard@epa.gov>  
**Cc:** "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>  
**Subject:** Re: HEADS UP: WaPo

To clarify, what I'm asking you is do you recall this conversation with (b)(5) Deliberative

Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 01/14/2010 01:54 PM EST  
**To:** "Richard Windsor" <windsor.richard@epa.gov>  
**Cc:** "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>  
**Subject:** HEADS UP: WaPo

Please advise...

WHO: Juliet Eilperin, Washington Post WHAT: Story on "the assault on EPA's authority to regulate GHGs."

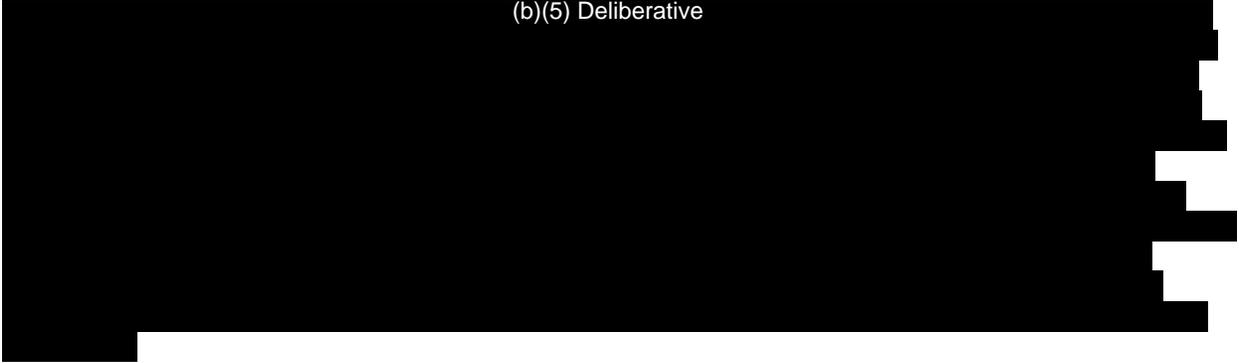
WHEN: Will run this weekend.

DEADLINE: Tomorrow, 10am

BACKGROUND: Story will say the stage was set with the Wax-Mark concessions. Story will talk about the implications for EPA's ability to regulate without the bill.

KEY INTERVIEW (b)(5) Deliberative

(b)(5) Deliberative



###

01268-EPA-3316

Mathy  
Stanislaus/DC/USEPA/US  
01/14/2010 03:01 PM

To Bob Sussman, Lisa Heinzerling, Richard Windsor  
cc  
bcc

Subject Fw: Article in Inside EPA

(b)(5) Deliberative

## See Article below, although I didn't realize that Elliott was the "Former Bush EPA Waste Chief."

### Criticizing Hazardous Coal Rule

Former Bush EPA waste chief Elliott Laws is joining industry opposition over a pending EPA effort to declare some forms of coal ash as hazardous in a first-time waste rule, saying the plan would “destroy” industries that beneficially reuse the waste in products such as cement.

In a self-penned article for a recent Environmental Law Institute (ELI) publication, Laws says he agrees with industry criticism of EPA's purported effort to declare wet disposal of coal ash as subject to hazardous waste disposal requirements under subtitle C of the Resource Conservation & Recovery Act (RCRA). EPA's “hybrid” approach would also declare dry disposal and ash that is beneficially reused in materials such as cement as nonhazardous under RCRA subtitle D.

But Laws says that any hazardous designation of the waste “will destroy the reuse market by making virtually every paved road in the country 'hazardous by implication.' It will create massive budget problems as cities and states are forced to look for non-hazardous alternatives. . . . Would a class action be far behind?” he writes, adding, “Whether the ash is non-hazardous 'dry' or hazardous 'wet' will ultimately become a distinction without a difference.”

Laws also appears to back a new proposal that [industry is floating](#) to White House regulatory officials for EPA to regulate coal ash storage facilities at power plants, rather than the ash itself, under existing RCRA imminent and substantial endangerment authority.

Industry has suggested that EPA develop RCRA nonhazardous subtitle D rules for the ash storage, which would be implemented and enforced by states, and that the agency use its existing RCRA endangerment authority as a backstop.

EPA Administrator Lisa Jackson late last year delayed the agency's proposal, which she had vowed to issue before the end of 2009, citing the “complexity of the analysis” involved in the rulemaking. And in [a speech](#) to the power industry last week, the administrator lent possible credence to the new approach. However, environmentalists call the RCRA endangerment authority approach a non-starter that is not a true federal backstop.

In the ELI article, Laws also says that the agency's impetus for developing the RCRA rules -- a massive coal ash spill at a Tennessee Valley Authority (TVA) plant in December 2008 -- is illogical because the TVA spill was a safety issue that showed lax state enforcement of the structural stability of ash ponds and has nothing to do with whether the ash itself should be considered hazardous. "Make no mistake, the failure of the TVA holding pond was a disaster . . . But it was an example of a safety issue, not an environmental issue. EPA has looked at fly ash numerous times over the years and has consistently found it not to be hazardous," he wrote.

Additionally, he seeks to discount EPA's conclusion that it must use its subtitle C authority in order to have a strong federal enforcement presence. "Hopefully, cooler heads and the agency's commitment to 'sound science' will prevail in this instance and EPA will not make an ill-advised decision because of the broader shortcomings of subtitle D," he writes.

01268-EPA-3317

**Richard Windsor/DC/USEPA/US**  
01/14/2010 03:08 PM

To Mathy Stanislaus  
cc  
bcc  
Subject Re: Article in Inside EPA

(b)(5) Deliberative  
Mathy Stanislaus

----- Original Message -----

**From:** Mathy Stanislaus  
**Sent:** 01/14/2010 03:01 PM EST  
**To:** Bob Sussman; Lisa Heinzerling; Richard Windsor  
**Subject:** Fw: Article in Inside EPA

(b)(5) Deliberative

**See Article below, although I didn't realize that Elliott was the "Former Bush EPA Waste Chief."**

### **Criticizing Hazardous Coal Rule**

Former Bush EPA waste chief Elliott Laws is joining industry opposition over a pending EPA effort to declare some forms of coal ash as hazardous in a first-time waste rule, saying the plan would “destroy” industries that beneficially reuse the waste in products such as cement.

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But Laws says that any hazardous designation of the waste “will destroy the reuse market by making virtually every paved road in the country 'hazardous by implication.' It will create massive budget problems as cities and states are forced to look for non-hazardous alternatives. . . . Would a class action be far behind?” he writes, adding, “Whether the ash is non-hazardous 'dry' or hazardous 'wet' will ultimately become a distinction without a difference.”

Laws also appears to back a new proposal that [industry is floating](#) to White House regulatory officials for EPA to regulate coal ash storage facilities at power plants, rather than the ash itself, under existing RCRA imminent and substantial endangerment authority.

Industry has suggested that EPA develop RCRA nonhazardous subtitle D rules for the ash storage, which would be implemented and enforced by states, and that the agency use its existing RCRA endangerment authority as a backstop.

EPA Administrator Lisa Jackson late last year delayed the agency's proposal, which she had vowed to issue before the end of 2009, citing the "complexity of the analysis" involved in the rulemaking. And in [a speech](#) to the power industry last week, the administrator lent possible credence to the new approach. However, environmentalists call the RCRA endangerment authority approach a non-starter that is not a true federal backstop.

In the ELI article, Laws also says that the agency's impetus for developing the RCRA rules -- a massive coal ash spill at a Tennessee Valley Authority (TVA) plant in December 2008 -- is illogical because the TVA spill was a safety issue that showed lax state enforcement of the structural stability of ash ponds and has nothing to do with whether the ash itself should be considered hazardous. "Make no mistake, the failure of the TVA holding pond was a disaster . . . But it was an example of a safety issue, not an environmental issue. EPA has looked at fly ash numerous times over the years and has consistently found it not to be hazardous," he wrote.

Additionally, he seeks to discount EPA's conclusion that it must use its subtitle C authority in order to have a strong federal enforcement presence. "Hopefully, cooler heads and the agency's commitment to 'sound science' will prevail in this instance and EPA will not make an ill-advised decision because of the broader shortcomings of subtitle D," he writes.

01268-EPA-3318

**Mathy  
Stanislaus/DC/USEPA/US**  
01/14/2010 03:21 PM

To: Richard Windsor  
cc  
bcc

Subject: Re: Article in Inside EPA

**(b)(5) Deliberative**

Mathy Stanislaus  
USEPA Assistant Administrator  
Office of Solid Waste & Emergency Response

Richard Windsor **(b) (5)** ----- Original Message ----- 01/14/2010 03:08:28 PM

From: Richard Windsor/DC/USEPA/US  
To: Mathy Stanislaus/DC/USEPA/US@EPA  
Date: 01/14/2010 03:08 PM  
Subject: Re: Article in Inside EPA

**(b)(5) Deliberative**

Mathy Stanislaus

----- Original Message -----

**From:** Mathy Stanislaus  
**Sent:** 01/14/2010 03:01 PM EST  
**To:** Bob Sussman; Lisa Heinzerling; Richard Windsor  
**Subject:** Fw: Article in Inside EPA

**(b)(5) Deliberative**

**See Article below, although I didn't realize that Elliott was the "Former Bush EPA Waste Chief."**

## **Criticizing Hazardous Coal Rule**

Former Bush EPA waste chief Elliott Laws is joining industry opposition over a pending EPA effort to declare some forms of coal ash as hazardous in a first-time waste rule, saying the plan would "destroy" industries that beneficially reuse the waste in products such as cement.

In a self-penned article for a recent Environmental Law Institute (ELI) publication, Laws says he agrees with industry criticism of EPA's purported effort to declare wet disposal of coal ash as subject to hazardous waste disposal requirements under subtitle C of the Resource Conservation & Recovery Act (RCRA). EPA's "hybrid" approach would also declare dry disposal and ash that is beneficially reused in materials such as cement as nonhazardous under RCRA subtitle D.

But Laws says that any hazardous designation of the waste "will destroy the reuse market by making virtually every paved road in the country 'hazardous by implication.' It will create massive budget problems as cities and states are forced to look for non-hazardous alternatives. . .

. Would a class action be far behind?" he writes, adding, "Whether the ash is non-hazardous 'dry' or hazardous 'wet' will ultimately become a distinction without a difference."

Laws also appears to back a new proposal that [industry is floating](#) to White House regulatory officials for EPA to regulate coal ash storage facilities at power plants, rather than the ash itself, under existing RCRA imminent and substantial endangerment authority.

Industry has suggested that EPA develop RCRA nonhazardous subtitle D rules for the ash storage, which would be implemented and enforced by states, and that the agency use its existing RCRA endangerment authority as a backstop.

EPA Administrator Lisa Jackson late last year delayed the agency's proposal, which she had vowed to issue before the end of 2009, citing the "complexity of the analysis" involved in the rulemaking. And in [a speech](#) to the power industry last week, the administrator lent possible credence to the new approach. However, environmentalists call the RCRA endangerment authority approach a non-starter that is not a true federal backstop.

In the ELI article, Laws also says that the agency's impetus for developing the RCRA rules -- a massive coal ash spill at a Tennessee Valley Authority (TVA) plant in December 2008 -- is illogical because the TVA spill was a safety issue that showed lax state enforcement of the structural stability of ash ponds and has nothing to do with whether the ash itself should be considered hazardous. "Make no mistake, the failure of the TVA holding pond was a disaster . . . But it was an example of a safety issue, not an environmental issue. EPA has looked at fly ash numerous times over the years and has consistently found it not to be hazardous," he wrote.

Additionally, he seeks to discount EPA's conclusion that it must use its subtitle C authority in order to have a strong federal enforcement presence. "Hopefully, cooler heads and the agency's commitment to 'sound science' will prevail in this instance and EPA will not make an ill-advised decision because of the broader shortcomings of subtitle D," he writes.

01268-EPA-3320

**Bob Sussman/DC/USEPA/US**

01/14/2010 06:33 PM

To Richard Windsor, Bob Perciasepe, Diane Thompson, Scott  
Fulton, Cynthia Giles-AA, Lisa Garcia  
cc Mathy Stanislaus

bcc

Subject Fw: TVA Kingston

**(b)(5) Attorney-Client, (b)(5) Deliberative**

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 01/14/2010 06:30 PM -----

From: Mary-Kay Lynch/DC/USEPA/US  
To: Mathy Stanislaus/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA  
Date: 01/14/2010 06:16 PM  
Subject: Fw: TVA Kingston

----- Forwarded by Mary-Kay Lynch/DC/USEPA/US on 01/14/2010 06:15 PM -----

From: John Michaud/DC/USEPA/US  
To: Scott Fulton/DC/USEPA/US@EPA, Avi Garbow/DC/USEPA/US@EPA  
Cc: Mary-Kay Lynch/DC/USEPA/US@EPA, Earl Salo/DC/USEPA/US@EPA, Laurel  
Celeste/DC/USEPA/US@EPA  
Date: 01/14/2010 06:14 PM  
Subject: Fw: TVA Kingston

Scott --

We have received a copy of a notice of citizen suit against the operator of the landfill in Perry County, Alabama where TVA is disposing of the released coal ash from the Kingston, TN facility. The notice alleges violations of State law, RCRA and the CAA.

We have also received a copy of a petition to EPA requesting that the Agency reverse its determination that the Perry County landfill is in compliance with State law, and therefore eligible to receive the coal ash from the Kingston clean up under CERCLA sec. 121(d)(3).

We will get you copies of these documents tomorrow morning.

Thanks.

John R. Michaud  
Acting Associate General Counsel  
Solid Waste and Emergency Response Law Office  
Office of General Counsel  
U.S. EPA, Washington, D.C.  
Mail Code: 2366A  
tel: 202-564-5518  
fax: 202-564-5531  
email: michaud.john@epa.gov

----- Forwarded by John Michaud/DC/USEPA/US on 01/14/2010 06:05 PM -----

From: Earl Salo/DC/USEPA/US

To: John Michaud/DC/USEPA/US@EPA  
Cc: Lee Tyner/DC/USEPA/US@EPA, Robert Stachowiak/DC/USEPA/US@EPA  
Date: 01/13/2010 12:25 PM  
Subject: TVA Kingston

---

OGC just got copies of a petition, and notice of citizen suits from citizens near the Perry County Landfill, where TVA is disposing of the coal ash from this site. The notices of citizen suit allege that the landfill is in violation of State law, RCRA, and CAA. The petition is to EPA, and asks the Agency to reverse its determination that the landfill is in compliance with State law, under CERCLA sec. 121(d)(3), and therefore eligible to receive the TVA coal ash.

Earl Salo  
Assistant General Counsel for Superfund  
Solid Waste and Emergency Response Law Office  
Office of General Counsel (2366A)  
USEPA  
1200 Pennsylvania Ave., N.W.  
Washington D.C. 20460  
202-564-5504 Fax 202-564-5531

01268-EPA-3321

**Richard Windsor/DC/USEPA/US**  
01/14/2010 06:35 PM

To Bob Sussman, Bob Perciasepe, Diane Thompson, Scott Fulton, Cynthia Giles-AA, Lisa Garcia  
cc Mathy Stanislaus  
bcc

Subject Re: TVA Kingston

(b)(5) Attorney-Client, (b)(5) Deliberative

Bob Sussman

----- Original Message -----

**From:** Bob Sussman  
**Sent:** 01/14/2010 06:33 PM EST  
**To:** Richard Windsor; Bob Perciasepe; Diane Thompson; Scott Fulton; Cynthia Giles-AA; Lisa Garcia  
**Cc:** Mathy Stanislaus  
**Subject:** Fw: TVA Kingston

(b)(5) Attorney-Client, (b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 01/14/2010 06:30 PM -----

From: Mary-Kay Lynch/DC/USEPA/US  
To: Mathy Stanislaus/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA  
Date: 01/14/2010 06:16 PM  
Subject: Fw: TVA Kingston

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From: John Michaud/DC/USEPA/US  
To: Scott Fulton/DC/USEPA/US@EPA, Avi Garbow/DC/USEPA/US@EPA  
Cc: Mary-Kay Lynch/DC/USEPA/US@EPA, Earl Salo/DC/USEPA/US@EPA, Laurel Celeste/DC/USEPA/US@EPA  
Date: 01/14/2010 06:14 PM  
Subject: Fw: TVA Kingston

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We will get you copies of these documents tomorrow morning.

Thanks.

John R. Michaud  
Acting Associate General Counsel

Solid Waste and Emergency Response Law Office  
Office of General Counsel  
U.S. EPA, Washington, D.C.  
Mail Code: 2366A  
tel: 202-564-5518  
fax: 202-564-5531  
email: [michaud.john@epa.gov](mailto:michaud.john@epa.gov)

----- Forwarded by John Michaud/DC/USEPA/US on 01/14/2010 06:05 PM -----

From: Earl Salo/DC/USEPA/US  
To: John Michaud/DC/USEPA/US@EPA  
Cc: Lee Tyner/DC/USEPA/US@EPA, Robert Stachowiak/DC/USEPA/US@EPA  
Date: 01/13/2010 12:25 PM  
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Earl Salo  
Assistant General Counsel for Superfund  
Solid Waste and Emergency Response Law Office  
Office of General Counsel (2366A)  
USEPA  
1200 Pennsylvania Ave., N.W.  
Washington D.C. 20460  
202-564-5504 Fax 202-564-5531

01268-EPA-3322

**Lisa Garcia/DC/USEPA/US**  
01/14/2010 06:39 PM

To Richard Windsor, Bob Sussman, Bob Perciasepe, Diane Thompson, Scott Fulton, Cynthia Giles-AA  
cc Mathy Stanislaus  
bcc

Subject Re: TVA Kingston

who filed the notice? Would like to get copies of both notice and petition when they are available.  
Thanks

Richard Windsor

----- Original Message -----

**From:** Richard Windsor  
**Sent:** 01/14/2010 06:35 PM EST  
**To:** Bob Sussman; Bob Perciasepe; Diane Thompson; Scott Fulton; Cynthia Giles-AA; Lisa Garcia  
**Cc:** Mathy Stanislaus  
**Subject:** Re: TVA Kingston

(b)(5) Attorney-Client, (b)(5) Deliberative

Bob Sussman

----- Original Message -----

**From:** Bob Sussman  
**Sent:** 01/14/2010 06:33 PM EST  
**To:** Richard Windsor; Bob Perciasepe; Diane Thompson; Scott Fulton; Cynthia Giles-AA; Lisa Garcia  
**Cc:** Mathy Stanislaus  
**Subject:** Fw: TVA Kingston

(b)(5) Attorney-Client, (b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

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Acting Associate General Counsel  
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Office of General Counsel  
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Mail Code: 2366A  
tel: 202-564-5518  
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Date: 01/13/2010 12:25 PM  
Subject: TVA Kingston

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Earl Salo  
Assistant General Counsel for Superfund  
Solid Waste and Emergency Response Law Office  
Office of General Counsel (2366A)  
USEPA  
1200 Pennsylvania Ave., N.W.  
Washington D.C. 20460  
202-564-5504 Fax 202-564-5531

01268-EPA-3323

**David  
McIntosh/DC/USEPA/US**

01/15/2010 11:20 AM

To Richard Windsor, Gina McCarthy, Diane Thompson, Lisa  
Heinzerling

cc

bcc

Subject [REDACTED] (b)(5) Deliberative

[REDACTED] (b)(5) Deliberative

## Ark. must consider gasification technology as pollution control -- EPA (*Greenwire*)

*Robin Bravender, E&E reporter*

*01/14/2010*

U.S. EPA has ordered Arkansas regulators to reconsider whether coal gasification technology should be used to limit pollution from a planned 600-megawatt power plant.

EPA Administrator Lisa Jackson last month sided with environmental groups, [concluding](#) that the Arkansas Department of Environmental Quality failed to adequately consider whether integrated gasification combined cycle (IGCC) is the "best available control technology" (BACT) for reducing air pollution at the John W. Turk Jr. Power Plant in Hempstead County, Ark. The plant is owned by Southwestern Electric Power Co., a unit of American Electric Power Co. Inc.

The Environmental Integrity Project, Sierra Club and Audubon petitioned EPA in November 2008, requesting that the agency object to the operating permit issued to the project because it violates the Clean Air Act.

Jackson found that the Arkansas regulators failed to adequately justify their conclusion that IGCC technology need not be considered as a pollution control technology on the grounds that it would "redefine" the proposed source. Jackson's decision was published in today's *Federal Register*.

Jackson cited a 2009 EPA Environmental Appeals Board decision to remand a permit issued to the proposed Desert Rock Energy Facility slated for Navajo Nation land in New Mexico. In that case, the board concluded that permitting authorities had failed to consider IGCC technologies as part of their BACT assessment ([E&ENews PM](#), Sept. 25, 2009). ADEQ's justification for eliminating IGCC from consideration is substantially similar to that used by Desert Rock, Jackson said.

"EPA rejected all of the petitioners' arguments except this one issue, and what they've asked ADEQ to do is to provide additional information to supplement the air permit record," said Southwestern Electric Power Co. spokesman Peter Main. "We will continue to work with ADEQ to address that issue."

ADEQ spokesman Aaron Sadler said the agency has 90 days to respond and believes there is enough information in the record to satisfy EPA's request.

David Bookbinder, Sierra Club's chief climate counsel, said it was telling that the decision was issued Dec. 15, the same day that EPA also ordered Kentucky regulators to reconsider whether natural gas should be used as the primary fuel at a proposed IGCC plant ([E&ENews PM](#) , Dec. 17, 2009).

Some experts say the agency has signaled that new coal-fired power plants and IGCC plants will need to consider natural gas as BACT.

"I think that was designed to send a message," Bookbinder said today. "Control technology for conventional coal is IGCC and control technology for IGCC is natural gas."

[Click here](#) to read the EPA order.

01268-EPA-3324

Richard  
Windsor/DC/USEPA/US  
01/15/2010 11:21 AM

To David McIntosh  
cc  
bcc  
Subject [REDACTED] (b)(5) Deliberative

[REDACTED] (b)(5) Deliberative

David McIntosh

----- Original Message -----

**From:** David McIntosh  
**Sent:** 01/15/2010 11:20 AM EST  
**To:** Richard Windsor; Gina McCarthy; Diane Thompson; Lisa Heinzerling  
**Subject:** yet another unhelpful quote from David Bookbinder

[REDACTED] (b)(5) Deliberative

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*Robin Bravender, E&E reporter*

**01/14/2010**

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[Click here](#) to read the EPA order.

01268-EPA-3325

**David  
McIntosh/DC/USEPA/US**  
01/15/2010 12:05 PM

To Diane Thompson, Bob Perciasepe, Bob Sussman, Arvin  
Ganesan, Lisa Heinzerling, Scott Fulton, Gina McCarthy,  
Joseph Goffman  
cc Richard Windsor

bcc

Subject this week's meeting with Governor Freudenthal

Hi All,

(b)(5) Deliberative



-David

(b)(5)  
Deliberat  
ive



01268-EPA-3326

**Bob Sussman/DC/USEPA/US**

To David McIntosh

01/15/2010 12:09 PM

cc Arvin Ganesan, Bob Perciasepe, Diane Thompson, Gina McCarthy, Joseph Goffman, Lisa Heinzerling, Richard Windsor, Scott Fulton

bcc

Subject Re: this week's meeting with Governor Freudenthal

David -- (b)(5) Deliberative  
Let's find a time to chat.

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

David McIntosh Hi All, (b)(5) Deliberative 01/15/2010 12:05:26 PM

From: David McIntosh/DC/USEPA/US  
To: Diane Thompson/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Joseph Goffman/DC/USEPA/US@EPA  
Cc: Richard Windsor/DC/USEPA/US@EPA  
Date: 01/15/2010 12:05 PM  
Subject: this week's meeting with Governor Freudenthal

Hi All,  
(b)(5) Deliberative

-David

(b)(5) Deliberative

01268-EPA-3329

**Katharine Gage/DC/USEPA/US**  
01/15/2010 05:04 PM

To Debbie Dietrich, Lisa Garcia, Paul Anastas, Alecia Allston, Barbara Bennett, Heidi Ellis, Christopher Busch, Clay Diette, Stephanie Owens, Bob Perciasepe, Craig Hooks, Michelle DePass, Steve Owens, Peter Silva, Peter Grevatt, Sarah Pallone, Mathy Stanislaus, Cynthia Giles-AA, Gina McCarthy, Alicia Kaiser, Lawrence Elworth, Seth Oster, Katharine Gage, Stephanie Washington, Diane Thompson, Arvin Ganesan, Marcus McClendon, Ray Spears, Sarah Dale, Georgia Bednar, Carla Veney, Scott Fulton, Bob Sussman, Allyn Brooks-LaSure, Richard Windsor, Eric Wachter, (b)(6) Robert Goulding, Lisa Heinzerling, David McIntosh

cc

bcc

Subject Tuesday, January 19, 2010 Schedule for Lisa P. Jackson

\*\*\* do not copy or forward this information \*\*\*

**Schedule for Lisa P. Jackson EPA Administrator  
Tuesday, January 19, 2010**

Notes:		
Drivers	Shift Leaders	Staff Contact
(b) (6)		Heidi Ellis
07:30 AM - 08:15 AM	Residence	Depart for Ariel Rios
08:15 AM - 08:45 AM	Administrator's Office	1 on 1 with Gina McCarthy Ct: Teri Porterfield (OAR) 564-7404  Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)
08:45 AM - 09:15 AM	Administrator's Office	Daily Meeting
09:30 AM - 10:00 AM	Administrator's Office	1 on 1 with Pete Silva Ct: Lori Keyton (OW) 564-5768  Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)
10:00 AM - 10:20 AM	3216 ARS	Opening Remarks at the EPA-State Leadership Meeting Ct: Michelle Hiller-Purvis (OCIR) 202-564-3702
10:20 AM - 10:30 AM	Ariel Rios	Depart for WH
10:30 AM - 11:30 AM	TBD WH	Green Cabinet Meeting Ct: Steve Moilanen (b)(6) Privacy
11:30 AM - 11:45 AM	WH	Depart for Ariel Rios
12:00 PM - 01:00 PM	Administrator's Office	No Meetings
01:00 PM - 02:00 PM	Bullet Room	Senior Staff Meeting

---

02:00 PM - 02:45 PM	Administrator's Office	Budget Review
02:45 PM - 03:00 PM	3216 ARS	Closing Remarks at the EPA-State Leadership Meeting Ct: Michelle Hiller-Purvis (OCIR) 202-564-3702
03:00 PM - 03:45 PM	Bullet Room	Briefing on Cost and Benefit Analysis of the CCR Rulemaking Ct: Georgia Bednar (OA) 564-9816  Staff: Bob Sussman, Bob Perciasepe (OA) Mathy Stanislaus, Barry Breen, Lisa Feldt, Matt Hale, Matt Straus, Richard Benware, Mark Eads, Lee Hoffmann, Robert Dellinger (OSWER) Mary Kay Lynch, Laurel Celeste (OGC) Gina McCarthy, Peter Tsirigotis (OAR) Lisa Heinzerling, Louise Wise (OPEI) Barbara Bennett (OCFO)
04:00 PM - 04:30 PM	Administrator's Office	1 on 1 with Craig Hooks Ct: Kimberly Wheeler (OARM) 564-4600  Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)
04:30 PM - 05:30 PM	Administrator's Office	Budget Review

---

\*\*\* 01/15/2010 05:02:57 PM \*\*\*

01268-EPA-3333

**Bob Sussman/DC/USEPA/US**

To Richard Windsor, David McIntosh

01/15/2010 06:22 PM

cc Arvin Ganesan, Bob Perciasepe, Diane Thompson, Gina McCarthy, Joseph Goffman, Lisa Heinzerling, Scott Fulton  
bcc

Subject Re: this week's meeting with Governor Freudenthal

Pete's office is the lead although ORD is involved in study design.  
Richard Windsor

----- Original Message -----

**From:** Richard Windsor

**Sent:** 01/15/2010 05:55 PM EST

**To:** David McIntosh

**Cc:** Arvin Ganesan; Bob Perciasepe; Bob Sussman; Diane Thompson; Gina McCarthy; Joseph Goffman; Lisa Heinzerling; Scott Fulton

**Subject:** Re: this week's meeting with Governor Freudenthal

Yes I agree (b)(5) Deliberative  
[Redacted]

David McIntosh The Governor's office just sent me the... 01/15/2010 01:36:30 PM

**From:** David McIntosh/DC/USEPA/US  
**To:** Arvin Ganesan/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Joseph Goffman/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA  
**Cc:** Richard Windsor/DC/USEPA/US@EPA  
**Date:** 01/15/2010 01:36 PM  
**Subject:** Re: this week's meeting with Governor Freudenthal

The Governor's office just sent me the attached letter from the Governor to the Administrator. The letter makes three specific requests. (b)(5) Deliberative

[Redacted]



JacksonLtr.pdf

David McIntosh (b)(5) Deliberative 01/15/2010 12:05:27 PM

**From:** David McIntosh/DC/USEPA/US  
**To:** Diane Thompson/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Joseph Goffman/DC/USEPA/US@EPA  
**Cc:** Richard Windsor/DC/USEPA/US@EPA  
**Date:** 01/15/2010 12:05 PM  
**Subject:** this week's meeting with Governor Freudenthal

Hi All,  
(b)(5) Deliberative  
[Redacted]

[REDACTED] (b)(5) Deliberative [REDACTED]

-David

(b)(5)  
Deliberat  
ive  
[REDACTED]

01268-EPA-3334

**Richard Windsor/DC/USEPA/US**  
01/16/2010 08:30 PM

To Adora Andy  
cc  
bcc

Subject Re: WaPo Update

Better than Sunday. But right before the Senate action.  
Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 01/16/2010 08:18 PM EST  
**To:** "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>; "Richard Windsor" <windsor.richard@epa.gov>; David McIntosh  
**Cc:** "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; "Betsaida Alcantara" <alcantara.betsaida@epa.gov>  
**Subject:** WaPo Update  
Juliet's climate bill story will likely run Monday or Tuesday.

01268-EPA-3336

**Richard Windsor/DC/USEPA/US**  
01/18/2010 05:24 PM

To Adora Andy  
cc  
bcc

Subject Re: UPDATE: WaPo story

(b)(5) Deliberative

Adora Andy

----- Original Message -----

**From:** Adora Andy

**Sent:** 01/18/2010 05:16 PM EST

**To:** "Richard Windsor" <windsor.richard@epa.gov>; "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>; David McIntosh

**Cc:** "Betsaida Alcantara" <alcantara.betsaida@epa.gov>; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; "Seth Oster" <oster.seth@epa.gov>

**Subject:** UPDATE: WaPo story

Juliet's climate bill story will not run tomorrow. It will run Wed or Thurs "no matter what." There is a chance it will be A1. They are still making that determination.

01268-EPA-3337

David  
McIntosh/DC/USEPA/US  
01/19/2010 12:40 PM

To Richard Windsor  
cc  
bcc

Subject Aaron has a hard copy of this, printed onto letterhead

(b)(5) Deliberative

The Honorable Harry Reid  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Barbara Boxer  
Chairman  
Committee on Environment and Public Works  
United States Senate  
Washington, DC 20510

Dear Majority Leader Reid and Chairman Boxer:

I am writing to update you on the Environmental Protection Agency's progress in implementing the Clean Air Act's stationary-source permitting programs such that, in the case of greenhouse-gas pollution, they will focus only on the largest emitters and ensure a manageable path forward for permitting authorities and businesses. I am pleased to report that EPA is on track to accomplish those goals, thanks to robust public participation in the Agency's ongoing rulemaking process.

Last fall, EPA proposed a first-time rule to reduce greenhouse-gas pollution from new light-duty vehicles. The Agency took that action in conjunction with the National Highway Traffic Safety Administration's proposed rule to raise vehicle fuel-economy standards. Together, the two rules will create a single, nation-wide vehicle program that will reduce the lifetime oil consumption of affected vehicles by 1.8 billion barrels while eliminating 950 million metric tons of greenhouse-gas pollution and creating strong incentives for the domestic manufacture of world-leading clean-energy technologies.

The agencies' joint proposal grew out of an historic collaboration between President Obama's Administration, America's automobile manufacturers, State governments, and citizen groups to create a clear path for producing the vehicles that America needs for a strong economy and safe environment. EPA's proposal was also an integral part of the Agency's response to the 2007 Supreme Court ruling, in *Massachusetts v. EPA*, that greenhouse gases are air pollutants under the Clean Air Act. The government of California has agreed that vehicles in compliance with the EPA rule will be considered to be in compliance with the state's greenhouse-gas emissions standards. By bringing together diverse stakeholders – industry and labor, Democrats and Republicans, States and citizen groups – to craft strong, pragmatic solutions that everyone

can stand behind, the EPA and NHTSA rulemakings epitomize the way this Administration seeks to do business.

I intend to sign EPA's final vehicle rule before the end of March of this year, in order to give automakers sufficient lead-time to comply with the new, Model-Year 2012 standards. Pursuant to those standards, greenhouse-gas emissions will become subject to control requirements under the Clean Air Act for the first time. The Act's "prevention of significant deterioration" and operating permit programs for stationary sources generally apply to pollutants that are subject to control requirements under the Act. Recognizing that, EPA initiated a rulemaking last fall to implement those two programs such that neither businesses nor permitting authorities will be required to address greenhouse-gas emissions in the permitting of any but the largest sources for at least five years. In its notice of proposed rulemaking, the Agency described a proposed path for achieving that end, solicited comments on that proposal, and welcomed alternative suggestions.

By the time the public-comment period on that proposed rule had closed on December 28, 2009, citizens, States, localities, industry representatives, and environmental groups had submitted many thoughtful comments and suggestions. While EPA is still reviewing the comments, it is clear that many support the Agency's efforts to reduce greenhouse-gas emissions through the vehicle rule, and that many support focusing the Clean Air Act's permitting programs on large sources.

As EPA requested in its proposal, many comments also provide useful suggestions. For example, some comments suggest, with respect to greenhouse gases, raising EPA's proposed annual emissions threshold for inclusion in the permitting programs. Also, many comments state that one or another juncture post-dating the initial entrance into effect of the vehicle rule represents a more appropriate trigger for first including greenhouse-gas emissions in the stationary-source permitting programs. Those comments suggest that a later trigger, in addition to being legally sound, would give EPA, permitting authorities, and businesses more time to take needed steps such as assessing commercially-available technologies and feasible practices for limiting greenhouse-gas pollution from different categories of stationary source. EPA is giving serious consideration to the many constructive suggestions the Agency received during the public-comment period for improving the proposed tailoring rule in order to ensure a sound and manageable outcome.

In the meantime, EPA also has been conducting a public stakeholder process to assist in developing guidance that will help permitting authorities identify the commercially-available technologies and feasible practices mentioned above.

Appropriately implemented, stationary-source permitting under the Clean Air Act will promote the near-term deployment of clean, efficient technologies and avert wasteful investments in less-than-optimal technology that would emit more pollution for decades. Investments in new, efficient technologies are critical to American job creation and economic recovery. In part by promulgating the tailoring rule and issuing the implementation guidance, EPA will ensure that sensible greenhouse-gas emissions reductions begin in ways that help strengthen our economy and create good new jobs through investments in clean-energy

technologies.

The President and I strongly support Congress' ongoing work to pass new legislation to enhance energy and climate security in a comprehensive and integrated way. At the same time, it remains critical to continue using the statutory tools we have in hand, in the most sensible and effective ways possible. Thank you for this opportunity to provide information about EPA's ongoing efforts to accomplish that goal. If you have any questions, please do not hesitate to contact me or my staff.

Sincerely,

Lisa P. Jackson  
Administrator

01268-EPA-3338

Richard Windsor/DC/USEPA/US  
01/19/2010 01:03 PM

To David McIntosh  
cc  
bcc

Subject Re: Aaron has a hard copy of this, printed onto letterhead

just signed

David McIntosh

(b)(5) Deliberative

01/19/2010 12:40:58 PM

From: David McIntosh/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Date: 01/19/2010 12:40 PM  
Subject: Aaron has a hard copy of this, printed onto letterhead

(b)(5) Deliberative

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Majority Leader  
United States Senate  
Washington, DC 20510

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Chairman  
Committee on Environment and Public Works  
United States Senate  
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Sincerely,

Lisa P. Jackson  
Administrator

01268-EPA-3341

**Mathy  
Stanislaus/DC/USEPA/US**

01/20/2010 08:47 AM

To Seth Oster, Richard Windsor, Peter Silva, Bob Sussman, Bob Perciasepe, Arvin Ganesan

cc Diane Thompson, Adora Andy, Scott Fulton, Lisa Heinzerling, Lisa Feldt, David McIntosh, Allyn Brooks-LaSure

bcc

Subject Re: NY Times Editorial -- Coal Ash

As good as we possibly could have hoped for!  
Seth Oster

----- Original Message -----

**From:** Seth Oster**Sent:** 01/20/2010 08:40 AM EST**To:** Richard Windsor; Mathy Stanislaus; Peter Silva; Bob Sussman; Bob Perciasepe; Arvin Ganesan**Cc:** Diane Thompson; Adora Andy; Scott Fulton; Lisa Heinzerling; Lisa Feldt; David McIntosh; Adora Andy; Allyn Brooks-LaSure**Subject:** NY Times Editorial -- Coal Ash

## The New York Times

January 20, 2010

Editorial

# The Coal Ash Case

Just more than a year ago, one billion tons of toxic coal sludge broke loose from a containment pond belonging to the Tennessee Valley Authority, burying hundreds of acres of Roane County in eastern Tennessee and threatening local water supplies and air quality. The Environmental Protection Agency immediately promised new national standards governing the disposal of coal ash to replace a patchwork of uneven — and in many cases weak — state regulations.

The agency's recommendations, which have not been made public, are now the focus of a huge dispute inside the Obama administration, with industry lobbying hard for changes that would essentially preserve the status quo. The dispute should be resolved in favor of the environment and public safety.

America's power plants produce 130 million tons of coal ash a year, enough to fill a train of boxcars stretching from the District of Columbia to Australia. Some of this is usefully, safely and profitably recycled to make concrete and other construction materials. Much of it winds up in lightly regulated landfills, some as big as 1,500 acres, where toxic pollutants like arsenic and lead can leach into the water table.

One internal E.P.A. proposal suggested reclassifying coal ash as a hazardous material subject to federal regulation. It also recommended national standards requiring safe, sturdy disposal facilities. Industry counterattacked, arguing that the hazardous designation would ruin the recycling market and could trigger burdensome new investments. It also argued for continued state control, with the federal government providing "guidance."

These arguments do not hold up. The recycling market will not disappear. Materials that are responsibly recycled are not, typically, designated as hazardous. The real problem is the 60 percent or so of the coal ash that winds up in porous landfills. Evidence suggests that tough but carefully tailored rules could encourage even more recycling, protecting the environment while yielding income to help pay for more secure landfills.

This debate is being conducted behind closed doors, mainly at the Office of Management and Budget, where industry usually takes its complaints and horror stories. A better course would be to let the E.P.A. draft a proposal, get it out in the open and offer it for comment from all sides. The Obama administration promised that transparency and good science would govern decisions like these.

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-3342

**Richard Windsor/DC/USEPA/US**  
01/20/2010 08:49 AM

To Mathy Stanislaus  
cc  
bcc

Subject Re: NY Times Editorial -- Coal Ash

Yes!

Mathy Stanislaus

----- Original Message -----

**From:** Mathy Stanislaus  
**Sent:** 01/20/2010 08:47 AM EST  
**To:** Seth Oster; Richard Windsor; Peter Silva; Bob Sussman; Bob Perciasepe; Arvin Ganesan  
**Cc:** Diane Thompson; Adora Andy; Scott Fulton; Lisa Heinzerling; Lisa Feldt; David McIntosh; Allyn Brooks-LaSure  
**Subject:** Re: NY Times Editorial -- Coal Ash

As good as we possibly could have hoped for!  
Seth Oster

----- Original Message -----

**From:** Seth Oster  
**Sent:** 01/20/2010 08:40 AM EST  
**To:** Richard Windsor; Mathy Stanislaus; Peter Silva; Bob Sussman; Bob Perciasepe; Arvin Ganesan  
**Cc:** Diane Thompson; Adora Andy; Scott Fulton; Lisa Heinzerling; Lisa Feldt; David McIntosh; Adora Andy; Allyn Brooks-LaSure  
**Subject:** NY Times Editorial -- Coal Ash

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Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-3343

**Richard Windsor/DC/USEPA/US**  
01/20/2010 10:51 AM

To David McIntosh  
cc  
bcc  
Subject Re: Hearing

Yay!

David McIntosh

----- Original Message -----

**From:** David McIntosh  
**Sent:** 01/20/2010 10:42 AM EST  
**To:** Richard Windsor; Heidi Ellis; Robert Goulding; Arvin Ganesan  
**Subject:** Fw: Hearing

Yay!

----- Forwarded by David McIntosh/DC/USEPA/US on 01/20/2010 10:42 AM -----

From: "Poirier, Bettina (EPW)" <Bettina\_Poirier@epw.senate.gov>  
To: David McIntosh/DC/USEPA/US@EPA  
Date: 01/20/2010 10:37 AM  
Subject: Hearing

---

Due to scheduling conflict for r's will need to reschedule climate hearing

01268-EPA-3344

**Richard Windsor/DC/USEPA/US**  
01/20/2010 06:11 PM

To Seth Oster  
cc  
bcc

Subject Re: Just in case you missed it...

I did. Wow. You know the NY Times did an editorial on coal ash today...  
Seth Oster

----- Original Message -----

**From:** Seth Oster  
**Sent:** 01/20/2010 06:07 PM EST  
**To:** Richard Windsor; Bob Perciasepe; Diane Thompson; David McIntosh  
**Subject:** Just in case you missed it....

## Washington Post

### White House's Gibbs has mastered art of speaking with his hand

By Dana Milbank  
Wednesday, January 20, 2010; A02

For Democrats, the only good thing to come from Tuesday's loss of the Senate election in Massachusetts is this: It could wipe the grin off [Robert Gibbs](#)'s face.

The Democrats' failed struggle to hold onto Ted Kennedy's seat in the liberal state showed how badly the party's brand had been damaged over the past year. But as the White House press corps challenged President [Obama](#)'s press secretary on Tuesday afternoon about the anticipated loss, Gibbs answered with his usual mix of wisecracks and insults.

"Broadly speaking, can you talk about the difference between 59 and 60 votes in the Senate and what that means for the president's agenda this year?"

"Broadly, it's one," Gibbs answered.

Will Obama hold a news conference Wednesday to discuss the results?

"Be here around 10 a.m. If we're not here, start without us."

"Is there something you could have done better," asked Sheryl Stolberg of the New York Times, so that "you wouldn't be in the situation that you're in right now?"

"Sheryl," Gibbs replied, "I'll read this transcript and think there's things that I could have done better." No doubt.

On Tuesday, he allowed that Obama was "angry" over Democrats' troubles in Massachusetts. "With whom is he angry?" a reporter asked.

"I didn't expand on that," the spokesman replied.

"Okay, can you now?"

"I won't now."

"But you might tomorrow?"

"There's always hope," Gibbs said, using a favorite Obama campaign word.

"Audacious," interjected CBS News's Mark Knoller, using another.

Gibbs acts as though he's playing himself in the movie version of his job. In this imaginary film, he is the smart-alecky press secretary, offering zippy comebacks and cracking jokes to make his questioners look ridiculous. It's no great feat to make reporters look bad, but this act also sends a televised image of a cocksure White House to ordinary Americans watching at home.

This is the most visible manifestation of a larger problem the Obama White House has. Many Obama loyalists from the 2008 race still seem, after a year on the job, to be having trouble exiting campaign mode. They sometimes appear to be running a taxpayer-funded rapid-response operation.

At Tuesday's briefing, Gibbs looked down and shuffled his papers as the Associated Press's Jennifer Loven began with two questions about the White House's role in the Massachusetts race. Gibbs gave her two dismissive waves of the hand and told her to wait for "the outcome of the election, which, as many people know, is ongoing."

The correspondent for Reuters asked two more Massachusetts questions. Gibbs treated him to two more dismissive waves. "We will schedule a briefing, not unlike this, at approximately the same time tomorrow," the spokesman said.

The line of questioning continued, and the press secretary assured his audience that "these are going to be all great questions tomorrow." "So you'll answer them tomorrow?" asked The Post's Mike Shear.

"I promise I'll be here tomorrow," Gibbs proposed.

Contrast the glib Gibbs gibes with a press briefing on the same topic a few hours earlier by House Majority Leader [Steny Hoyer](#).

"I don't need the Massachusetts race to tell me the psyche of the American people," the Maryland Democrat said. "People are angry, people are fearful. . . . Probably none of us in the

room knew how deep the recession that confronted us was." He acknowledged that the Democrats' agenda "has not affected . . . change as quickly as all of us would like." He admitted that "we're all pretty unpopular." He assured the reporters that "I get it."

Gibbs didn't quite get it, though, as CBS's Chip Reid joked that he would try a question on "a different topic: the election in Massachusetts."

The press secretary drummed a bah-dum-bum on the lectern. Reid ignored the percussion and asked whether the "groundswell of support for a Republican in the blue state of Massachusetts for a candidate who's running against the president's agenda" meant that "the White House has simply lost touch with the American people."

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"Good diversion," Reid replied.

"I hate to quote CBS to CBS," Gibbs continued with a grin.

About the closest the spokesman came to acknowledging fault in Massachusetts was to say that Obama "understands that frustration" among voters, but he then added that the president "heard it when he ran for the United States Senate, beginning in 2003." Unemployment, now at 10 percent, was 5.7 percent at the end of 2003.

Gibbs was so combative that when he turned to the Wall Street Journal's Laura Meckler, he tried to predict her question. "There's a race near Connecticut," he guessed.

"I wasn't going to mention New England at all," Meckler said. "But feel free to answer your own question."

Don't give him any ideas.

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-3345

**Richard Windsor/DC/USEPA/US**  
01/20/2010 06:16 PM

To Seth Oster  
cc  
bcc

Subject Re: Just in case you missed it...

I was kidding. Bad joke. Sorry.  
Seth Oster

----- Original Message -----

**From:** Seth Oster  
**Sent:** 01/20/2010 06:15 PM EST  
**To:** Richard Windsor  
**Subject:** Re: Just in case you missed it....

Of course. (b)(5) Deliberative  


Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor | I did. Wow. You know the NY Times di... 01/20/2010 06:11:14 PM

From: Richard Windsor/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA  
Date: 01/20/2010 06:11 PM  
Subject: Re: Just in case you missed it...

I did. Wow. You know the NY Times did an editorial on coal ash today...

Seth Oster

----- Original Message -----

**From:** Seth Oster  
**Sent:** 01/20/2010 06:07 PM EST  
**To:** Richard Windsor; Bob Perciasepe; Diane Thompson; David McIntosh  
**Subject:** Just in case you missed it....

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(202) 564-1918  
oster.seth@epa.gov

01268-EPA-3347

**Richard Windsor/DC/USEPA/US**  
01/20/2010 10:01 PM

To "Seth Oster", Bob Sussman, Arvin Ganesan, Bob Perciasepe  
cc  
bcc  
Subject Re: RFK, Jr. versus CEO of Massey

BTW - [REDACTED] (b)(5) Deliberative [REDACTED]  
[REDACTED]

---

**From:** Seth Oster [REDACTED] (b) (6)  
**Sent:** 01/20/2010 09:34 PM EST  
**To:** Richard Windsor; Bob Sussman; Arvin Ganesan; Bob Perciasepe  
**Subject:** RFK, Jr. versus CEO of Massey

This is taken from an Alec Baldwin blog on the Huffington Post:

**Bobby Kennedy Jr. will debate the CEO of Massey coal, Don Blankenship, about the destructive effects of coal production and consumption, on Thursday, January 21st (tomorrow) at 6:15 pm, eastern, from the University of Charleston, West Virginia. The program will be carried online at [www.wowktv.com](http://www.wowktv.com), as well as by other local media. You can visit [www.ucwv.edu](http://www.ucwv.edu) for more information.**

**The coal industry in general, and Blankenship in particular, are responsible for some of the most egregious environmental devastation of the last one hundred years. To listen to Kennedy debate these issues, such as mountaintop removal, is something you won't want to miss.**

**Thursday, January 21st, 6:15 pm. One of the great environmental heroes of our time takes on one of the greatest environmental villains. You may not have made it to Banff, but don't miss Bobby versus Blankenship.**

01268-EPA-3348

Bob Sussman/DC/USEPA/US  
01/20/2010 10:29 PM

To Richard Windsor, "Seth Oster", Arvin Ganesan, Bob Perciasepe  
cc  
bcc

Subject Re: RFK, Jr. versus CEO of Massey

Nothing is happening [REDACTED] (b)(5) Deliberative  
[REDACTED]

There are various other developments to discuss. I'll update you at our meeting tomorrow.

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**Sent:** 01/20/2010 10:01 PM EST  
**To:** "Seth Oster" <[REDACTED] (b)(6) Privacy> Bob Sussman; Arvin Ganesan; Bob Perciasepe  
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BTW [REDACTED] (b)(5) Deliberative  
[REDACTED]

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01268-EPA-3349

**Richard Windsor/DC/USEPA/US**  
01/20/2010 10:30 PM

To Bob Sussman, "Seth Oster", Arvin Ganesan, Bob Perciasepe  
cc  
bcc  
Subject Re: RFK, Jr. versus CEO of Massey

(b)(5) Deliberative

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**From:** Bob Sussman  
**Sent:** 01/20/2010 10:29 PM EST  
**To:** Richard Windsor; "Seth Oster" <(b)(6) Privacy> Arvin Ganesan; Bob Perciasepe  
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BTW (b)(5) Deliberative

[Redacted]

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01268-EPA-3350

**Bob Sussman/DC/USEPA/US**  
01/20/2010 10:41 PM

To Richard Windsor, "Seth Oster", Arvin Ganesan, Bob Perciasepe  
cc  
bcc

Subject Re: RFK, Jr. versus CEO of Massey

(b)(5) Deliberative  
[Redacted]

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**Sent:** 01/20/2010 10:30 PM EST  
**To:** Bob Sussman; "Seth Oster" <(b)(6) Privacy> Arvin Ganesan; Bob Perciasepe  
**Subject:** Re: RFK, Jr. versus CEO of Massey

(b)(5) Deliberative  
[Redacted]

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[Redacted] Sussman  
**Sent:** 01/20/2010 10:29 PM EST  
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01268-EPA-3351

**Richard Windsor/DC/USEPA/US**  
01/21/2010 01:33 PM

To "Adam Zellner"  
cc  
bcc

Subject Fw: ROLLING STONE: The Eco-Warrior

Sorry about the picture. But I'm ready to retire now!  
Betsaida Alcantara

----- Original Message -----

**From:** Betsaida Alcantara  
**Sent:** 01/20/2010 07:20 PM EST  
**To:** Richard Windsor  
**Cc:** Allyn Brooks-LaSure; Seth Oster; Adora Andy; Brendan Gilfillan; Michael Moats  
**Subject:** ROLLING STONE: The Eco-Warrior

The Eco-Warrior

President Obama has appointed the most progressive EPA chief in history – and she's moving swiftly to clean up the mess left by Bush  
TIM DICKINSON

Posted Jan 20, 2010 11:30 AM



When it comes to passing major legislation – reforming health care, reining in Wall Street, curbing climate change – the Obama administration is under fire from all sides for bowing to special interests and conducting government business behind closed doors. But there's one agency where the hope and hype of the campaign trail have transitioned seamlessly into effective governance: the Environmental Protection Agency.

With a minimum of fanfare, new EPA administrator Lisa Jackson has established herself as the agency's most progressive chief ever – and one of the most powerful members of Obama's Cabinet. In her first year on the job, Jackson has not only turned the page on the industry-friendly and often illegal policies of the Bush era, but has embarked on an aggressive campaign to clean up the nation's air and drinking

water. Under her leadership, the EPA has sought stricter limits on toxic pollutants like mercury, moved to scrub emissions of arsenic and heavy metals from coal-fired plants, and revoked a permit for the nation's largest mountaintop-removal coal mine. "The American people can be outraged when we're not living up to the P part of our name," Jackson says. "The protection part."

Even more striking, Jackson has expanded the EPA's mandate to include sweeping new powers to crack down on climate-warming pollution from cars and industry. The move, which has the full backing of the White House, could prove to be the only viable way to stop Big Oil and Big Coal from overheating the planet – especially after the disastrous collapse of climate talks in Copenhagen in December. "If Congress doesn't pass legislation on climate change," says Carol Browner, Obama's climate czar, "EPA will follow through under the requirements of the Clean Air Act."

Taken together, Jackson's efforts represent a sweeping attempt to revitalize an agency that was gutted during the Bush years. The goal, as she sees it, is to once again base environmental regulations on science and the law – not on the demands of well-connected industries. "Under Jackson, it's a whole new ballgame," says Eric Schaeffer, who resigned as the agency's director of environmental enforcement in protest over Bush policies. "You now have an EPA administrator who has White House support but is still tough enough to provide an independent voice for the environment."

When Jackson was appointed in December 2008, some prominent environmentalists considered her the wrong person for the job. During her tenure as head of New Jersey's Department of Environmental Protection, they pointed out, the state did such a dismal job of cleaning up toxic Superfund sites that even the Bush administration felt compelled to take them over. In a separate case, Jackson's unit discovered that a day-care facility housed in a former thermometer factory was exposing toddlers to mercury pollution, yet failed to alert parents for more than three months. "Under her watch, New Jersey's environment only got dirtier, incredible as that may seem," Jeff Ruch, president of Public Employees for Environmental Responsibility, said at the time. "If past is prologue, one cannot reasonably expect meaningful change if she is appointed to lead EPA."

In the early going, Ruch's warning appeared prescient. Jackson kicked off her tenure at EPA by greenlighting more than two dozen permits for mountaintop removal coal mining that were held over from the Bush administration. "This mining is devastating Appalachia," warned Robert F. Kennedy Jr. "Everyone expected Obama to do something about it. Instead they're saying, 'We're going to let this happen.'"

Jackson herself now admits that those initial approvals were mishandled. "In hindsight, I certainly wish we could have gone through a longer process on some of those," she says. In September, the EPA put 79 permits for mountaintop removal on hold, pending a review to ensure that each complies with the Clean Water Act. In an unprecedented move, the agency also revoked a permit for the Spruce No. 1 mine, Appalachia's largest mountaintop-removal operation, observing that it would destroy seven miles of West Virginia streams already ravaged by mining.

In addition, Jackson tells Rolling Stone, the EPA is reviewing the infamous Bush "fill rule" that allows mining companies to bury streams and lakes with mining rubble in the first place. "Staff is working on it now," she says. "We haven't put anything about it out publicly." Jackson says the primary goal is to reform gold mining in Alaska – where miners have begun dumping toxic waste into a pristine lake near Juneau – but adds that the move may also "curtail" mountaintop-removal mining.

Today, environmentalists who fretted openly about Jackson's nomination are almost unanimous in singing her praises. "Parts of the environmental community were skeptical of her appointment," says Buck Parker, former executive director of the environmental-law firm Earthjustice. "But she's fantastic. Gutsy. Acts in accordance with what she says. She's proving to be one of the bright lights of the administration."

Most afternoons, you can find Jackson at EPA's headquarters in the old Post Office headquarters, a marble art-deco monument to an era when postmasters were kings. Her sprawling office is paneled, floor to ceiling, in old-growth walnut, and decorated with bright abstract art from the National Gallery. Near a copy of *The Lorax*, the Dr. Seuss environmental parable, Jackson keeps a photograph of Sen. James

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"We don't have rancor," Jackson says of the senator, who gave her the photo. "I keep it here to remind me that you gotta work with people. You gotta figure it out."

Jackson has a master's degree in chemical engineering from Princeton, and nearly two decades of experience directing the cleanup of toxic waste. But from her first day, she discovered, her most important skill was her ability to shift the attitude of staffers who remain stuck in the Bush-era mind-set that the EPA should weaken environmental enforcement to satisfy the demands of big polluters.

"Oftentimes we're in a meeting and somebody starts telling me, 'Well, we already know what this official – usually a local official – really wants.' I tell them I don't want to know that," she says. "I want to know what the science says. Even now they're surprised to hear me say that."

To shift the agency's culture, Jackson has moved swiftly to restore top career staffers who were shunted aside during the Bush years. "We call them 'cryogenically frozen,'" says a top aide to Jackson. "We've reactivated a lot of people who were known to disagree with the Bush administration's politics and were hung up in closets." Veteran staffers who have gotten their old jobs back say privately that they spent eight years under Bush "trying to do something good under the radar" – even as they were forced to design programs that "we all knew the courts were going to throw out."

Under Jackson, the agency is once again basing decisions on science rather than politics. "The science is not something the Obama administration feels they have to guard themselves against," says one clean-air staffer who was sidelined under Bush. "Because they are not trying to protect their industry buddies from environmental regulations."

"They have freed up agency employees to do what they're supposed to do: protect public health and the environment," says Jeremy Symons, the EPA's former climate-policy adviser. "And God knows there's a lot of pent-up work behind the dam that needs to be unleashed."

Much of Jackson's first year at the EPA, in fact, has been eaten up by reversing the worst of the Bush legacy. "It requires that we use our time and resources to look back," she says, "when we absolutely need to be moving ahead."

In one of its final acts, the Bush EPA effectively barred new oversight of oil refineries with a regulatory trick: It covered up the overall impact of a refinery's pollution by measuring every smokestack separately, as if each were operating in isolation. "Imagine if you had 10 smokers in a room and a baby in the middle," says Schaeffer, the former enforcement director. "You're trying to figure the impact on that baby's lungs, but you model the smoke from each cigarette and assume that's all you have in the room. There wasn't any science behind it."

Jackson summarily revoked the oil-friendly rule in October. She also jettisoned lax smog rules set under Bush that flouted the unanimous recommendation of independent scientists and allowed higher pollution levels – effectively sentencing hundreds of people a year to premature death. "This is one of the most important protection measures we can take to safeguard our health," Jackson said in sending the rules back to the drawing board. In January, the agency proposed strict new smog limits that are expected to be finalized later this year.

After having its budget sharply curtailed under Bush, the EPA now has its biggest budget in history – thanks to an increase of \$3 billion under Obama. The additional resources have enabled Jackson to put dozens of new federal cops on the environmental beat, and to crack down on states that fail to enforce the law. Chief among those states is Texas, where Gov. George Bush shifted the state to a system of "flexible permits" that allow oil refineries, chemical plants and other industrial polluters to increase toxic emissions as they modernize their facilities. Last summer, Jackson lowered the boom on Texas – first by sending an order to Gov. Rick Perry that rejected key elements of the state's regulatory implementation plan, then by descending on the state EPA office in person, accompanied by top enforcement officials from Washington.

"It was an army of people – I've never seen anything like that," says Neil Carman, director of clean-air programs for the Texas chapter of the Sierra Club. "We've got the attention of the highest level of people at the EPA, and they're going after it. We've waited 15 years to see this happen."

Advocates of environmental justice are also thrilled by Jackson's emphasis on protecting vulnerable communities that lack lobbying clout. She has started by filling the EPA, long a bastion of whiteness in Washington, with young aides who represent minority groups hard hit by pollution: the nearly three-fourths of Hispanics who live in communities that fail to meet clean-air standards, African-Americans who are more than twice as likely as whites to die from asthma, Native Americans whose homes lack clean water at almost 10 times the national rate. For Jackson, who grew up in the Ninth Ward of New Orleans, near the toxic corridor known as "Cancer Alley," such realities are a major reason she joined the EPA right out of grad school.

"What I'm trying to do is bring the agency back to being closer to the communities that are fighting for environmental protection," she says. "Because that's how environmental protection gets done – it usually comes from the communities up."

The shift to a more community-focused approach is already having an effect. When Emily Enderle, an environmental-health advocate with Earthjustice, recently petitioned the EPA to protect children exposed to dangerous pesticides, she was amazed to see the agency respond in only three weeks by initiating the process to create a new regulation.

"We didn't have any of the big green groups supporting this," Enderle says. "But they were very supportive of protecting rural kids who've been poisoned by nerve-toxic pesticides."

Jackson has moved with equal dispatch to clean up the nation's drinking water. After a storage facility loaded with coal ash collapsed in Tennessee in 2008 – creating a toxic spill 100 times larger than the Exxon Valdez – the EPA quickly disclosed previously secret information about 44 other "high hazard" storage facilities. The agency has also targeted 104 chemicals to be added to the Safe Drinking Water Act – a move that would more than double the 91 toxic substances currently subject to regulation.

In addition, Jackson is working with Congress to require all chemical manufacturers to prove that their compounds are safe before they enter the environment. "Safety standards cannot be applied without adequate information," says Jackson, "and responsibility for providing that information should rest on industry."

The biggest fight that Jackson faces, however, is her effort to regulate auto exhaust and other climate pollution under the Clean Air Act. While friends of industry have tried to paint Jackson as an unhinged eco-vigilante, her approach to regulating carbon emissions has been as serious as the Bush administration's was slapdash. Jackson has moved incrementally to make sure the agency's rulings stand up to inevitable legal challenges. "One of the worst of the legacies left after the eight years of the Bush administration was the number of regulations that were overturned," she says. "I am not a lawyer by training; I am an engineer. So I am very, very careful about getting good legal advice on the decisions that I am entrusted to make."

In one of the first decisions that Obama entrusted to Jackson, she reversed the Bush EPA and granted California the authority to curb carbon pollution from auto exhaust. That alone, she says, was enough to bring the automakers to the table to negotiate national limits on emissions, rather than face a patchwork of conflicting state regulations. "Once you get to the point where industry asks for regulatory certainty," Jackson says, "that's always a watershed moment in environmental protection." Spurred by the threat of regulation, automakers agreed to raise the fuel efficiency of cars to 35 miles per gallon by 2016, an accord that will reduce future carbon pollution by nearly 1 billion tons.

The EPA followed up in December by issuing an "endangerment finding" that gives the agency the authority to cap carbon pollution under the Clean Air Act. The move was required, Jackson says, by the Supreme Court decision in 2007 that greenhouse gases are a pollutant subject to regulation – a ruling

ignored by the Bush White House. Jackson would prefer to curb carbon pollution with the kind of cap-and-trade system being considered by Congress: "Economy-wide, market-based legislation would be a better path," she says. But in the absence of legislative action, Jackson insists that she alone now has the tools to place America on the path to President Obama's target of reducing carbon emissions by 83 percent by 2050.

In January, the EPA began tracking the emissions of the large industrial polluters responsible for 85 percent of America's carbon pollution. That inventory will be completed within a year, paving the way for a first-ever cap on carbon emissions. In the meantime, polluters that want to expand their operations will be required, beginning this spring, to incorporate the "best available methods" for controlling emissions. "I've tried very hard to make sure regulation is common sense," says Jackson. "Not with an eye to developing some doomsday, all-powerful regulatory scenario, but to show folks once again the tremendous power of the Clean Air Act."

Jackson's critics say it's too soon to judge her true commitment to change. Ruch, who denounced her nomination, downplays the EPA's early accomplishments, saying many hard decisions are simply being "ducked or delayed." Case in point: the agency's extended review of permits for mountaintop-removal mining. On January 5th, the very first mine to make it through the process was approved.

Still, the greatest evidence that Jackson is serious about environmental protection may be those who are trying to curb her power. These days, pro-industry Republicans aren't the only ones trying to stymie the EPA. In a move designed to gain support from coal-state Democrats, the climate bill passed by the House would strip the agency of its authority to restrict climate pollution. Rep. Earl Pomeroy, a Democrat from North Dakota, has introduced stand-alone legislation that would do the same. And Rep. David Obey, the powerful and progressive chairman of the House Appropriations Committee, recently added a last-minute rider to a spending bill that exempted Great Lakes shippers from strict new curbs that the EPA has imposed on diesel emissions from ships. The move – a transparent favor for Murphy Oil, a diesel-fuel refinery in Obey's district – undercuts a rule aimed at saving 12,000 lives a year.

Such maneuvers reveal how difficult it will be for Jackson to move forward on her commitment to craft environmental regulations based on scientific reality, not political favoritism. As with health care reform, a handful of Democrats in Congress could prove influential in undercutting the Obama administration's efforts to defend the environment and safeguard public health. "When it comes to something that threatens the pocketbooks of their own region," says Parker, the former head of Earthjustice, "traditional friends may turn out to be just as bad as Republicans."

[From Issue 1097 – February 4, 2010]

01268-EPA-3352

**Richard Windsor/DC/USEPA/US**  
01/21/2010 01:35 PM

To "Carolyn Hewlett", "John Perez"  
cc  
bcc

Subject Fw: ROLLING STONE: The Eco-Warrior

Betsaida Alcantara

----- Original Message -----

**From:** Betsaida Alcantara  
**Sent:** 01/20/2010 07:20 PM EST  
**To:** Richard Windsor  
**Cc:** Allyn Brooks-LaSure; Seth Oster; Adora Andy; Brendan Gilfillan; Michael Moats  
**Subject:** ROLLING STONE: The Eco-Warrior

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"It was an army of people – I've never seen anything like that," says Neil Carman, director of clean-air programs for the Texas chapter of the Sierra Club. "We've got the attention of the highest level of people at the EPA, and they're going after it. We've waited 15 years to see this happen."

Advocates of environmental justice are also thrilled by Jackson's emphasis on protecting vulnerable communities that lack lobbying clout. She has started by filling the EPA, long a bastion of whiteness in Washington, with young aides who represent minority groups hard hit by pollution: the nearly three-fourths of Hispanics who live in communities that fail to meet clean-air standards, African-Americans who are more than twice as likely as whites to die from asthma, Native Americans whose homes lack clean water at almost 10 times the national rate. For Jackson, who grew up in the Ninth Ward of New Orleans, near the toxic corridor known as "Cancer Alley," such realities are a major reason she joined the EPA right out of grad school.

"What I'm trying to do is bring the agency back to being closer to the communities that are fighting for environmental protection," she says. "Because that's how environmental protection gets done – it usually comes from the communities up."

The shift to a more community-focused approach is already having an effect. When Emily Enderle, an environmental-health advocate with Earthjustice, recently petitioned the EPA to protect children exposed to dangerous pesticides, she was amazed to see the agency respond in only three weeks by initiating the process to create a new regulation.

"We didn't have any of the big green groups supporting this," Enderle says. "But they were very supportive of protecting rural kids who've been poisoned by nerve-toxic pesticides."

Jackson has moved with equal dispatch to clean up the nation's drinking water. After a storage facility loaded with coal ash collapsed in Tennessee in 2008 – creating a toxic spill 100 times larger than the Exxon Valdez – the EPA quickly disclosed previously secret information about 44 other "high hazard" storage facilities. The agency has also targeted 104 chemicals to be added to the Safe Drinking Water Act – a move that would more than double the 91 toxic substances currently subject to regulation.

In addition, Jackson is working with Congress to require all chemical manufacturers to prove that their compounds are safe before they enter the environment. "Safety standards cannot be applied without adequate information," says Jackson, "and responsibility for providing that information should rest on industry."

The biggest fight that Jackson faces, however, is her effort to regulate auto exhaust and other climate pollution under the Clean Air Act. While friends of industry have tried to paint Jackson as an unhinged eco-vigilante, her approach to regulating carbon emissions has been as serious as the Bush administration's was slapdash. Jackson has moved incrementally to make sure the agency's rulings stand up to inevitable legal challenges. "One of the worst of the legacies left after the eight years of the Bush administration was the number of regulations that were overturned," she says. "I am not a lawyer by training; I am an engineer. So I am very, very careful about getting good legal advice on the decisions that I am entrusted to make."

In one of the first decisions that Obama entrusted to Jackson, she reversed the Bush EPA and granted California the authority to curb carbon pollution from auto exhaust. That alone, she says, was enough to bring the automakers to the table to negotiate national limits on emissions, rather than face a patchwork of conflicting state regulations. "Once you get to the point where industry asks for regulatory certainty," Jackson says, "that's always a watershed moment in environmental protection." Spurred by the threat of regulation, automakers agreed to raise the fuel efficiency of cars to 35 miles per gallon by 2016, an accord that will reduce future carbon pollution by nearly 1 billion tons.

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ignored by the Bush White House. Jackson would prefer to curb carbon pollution with the kind of cap-and-trade system being considered by Congress: "Economy-wide, market-based legislation would be a better path," she says. But in the absence of legislative action, Jackson insists that she alone now has the tools to place America on the path to President Obama's target of reducing carbon emissions by 83 percent by 2050.

In January, the EPA began tracking the emissions of the large industrial polluters responsible for 85 percent of America's carbon pollution. That inventory will be completed within a year, paving the way for a first-ever cap on carbon emissions. In the meantime, polluters that want to expand their operations will be required, beginning this spring, to incorporate the "best available methods" for controlling emissions. "I've tried very hard to make sure regulation is common sense," says Jackson. "Not with an eye to developing some doomsday, all-powerful regulatory scenario, but to show folks once again the tremendous power of the Clean Air Act."

Jackson's critics say it's too soon to judge her true commitment to change. Ruch, who denounced her nomination, downplays the EPA's early accomplishments, saying many hard decisions are simply being "ducked or delayed." Case in point: the agency's extended review of permits for mountaintop-removal mining. On January 5th, the very first mine to make it through the process was approved.

Still, the greatest evidence that Jackson is serious about environmental protection may be those who are trying to curb her power. These days, pro-industry Republicans aren't the only ones trying to stymie the EPA. In a move designed to gain support from coal-state Democrats, the climate bill passed by the House would strip the agency of its authority to restrict climate pollution. Rep. Earl Pomeroy, a Democrat from North Dakota, has introduced stand-alone legislation that would do the same. And Rep. David Obey, the powerful and progressive chairman of the House Appropriations Committee, recently added a last-minute rider to a spending bill that exempted Great Lakes shippers from strict new curbs that the EPA has imposed on diesel emissions from ships. The move – a transparent favor for Murphy Oil, a diesel-fuel refinery in Obey's district – undercuts a rule aimed at saving 12,000 lives a year.

Such maneuvers reveal how difficult it will be for Jackson to move forward on her commitment to craft environmental regulations based on scientific reality, not political favoritism. As with health care reform, a handful of Democrats in Congress could prove influential in undercutting the Obama administration's efforts to defend the environment and safeguard public health. "When it comes to something that threatens the pocketbooks of their own region," says Parker, the former head of Earthjustice, "traditional friends may turn out to be just as bad as Republicans."

[From Issue 1097 – February 4, 2010]

01268-EPA-3353

Adam Zellner  
<azellner@gbdtoday.com>  
01/21/2010 03:00 PM

To Richard Windsor  
cc  
bcc

Subject Re: ROLLING STONE: The Eco-Warrior

Wow. Yea that's a home run.

Adam J. Zellner  
President  
Greener by Design  
94 Church Street - Suite 301  
New Brunswick NJ 08901  
732-253-7717 p  
732-253-7719 f  
azellner@gbdtoday.com

On Jan 21, 2010, at 1:33 PM, "Windsor.Richard@epamail.epa.gov"  
<Windsor.Richard@epamail.epa.gov  
> wrote:

>  
> Sorry about the picture. But I'm ready to retire now!  
>  
>  
> ----- Original Message -----  
> From: Betsaida Alcantara  
> Sent: 01/20/2010 07:20 PM EST  
> To: Richard Windsor  
> Cc: Allyn Brooks-LaSure; Seth Oster; Adora Andy; Brendan Gilfillan;  
> Michael Moats  
> Subject: ROLLING STONE: The Eco-Warrior  
> The Eco-Warrior  
> President Obama has appointed the most progressive EPA chief in  
> history  
> - and she's moving swiftly to clean up the mess left by Bush  
> TIM DICKINSON  
>  
> Posted Jan 20, 2010 11:30 AM  
>  
> (Embedded image moved to file: pic03990.gif)  
>  
> When it comes to passing major legislation - reforming health care,  
> reining in Wall Street, curbing climate change - the Obama  
> administration is under fire from all sides for bowing to special  
> interests and conducting government business behind closed doors. But  
> there's one agency where the hope and hype of the campaign trail have  
> transitioned seamlessly into effective governance: the Environmental  
> Protection Agency.  
>  
> With a minimum of fanfare, new EPA administrator Lisa Jackson has  
> established herself as the agency's most progressive chief ever - a  
> nd  
> one of the most powerful members of Obama's Cabinet. In her first year  
> on the job, Jackson has not only turned the page on the

> industry-friendly and often illegal policies of the Bush era, but has  
> embarked on an aggressive campaign to clean up the nation's air and  
> drinking water. Under her leadership, the EPA has sought stricter  
> limits  
> on toxic pollutants like mercury, moved to scrub emissions of arsenic  
> and heavy metals from coal-fired plants, and revoked a permit for the  
> nation's largest mountaintop-removal coal mine. "The American people  
> can  
> be outraged when we're not living up to the P part of our name,"  
> Jackson  
> says. "The protection part."  
>  
> Even more striking, Jackson has expanded the EPA's mandate to include  
> sweeping new powers to crack down on climate-warming pollution from  
> cars  
> and industry. The move, which has the full backing of the White House,  
> could prove to be the only viable way to stop Big Oil and Big Coal  
> from  
> overheating the planet – especially after the disastrous collapse of  
> climate talks in Copenhagen in December. "If Congress doesn't pass  
> legislation on climate change," says Carol Browner, Obama's climate  
> czar, "EPA will follow through under the requirements of the Clean Air  
> Act."  
>  
> Taken together, Jackson's efforts represent a sweeping attempt to  
> revitalize an agency that was gutted during the Bush years. The  
> goal, as  
> she sees it, is to once again base environmental regulations on  
> science  
> and the law – not on the demands of well-connected industries. "Und  
> er  
> Jackson, it's a whole new ballgame," says Eric Schaeffer, who resigned  
> as the agency's director of environmental enforcement in protest over  
> Bush policies. "You now have an EPA administrator who has White House  
> support but is still tough enough to provide an independent voice for  
> the environment."  
>  
> When Jackson was appointed in December 2008, some prominent  
> environmentalists considered her the wrong person for the job. During  
> her tenure as head of New Jersey's Department of Environmental  
> Protection, they pointed out, the state did such a dismal job of  
> cleaning up toxic Superfund sites that even the Bush administration  
> felt  
> compelled to take them over. In a separate case, Jackson's unit  
> discovered that a day-care facility housed in a former thermometer  
> factory was exposing toddlers to mercury pollution, yet failed to  
> alert  
> parents for more than three months. "Under her watch, New Jersey's  
> environment only got dirtier, incredible as that may seem," Jeff Ruch,  
> president of Public Employees for Environmental Responsibility, said  
> at  
> the time. "If past is prologue, one cannot reasonably expect  
> meaningful  
> change if she is appointed to lead EPA."  
>  
> In the early going, Ruch's warning appeared prescient. Jackson kicked  
> off her tenure at EPA by greenlighting more than two dozen permits for  
> mountaintop removal coal mining that were held over from the Bush  
> administration. "This mining is devastating Appalachia," warned Robert  
> F. Kennedy Jr. "Everyone expected Obama to do something about it."

> Instead they're saying, 'We're going to let this happen.'"  
>  
> Jackson herself now admits that those initial approvals were  
> mishandled.  
> "In hindsight, I certainly wish we could have gone through a longer  
> process on some of those," she says. In September, the EPA put 79  
> permits for mountaintop removal on hold, pending a review to ensure  
> that  
> each complies with the Clean Water Act. In an unprecedented move, the  
> agency also revoked a permit for the Spruce No. 1 mine, Appalachia's  
> largest mountaintop-removal operation, observing that it would destroy  
> seven miles of West Virginia streams already ravaged by mining.  
>  
> In addition, Jackson tells Rolling Stone, the EPA is reviewing the  
> infamous Bush "fill rule" that allows mining companies to bury streams  
> and lakes with mining rubble in the first place. "Staff is working  
> on it  
> now," she says. "We haven't put anything about it out publicly."  
> Jackson  
> says the primary goal is to reform gold mining in Alaska — where min  
> ers  
> have begun dumping toxic waste into a pristine lake near Juneau — b  
> ut  
> adds that the move may also "curtail" mountaintop-removal mining.  
>  
> Today, environmentalists who fretted openly about Jackson's nomination  
> are almost unanimous in singing her praises. "Parts of the  
> environmental  
> community were skeptical of her appointment," says Buck Parker, former  
> executive director of the environmental-law firm Earthjustice. "But  
> she's fantastic. Gutsy. Acts in accordance with what she says. She's  
> proving to be one of the bright lights of the administration."  
>  
> Most afternoons, you can find Jackson at EPA's headquarters in the old  
> Post Office headquarters, a marble art-deco monument to an era when  
> postmasters were kings. Her sprawling office is paneled, floor to  
> ceiling, in old-growth walnut, and decorated with bright abstract art  
> from the National Gallery. Near a copy of The Lorax, the Dr. Seuss  
> environmental parable, Jackson keeps a photograph of Sen. James  
> Inhofe,  
> perhaps the most rabid anti-environmental zealot in Congress,  
> surrounded  
> by his grandchildren.  
>  
> "We don't have rancor," Jackson says of the senator, who gave her the  
> photo. "I keep it here to remind me that you gotta work with people.  
> You  
> gotta figure it out."  
>  
> Jackson has a master's degree in chemical engineering from Princeton,  
> and nearly two decades of experience directing the cleanup of toxic  
> waste. But from her first day, she discovered, her most important  
> skill  
> was her ability to shift the attitude of staffers who remain stuck in  
> the Bush-era mind-set that the EPA should weaken environmental  
> enforcement to satisfy the demands of big polluters.  
>  
> "Oftentimes we're in a meeting and somebody starts telling me,  
> 'Well, we  
> already know what this official — usually a local official — real

> ly  
> wants.' I tell them I don't want to know that," she says. "I want to  
> know what the science says. Even now they're surprised to hear me say  
> that."  
>  
> To shift the agency's culture, Jackson has moved swiftly to restore  
> top  
> career staffers who were shunted aside during the Bush years. "We call  
> them 'cryogenically frozen,'" says a top aide to Jackson. "We've  
> reactivated a lot of people who were known to disagree with the Bush  
> administration's politics and were hung up in closets." Veteran  
> staffers  
> who have gotten their old jobs back say privately that they spent  
> eight  
> years under Bush "trying to do something good under the radar" – eve  
> n as  
> they were forced to design programs that "we all knew the courts were  
> going to throw out."  
>  
> Under Jackson, the agency is once again basing decisions on science  
> rather than politics. "The science is not something the Obama  
> administration feels they have to guard themselves against," says one  
> clean-air staffer who was sidelined under Bush. "Because they are not  
> trying to protect their industry buddies from environmental  
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> just as bad as Republicans."  
>  
> [From Issue 1097 - February 4, 2010]  
> <pic03990.gif>

01268-EPA-3354

**Richard Windsor/DC/USEPA/US**  
01/21/2010 04:38 PM

To: Brendan Gilfillan  
cc  
bcc

Subject: Re: Statement re: Murkowski

Great. What I've been saying to Senators as well. Let's go.  
Brendan Gilfillan

----- Original Message -----

**From:** Brendan Gilfillan  
**Sent:** 01/21/2010 04:37 PM EST  
**To:** Richard Windsor  
**Cc:** Seth Oster <oster.seth@epa.gov>; Adora Andy  
**Subject:** Statement re: Murkowski

Administrator -

Here's the final statement we're giving to press re: the Murkowski resolution:

**STATEMENT FROM EPA ADMINISTRATOR LISA P. JACKSON ON SENATOR MURKOWSKI'S RESOLUTION**

"The Murkowski resolution asks each Senator to deny the overwhelming science that greenhouse gas pollution is a real and serious threat to the health and welfare of our citizens. It disregards the Supreme Court decision that directed us to act and ignores the evidence before our own eyes. Supporting such a resolution would be to reject, without basis, the exhaustive and sound scientific work of 13 federal departments and scientific experts from around the globe. And it would be a reversal of the formal recognition that both the Senate and the House have already made of the harmful effects of greenhouse gas pollution.

"On a day when over 80 U.S. business leaders have called on Congress to advance legislation for a new national energy and climate policy, this resolution would instead delay and waste more precious time. This resolution, at its core, is not about preventing or postponing regulation, but about denying the established scientific fact that greenhouses threaten the health of our people. It puts politics over science, and it should be rejected."

01268-EPA-3356

**Richard Windsor/DC/USEPA/US**  
01/21/2010 08:41 PM

To Seth Oster  
cc  
bcc

Subject Re: Clean Air Act Under Attack as New Poll Shows Strong Support for EPA Action

:)  
Seth Oster

----- Original Message -----

**From:** Seth Oster  
**Sent:** 01/21/2010 07:48 PM EST  
**To:** "Lisa Jackson" <windsor.richard@epa.gov>  
**Subject:** Fw: Clean Air Act Under Attack as New Poll Shows Strong Support for EPA Action

Betsaida Alcantara

----- Original Message -----

**From:** Betsaida Alcantara  
**Sent:** 01/21/2010 07:14 PM EST  
**To:** Gina McCarthy; Steve Owens; Cynthia Giles-AA; Mathy Stanislaus; Michelle DePass; Bob Perciasepe; Scott Fulton; Barbara Bennett; Paul Anastas; Peter Silva; Lisa Heinzerling; David McIntosh; Arvin Ganesan; Sarah Pallone; Heidi Ellis; Katharine Gage; Marcus McClendon; Clay Diette; Daniel Gerasimowicz; Sarah Dale; Megan Cryan; Bob Sussman; Charles Imohiosen; Eric Wachter; Marygrace Galston; Diane Thompson; Wyatt Rockefeller; Christopher Busch; Seth Oster; Allyn Brooks-LaSure; Adora Andy; Brendan Gilfillan; Betsaida Alcantara; Stephanie Owens; Shira Sternberg; Lawrence Elworth; Craig Hooks; Janet McCabe; Robert Verchick; Michael Moats; Lisa Garcia; Avi Garbow; Ray Spears; Shakeba Carter-Jenkins; Chuck Fox; Shalini Vajjhala; Robert Goulding; Heidi Ellis  
**Subject:** Clean Air Act Under Attack as New Poll Shows Strong Support for EPA Action

FOR IMMEDIATE RELEASE: January 21, 2010  
CONTACT: Josh Dorner, 202.675.2384

Clean Air Act Under Attack As New Poll Shows Strong Public Support for EPA Action to Reduce Emissions: Attacks Protect Dirty Coal, Big Oil at Expense of Clean Energy, Natural Gas

Washington, D.C.--A new poll of battleground states conducted by the Benenson Strategy Group on behalf of the Clean Energy Works campaign underscores strong public support for both EPA and Congressional action to promote clean energy and reduce emissions. The poll was released today amid renewed efforts by big polluters and their allies in the Senate to attack the Clean Air Act.

"Big polluters and their allies in the Senate have launched an unprecedented assault on the Clean Air Act," said Carl Pope, Sierra Club Executive Director. "Not only have these big polluters stymied efforts to pass comprehensive clean energy and climate legislation in spite of strong public support for it, they are

also trying to tie President Obama's hands by gutting the popular and effective laws we already have on the books. Instead of further delay and distractions, it's time for the Senate to get serious about passing legislation that reduces emissions, slashes our dependence on oil, and creates new clean energy jobs."

New poll: Strong public support for action by EPA, Congress to reduce emissions

The new battleground states poll released today by the Clean Energy Works campaign demonstrates strong public support for the Environmental Protection Agency's plans to reduce emissions and fight global warming using its existing powers under the Clean Air Act. Fifty-nine percent of those polled agree and just 39 percent disagree that "if Congress doesn't pass this energy bill, the Environmental Protection Agency should take action to regulate carbon polluters. Among Independents, support for EPA action is even stronger: 61 percent agree and only 37 percent disagree. The poll also showed strong support (58 percent support, just 37 percent opposed) for comprehensive clean energy and climate legislation--support which has not wavered over the past several months, even in face of an unprecedented misinformation campaign led by polluters.

"Those who wish to avoid any limits on global warming pollution whatsoever are using lies and scare tactics to distract Congress and the American public from the important task at hand," said Pope. "Fortunately, the public sees right through these arguments and strongly supports plans to reduce emissions--one way or another. The American people understand what's at stake and know that we don't have any more time to waste when it comes to creating new clean energy jobs, reducing our dangerous dependence on oil, and slashing emissions."

Attacks protect Big Oil, Dirty Coal while blocking clean energy, natural gas

Big polluters and their allies are attempting to maintain the dirty energy status quo by blocking both legislative and common-sense regulatory measures designed to promote affordable clean energy and reduce global warming emissions. Moving forward with efforts to limit emissions will protect public health, create clean energy jobs, promote renewable energy, and encourage the use of cleaner burning, appropriately produced natural gas instead of continuing our dangerous dependence on oil and dirty coal.

"Not only do these misguided efforts from big polluters strike at the heart of the Clean Air Act, they are stalling efforts to build the clean energy economy," said Bruce Nilles, Director of Sierra Club's Beyond Coal campaign. "By stopping progress, this assault would not only slow our transition to a clean energy economy, it will also continue to protect Dirty Coal at the expense of renewable energy and cleaner burning natural gas. States like Arkansas, Louisiana, and Alaska have tremendous natural gas reserves that--along with clean energy--could help renew their state economies and reduce emissions--but only if we start to tackle global warming and get serious about a transition to clean energy."

The full Benenson Strategy Group memo can be viewed at:

<http://action.sierraclub.org/site/R?i=G61dXkYaMl1UWOTPrGa0UA..>

# # #

01268-EPA-3357

Richard Windsor/DC/USEPA/US  
01/22/2010 05:21 PM

To "Carolyn Hewlett"  
cc  
bcc

Subject Re: Fw: ROLLING STONE: The Eco-Warrior

[REDACTED] (b) (6) Privacy

[REDACTED]

[REDACTED]

[REDACTED]

---

From: "Carolyn Hewlett" [REDACTED] (b) (6) Privacy  
Sent: 01/22/2010 08:28 AM CST  
To: Richard Windsor  
Subject: Re: Fw: ROLLING STONE: The Eco-Warrior

[REDACTED] (b) (6) Privacy

[REDACTED]

[REDACTED] (b) (6) Privacy

[REDACTED] 

[REDACTED]

[REDACTED]



So, how did this come about? Who else of notoriety will be there?

Keep up the good work. Keep them honest! I'm so proud!!! Yea team!!!!

-----Original Message-----

**From:** [Windsor.Richard@epamail.epa.gov](mailto:Windsor.Richard@epamail.epa.gov)  
**Date:** 1/21/2010 12:36:14 PM  
**To:** [Carolyn Hewlett](#); [John Perez](#)  
**Subject:** Fw: ROLLING STONE: The Eco-Warrior

----- Original Message -----

From: Betsaida Alcantara  
Sent: 01/20/2010 07:20 PM EST  
To: Richard Windsor  
Cc: Allyn Brooks-LaSure; Seth Oster; Adora Andy; Brendan Gilfillan; Michael Moats  
Subject: ROLLING STONE: The Eco-Warrior  
The Eco-Warrior  
President Obama has appointed the most progressive EPA chief in history — and she's moving swiftly to clean up the mess left by Bush  
TIM DICKINSON

Posted Jan 20, 2010 11:30 AM

(Embedded image moved to file: pic06224.gif)

When it comes to passing major legislation — reforming health care, reining in Wall Street, curbing climate change — the Obama

administration is under fire from all sides for bowing to special interests and conducting government business behind closed doors. But there's one agency where the hope and hype of the campaign trail have transitioned seamlessly into effective governance: the Environmental Protection Agency.

With a minimum of fanfare, new EPA administrator Lisa Jackson has established herself as the agency's most progressive chief ever — and one of the most powerful members of Obama's Cabinet. In her first year on the job, Jackson has not only turned the page on the industry-friendly and often illegal policies of the Bush era, but has embarked on an aggressive campaign to clean up the nation's air and drinking water. Under her leadership, the EPA has sought stricter limits on toxic pollutants like mercury, moved to scrub emissions of arsenic and heavy metals from coal-fired plants, and revoked a permit for the nation's largest mountaintop-removal coal mine. "The American people can be outraged when we're not living up to the P part of our name," Jackson says. "The protection part."

Even more striking, Jackson has expanded the EPA's mandate to include sweeping new powers to crack down on climate-warming pollution from cars and industry. The move, which has the full backing of the White House, could prove to be the only viable way to stop Big Oil and Big Coal from overheating the planet — especially after the disastrous collapse of climate talks in Copenhagen in December. "If Congress doesn't pass legislation on climate change," says Carol Browner, Obama's climate czar, "EPA will follow through under the requirements of the Clean Air Act."

Taken together, Jackson's efforts represent a sweeping attempt to revitalize an agency that was gutted during the Bush years. The goal, as she sees it, is to once again base environmental regulations on science and the law — not on the demands of well-connected industries. "Under Jackson, it's a whole new ballgame," says Eric Schaeffer, who resigned as the agency's director of environmental enforcement in protest over Bush policies. "You now have an EPA administrator who has White House support but is still tough enough to provide an independent voice for the environment."

When Jackson was appointed in December 2008, some prominent environmentalists considered her the wrong person for the job. During her tenure as head of New Jersey's Department of Environmental Protection, they pointed out, the state did such a dismal job of cleaning up toxic Superfund sites that even the Bush administration felt compelled to take them over. In a separate case, Jackson's unit discovered that a day-care facility housed in a former thermometer

factory was exposing toddlers to mercury pollution, yet failed to alert parents for more than three months. "Under her watch, New Jersey's environment only got dirtier, incredible as that may seem," Jeff Ruch, president of Public Employees for Environmental Responsibility, said at the time. "If past is prologue, one cannot reasonably expect meaningful change if she is appointed to lead EPA."

In the early going, Ruch's warning appeared prescient. Jackson kicked off her tenure at EPA by greenlighting more than two dozen permits for mountaintop removal coal mining that were held over from the Bush administration. "This mining is devastating Appalachia," warned Robert F. Kennedy Jr. "Everyone expected Obama to do something about it. Instead they're saying, 'We're going to let this happen.'"

Jackson herself now admits that those initial approvals were mishandled. "In hindsight, I certainly wish we could have gone through a longer process on some of those," she says. In September, the EPA put 79 permits for mountaintop removal on hold, pending a review to ensure that each complies with the Clean Water Act. In an unprecedented move, the agency also revoked a permit for the Spruce No. 1 mine, Appalachia's largest mountaintop-removal operation, observing that it would destroy seven miles of West Virginia streams already ravaged by mining.

In addition, Jackson tells Rolling Stone, the EPA is reviewing the infamous Bush "fill rule" that allows mining companies to bury streams and lakes with mining rubble in the first place. "Staff is working on it now," she says. "We haven't put anything about it out publicly." Jackson says the primary goal is to reform gold mining in Alaska — where miners have begun dumping toxic waste into a pristine lake near Juneau — but adds that the move may also "curtail" mountaintop-removal mining.

Today, environmentalists who fretted openly about Jackson's nomination are almost unanimous in singing her praises. "Parts of the environmental community were skeptical of her appointment," says Buck Parker, former executive director of the environmental-law firm Earthjustice. "But she's fantastic. Gutsy. Acts in accordance with what she says. She's proving to be one of the bright lights of the administration."

Most afternoons, you can find Jackson at EPA's headquarters in the old Post Office headquarters, a marble art-deco monument to an era when postmasters were kings. Her sprawling office is paneled, floor to ceiling, in old-growth walnut, and decorated with bright abstract art from the National Gallery. Near a copy of *The Lorax*, the Dr. Seuss environmental parable, Jackson keeps a photograph of Sen. James Inhofe, perhaps the most rabid anti-environmental zealot in Congress, surrounded by his grandchildren.

"We don't have rancor," Jackson says of the senator, who gave her the photo. "I keep it here to remind me that you gotta work with people. You gotta figure it out."

Jackson has a master's degree in chemical engineering from Princeton, and nearly two decades of experience directing the cleanup of toxic waste. But from her first day, she discovered, her most important skill was her ability to shift the attitude of staffers who remain stuck in the Bush-era mind-set that the EPA should weaken environmental enforcement to satisfy the demands of big polluters.

"Oftentimes we're in a meeting and somebody starts telling me, 'Well, we already know what this official — usually a local official — really wants.' I tell them I don't want to know that," she says. "I want to know what the science says. Even now they're surprised to hear me say that."

To shift the agency's culture, Jackson has moved swiftly to restore top career staffers who were shunted aside during the Bush years. "We call them 'cryogenically frozen,'" says a top aide to Jackson. "We've reactivated a lot of people who were known to disagree with the Bush administration's politics and were hung up in closets." Veteran staffers who have gotten their old jobs back say privately that they spent eight years under Bush "trying to do something good under the radar" — even as they were forced to design programs that "we all knew the courts were going to throw out."

Under Jackson, the agency is once again basing decisions on science rather than politics. "The science is not something the Obama administration feels they have to guard themselves against," says one clean-air staffer who was sidelined under Bush. "Because they are not trying to protect their industry buddies from environmental regulations."

"They have freed up agency employees to do what they're supposed to do: protect public health and the environment," says Jeremy Symons, the EPA's former climate-policy adviser. "And God knows there's a lot of pent-up work behind the dam that needs to be unleashed."

Much of Jackson's first year at the EPA, in fact, has been eaten up by reversing the worst of the Bush legacy. "It requires that we use our time and resources to look back," she says, "when we absolutely need to be moving ahead."

In one of its final acts, the Bush EPA effectively barred new oversight

of oil refineries with a regulatory trick: It covered up the overall impact of a refinery's pollution by measuring every smokestack separately, as if each were operating in isolation. "Imagine if you had 10 smokers in a room and a baby in the middle," says Schaeffer, the former enforcement director. "You're trying to figure the impact on that baby's lungs, but you model the smoke from each cigarette and assume that's all you have in the room. There wasn't any science behind it."

Jackson summarily revoked the oil-friendly rule in October. She also jettisoned lax smog rules set under Bush that flouted the unanimous recommendation of independent scientists and allowed higher pollution levels — effectively sentencing hundreds of people a year to premature death. "This is one of the most important protection measures we can take to safeguard our health," Jackson said in sending the rules back to the drawing board. In January, the agency proposed strict new smog limits that are expected to be finalized later this year.

After having its budget sharply curtailed under Bush, the EPA now has its biggest budget in history — thanks to an increase of \$3 billion under Obama. The additional resources have enabled Jackson to put dozens of new federal cops on the environmental beat, and to crack down on states that fail to enforce the law. Chief among those states is Texas, where Gov. George Bush shifted the state to a system of "flexible permits" that allow oil refineries, chemical plants and other industrial polluters to increase toxic emissions as they modernize their facilities. Last summer, Jackson lowered the boom on Texas — first by sending an order to Gov. Rick Perry that rejected key elements of the state's regulatory implementation plan, then by descending on the state EPA office in person, accompanied by top enforcement officials from Washington.

"It was an army of people — I've never seen anything like that," says Neil Carman, director of clean-air programs for the Texas chapter of the Sierra Club. "We've got the attention of the highest level of people at the EPA, and they're going after it. We've waited 15 years to see this happen."

Advocates of environmental justice are also thrilled by Jackson's emphasis on protecting vulnerable communities that lack lobbying clout. She has started by filling the EPA, long a bastion of whiteness in Washington, with young aides who represent minority groups hard hit by pollution: the nearly three-fourths of Hispanics who live in communities that fail to meet clean-air standards, African-Americans who are more than twice as likely as whites to die from asthma, Native Americans whose homes lack clean water at almost 10 times the national rate. For Jackson, who grew up in the Ninth Ward of New Orleans, near the toxic

corridor known as "Cancer Alley," such realities are a major reason she joined the EPA right out of grad school.

"What I'm trying to do is bring the agency back to being closer to the communities that are fighting for environmental protection," she says. "Because that's how environmental protection gets done — it usually comes from the communities up."

The shift to a more community-focused approach is already having an effect. When Emily Enderle, an environmental-health advocate with Earthjustice, recently petitioned the EPA to protect children exposed to dangerous pesticides, she was amazed to see the agency respond in only three weeks by initiating the process to create a new regulation.

"We didn't have any of the big green groups supporting this," Enderle says. "But they were very supportive of protecting rural kids who've been poisoned by nerve-toxic pesticides."

Jackson has moved with equal dispatch to clean up the nation's drinking water. After a storage facility loaded with coal ash collapsed in Tennessee in 2008 — creating a toxic spill 100 times larger than the Exxon Valdez — the EPA quickly disclosed previously secret information about 44 other "high hazard" storage facilities. The agency has also targeted 104 chemicals to be added to the Safe Drinking Water Act — a move that would more than double the 91 toxic substances currently subject to regulation.

In addition, Jackson is working with Congress to require all chemical manufacturers to prove that their compounds are safe before they enter the environment. "Safety standards cannot be applied without adequate information," says Jackson, "and responsibility for providing that information should rest on industry."

The biggest fight that Jackson faces, however, is her effort to regulate auto exhaust and other climate pollution under the Clean Air Act. While friends of industry have tried to paint Jackson as an unhinged eco-vigilante, her approach to regulating carbon emissions has been as serious as the Bush administration's was slapdash. Jackson has moved incrementally to make sure the agency's rulings stand up to inevitable legal challenges. "One of the worst of the legacies left after the eight years of the Bush administration was the number of regulations that were overturned," she says. "I am not a lawyer by training; I am an engineer. So I am very, very careful about getting good legal advice on the decisions that I am entrusted to make."

In one of the first decisions that Obama entrusted to Jackson, she

reversed the Bush EPA and granted California the authority to curb carbon pollution from auto exhaust. That alone, she says, was enough to bring the automakers to the table to negotiate national limits on emissions, rather than face a patchwork of conflicting state regulations. "Once you get to the point where industry asks for regulatory certainty," Jackson says, "that's always a watershed moment in environmental protection." Spurred by the threat of regulation, automakers agreed to raise the fuel efficiency of cars to 35 miles per gallon by 2016, an accord that will reduce future carbon pollution by nearly 1 billion tons.

The EPA followed up in December by issuing an "endangerment finding" that gives the agency the authority to cap carbon pollution under the Clean Air Act. The move was required, Jackson says, by the Supreme Court decision in 2007 that greenhouse gases are a pollutant subject to regulation — a ruling ignored by the Bush White House. Jackson would prefer to curb carbon pollution with the kind of cap-and-trade system being considered by Congress: "Economy-wide, market-based legislation would be a better path," she says. But in the absence of legislative action, Jackson insists that she alone now has the tools to place America on the path to President Obama's target of reducing carbon emissions by 83 percent by 2050.

In January, the EPA began tracking the emissions of the large industrial polluters responsible for 85 percent of America's carbon pollution. That inventory will be completed within a year, paving the way for a first-ever cap on carbon emissions. In the meantime, polluters that want to expand their operations will be required, beginning this spring, to incorporate the "best available methods" for controlling emissions. "I've tried very hard to make sure regulation is common sense," says Jackson. "Not with an eye to developing some doomsday, all-powerful regulatory scenario, but to show folks once again the tremendous power of the Clean Air Act."

Jackson's critics say it's too soon to judge her true commitment to change. Ruch, who denounced her nomination, downplays the EPA's early accomplishments, saying many hard decisions are simply being "ducked or delayed." Case in point: the agency's extended review of permits for mountaintop-removal mining. On January 5th, the very first mine to make it through the process was approved.

Still, the greatest evidence that Jackson is serious about environmental protection may be those who are trying to curb her power. These days, pro-industry Republicans aren't the only ones trying to stymie the EPA. In a move designed to gain support from coal-state Democrats, the climate bill passed by the House would strip the agency of its authority

to restrict climate pollution. Rep. Earl Pomeroy, a Democrat from North Dakota, has introduced stand-alone legislation that would do the same. And Rep. David Obey, the powerful and progressive chairman of the House Appropriations Committee, recently added a last-minute rider to a spending bill that exempted Great Lakes shippers from strict new curbs that the EPA has imposed on diesel emissions from ships. The move — a transparent favor for Murphy Oil, a diesel-fuel refinery in Obey's district — undercuts a rule aimed at saving 12,000 lives a year.

Such maneuvers reveal how difficult it will be for Jackson to move forward on her commitment to craft environmental regulations based on scientific reality, not political favoritism. As with health care reform, a handful of Democrats in Congress could prove influential in undercutting the Obama administration's efforts to defend the environment and safeguard public health. "When it comes to something that threatens the pocketbooks of their own region," says Parker, the former head of Earthjustice, "traditional friends may turn out to be just as bad as Republicans."

[From Issue 1097 — February 4, 2010]

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No virus found in this incoming message.

Checked by AVG - [www.avg.com](http://www.avg.com)

Version: 8.5.432 / Virus Database: 271.1.1/2636 - Release Date: 01/21/10 07:34:00



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01268-EPA-3358

**David  
McIntosh/DC/USEPA/US**  
01/22/2010 06:38 PM

To Allyn Brooks-LaSure, "Jackson, Lisa P."  
cc "Oster, Seth", Adora Andy  
bcc  
Subject Re: Washington Post: 3 Senators Met with WH this  
Afternoon to Climate Bill

(b)(5) deliberative

Allyn Brooks-LaSure

----- Original Message -----

**From:** Allyn Brooks-LaSure  
**Sent:** 01/22/2010 06:34 PM EST  
**To:** "Jackson, Lisa P." <windsor.richard@epa.gov>  
**Cc:** "Oster, Seth" <Oster.Seth@epa.gov>; David McIntosh; Adora Andy  
**Subject:** Fw: Washington Post: 3 Senators Met with WH this Afternoon to  
Climate Bill

MABL.

-----  
M. Allyn Brooks-LaSure  
Office of the Administrator  
U.S. Environmental Protection Agency  
Cell: 202-631-0415  
Suzanne Ackerman

----- Original Message -----

**From:** Suzanne Ackerman  
**Sent:** 01/22/2010 06:26 PM EST  
**To:** Seth Oster; Allyn Brooks-LaSure; Adora Andy; Roxanne Smith; Michael  
Thiem; Jeffrey Levy; Lina Younes; Amy Dewey; Brendan Gilfillan; Dave Ryan;  
Cathy Milbourn; Deb Berlin  
**Subject:** Washington Post: 3 Senators Met with WH this Afternoon to  
Climate Bill

### Rahm's climate meeting

*By Juliet Eilperin*

Jan 22, 2010 6:14 pm

Some people might think climate legislation in the Senate is on life support, but don't tell that to Sens. [John Kerry](#) (D-Mass.)  
[Lieberman](#) (I-Conn).

The three lawmakers met with White House chief of staff [Rahm Emanuel](#) Thursday afternoon for "a strategy session and to  
State of the Union," in the words of one Senate aide familiar with the meeting. Graham also delivered his assessment of what  
prospect of a bill.

What President Obama says next week at the State of the Union will provide the clearest signal yet of whether he will push  
climate bill.

But wait, as they say in the [Ginsu knife](#) ad, that's not all.

The troika met this week with officials from the [U.S. Chamber of Commerce](#), one of the most outspoken opponents to the bill.  
Chamber refused to comment.

And the three senators agreed to set aside four hours a week--which could translate into as many as eight separate meetings in the climate debate, and to recruit new Senate supporters. Next week the three will meet with Environmental Protection Agency  
**Sen. Susan Collins** (R-Maine), the author of a competing climate bill

01268-EPA-3359

**Richard Windsor/DC/USEPA/US**  
01/22/2010 06:40 PM

To David McIntosh  
cc  
bcc

Subject Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

Its funny to read about my schedule in the paper.  
David McIntosh

----- Original Message -----

**From:** David McIntosh  
**Sent:** 01/22/2010 06:38 PM EST  
**To:** Allyn Brooks-LaSure; "Jackson, Lisa P." <windsor.richard@epa.gov>  
**Cc:** "Oster, Seth" <Oster.Seth@epa.gov>; Adora Andy  
**Subject:** Re: Washington Post: 3 Senators Met with WH this Afternoon to

Climate Bill

So I guess JK will have LG and JL there for his meeting with the Administrator Tuesday. Should be entertaining.

Allyn Brooks-LaSure

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**From:** Allyn Brooks-LaSure  
**Sent:** 01/22/2010 06:34 PM EST  
**To:** "Jackson, Lisa P." <windsor.richard@epa.gov>  
**Cc:** "Oster, Seth" <Oster.Seth@epa.gov>; David McIntosh; Adora Andy  
**Subject:** Fw: Washington Post: 3 Senators Met with WH this Afternoon to

Climate Bill

MABL.

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Office of the Administrator  
U.S. Environmental Protection Agency  
Cell: 202-631-0415  
Suzanne Ackerman

----- Original Message -----

**From:** Suzanne Ackerman  
**Sent:** 01/22/2010 06:26 PM EST  
**To:** Seth Oster; Allyn Brooks-LaSure; Adora Andy; Roxanne Smith; Michael Thiem; Jeffrey Levy; Lina Younes; Amy Dewey; Brendan Gilfillan; Dave Ryan; Cathy Milbourn; Deb Berlin  
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01268-EPA-3360

**David McIntosh/DC/USEPA/US**  
01/22/2010 06:42 PM

To Richard Windsor  
cc  
bcc

Subject Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

It shows that even Senators want to show off by leaking that they have a meeting with you.  
Richard Windsor

----- Original Message -----

**From:** Richard Windsor

**Sent:** 01/22/2010 06:40 PM EST

**To:** David McIntosh

**Subject:** Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

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David McIntosh

----- Original Message -----

**From:** David McIntosh

**Sent:** 01/22/2010 06:38 PM EST

**To:** Allyn Brooks-LaSure; "Jackson, Lisa P." <windsor.richard@epa.gov>

**Cc:** "Oster, Seth" <Oster.Seth@epa.gov>; Adora Andy

**Subject:** Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

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**Cc:** "Oster, Seth" <Oster.Seth@epa.gov>; David McIntosh; Adora Andy

**Subject:** Fw: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

MABL.

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Office of the Administrator  
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Cell: 202-631-0415  
Suzanne Ackerman

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01268-EPA-3361

**Richard Windsor/DC/USEPA/US**  
01/22/2010 06:44 PM

To David McIntosh  
cc  
bcc

Subject Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

Yeah right. But (as my dad would say I can you tell I'm back home in the south) keep lyin' to me...it feels good.

David McIntosh

----- Original Message -----

**From:** David McIntosh  
**Sent:** 01/22/2010 06:42 PM EST  
**To:** Richard Windsor  
**Subject:** Re: Washington Post: 3 Senators Met with WH this Afternoon to

Climate Bill

It shows that even Senators want to show off by leaking that they have a meeting with you.

Richard Windsor

----- Original Message -----

**From:** Richard Windsor  
**Sent:** 01/22/2010 06:40 PM EST  
**To:** David McIntosh  
**Subject:** Re: Washington Post: 3 Senators Met with WH this Afternoon to

Climate Bill

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David McIntosh

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**Cc:** "Oster, Seth" <Oster.Seth@epa.gov>; Adora Andy  
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Allyn Brooks-LaSure

----- Original Message -----

**From:** Allyn Brooks-LaSure  
**Sent:** 01/22/2010 06:34 PM EST  
**To:** "Jackson, Lisa P." <windsor.richard@epa.gov>  
**Cc:** "Oster, Seth" <Oster.Seth@epa.gov>; David McIntosh; Adora Andy  
**Subject:** Fw: Washington Post: 3 Senators Met with WH this Afternoon to

Climate Bill

MABL.

-----

M. Allyn Brooks-LaSure  
Office of the Administrator  
U.S. Environmental Protection Agency  
Cell: 202-631-0415

Suzanne Ackerman

----- Original Message -----

**From:** Suzanne Ackerman

**Sent:** 01/22/2010 06:26 PM EST

**To:** Seth Oster; Allyn Brooks-LaSure; Adora Andy; Roxanne Smith; Michael Thiem; Jeffrey Levy; Lina Younes; Amy Dewey; Brendan Gilfillan; Dave Ryan; Cathy Milbourn; Deb Berlin

**Subject:** Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

### **Rahm's climate meeting**

*By Juliet Eilperin*

Jan 22, 2010 6:14 pm

Some people might think climate legislation in the Senate is on life support, but don't tell that to Sens. [John Kerry](#) (D-Mass.) and [Lieberman](#) (I-Conn).

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01268-EPA-3362

**David McIntosh/DC/USEPA/US**  
01/22/2010 06:47 PM

To Richard Windsor  
cc  
bcc

**Subject** Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

Ha! Have a good weekend.  
Richard Windsor

----- Original Message -----

**From:** Richard Windsor  
**Sent:** 01/22/2010 06:44 PM EST  
**To:** David McIntosh  
**Subject:** Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

Yeah right. But (as my dad would say I can you tell I'm back home in the south) keep lyin' to me...it feels good.

David McIntosh

----- Original Message -----

**From:** David McIntosh  
**Sent:** 01/22/2010 06:42 PM EST  
**To:** Richard Windsor  
**Subject:** Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

It shows that even Senators want to show off by leaking that they have a meeting with you.

Richard Windsor

----- Original Message -----

**From:** Richard Windsor  
**Sent:** 01/22/2010 06:40 PM EST  
**To:** David McIntosh  
**Subject:** Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

Its funny to read about my schedule in the paper.

David McIntosh

----- Original Message -----

**From:** David McIntosh  
**Sent:** 01/22/2010 06:38 PM EST  
**To:** Allyn Brooks-LaSure; "Jackson, Lisa P." <windsor.richard@epa.gov>  
**Cc:** "Oster, Seth" <Oster.Seth@epa.gov>; Adora Andy  
**Subject:** Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

So I guess JK will have LG and JL there for his meeting with the Administrator Tuesday. Should be entertaining.

Allyn Brooks-LaSure

----- Original Message -----

**From:** Allyn Brooks-LaSure  
**Sent:** 01/22/2010 06:34 PM EST  
**To:** "Jackson, Lisa P." <windsor.richard@epa.gov>  
**Cc:** "Oster, Seth" <Oster.Seth@epa.gov>; David McIntosh; Adora Andy  
**Subject:** Fw: Washington Post: 3 Senators Met with WH this Afternoon to

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MABL.

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M. Allyn Brooks-LaSure  
Office of the Administrator  
U.S. Environmental Protection Agency  
Cell: 202-631-0415  
Suzanne Ackerman

----- Original Message -----

**From:** Suzanne Ackerman  
**Sent:** 01/22/2010 06:26 PM EST  
**To:** Seth Oster; Allyn Brooks-LaSure; Adora Andy; Roxanne Smith; Michael Thiem; Jeffrey Levy; Lina Younes; Amy Dewey; Brendan Gilfillan; Dave Ryan; Cathy Milbourn; Deb Berlin  
**Subject:** Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

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01268-EPA-3363

Gina McCarthy/DC/USEPA/US

To Richard Windsor

01/22/2010 09:24 PM

cc

bcc

Subject Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

(b)(5) Deliberative

Richard Windsor

----- Original Message -----

**From:** Richard Windsor

**Sent:** 01/22/2010 06:40 PM EST

**To:** Heidi Ellis; "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>

**Subject:** Fw: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

Allyn Brooks-LaSure

----- Original Message -----

**From:** Allyn Brooks-LaSure

**Sent:** 01/22/2010 06:34 PM EST

**To:** "Jackson, Lisa P." <>windsor.richard@epa.gov>

**Cc:** "Oster, Seth" <Oster.Seth@epa.gov>; David McIntosh; Adora Andy

**Subject:** Fw: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

MABL.

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M. Allyn Brooks-LaSure

Office of the Administrator

U.S. Environmental Protection Agency

Cell: 202-631-0415

Suzanne Ackerman

----- Original Message -----

**From:** Suzanne Ackerman

**Sent:** 01/22/2010 06:26 PM EST

**To:** Seth Oster; Allyn Brooks-LaSure; Adora Andy; Roxanne Smith; Michael Thiem; Jeffrey Levy; Lina Younes; Amy Dewey; Brendan Gilfillan; Dave Ryan; Cathy Milbourn; Deb Berlin

**Subject:** Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

**Rahm's climate meeting**

*By Juliet Eilperin*

Jan 22, 2010 6:14 pm

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01268-EPA-3364

**Richard Windsor/DC/USEPA/US**  
01/22/2010 10:36 PM

To Gina McCarthy  
cc  
bcc

Subject Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

[Redacted] (b)(5) Deliberative

Gina McCarthy

----- Original Message -----

**From:** Gina McCarthy  
**Sent:** 01/22/2010 09:24 PM EST  
**To:** Richard Windsor  
**Subject:** Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

[Redacted] (b)(5) Deliberative

Richard Windsor

----- Original Message -----

**From:** Richard Windsor  
**Sent:** 01/22/2010 06:40 PM EST  
**To:** Heidi Ellis; "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>  
**Subject:** Fw: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

Allyn Brooks-LaSure

----- Original Message -----

**From:** Allyn Brooks-LaSure  
**Sent:** 01/22/2010 06:34 PM EST  
**To:** "Jackson, Lisa P." <windsor.richard@epa.gov>  
**Cc:** "Oster, Seth" <Oster.Seth@epa.gov>; David McIntosh; Adora Andy  
**Subject:** Fw: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

MABL.

-----

M. Allyn Brooks-LaSure  
Office of the Administrator  
U.S. Environmental Protection Agency  
Cell: 202-631-0415  
Suzanne Ackerman

----- Original Message -----

**From:** Suzanne Ackerman  
**Sent:** 01/22/2010 06:26 PM EST  
**To:** Seth Oster; Allyn Brooks-LaSure; Adora Andy; Roxanne Smith; Michael Thiem; Jeffrey Levy; Lina Younes; Amy Dewey; Brendan Gilfillan; Dave Ryan; Cathy Milbourn; Deb Berlin  
**Subject:** Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

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Jan 22, 2010 6:14 pm

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01268-EPA-3365

**Richard Windsor/DC/USEPA/US**  
01/22/2010 10:38 PM

To Gina McCarthy  
cc  
bcc

Subject Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

[Redacted] (b)(5) deliberative

Gina McCarthy

----- Original Message -----

**From:** Gina McCarthy  
**Sent:** 01/22/2010 09:24 PM EST  
**To:** Richard Windsor  
**Subject:** Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

[Redacted] (b)(5)  
Richard Windsor

----- Original Message -----

**From:** Richard Windsor  
**Sent:** 01/22/2010 06:40 PM EST  
**To:** Heidi Ellis; "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>  
**Subject:** Fw: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

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**From:** Allyn Brooks-LaSure  
**Sent:** 01/22/2010 06:34 PM EST  
**To:** "Jackson, Lisa P." <windsor.richard@epa.gov>  
**Cc:** "Oster, Seth" <Oster.Seth@epa.gov>; David McIntosh; Adora Andy  
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MABL.

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**Sent:** 01/22/2010 06:26 PM EST  
**To:** Seth Oster; Allyn Brooks-LaSure; Adora Andy; Roxanne Smith; Michael Thiem; Jeffrey Levy; Lina Younes; Amy Dewey; Brendan Gilfillan; Dave Ryan; Cathy Milbourn; Deb Berlin  
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01268-EPA-3366

Gina McCarthy/DC/USEPA/US

To Richard Windsor

01/22/2010 11:39 PM

cc

bcc

Subject Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

(b)(5) Deliberative

Richard Windsor

----- Original Message -----

**From:** Richard Windsor

**Sent:** 01/22/2010 10:36 PM EST

**To:** Gina McCarthy

**Subject:** Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

(b)(5) Deliberative

Gina McCarthy

----- Original Message -----

**From:** Gina McCarthy

**Sent:** 01/22/2010 09:24 PM EST

**To:** Richard Windsor

**Subject:** Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

(b)(5) Deliberative

Richard Windsor

----- Original Message -----

**From:** Richard Windsor

**Sent:** 01/22/2010 06:40 PM EST

**To:** Heidi Ellis; "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>

**Subject:** Fw: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

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**To:** "Jackson, Lisa P." <>windsor.richard@epa.gov>

**Cc:** "Oster, Seth" <Oster.Seth@epa.gov>; David McIntosh; Adora Andy

**Subject:** Fw: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

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M. Allyn Brooks-LaSure  
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Cell: 202-631-0415  
Suzanne Ackerman

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01268-EPA-3367

Gina McCarthy/DC/USEPA/US

To Richard Windsor

01/22/2010 11:40 PM

cc

bcc

Subject Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

(b)(5) Deliberative

Richard Windsor

----- Original Message -----

**From:** Richard Windsor

**Sent:** 01/22/2010 10:38 PM EST

**To:** Gina McCarthy

**Subject:** Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

(b)(5) Deliberative

Gina McCarthy

----- Original Message -----

**From:** Gina McCarthy

**Sent:** 01/22/2010 09:24 PM EST

**To:** Richard Windsor

**Subject:** Re: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

(b)(5) Deliberative

Richard Windsor

----- Original Message -----

**From:** Richard Windsor

**Sent:** 01/22/2010 06:40 PM EST

**To:** Heidi Ellis; "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>

**Subject:** Fw: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

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**Sent:** 01/22/2010 06:34 PM EST

**To:** "Jackson, Lisa P." <>windsor.richard@epa.gov>

**Cc:** "Oster, Seth" <Oster.Seth@epa.gov>; David McIntosh; Adora Andy

**Subject:** Fw: Washington Post: 3 Senators Met with WH this Afternoon to Climate Bill

MABL.

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M. Allyn Brooks-LaSure  
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Cell: 202-631-0415  
Suzanne Ackerman

## ----- Original Message -----

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**Sent:** 01/22/2010 06:26 PM EST

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01268-EPA-3368

**Daniel  
Gerasimowicz/DC/USEPA/US**  
01/25/2010 05:20 PM

To Debbie Dietrich, Lisa Garcia, Paul Anastas, Alecia Allston, Barbara Bennett, Heidi Ellis, Christopher Busch, Clay Diette, Stephanie Owens, Bob Perciasepe, Craig Hooks, Michelle DePass, Steve Owens, Peter Silva, Peter Grevatt, Sarah Pallone, Mathy Stanislaus, Cynthia Giles-AA, Gina McCarthy, Alicia Kaiser, Lawrence Elworth, Seth Oster, Katharine Gage, Stephanie Washington, Diane Thompson, Arvin Ganesan, Marcus McClendon, Ray Spears, Sarah Dale, Georgia Bednar, Carla Veney, Scott Fulton, Bob Sussman, Allyn Brooks-LaSure, Richard Windsor, Eric Wachter, (b)(6) Robert Goulding, Lisa Heinzerling, David McIntosh

cc

bcc

Subject Tuesday, January 26, 2010 Schedule for Lisa P. Jackson

\*\*\* do not copy or forward this information \*\*\*

**Schedule for Lisa P. Jackson EPA Administrator  
Tuesday, January 26, 2010**

Notes:		
Drivers	Shift Leaders	Staff Contact
(b) (6)		Eric Wachter 202-596-0246
07:30 AM - 08:15 AM	Residence	Depart for Ariel Rios
08:15 AM - 08:45 AM	Administrator's Office	1 on 1 with Gina McCarthy Ct: Teri Porterfield (OAR) 564-7404  Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)
08:45 AM - 09:15 AM	Administrator's Office	Daily Meeting
09:30 AM - 10:00 AM	Administrator's Office	Office Time
10:00 AM - 10:30 AM	Administrator's Office	1 on 1 with Paul Anastas Ct: Nathan Gentry (ORD) 564-9084  Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)
10:45 AM - 11:00 AM	Ariel Rios	Depart for Russell Building David McIntosh will travel with The Administrator
11:00 AM - 11:30 AM	Rm 218 Russell Building	Meeting with Senator Kerry Ct: Julie Wirkkala (b) (6)  Topic- EPA's role in reducing GHGs re: David McIntosh  Staff: David McIntosh (OCIR)
11:30 AM - 11:45 AM	Russell Building	Depart for Washington Convention Center

11:45 AM - 12:50 PM	Washington Convention Center	Washington Auto Show Public Policy Day Advance Ct: Clay Diette 564-1480 Press: OPEN
Agenda:		
11:45 AM - 11:50 AM Meet and Greet with show organizers		
11:50 AM - 12:20 PM - Tour of the Advance Technology Superhighway		
12:20 - 12:40 PM - Administrator provides remarks to the audience		
12:40 - 12:50 PM - Press availability		
12:50 PM - 01:00 PM	Washington Convention Center	Depart for Ariel Rios
01:00 PM - 02:00 PM	Administrator's Office	No Meetings
02:00 PM - 02:30 PM	Administrator's Office	1 on 1 with Steve Owens Ct: Lynda Garland (OPPTS) 564-0337
Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)		
03:00 PM - 03:45 PM	Bullet Room	Meeting with Teresa Ribera, Spanish Secretary of State for Climate Change Ct: Almudena Rodriguez Sanchez-Beato (Embassy of Spain) [REDACTED] (b) (6)
Topic: Climate Change		
Staff:		
Michelle DePass, Shalini Vajjhala Gary Waxmonsky (OIA)		
Gina McCarthy, Janet McCabe, Joe Goffman, Brian McLean (OAR)		
Attendees:		
Secretary Ribera		
Jorge Dezcallar. Ambassador of Spain		
Angelos Pangratis. Acting Head of Delegation of the European Union to the USA		
Pedro Huarte. Policy Advisor to Spanish Secretary of State for Climate Change.		
03:50 PM - 04:00 PM	Administrator's Office	Call with Governor Gregoire Ct: Mark Rupp (Gov. Gregorie's Office) [REDACTED] (b) (6)
The Administrator will call Ellen Landino (Assistant to the Governor) at [REDACTED] (b) (6) to be connected to the Governor		
Staff:		
Sarah Pallone (OCIR)		

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04:10 PM - 04:30 PM	Ariel Rios	Depart for Hart
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04:30 PM - 05:00 PM	509 Hart Building	Meeting with Senator Cardin Ct: Debbie Yamada (Cardin's Office)202-224-4524  Staff: Arvin Ganesan (OCIR) Chuck Fox (OA) Shawn Garvin (R3)  Attendees: Mike Burke, Project Director for Senator Cardin
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05:15 PM - 05:45 PM	107 Russell	Meeting with Senator Merkley Ct: JP Piorkowski 202-224-7754  Topic: TSCA Reform  Staff: Arvin Ganeson Attendees: Senator Merkley Jeremiah Baumann, LA Tamara Fucile, LD (tent) Mike Zamore, COS (tent)
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\*\*\* 01/25/2010 05:19:09 PM \*\*\*

01268-EPA-3369

**Daniel Gerasimowicz/DC/USEPA/US**  
01/25/2010 05:28 PM

To Debbie Dietrich, Lisa Garcia, Paul Anastas, Alecia Allston, Barbara Bennett, Heidi Ellis, Christopher Busch, Clay Diette, Stephanie Owens, Bob Perciasepe, Craig Hooks, Michelle DePass, Steve Owens, Peter Silva, Peter Grevatt, Sarah Pallone, Mathy Stanislaus, Cynthia Giles-AA, Gina McCarthy, Alicia Kaiser, Lawrence Elworth, Seth Oster, Katharine Gage, Stephanie Washington, Diane Thompson, Arvin Ganesan, Marcus McClendon, Ray Spears, Sarah Dale, Georgia Bednar, Carla Veney, Scott Fulton, Bob Sussman, Allyn Brooks-LaSure, Richard Windsor, Eric Wachter, (b)(6) Robert Goulding, Lisa Heinzerling, David McIntosh, (b)(5) (b)(6) Dennis James, Gladys Stroman, Aaron Dickerson

cc

bcc

Subject REVISIED: Tuesday, January 26, 2010 Schedule for Lisa P. Jackson

Please note: The 11 AM meeting with Senator Kerry has been cancelled for tomorrow. Thank you.

\*\*\* do not copy or forward this information \*\*\*

**Schedule for Lisa P. Jackson EPA Administrator  
Tuesday, January 26, 2010**

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11:45 AM - 12:50 PM	Washington Convention Center	Washington Auto Show Public Policy Day Advance Ct: Clay Diette 564-1480 Press: OPEN

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11:50 AM - 12:20 PM - Tour of the Advance Technology Superhighway

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02:00 PM - 02:30 PM	Administrator's Office	1 on 1 with Steve Owens Ct: Lynda Garland (OPPTS) 564-0337  Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)
03:00 PM - 03:45 PM	Bullet Room	Meeting with Teresa Ribera, Spanish Secretary of State for Climate Change Ct: Almudena Rodriguez Sanchez-Beato (Embassy of Spain) [REDACTED] (b) (6)  Topic: Climate Change  Staff: Michelle DePass, Shalini Vajjhala Gary Waxmonsky (OIA) Gina McCarthy, Janet McCabe, Joe Goffman, Brian McLean (OAR)  Attendees: Secretary Ribera  Jorge Dezcallar. Ambassador of Spain  Angelos Pangratis. Acting Head of Delegation of the European Union to the USA  Pedro Huarte. Policy Advisor to Spanish Secretary of State for Climate Change.
03:50 PM - 04:00 PM	Administrator's Office	Call with Governor Gregoire Ct: Mark Rupp (Gov. Gregorie's Office) [REDACTED] (b) (6)  The Administrator will call Ellen Landino (Assistant to the Governor) at [REDACTED] (b) (6) to be connected to the Governor  Staff: Sarah Pallone (OCIR)
04:10 PM - 04:30 PM	Ariel Rios	Depart for Hart
04:30 PM - 05:00 PM	509 Hart Building	Meeting with Senator Cardin

Ct: Debbie Yamada (Cardin's Office (b) (6))

Staff:

Arvin Ganesan (OCIR)

Chuck Fox (OA)

Shawn Garvin (R3)

Attendees:

Mike Burke, Project Director for Senator Cardin

---

05:15 PM - 05:45 PM 107 Russell

Meeting with Senator Merkley

Ct: JP Piorkowski (b) (6)

Topic: TSCA Reform

Staff: Arvin Ganeson

Attendees:

Senator Merkley

Jeremiah Baumann, LA

Tamara Fucile, LD (tent)

Mike Zamore, COS (tent)

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\*\*\* 01/25/2010 05:19:09 PM \*\*\*

01268-EPA-3370

**Katharine Gage/DC/USEPA/US**  
01/26/2010 06:04 PM

To Marygrace Galston, Debbie Dietrich, Lisa Garcia, Paul Anastas, Alecia Allston, Barbara Bennett, Heidi Ellis, Christopher Busch, Clay Diette, Stephanie Owens, Bob Perciasepe, Craig Hooks, Michelle DePass, Steve Owens, Peter Silva, Peter Grevatt, Sarah Pallone, Mathy Stanislaus, Cynthia Giles-AA, Gina McCarthy, Alicia Kaiser, Lawrence Elworth, Seth Oster, Katharine Gage, Stephanie Washington, Diane Thompson, Arvin Ganesan, Marcus McClendon, Ray Spears, Sarah Dale, Georgia Bednar, Carla Veney, Scott Fulton, Bob Sussman, Allyn Brooks-LaSure, Richard Windsor, Eric Wachter, (b)(6) Robert Goulding, Lisa Heinzerling, David McIntosh

cc

bcc

Subject Wednesday, January 27, 2010 Schedule for Lisa P. Jackson

\*\*\* do not copy or forward this information \*\*\*

**Schedule for Lisa P. Jackson EPA Administrator  
Wednesday, January 27, 2010**

Notes:

Drivers

Shift Leaders

Staff Contact

(b) (6)

Robert Goulding  
202-596-0245

07:30 AM - 08:15 AM	Residence	Depart for Ariel Rios
08:15 AM - 08:45 AM	Administrator's Office	1 on 1 with Bob Sussman Ct: Georgia Bednar (OA) 564-9816
08:45 AM - 09:15 AM	Administrator's Office	Daily Meeting
09:15 AM - 10:00 AM	Administrator's Office	Office Time
10:00 AM - 10:30 AM	Administrator's Office	1 on 1 with Larry Elworth Ct: Cheryl Woodward (OA) 564-1274  Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)
10:30 AM - 11:15 AM	Administrator's Office	No Meetings
11:15 AM - 12:00 PM	Bullet Room	Beneficial Reuse Meeting with the Reuse Industry Ct: Georgia Bednar (OA) 564-9816

Staff:

Bob Sussman (OA)  
Avi Garbow, Laurel Celeste (OGC)  
Mathy Stanislaus, Matt Hale, Matt Straus, Lisa Feldt (OSWER)  
Lisa Heinzerling (OPEI)

## Attendees:

Thomas H. Adams, Executive Director, American Coal Ash Association

Greg Andersen, Vice President, Global Sales and Marketing, Harsco Minerals

Craig Campbell, Vice President, Environmental and Governmental Affairs, Lafarge North America

Lisa Cooper, Chief Executive Officer, PMI Ash Technologies, Dominic Dannessa, Vice President and Chief Technology Officer, USG Corporation,

Bill Gehrman, President, Headwaters Resources

Brett McMahon, Vice President, Business Development, Miller & Long Concrete Construction,

Thomas Pounds, President, CalStar Cement,

Robert Spoerri, President, Beneficial Reuse,

12:00 PM - 01:00 PM	Administrator's Office	No Meetings
01:00 PM - 01:30 PM	Administrator's Office	Briefing to discuss the Seattle Trip Ct: Robin Kime (OPEI) 564-6587  Staff: Diane Thompson, Heidi Ellis (OA) Lisa Heinzerling, John Frece (OPEI) Allyn Brooks-LaSure (OPA)
02:00 PM - 04:30 PM	Administrator's Office	Pre- Budget Release Briefing Ct: Mary Koskinen (OCFO) 202-564-0967  Staff: AA's of each Program Office (or their delegate) plus 2 staffers  Program Briefings:  OCFO/OPA 2:00 - 2:15 OSWER 2:15 - 2:30 OHS 2:30 - 2:35 ORD 2:35 - 2:50 OPPTS 2:50 - 3:05 - Steve Owens will call in to 202-564-4700  OAR 3:05 - 3:25 OW 3:25 - 3:50 OECA 3:50 - 4:00 OA/OPEI 4:00 - 4:10 OARM 4:10 - 4:20 OIA 4:20 - 4:25 OEI 4:25 - 4:30
04:30 PM - 05:00 PM	Administrator's Office	Briefing to discuss the Water Summit Agenda Ct: Lori Keyton (OW) 564-5768

## Staff:

Bob Perciasepe, Bob Sussman, Diane Thompson (OA)  
 Pete Silva, Mike Shapiro, Sarah Hisel-McCoy, Shawna Bergman, Lynn  
 Zipf (OW)

## Attendee:

Rob Greenwood, Ross and Associates

---

05:00 PM - 06:00 PM    Bullet Room

Senior Policy Meeting  
 Staff:

Bob Perciasepe, Bob Sussman, Diane Thompson, Scott Fulton, Eric  
 Wachter, Robert  
 Goulding, Heidi Ellis, Larry Elworth (OA)  
 David McIntosh, Arvin Ganesan, Sarah Pallone (OCIR)  
 Lisa Heinzerling, Robert Verchick (OPEI)  
 Cynthia Giles, Lisa Garcia (OECA)  
 Pete Silva (OW)  
 Steve Owens (OPPTS)  
 Michelle DePass (OIA)  
 Mathy Stanislaus, Lisa Feldt (OSWER)  
 Gina McCarthy (OAR)  
 Seth Oster, Allyn Brooks-LaSure (OPA)  
 Craig Hooks (OARM)  
 Barbara Bennett (OCFO)  
 Paul Anastas (ORD)  
 Peter Grevatt (OCHP)

(hookup to Admin's conference line needed)

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06:00 PM - 06:30 PM    Administrator's  
 Office

Personal

---

08:00 PM - 08:30 PM    Administrator's  
 Office

Depart for the Capitol

---

08:30 PM - 11:00 PM    H219 Capitol  
 Building

POTUS State of the Union Address  
 Ct: Ben Milakofsky, (202) 503-5477  
 Cabinet members are asked to arrive by 8:30 PM

The President's Address will begin at 9 PM

The Cabinet Hold Room is Capitol Building H219

---

\*\*\* 01/26/2010 06:02:49 PM \*\*\*

01268-EPA-3371

Bob Sussman/DC/USEPA/US

To Richard Windsor

01/26/2010 08:06 PM

cc Bob Perciasepe

bcc

Subject Fw: Meeting on Texas Clean Energy Project

Wanted to put this on your screen. (b)(5) Deliberative  
[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 01/26/2010 08:02 PM -----

From: Bob Sussman/DC/USEPA/US  
To: Al Armendariz/R6/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Robert Verchick/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA  
Date: 01/26/2010 07:54 PM  
Subject: Meeting on Texas Clean Energy Project

We met with representatives of the Texas Clean Energy Project this afternoon. The group was headed by Laura Miller, former mayor of Dallas. (b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator

US Environmental Protection Agency

01268-EPA-3372

**Bob Perciasepe/DC/USEPA/US**  
01/26/2010 09:50 PM

To Bob Sussman, Richard Windsor  
cc  
bcc  
Subject Re: Meeting on Texas Clean Energy Project

Thanks for the report Bob [REDACTED] (b)(5) Deliberative

Bob Perciasepe  
Office of the Administrator  
(o)202 564 4711  
(c) [REDACTED] (b) (6)  
Bob Sussman

----- Original Message -----

**From:** Bob Sussman  
**Sent:** 01/26/2010 08:06 PM EST  
**To:** Richard Windsor  
**Cc:** Bob Perciasepe  
**Subject:** Fw: Meeting on Texas Clean Energy Project

Wanted to put this on your screen. [REDACTED] (b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

---- Forwarded by Bob Sussman/DC/USEPA/US on 01/26/2010 08:02 PM ----

From: Bob Sussman/DC/USEPA/US  
To: Al Armendariz/R6/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Robert Verchick/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA  
Date: 01/26/2010 07:54 PM  
Subject: Meeting on Texas Clean Energy Project

We met with representatives of the Texas Clean Energy Project this afternoon. The group was headed by Laura Miller, former mayor of Dallas. [REDACTED] (b)(5) Deliberative

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b)(5) Deliberative

[Redacted]

[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-3373

**Richard Windsor/DC/USEPA/US**  
01/27/2010 11:05 AM

To Diane Thompson  
cc  
bcc

Subject Fw: Guest List For The First Lady's Box At The 2010 State Of The Union

(b)(5) Deliberative

----- Forwarded by Richard Windsor/DC/USEPA/US on 01/27/2010 11:04 AM -----

From: Allyn Brooks-LaSure/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Sarah Pallone/DC/USEPA/US@EPA  
Cc: Seth Oster/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA, Michael Moats/DC/USEPA/US@EPA  
Date: 01/27/2010 10:50 AM  
Subject: Fw: Guest List For The First Lady's Box At The 2010 State Of The Union

A few of these folks have green connections:

### **Li Boynton (Bellaire, TX)**

Li is a 18-year-old senior from Bellaire, Texas whose passion for science and global health has led her to new and potentially ground-breaking methods for testing the quality of drinking water. Almost one billion people lack access to safe drinking water, and 3.5 million people die each year from water-related diseases. Observing the limitations and significant expense of conventional chemical-specific tests, Boynton saw a need for a broader, more efficient assay for testing – and developed a bacteria bio-sensor. Li's work, which has the potential to be significant in improving public health worldwide, received the Intel International Science and Engineering Fair award for 2009.

Li has always had a passion for science and invention: in 5th grade, she designed a solar-distillation device after reading Life of Pi in case she ever got stranded in the middle of the ocean. Li is also an avid painter and participates in high school debate, which is where she originally developed her environmental interests.

### **Anita Maltbia (Kansas City, MO)**

Anita Maltbia is a native of Kansas City, Missouri, and has over 30 years experience in city government, and community activism. In August 2009, at the request of Congressman Emanuel Cleaver II, Anita assumed the director position of the Green Impact Zone. This initiative works with the residents of a 150 square-block area in the urban core of Kansas City to raise the quality of life environmentally, economically and socially. Energy efficiency and environmental conservation, including home weatherization and energy upgrades are critical goals as is job training and acquisition.

The Green Impact Zone in Kansas City, Missouri is an urban success story that reflects President Obama's national urban policy vision of breaking down silos and building strong communities of opportunity that will, in turn, contribute to the economic prosperity and the sustainability of cities and metropolitan areas.

-----  
M. Allyn Brooks-LaSure | Deputy Associate Administrator for Public Affairs

U.S. Environmental Protection Agency | Office of the Administrator

Phone: 202-564-8368 | Email: brooks-lasure.allyn@epa.gov

----- Forwarded by Allyn Brooks-LaSure/DC/USEPA/US on 01/27/2010 10:47 AM -----

From: "White House Press Office" <whitehouse-lists-noreply@list.whitehouse.gov>  
To: Allyn Brooks-LaSure/DC/USEPA/US@EPA  
Date: 01/27/2010 10:45 AM  
Subject: Guest List For The First Lady's Box At The 2010 State Of The Union

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THE WHITE HOUSE  
Office of the Press Secretary

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FOR IMMEDIATE RELEASE

January 27, 2010

**GUEST LIST FOR THE FIRST LADY'S BOX AT THE 2010 STATE OF THE UNION**

**Mrs. Michelle Obama**

**Dr. Jill Biden**

**Clayton Armstrong (Washington, DC)**

Clayton was a DC Scholar with the White House Office of Intergovernmental Affairs during the summer of 2009. He is currently a freshman at the University of Arizona. Clayton grew up in Southeast Washington, DC and graduated from Ballou High School where he was the captain of the football team.

**Li Boynton (Bellaire, TX)**

Li is a 18-year-old senior from Bellaire, Texas whose passion for science and global health has led her to new and potentially ground-breaking methods for testing the quality of drinking water. Almost one billion people lack access to safe drinking water, and 3.5 million people die each year from water-related diseases. Observing the limitations and significant expense of conventional chemical-specific tests, Boynton saw a need for a broader, more efficient assay for testing - and developed a bacteria bio-sensor. Li's work, which has the potential to be significant in improving public health worldwide, received the Intel International Science and Engineering Fair award for 2009.

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**Jeffrey Brown (Philadelphia, PA)**

Jeffrey Brown is the founder, President and CEO of Brown's Super Stores, Inc., a growing ten-store supermarket chain trading under the ShopRite banner. As one of the leading supermarkets in the Philadelphia area, the company employs 2,300 associates who are committed to making a difference for their customers and the local communities they serve.

Brown graduated from Babson College, Massachusetts with a degree in entrepreneurial studies. He resides in southern New Jersey with his wife Sandy and their four sons Joshua, Alex, Lenny, and Scott.

**Mayor Mick Cornett (Oklahoma City, OK)**

Mick Cornett became Oklahoma City's 35th mayor on March 2, 2004, and was re-elected on March 7, 2006. In 2007, he was elected as a Trustee of the U.S. Conference of Mayors. Cornett is also the national President of the organization representing Republican Mayors and Local Officials.

Cornett is a graduate of the University of Oklahoma, where he earned a degree in journalism, and after graduation embarked on a 20 year career in broadcast journalism. In 2001, Cornett was elected to City Council, where he served until becoming mayor.

Cornett was born and raised in Oklahoma City, and together, he and his wife Lisa have raised three sons - Michael, Casey and Tristan.

**Tina Dixon (Allentown, PA)**

Tina is currently employed by Lehigh Valley Health Network as a Technical Partner Trainee, a job that she was able to secure through the EARN program (Employment Advancement and Retention Network - a program focused primarily on Paid Work Experience placement) at the Allentown, Pennsylvania CareerLink in preparation to re-enter the workforce after years as a stay-at-home mother to three girls, Olivia, Allison, and Lauren.

It was at CareerLink that Tina met President Obama on the first White House to Main Street Tour in December 2009.

**Gabriela Farfan (Madison, WI)**

Gabriela is a 19-year old from Madison, Wisconsin whose passion for geology started at

a young age – collecting rocks as a seven-year old with her father. In 2009, as a senior in high school, her hard-work and research won her one of the top awards in the Intel Science Talent Search, winning a scholarship for her independent research describing why certain gemstones appear to change color when viewed from different angles – a finding that directly affects the gemstone industry and may have applications in the nano and materials sciences. Gabriela is now in college as a freshman at Stanford University, and a declared geology major.

Gabriela is also a National Hispanic Scholar awardee, has two very proud parents, Abigail Farfan and Carlos Peralta, and has a real dedication to the arts: singing, drawing, painting, speaking French and Spanish, and following operas and musicals.

### **Julia Frost (Jacksonville, NC)**

Julia is a former Marine bandsman trumpeter, a wife of an active duty Marine, and current student at Coastal Carolina Community College. She served a four year term with the United States Marine Corps stationed at Marine Corps Base Hawaii. Her husband, Sergeant Ryan Frost, is also a Marine bandsman, stationed at Camp Lejeune North Carolina.

With the aid of the GI Bill, Julia is currently enrolled in the Elementary Education program through a partnership between Coastal Carolina Community College and the University of North Carolina, Wilmington. Julia hopes to complete her associate degree this summer and bachelors in the spring of 2012.

Dr. Biden, a community college professor, first met Julia when she visited her campus last October as part of the Administration's ongoing efforts to support America's community colleges and their students.

### **Ping Fu (Chapel Hill, NC)**

Ping Fu co-founded Geomagic, a company which pioneers technologies that fundamentally change the way products are designed, engineered and manufactured around the world from automobiles to medical devices. Geomagic, under her leadership, has been an active participant in the SBA's Small Business Innovation Research (SBIR) program. Fu has led Geomagic to deliver broad-based economic impact to the US economy with tangible results – the company tripled its customer base and employment while achieving high growth and profitability. As such, the NSF awarded Geomagic the prestigious Tibbetts Award for exemplifying the very best in SBIR.

Fu has more than 25 years of software industry experience in database, internet technology, and visual computing. Before Geomagic, she was the Director of Visualization at the National Center for Supercomputing Applications and is also, actively involved in promoting entrepreneurship and women in mathematics and

sciences.

### **Janell Holloway (Washington, DC)**

Janell was a DC Scholar with the White House Domestic Policy Council during the summer of 2009. She is currently a freshman at Harvard University where she is a member of the Harvard College chapter of the American Red Cross, dances with the CityStep dance troupe, and is active in the Black Student Association. Janell is interested in the connection between child abuse and youth violence and has served as a volunteer at Safe Shores: DC Children's Advocacy Center for more than three years. She is a native of Washington, DC and graduated from Benjamin Banneker Academic High School.

### **Ambassador Raymond Joseph**

In 1990 Raymond Joseph was called to be Haiti's Chargé d'Affaires in Washington and his country's representative at the Organization of American States. After helping with the first democratic elections in December 1990, he returned to the Haiti Observateur where he remained until he was called back to Washington in March 2004, where he is currently the Ambassador.

Joseph is a graduate pastor from the Moody Bible Institute in Chicago, a B. A. holder in Anthropology from Wheaton College, Wheaton, Illinois. He also has a Master's degree in Social Anthropology/Linguistics from the University of Chicago.

### **Don Karner (Phoenix, AZ)**

Don Karner is the President, CEO, and Co-Founder of eTec (Electric Transportation Engineering Corporation). As President of eTec, Don provides strategic direction, conducts research and leads the company's development of new products and services.

eTec received \$99.8 million from the Recovery Act's Battery and Electric Vehicle Grant program, which the company will match with another \$99.8 million in locally raised funds. The funding will be used to manufacture and implement the charging infrastructure for an 11 city pilot program intended to research electric vehicle charging infrastructure. Cities involved are Phoenix, Tucson, San Diego, Salem, Portland, Eugene, Seattle, Nashville, Knoxville, and Chattanooga. The award will create at least 50 new permanent clean economy jobs working directly at eTec, has already saved numerous positions, and will require construction workers across the country to implement the project.

Don participated in a Recovery Act roundtable discussion with Vice President Biden in Phoenix in November 2009 where they discussed the importance of the public/private partnership to a green economy.

### **Janell Kellett (Sun Prairie, WI)**

Janell has served as a lead volunteer within the Wisconsin Army National Guard for approximately six years, including during her husband's fifteen month deployment from 2005-2006 and recent twelve month deployment from 2009-2010. Janell's husband, Major Michael Hanson, serves with the 32<sup>nd</sup> Infantry Brigade Combat Team and recently returned home to Wisconsin. During Major Hanson's deployment, Janell served the 3,200 families of the 32<sup>nd</sup> Brigade and over 50 volunteers of the 32<sup>nd</sup> Brigade with dedication. Janell was honored for her service with a 2009 Wisconsin National Guard Volunteer of the Year award by the Wisconsin State Family Program. Under Janell's leadership, the 32<sup>nd</sup> Brigade was selected for the prestigious Department of Defense Reserve Family Readiness Award in December 2009 for the Army National Guard. Additionally, Janell served as the Battalion Volunteer for the 2<sup>nd</sup> Battalion, 128<sup>th</sup> Infantry when it received the same award, the Department of Defense Reserve Family Readiness Award, in 2006.

Janell and Michael have two children, Jaclene and Lucas.

#### **Rebecca Knerr (Chantilly, VA)**

Rebecca is representing her husband, Captain II Joseph Knerr, the Task Force Leader of Fairfax County's Virginia Task Force 1 serving in Haiti. Having worked as a Fairfax County Firefighter for 15 years, Joe currently serves as Station Commander at Fairfax Fire and Rescue Station 18. He initially joined the USAR team in 1998 serving in a variety of operational capacities and now in leadership positions. Joe is also involved in the coordination, teaching and training of other international rescue teams. A former Fairfax County Firefighter and Paramedic herself, Rebecca works as an Emergency Physician's Assistant in a Northern Virginia Hospital and for Fairfax County Fire and Rescue Department developing and delivering emergency medical services education to uniformed personnel. Rebecca, 24 month old son Jackson, and 12 week old daughter Grace are eager to welcome Joe home.

#### **Chris Lardner (Albuquerque, NM)**

Chris Lardner is a patient service manager at the New Mexico Heart Institute and her husband, Scott, owns a small family business. Together they have three children, two daughters in college at Regis University in Denver, Danielle and Caitlin, and a son in 7th grade, Sean. As a result of the economic downturn they resorted to paying for some of their daughters' education with a credit card. Lardner realized she was close to reaching the card limit, so she contacted the college to change the card on file. The school mistakenly charged another payment to the original card, which then put her above the limit. In response, the credit card company more than tripled her rate to nearly 30 percent, despite of record of responsibility with her finances and payments. Lardner submitted a letter to the President online expressing her frustration with the rate hikes leveled as a result of the mistaken charge.

Chris shared her story when she introduced the President at a Town Hall in May 2009 – since that time her issue with the credit card company was eventually resolved; their rate was lowered to 7 percent and the company returned the over-the-limit fees that had been charged.

In May 2009, President Obama signed the credit card reform bill that bans credit card companies from unfairly raising interest rates on existing balances, protects against unfair fee traps (including requiring the consumer's permission before processing an over-the-limit transaction), and increases accountability and transparency from credit card companies.

**Anita Maltbia (Kansas City, MO)**

Anita Maltbia is a native of Kansas City, Missouri, and has over 30 years experience in city government, and community activism. In August 2009, at the request of Congressman Emanuel Cleaver II, Anita assumed the director position of the Green Impact Zone. This initiative works with the residents of a 150 square-block area in the urban core of Kansas City to raise the quality of life environmentally, economically and socially. Energy efficiency and environmental conservation, including home weatherization and energy upgrades are critical goals as is job training and acquisition.

The Green Impact Zone in Kansas City, Missouri is an urban success story that reflects President Obama's national urban policy vision of breaking down silos and building strong communities of opportunity that will, in turn, contribute to the economic prosperity and the sustainability of cities and metropolitan areas.

**Kimberly Munley (Killeen, TX)**

Kimberly was born and raised in North Carolina. In 1999, she completed Basic Law Enforcement Training and began her career in law enforcement. Kimberly spent the next 11 years working as a University of North Carolina, Wilmington undercover vice/narcotics agent, a Wrightsville Beach uniformed patrol officer and beach patrol officer, a Special Police Officer for New Hanover County Regional Medical Center, a Chemical, Biological, Radiological, and Nuclear Operations Specialist Soldier in the United States Army, and is currently a federal police officer serving on the Special Reaction Team for the Fort Hood Police Department in Fort Hood, Texas.

**Cindy Parker-Martinez (Belle Isle, FL)**

Cindy is a mother of two young children, who shared her story of the problems her family faces with the current health care system at a Health Care Community Discussion held at the University of Central Florida in Orlando, one of thousands of discussions held nationwide in December 2008. In April 2008, Cindy, her husband, and her son were all denied insurance coverage on the individual insurance market because of pre-existing conditions. Her 11-month old daughter was also denied coverage due to an insurance company age requirement of 12 months. Both Cindy and her husband are

currently uninsured because they cannot afford the insurance offered at her husband's employer. Although they previously paid their premium, they could not afford to keep up the monthly payments after receiving thousands of dollars in medical bills from her husband's unexpected 6-day hospital stay for pneumonia. Their family's income is too high for them to qualify for Medicaid. Cindy and her husband currently have no insurance and have thousands of dollars in medical debt.

### **Deborah Powell (Hugo, OK)**

Deborah Powell is a Native American Development Specialist for the Housing Authority of the Choctaw Nation of Oklahoma. Having earned only a high school diploma, Powell built her experience outside of college and soon became interested in accounting and finance. After spending 43 years of her life in her hometown of Flagstaff, Arizona, she moved to Oklahoma in April 2004 for a change of pace and is currently working on a project funded by the Recovery Act. A member of the Choctaw Nation, she is currently helping to track budgets and ensure bids for independent elderly homes. This project, which is still under construction, will provide homes for more than 86 elderly people in the Choctaw Nation. Powell is recently remarried, and enjoys hunting, fishing, and spending time with her family.

### **Sergeant First Class Andrew Rubin (Savannah, GA)**

Sergeant First Class Andrew Rubin entered the Army in 1997 from Boston, Massachusetts and completed One Station Unit Training, Airborne Training and Ranger Assessment and Selection at Fort Benning, Georgia before becoming a Ranger assigned to the 75<sup>th</sup> Ranger Regiment.

Andrew has spent his entire military career serving in the 75<sup>th</sup> Ranger Regiment in positions of increasing responsibility. He is currently assigned to 1<sup>st</sup> Battalion, 75<sup>th</sup> Ranger Regiment, headquartered in Savannah, Georgia, which recently redeployed from a combat tour supporting operations in Iraq and Afghanistan in December 2009.

SFC Rubin currently leads 45 Rangers as a Rifle Company Platoon Sergeant. In the Regiment, he has also served as an anti-tank gunner, sniper, sniper team leader, sniper section leader, and rifle squad leader, Ranger Assessment and Selection Instructor, and Rifle Platoon Sergeant.

SFC Rubin has served four combat tours in Iraq and two combat tours in Afghanistan. He has been involved in countless fire fights, was wounded on two separate occasions and has received two awards for Valor. During his recent deployment to Iraq, he was shot by enemy forces while risking his life to save one of his Rangers who lay wounded and immobilized in the streets of As Sadiyah, Iraq during an intense firefight. For that action, he received the Bronze Star with Valor and the Purple Heart. Previously, he was wounded in Afghanistan when he was hit by a rocket propelled grenade during an

enemy ambush.

SFC Rubin and his wife Megan have three children, Michael, Joseph and Kendal.

**Mark Todd (Killeen, TX)**

Mark Todd was born and raised in San Diego, California. Todd enlisted in the United States Army as a Military Policeman in 1985. He was selected to attend Military Working Dog Handlers Course and later assigned as a K-9 handler at Fort Devens, Massachusetts, Fort Polk, Louisiana, and Wurezburg, Germany. Later he was assigned as a K-9 Trainer and Instructor at Lackland Air Force Base Texas. Todd earned an Associate in Applied Science – Instructor of Technology and Military Science from the Community College of the Air Force in 1997. His last two assignments were Grafenwoehr, Germany and Fort Hood, Texas. In 2007, he joined the Directorate of Emergency Services and is currently the Lead Police Officer, Military Working Dog Branch – Acting Chief at Fort Hood Texas. Todd is married to Lisa Dalton and together they have three children; Jennifer, Mark Jr., and Kristyn; and two grandsons.

**Army Specialist (ret.) Scott Vycital (Ft. Collins, CO)**

Specialist Scott Vycital served as a paratrooper in the 82<sup>nd</sup> Airborne Division. Vycital spent 8 months deployed in Iraq as a Specialist with 2nd Platoon, Bravo Company, 3-505 Parachute Infantry Regiment and was medically retired due to injuries received in defense of Operation Iraqi Freedom. On February 15, 2004, while on patrol of suspected mortar sites, his fire team was engaged by enemy fire and he sustained gunshot wounds on the right side of the face, neck, and shoulder. As a result of his injuries, the right side of SPC Vycital's face has been paralyzed and he lost the hearing in his right ear. After spending some time rehabilitating from injuries, SPC Vycital returned to school and with the assistance of the VA and the Army Wounded Warrior (AW2) program. He completed his degree in Business Administration with an Accounting concentration from Colorado State University in December 2008. Following graduation, with the help of his AW2 advocates SPC Vycital landed a position within the Federal Highway Administration. He has since been promoted to the position of Programs & Planning Financial Specialist and will have been with the Agency for one year in March. The President's executive order on employing Veterans in the Federal Government has made employing Veterans like Vycital a priority. Vycital resides in Fort Collins, CO with his wife of 7 years, Jarah, and has a 4 year old son, Breccan, and a 17 month old daughter, Micah.

**Trevor Yager (Indianapolis, IN)**

Trevor Yager began his career in 1995 while in college by founding TrendyMinds, a full-service advertising/public relations firm. He earned a Bachelor of Arts degree in psychology from Anderson University and went on to work with various motor sports sponsors, team owners and sanctioning bodies. Today, at TrendyMinds, Yager provides strategic planning, business development, marketing and technology guidance and

support to various local, national and international clients. In 2009 the agency grew by more than 200 percent, doubled the number of employees and gained 15 new accounts. Yager credits President Obama's welcoming climate for small businesses, including the many initiatives under the Recovery Act, for this success.

He is also passionate about helping non-profits and TrendyMinds is committed to giving back to the community by donating in-kind services to organizations throughout Indiana.

Yager resides in Indianapolis with his partner of seven years, Tyler Murray. The two have recently started the process of adoption and look forward to adding a new member to their family.

**Juan Yépez (Lawrence, MA)**

Juan Yépez, and his brother Luis, are Ecuadorian-natives, who in ten short years, have built a successful and growing commercial real estate company in addition to growing Mainstream Global, a worldwide distributor of computer products, consumer electronics, and electronic components, in mills once inhabited by earlier generations of immigrants.

The Yépez brothers were the recipients of the 2009 Small Business Administration Phoenix award for recovering from a major flood that destroyed almost \$400,000 of inventory while still managing to flourish in the midst of an economic downturn. They believe that doing business in an area hit by 17 percent unemployment is more than just giving back and that hiring first generation Americans like themselves who want to work and contribute to society is the cornerstone of long-term success.

**Phil Schiliro, Assistant to the President and Director, Office of Legislative Affairs**

**Tina Tchen, Deputy Assistant to the President and Director, Office of Public Engagement,  
Executive Director, White House Council on Women and Girls**

# #

01268-EPA-3374

(b)(6) Privacy  
01/27/2010 07:29 PM  
Please respond to  
(b)(6) Privacy

To: Richard Windsor  
cc  
bcc  
Subject: Fw: Google Alert - obama transition EPA

Sent via BlackBerry by AT&T

---

**From:** Google Alerts <googlealerts-noreply@google.com>  
**Date:** Thu, 28 Jan 2010 00:19:34 +0000  
**To:** <(b)(6) Privacy>  
**Subject:** Google Alert - obama transition EPA

### Google Web Alert for: **obama transition EPA**

[From Climate Bill Co-Sponsor to EPA Critic, Murkowski's Motives ...](#)

As Senate Climate Bill Languishes, Lobbyists Press EPA on Carbon Regs ... grist.org — by Daniel J. Weiss  
During President-Elect Barack Obama's transition, ...

[San Francisco Sentinel » Blog Archives » REGIONAL EPA DIRECTOR ...](#)

In an interview, Jared Blumenfeld, administrator for the EPA's Pacific Southwest region, said the case meets the standards of the Obama administration's ...

---

Tip: Use site restrict in your query to search within a site (site:nytimes.com or site:.edu). [Learn more.](#)

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[Manage](#) your alerts.

01268-EPA-3375

Richard  
Windsor/DC/USEPA/US  
01/28/2010 02:12 PM

To Adora Andy  
cc  
bcc

Subject Re: Charleston Gazette Blog: EPA offers straight talk on coal permit 'clarity'

Nice

Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 01/28/2010 01:20 PM EST  
**To:** Richard Windsor; Bob Perciasepe; Bob Sussman; Diane Thompson; Peter Silva; David McIntosh; Arvin Ganesan; Gregory Peck  
**Cc:** Seth Oster; Allyn Brooks-LaSure  
**Subject:** Charleston Gazette Blog: EPA offers straight talk on coal permit 'clarity'

## **[EPA offers straight talk on coal permit 'clarity'](#)**

by Ken Ward Jr.

My buddy David Fahrenthold at The Washington Post this morning gave readers his take on the recent happening in coal country, with a piece headlined, "[EPA crackdown on mountaintop coal mining criticized as contradictory.](#)"

Here's what we in the business call "the nut graph" –

*... To many people in Appalachia, the orders coming out of Washington, especially one this month, have appeared contradictory and mysterious, signing off on some mines and blocking others. Environmentalists are unhappy because they fear federal officials are losing their nerve to take on the powerful coal industry. The coal industry is unhappy because it thinks the administration is on the brink of giving in to the green crowd.*

*To each side, it looks like the EPA hasn't made up its mind. Which would make now the time to yell as loudly as possible.*

The story quotes WVDEP Secretary Randy Huffman explaining his thought that EPA's appearance of indecision on mountaintop removal is creating some of the bitter conflict here in the coalfields:

*They didn't have a well-thought-out plan whenever they did this. And that's really been the basis of the uproar. [Confusion over the EPA's intentions] creates fear, and that brings out the worst in people.*

Maybe so. But the part of the story that floored me was where the assistant EPA administrator for water, Peter Silva, took on directly and forcefully this idea that the industry and its coalfield political friends are just looking for the Obama administration to "clarify" what the permit requirements are going to be. Said Silva:

***The notion of ‘clarity’ invoked by some West Virginia officials and industry representatives has too often meant letting coal companies do as they please, with little or no consideration for the harmful impacts on Americans living in coal country.***

Wow. That’s and unusually straight-forward response from a federal agency. And don’t forget, this is a guy whose nomination to the EPA slot was [briefly blocked by Sen. Robert C. Byrd, D-W.Va.](#) Sen. Byrd apparently lifted his hold on Silva’s nomination after he met with Silva.

There was apparently more to Silva’s prepared statement that wasn’t included in the Post story ... here’s the rest of it:

*Under this Administrator, the EPA believes clarity comes from following emerging science and the law and sending a simple message that we are willing to work with companies to figure out how to mine coal while reducing the environmental and health impacts. [EPA’s recent decision on West Virginia’s Hobet mine](#) is an example [where EPA’s collaboration with the company](#) cut stream impacts by half, reduced water contamination, increased the amount of coal extracted, and protected both public health and hundreds of jobs.”*

(b)(5) Deliberative



Lisa P. Jackson

*Lisa Jackson is a chemical engineer and Administrator of the U.S. Environmental Protection Agency.*

01268-EPA-3383

**Richard Windsor/DC/USEPA/US**  
02/01/2010 07:55 AM

To Seth Oster  
cc  
bcc  
Subject Re: For your consideration...

Funny. [REDACTED] (b)(5) Deliberative [REDACTED]

[REDACTED]

----  
The Business of the Environment

I, along with the rest of the Cabinet, am working to support President Obama's efforts to create American jobs that will restore our country's economic strength and provide a foundation for long-term growth. To a large extent, environmental regulations touch every facet of the American economy. [REDACTED] (b)(5) Deliberative

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

Seth Oster

----- Original Message -----

**From:** Seth Oster  
**Sent:** 02/01/2010 07:38 AM EST  
**To:** Richard Windsor  
**Subject:** Re: For your consideration...

My thoughts.....

We have developed a draft op-ed for the Murkowski Amendment -- (b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Seth  
Richard Windsor

----- Original Message -----

**From:** Richard Windsor  
**Sent:** 01/30/2010 07:16 AM EST  
**To:** Seth Oster; Allyn Brooks-LaSure; Bob Perciasepe; Diane Thompson; Bob Sussman; Lisa Heinzerling; Michael Moats  
**Subject:** For your consideration...

The idea for the attached op-ed has been brewing with me since the State of the State. (b)(5)

(b)(5) Deliberative

[attachment "EPA and the Economy.doc" deleted by Seth Oster/DC/USEPA/US]

01268-EPA-3386

Gina McCarthy/DC/USEPA/US

To Adora Andy

02/01/2010 12:40 PM

cc Allyn Brooks-LaSure, Brendan Gilfillan, Richard Windsor,  
Seth Oster

bcc

Subject Re: HEADS UP: WH on how the Budget handles C&amp;T

(b)(5) Deliberative

Adora Andy

FYI FROM WH Background on how the...

02/01/2010 12:09:18 PM

From: Adora Andy/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA  
Cc: Brendan Gilfillan/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
Date: 02/01/2010 12:09 PM  
Subject: HEADS UP: WH on how the Budget handles C&T

## FYI FROM WH

### Background on how the budget handles cap and trade:

The President's FY 2011 budget explicitly calls for legislation to implement a comprehensive market-based climate change policy that will reduce greenhouse gas emissions in the range of 17 percent in 2020 and more than 80 percent in 2050. The Administration's position is that such a policy should be deficit neutral, and thus the budget shows that the NET revenues from climate change policy should be zero. The budget makes it clear that revenues generated from climate change policy will be used to compensate vulnerable families, communities and businesses during the transition to a clean energy economy. Receipts will also be reserved for investments to reduce greenhouse gas emissions, including support of clean energy technologies, and in adapting to the impacts of climate change, both domestically and in developing countries.

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

01268-EPA-3387

**Richard Windsor/DC/USEPA/US**  
02/01/2010 12:48 PM

To Gina McCarthy, Adora Andy  
cc Allyn Brooks-LaSure, Brendan Gilfillan, Seth Oster  
bcc  
Subject Re: HEADS UP: WH on how the Budget handles C&T

(b)(5) Deliberative

Gina McCarthy

----- Original Message -----

**From:** Gina McCarthy  
**Sent:** 02/01/2010 12:40 PM EST  
**To:** Adora Andy  
**Cc:** Allyn Brooks-LaSure; Brendan Gilfillan; Richard Windsor; Seth Oster  
**Subject:** Re: HEADS UP: WH on how the Budget handles C&T

(b)(5) Deliberative

Adora Andy FYI FROM WH Background on how the... 02/01/2010 12:09:18 PM

From: Adora Andy/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA  
Cc: Brendan Gilfillan/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
Date: 02/01/2010 12:09 PM  
Subject: HEADS UP: WH on how the Budget handles C&T

**FYI FROM WH**

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Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency

Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

01268-EPA-3389

Gina McCarthy/DC/USEPA/US

To Richard Windsor

02/01/2010 12:56 PM

cc Adora Andy, Allyn Brooks-LaSure, Brendan Gilfillan, Seth Oster

bcc

Subject Re: HEADS UP: WH on how the Budget handles C&T

(b)(5) Deliberative

Richard Windsor (b)(5) Deliberative 02/01/2010 12:48:55 PM

From: Richard Windsor/DC/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA  
Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
Date: 02/01/2010 12:48 PM  
Subject: Re: HEADS UP: WH on how the Budget handles C&T

(b)(5) Deliberative

Gina McCarthy

----- Original Message -----

From: Gina McCarthy  
Sent: 02/01/2010 12:40 PM EST  
To: Adora Andy  
Cc: Allyn Brooks-LaSure; Brendan Gilfillan; Richard Windsor; Seth Oster  
Subject: Re: HEADS UP: WH on how the Budget handles C&T

(b)(5) Deliberative

Adora Andy FYI FROM WH Background on how the... 02/01/2010 12:09:18 PM

From: Adora Andy/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA  
Cc: Brendan Gilfillan/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
Date: 02/01/2010 12:09 PM  
Subject: HEADS UP: WH on how the Budget handles C&T

FYI FROM WH

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Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
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andy.adora@epa.gov

01268-EPA-3390

**Richard Windsor/DC/USEPA/US**  
02/01/2010 12:57 PM

To Seth Oster, Allyn Brooks-LaSure, Adora Andy, Betsaida Alcantara  
cc  
bcc

Subject Fw: Google Alert - lisa jackson epa

When you go to the Grio's website, I'm right there. Cool. Thanks to whoever worked this. **(b)(5)**  
[REDACTED] CNN just did a feature on the top 100.

----- Forwarded by Richard Windsor/DC/USEPA/US on 02/01/2010 12:56 PM -----

From: Google Alerts <googlealerts-noreply@google.com>  
To: Richard Windsor/DC/USEPA/US@EPA  
Date: 02/01/2010 11:16 AM  
Subject: Google Alert - lisa jackson epa

---

## Google News Alert for: **lisa jackson epa**

[TheGrio's 100: \*\*Lisa Jackson\*\*, Washington's lead environmentalist](#)

The Grio

**Jackson's** leadership comes at a pivotal time for the **EPA** in the nation's policymaking. The White House and Congress have taken the threat of climate change ...

[See all stories on this topic](#)

[Finding gives US \*\*EPA\*\* power to regulate greenhouse-gas emissions](#)

Petroleum Economist

... "is now authorised and obligated to take reasonable efforts to reduce greenhouse pollutants under the Clean Air Act (CAA)", said **EPA** head **Lisa Jackson**. ...

[See all stories on this topic](#)

Tip: Use quotes ("like this") around a set of words in your query to match them exactly. [Learn more](#).

[Remove](#) this alert.

[Create](#) another alert.

[Manage](#) your alerts.

01268-EPA-3391

**Richard Windsor/DC/USEPA/US**  
02/01/2010 12:59 PM

To: Gina McCarthy  
cc: Adora Andy, Allyn Brooks-LaSure, Brendan Gilfillan, Seth Oster  
bcc:

Subject: Re: HEADS UP: WH on how the Budget handles C&T

Let's all atk after I kick off the Senior Staff mtg. Tx.  
Gina McCarthy

----- Original Message -----

**From:** Gina McCarthy  
**Sent:** 02/01/2010 12:56 PM EST  
**To:** Richard Windsor  
**Cc:** Adora Andy; Allyn Brooks-LaSure; Brendan Gilfillan; Seth Oster  
**Subject:** Re: HEADS UP: WH on how the Budget handles C&T

(b)(5) Deliberative  
[Redacted]

Richard Windsor (b)(5) Deliberative 02/01/2010 12:48:55 PM

**From:** Richard Windsor/DC/USEPA/US  
**To:** Gina McCarthy/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA  
**Cc:** Allyn Brooks-LaSure/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
**Date:** 02/01/2010 12:48 PM  
**Subject:** Re: HEADS UP: WH on how the Budget handles C&T

(b)(5) Deliberative  
[Redacted]

Gina McCarthy

----- Original Message -----

**From:** Gina McCarthy  
**Sent:** 02/01/2010 12:40 PM EST  
**To:** Adora Andy  
**Cc:** Allyn Brooks-LaSure; Brendan Gilfillan; Richard Windsor; Seth Oster  
**Subject:** Re: HEADS UP: WH on how the Budget handles C&T

(b)(5) Deliberative  
[Redacted]

Adora Andy FYI FROM WH Background on how the... 02/01/2010 12:09:18 PM

**From:** Adora Andy/DC/USEPA/US  
**To:** Richard Windsor/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA  
**Cc:** Brendan Gilfillan/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Seth

Oster/DC/USEPA/US@EPA  
Date: 02/01/2010 12:09 PM  
Subject: HEADS UP: WH on how the Budget handles C&T

---

## FYI FROM WH

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Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

01268-EPA-3392

**Michael Moats/DC/USEPA/US**

To Richard Windsor

02/01/2010 01:02 PM

cc Allyn Brooks-LaSure

bcc

Subject Re: ACTION draft budget mailer for today

Thanks. Will get it prepped. FYI -- OCFO is triple checking numbers so Rob is on standby for revised TPs should they be necessary.

-----

Michael Moats  
Speechwriter  
US EPA | Office of the Administrator  
Office: 202-564-1687  
Mobile: 202-527-4436

Richard Windsor

I made a change to the first paragraph...

02/01/2010 12:54:45 PM

From: Richard Windsor/DC/USEPA/US  
To: Michael Moats/DC/USEPA/US@EPA  
Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA  
Date: 02/01/2010 12:54 PM  
Subject: Re: ACTION draft budget mailer for today

I made a change to the first paragraph in CAPs. Otherwise great - tx.

Michael Moats

Administrator, attached and pasted bel...

02/01/2010 11:28:08 AM

From: Michael Moats/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA  
Date: 02/01/2010 11:28 AM  
Subject: ACTION draft budget mailer for today

Administrator, attached and pasted below is a draft mailer on the budget. Allyn has looked over, and we want to get your thoughts/sign-off. Thanks.

[attachment "20100201 Budget Mass Mailer (2).doc" deleted by Michael Moats/DC/USEPA/US]

-----

**DRAFT****Administrator Lisa P. Jackson****Budget Mass Mailer****February 1, 2010**

Colleagues:

(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative

[Redacted text block]

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

Sincerely,  
Lisa P. Jackson, Administrator

-----  
Michael Moats  
Speechwriter  
US EPA | Office of the Administrator  
Office: 202-564-1687  
Mobile: 202-527-4436

01268-EPA-3393

**Richard  
Windsor/DC/USEPA/US**  
02/01/2010 03:15 PM

To Mathy Stanislaus, Lisa Feldt  
cc Bob Perciasepe, Diane Thompson  
bcc  
Subject Reminder

I asked for an investigation into the PEER allegations that the EPA personnel involved in the coal ash partnership had too cozy a relationship with industry. Did the IG already look into that? If so, what did they say? Who is looking into that? Tx, Lisa

01268-EPA-3394

**Mathy  
Stanislaus/DC/USEPA/US**  
02/01/2010 06:18 PM

To Richard Windsor  
cc Bob Perciasepe, Diane Thompson, "Lisa Feldt"  
bcc  
Subject Re: Reminder

The IG issued a special report dated November 2, 2009 titled "Response to EPA Administrator's Request for Investigation into Allegations of a Cover-up in the Risk Assessment for the Coal Ash Rulemaking". As you may be aware the bottom line of this was that there was no evidence of criminal activity or improper action involving a cover-up in the risk assessment process for the rulemaking. As part of that report though (in the context of a footnote), the IG indicated that they identified a potential issue related to EPA's promotion of beneficial use through its Coal Combustion Product partnership and have referred the question how EPA established a reasonable determination for these endorsements to the appropriate OIG office for evaluation. We are checking with the IG's office on the status of that.

(b)(5) Deliberative

Richard Windsor

----- Original Message -----

**From:** Richard Windsor  
**Sent:** 02/01/2010 03:15 PM EST  
**To:** Mathy Stanislaus; Lisa Feldt  
**Cc:** Bob Perciasepe; Diane Thompson  
**Subject:** Reminder

I asked for an investigation into the PEER allegations that the EPA personnel involved in the coal ash partnership had too cozy a relationship with industry. Did the IG already look into that? If so, what did they say? Who is looking into that? Tx, Lisa

01268-EPA-3395

**Richard Windsor/DC/USEPA/US**  
02/01/2010 07:15 PM

To Mathy Stanislaus  
cc  
bcc  
Subject Re: Reminder

Tx  
Mathy Stanislaus

----- Original Message -----

**From:** Mathy Stanislaus  
**Sent:** 02/01/2010 06:18 PM EST  
**To:** Richard Windsor  
**Cc:** Bob Perciasepe; Diane Thompson; Lisa Feldt  
**Subject:** Re: Reminder

The IG issued a special report dated November 2, 2009 titled "Response to EPA Administrator's Request for Investigation into Allegations of a Cover-up in the Risk Assessment for the Coal Ash Rulemaking". As you may be aware the bottom line of this was that there was no evidence of criminal activity or improper action involving a cover-up in the risk assessment process for the rulemaking. As part of that report though (in the context of a footnote), the IG indicated that they identified a potential issue related to EPA's promotion of beneficial use through its Coal Combustion Product partnership and have referred the question how EPA established a reasonable determination for these endorsements to the appropriate OIG office for evaluation. We are checking with the IG's office on the status of that.

(b)(5) Deliberative

Richard Windsor

----- Original Message -----

**From:** Richard Windsor  
**Sent:** 02/01/2010 03:15 PM EST  
**To:** Mathy Stanislaus; Lisa Feldt  
**Cc:** Bob Perciasepe; Diane Thompson  
**Subject:** Reminder

I asked for an investigation into the PEER allegations that the EPA personnel involved in the coal ash partnership had too cozy a relationship with industry. Did the IG already look into that? If so, what did they say? Who is looking into that? Tx, Lisa

01268-EPA-3398

**Richard Windsor/DC/USEPA/US**  
02/02/2010 01:48 PM

To Adora Andy  
cc  
bcc

Subject Re: CNNMoney.com: Obama's climate change police

(b)(5) Deliberative

Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 02/02/2010 01:43 PM EST  
**To:** Richard Windsor; Bob Perciasepe; Bob Sussman; Gina McCarthy; Diane Thompson; David McIntosh; Arvin Ganesan  
**Cc:** Seth Oster; Allyn Brooks-LaSure; Stephanie Owens  
**Subject:** CNNMoney.com: Obama's climate change police

## Obama's climate change police

By [Steve Hargreaves](#), staff writer February 2, 2010: 6:55 AM ET

NEW YORK (CNNMoney.com) -- The Copenhagen climate talks went nowhere. The Senate's attempt to pass a global warming bill appears stuck. But that's doesn't mean greenhouse gas laws aren't coming.

The Environmental Protection Agency, spurred by a Supreme Court ruling, is racing to fill the void. As early as March, the EPA could be required to cap greenhouse gases from things like power plants and large factories, essentially doing what Senate Democrats want, without a messy vote.

Some say it's a great idea. It could put a serious dent in greenhouse gas emissions and go a long way to cleaning up the environment. Others say it could jeopardize investment in industry and hurt job creation.

A tight spot

The EPA didn't really ask for this new power, and most lawmakers pushing to restrict greenhouse gases, in Congress and the administration, would prefer Congress to pass a new global warming law.

But EPA is being forced to act thanks to a challenge from the state of Massachusetts and others back in 2007. Massachusetts said global warming was eroding its coastline, and pushed the EPA to regulate greenhouse gases from vehicles.

The Supreme Court more or less sided with Massachusetts, saying EPA must either classify carbon dioxide - the main gas behind global warming - as an endangerment to public health and regulate it, or say it's not.

The Obama administration, like most scientists, believes it could be a danger.

So come March, EPA will begin regulating carbon dioxide from vehicles - largely through tighter fuel economy standards that have already been announced. Once that happens, the next step, legally, is to regulate it from everything else.

"They are compelled to move forward," said Max Williamson, head of the climate program at Andrews Kurth, a law firm that represents both renewable and fossil fuel energy companies. Williamson is among those who believe using EPA, and specifically the Clean Air Act, to combat global warming is a bad idea.

There are too many steps EPA needs to go through to perform the task - too many questions that need answering. Who is going to be regulated? What technologies will be used? What are the acceptable limits going to be? At each stage in the process, there's the possibility for lawsuits.

"No one is going to be able to build any kind of industrial facility because they will be sued," he said. "You're going to see any industry that can go overseas, go overseas."

Many say a law passed by Congress would avoid all that.

Whitney Stanco, an energy analyst at the brokerage firm Concept Capital, also thinks using EPA for the job will keep investors at bay.

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First big stop? This year's midterm elections.

01268-EPA-3399

**Richard Windsor/DC/USEPA/US**  
02/02/2010 03:22 PM

To Adora Andy  
cc  
bcc

Subject Re: CNNMoney.com: Obama's climate change police

Tx.  
Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 02/02/2010 03:21 PM EST  
**To:** Richard Windsor  
**Subject:** Re: CNNMoney.com: Obama's climate change police

[Redacted] (b)(5) Deliberative

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

Richard Windsor [Redacted] (b)(5) Deliberative 02/02/2010 01:48:28 PM

**From:** Richard Windsor/DC/USEPA/US  
**To:** Adora Andy/DC/USEPA/US@EPA  
**Date:** 02/02/2010 01:48 PM  
**Subject:** Re: CNNMoney.com: Obama's climate change police

[Redacted] (b)(5) Deliberative

Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 02/02/2010 01:43 PM EST  
**To:** Richard Windsor; Bob Perciasepe; Bob Sussman; Gina McCarthy; Diane Thompson; David McIntosh; Arvin Ganesan  
**Cc:** Seth Oster; Allyn Brooks-LaSure; Stephanie Owens  
**Subject:** CNNMoney.com: Obama's climate change police

# Obama's climate change police

By [Steve Hargreaves](#), staff writer February 2, 2010: 6:55 AM ET

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The Obama administration, like most scientists, believes it could be a danger.

So come March, EPA will begin regulating carbon dioxide from vehicles - largely through tighter fuel economy standards that have already been announced. Once that happens, the next step, legally, is to regulate it from everything else.

"They are compelled to move forward," said Max Williamson, head of the climate program at Andrews Kurth, a law firm that represents both renewable and fossil fuel energy companies. Williamson is among those who believe using EPA, and specifically the Clean Air Act, to combat global warming is a bad idea.

There are too many steps EPA needs to go through to perform the task - too many questions that need answering. Who is going to be regulated? What technologies will be used? What are the acceptable limits going to be? At each stage in the process, there's the possibility for lawsuits.

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01268-EPA-3400

**Richard Windsor/DC/USEPA/US**  
02/02/2010 03:32 PM

To Adora Andy  
cc  
bcc

Subject Re: CNNMoney.com: Obama's climate change police

(b)(5)

Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 02/02/2010 03:27 PM EST  
**To:** Richard Windsor  
**Subject:** Re: CNNMoney.com: Obama's climate change police

(b)(5) Deliberative

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

Richard Windsor Tx. ----- Original Message ----- 02/02/2010 03:22:02 PM

**From:** Richard Windsor/DC/USEPA/US  
**To:** Adora Andy/DC/USEPA/US@EPA  
**Date:** 02/02/2010 03:22 PM  
**Subject:** Re: CNNMoney.com: Obama's climate change police

Tx.

Adora Andy

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**From:** Adora Andy  
**Sent:** 02/02/2010 03:21 PM EST  
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(b)(5) Deliberative

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

Richard Windsor (b)(5) Deliberative 02/02/2010 01:48:28 PM

**From:** Richard Windsor/DC/USEPA/US

To: Adora Andy/DC/USEPA/US@EPA  
Date: 02/02/2010 01:48 PM  
Subject: Re: CNNMoney.com: Obama's climate change police

---

(b)(5) Deliberative

Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 02/02/2010 01:43 PM EST  
**To:** Richard Windsor; Bob Perciasepe; Bob Sussman; Gina McCarthy; Diane Thompson; David McIntosh; Arvin Ganesan  
**Cc:** Seth Oster; Allyn Brooks-LaSure; Stephanie Owens  
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01268-EPA-3401

**Richard Windsor/DC/USEPA/US**  
02/02/2010 03:40 PM

To Adora Andy  
cc  
bcc

Subject Re: CNNMoney.com: Obama's climate change police

(b)(5) Deliberative  
Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 02/02/2010 03:38 PM EST  
**To:** Richard Windsor  
**Subject:** Re: CNNMoney.com: Obama's climate change police

(b)(5) Deliberative

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

Richard Windsor (b)(5) 02/02/2010 03:32:20 PM

**From:** Richard Windsor/DC/USEPA/US  
**To:** Adora Andy/DC/USEPA/US@EPA  
**Date:** 02/02/2010 03:32 PM  
**Subject:** Re: CNNMoney.com: Obama's climate change police

(b)(5)

Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 02/02/2010 03:27 PM EST  
**To:** Richard Windsor  
**Subject:** Re: CNNMoney.com: Obama's climate change police

(b)(5) Deliberative

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
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**From:** Richard Windsor/DC/USEPA/US  
**To:** Adora Andy/DC/USEPA/US@EPA  
**Date:** 02/02/2010 03:22 PM

Subject: Re: CNNMoney.com: Obama's climate change police

Tx.

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(b)(5) Deliberative

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 Press Secretary  
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Richard Windsor

(b)(5) Deliberative

02/02/2010 01:48:28 PM

**From:** Richard Windsor/DC/USEPA/US  
**To:** Adora Andy/DC/USEPA/US@EPA  
**Date:** 02/02/2010 01:48 PM  
**Subject:** Re: CNNMoney.com: Obama's climate change police

(b)(5) Deliberative

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**From:** Adora Andy  
**Sent:** 02/02/2010 01:43 PM EST  
**To:** Richard Windsor; Bob Perciasepe; Bob Sussman; Gina McCarthy; Diane Thompson; David McIntosh; Arvin Ganesan  
**Cc:** Seth Oster; Allyn Brooks-LaSure; Stephanie Owens  
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01268-EPA-3403

**Mathy**  
**Stanislaus/DC/USEPA/US**  
02/02/2010 11:06 PM

To "Richard Windsor"  
cc "Bob Sussman", "Bob Perciasepe", "Lisa Feldt", "Barry Breen"  
bcc  
Subject C2P2

Lisa: I wanted to follow up on your inquiry of where the IG was regarding its investigation of C2P2. As I mentioned in my e-mail last night, they concluded their criminal review in November 2009 but identified a potential issue related to EPA's promotion of beneficial use through its Coal Combustion Product partnership and referred the question to the appropriate OIG office for evaluation. (b)(5) Deliberative

[REDACTED] . They indicate that the objective is still being framed but their focus would be to review whether EPA had a reasonable basis to support that certain beneficial reuses are safe. (b)(5) Deliberative

Mathy

01268-EPA-3404

**Richard Windsor/DC/USEPA/US**  
02/03/2010 04:25 AM

To Mathy Stanislaus  
cc  
bcc  
Subject Re: C2P2

Tx

Mathy Stanislaus

----- Original Message -----

**From:** Mathy Stanislaus  
**Sent:** 02/02/2010 11:06 PM EST  
**To:** Richard Windsor  
**Cc:** Bob Sussman; Bob Perciasepe; Lisa Feldt; Barry Breen  
**Subject:** C2P2

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Mathy

01268-EPA-3405

Bob Sussman/DC/USEPA/US

02/03/2010 08:18 AM

To Richard Windsor, Bob Perciasepe, Lisa Heinzerling

cc

bcc

Subject BACT FOR GHGS

(b)(5) Deliberative

## EPA Air Advisers Fail To Reach Broad Consensus On BACT For GHGs

An EPA advisory group has failed to reach broad consensus on a number of key issues for how air regulators should apply best available control technology (BACT) for the purpose of first-time greenhouse gas (GHG) permit limits, referring several contentious issues back to EPA, including whether fuel switching is BACT.

Nevertheless, the climate change work group of EPA's Clean Air Act Advisory Committee (CAAAC) Feb. 2 reached some agreement on other permitting issues, concluding that the agency's approach to applying BACT to new and modified units for conventional pollutants should continue for GHGs. The group also reached consensus on other important factors, including that EPA should consider energy efficiency as part of a BACT review for GHG limits.

The lack of consensus shifts the onus back to EPA to resolve questions over some controversial BACT questions, and defers consideration of more novel approaches to BACT, such as demand-side management, to a second phase of the report.

The work group circulated its highly anticipated [initial findings](#) at a meeting of CAAAC's new source review subcommittee in Arlington, VA, and the full committee was slated at press time to discuss the findings Feb. 3.

BACT is the technology standard that facilities must meet in areas that are in attainment with agency air standards. EPA has been wrestling with which technologies or approaches could qualify as BACT for GHGs. BACT is part of the agency's Clean Air Act new source review (NSR) program that regulates criteria pollutant emissions.

The group's first report addresses which parts of a facility should be analyzed for BACT controls, the criteria for determining the feasibility of controls, the criteria for removing certain technologies from BACT consideration, and the needs of states and stakeholders. But a version of the report circulated at the Feb. 2 meeting in Arlington, VA, reveals deep divisions within the work group and, as a result, defers some key issues to EPA to decide.

For example, the work group failed to forge consensus on whether regulators must consider

requiring facilities to switch from burning fuels like coal to using low-GHG fuels like natural gas, as some activists argue, or whether such fuel-switching would unlawfully redefine the source, as industry argues. As a result, the group argues that EPA should provide guidance on how clean fuels should be considered in the BACT process for GHGs.

Similarly, the work group urges EPA to define the terms “fundamental business purpose” and a project's “basic design,” which courts have used to determine whether fuel switching or other process changes redefine a source. The group also recommended that EPA provide guidance on evaluating energy efficiency in BACT on a sector-by-sector basis.

The group also disagreed on the definition of the source of emissions that should be considered in the permitting process, which in turn defines the scope of energy efficiency measures that can be required. Some advisers said the BACT analysis should consider possible efficiency gains in parts of the facility or process outside of the new or modified unit. However, others argued that defining the source as including more than the modified portion is inconsistent with statutory language and unworkable because it would be open to wide interpretation.

### **Group Reaches Some Consensus**

But the group reached consensus on some broad issues, agreeing that EPA should consider the feasibility of both capturing and sequestering carbon dioxide in deciding whether to require carbon capture and sequestration as BACT, consider energy efficiency as part of BACT, and other issues.

The advisers also agreed that EPA should continue to apply BACT requirements to new or modified facilities, which is the approach EPA uses for conventional pollutants. And the group agreed that EPA should expand its clearinghouse of BACT and other permit requirements to include GHGs, and expand a GHG mitigation database currently under development by the Office of Research & Development to include information on foreign sources.

The advisers also agreed that EPA should use aspects of its 1990 draft NSR workshop manual to determine whether a technology is feasible, for example if it has been demonstrated in practice, and to determine whether technology can be transferred among industries, for example, if the process has been used on similar gases and does not unacceptably affect process operations -- key considerations for reviewing technologies as BACT for cutting GHGs.

EPA formed the group to develop recommendations on BACT for GHGs in advance of EPA issuing its final first-time GHG rules for automobiles, which are slated for release next month. Those rules will trigger a Clean Air Act requirement for the agency to regulate GHGs from stationary sources such as power plants by including GHG limits in air permits.

In advance of the initial report's release, several sources said it was not expected to address some of the more radical and divisive recommendations for GHG BACT, including novel

approaches such as demand-side management and combined heat-and-power, which have not traditionally been considered control technologies. These are likely to be more fully explored in a recently launched second phase report after the February report is issued.

Once the full CAAAC reviews the findings, it will transmit them to EPA. The committee will then continue work on the report's second phase, which will address whether EPA can approach BACT for GHGs differently than for the agency's so-called criteria pollutants, for example, by using emissions trading and offsets. -- *Kate Winston*

222010\_broad Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-3406

**Richard Windsor/DC/USEPA/US**  
02/03/2010 01:18 PM

To Diane Thompson  
cc  
bcc  
Subject Re: One pager

Looks good. [redacted] (b)(5) Deliberative

Diane Thompson

----- Original Message -----

**From:** Diane Thompson  
**Sent:** 02/03/2010 11:46 AM EST  
**To:** Richard Windsor  
**Cc:** Bob Perciasepe; Seth Oster  
**Subject:** One pager

Here's the most I can fit on one page. [redacted] (b)(5) Deliberative  
[redacted] Thoughts?:

### EPA: 40 Years of Protecting America's Health and Environment

In December of this year, EPA will celebrate its 40th birthday. [redacted] (b)(5) Deliberative

[redacted] (b)(5) Deliberative

[redacted] (b)(5) Deliberative

### Coming Together for Clean Water

[redacted] (b)(5) Deliberative

(b)(5) Deliberative



Climate change and clean energy -- Clean Trucks

(b)(5) Deliberative



ARRA Monitoring

(b)(5) Deliberative

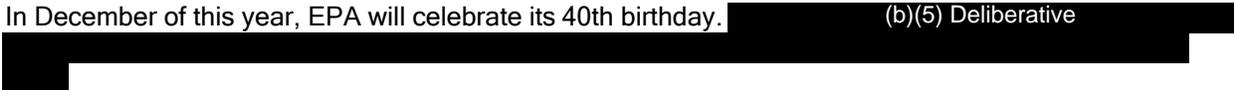


Here is the Adm's original for reference:

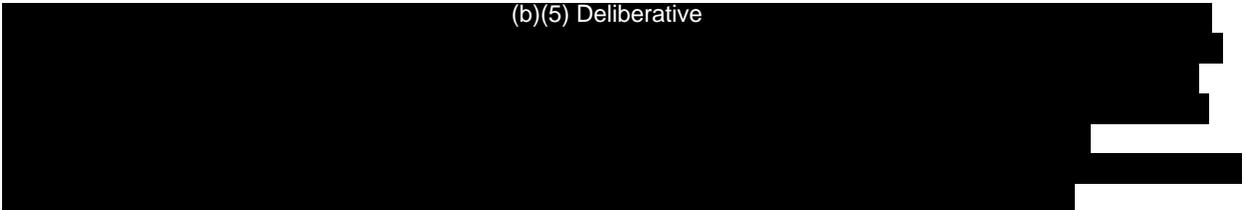
40 Years of Protecting America's Health and Environment

In December of this year, EPA will celebrate its 40th birthday.

(b)(5) Deliberative



(b)(5) Deliberative



(b)(5) Deliberative



Coming Together for Clean Water

(b)(5) Deliberative



Clean Trucks

(b)(5) Deliberative



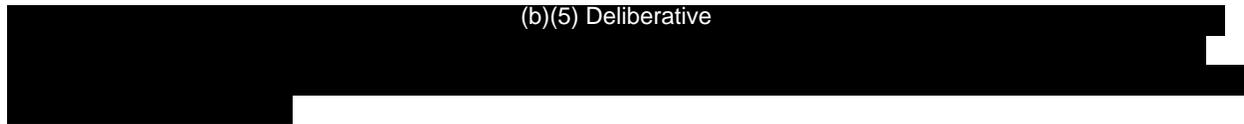
ARRA Monitoring

(b)(5) Deliberative



Toxic Chemical Legislation

(b)(5) Deliberative



[attachment "40 Years of Protecting America det rev.doc" deleted by Richard Windsor/DC/USEPA/US]

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Diane E. Thompson  
Chief of Staff  
U. S. Environmental Protection Agency  
202-564-6999

01268-EPA-3407

Lisa  
Heinzerling/DC/USEPA/US  
02/03/2010 02:19 PM

To Bob Sussman  
cc Bob Perciasepe, Richard Windsor  
bcc

Subject Re: BACT FOR GHGS

I agree with Bob.

Bob Sussman

(b)(5) Deliberative

02/03/2010 08:18:16 AM

From: Bob Sussman/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Lisa  
Heinzerling/DC/USEPA/US@EPA  
Date: 02/03/2010 08:18 AM  
Subject: BACT FOR GHGS

(b)(5) Deliberative

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The lack of consensus shifts the onus back to EPA to resolve questions over some controversial BACT questions, and defers consideration of more novel approaches to BACT, such as demand-side management, to a second phase of the report.

The work group circulated its highly anticipated [initial findings](#) at a meeting of CAAAC's new source review subcommittee in Arlington, VA, and the full committee was slated at press time to discuss the findings Feb. 3.

BACT is the technology standard that facilities must meet in areas that are in attainment with agency air standards. EPA has been wrestling with which technologies or approaches could qualify as BACT for GHGs. BACT is part of the agency's Clean Air Act new source review (NSR) program that regulates criteria pollutant emissions.

The group's first report addresses which parts of a facility should be analyzed for BACT controls, the criteria for determining the feasibility of controls, the criteria for removing certain technologies from BACT consideration, and the needs of states and stakeholders. But a version of the report circulated at the Feb. 2 meeting in Arlington, VA, reveals deep divisions within the work group and, as a result, defers some key issues to EPA to decide.

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Similarly, the work group urges EPA to define the terms "fundamental business purpose" and a project's "basic design," which courts have used to determine whether fuel switching or other process changes redefine a source. The group also recommended that EPA provide guidance on evaluating energy efficiency in BACT on a sector-by-sector basis.

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222010\_broad Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-3408

**Bob Perciasepe/DC/USEPA/US**  
02/03/2010 04:54 PM

To Lisa Heinzerling  
cc Bob Sussman, Richard Windsor  
bcc  
Subject Re: BACT FOR GHGS

(b)(5) Deliberative

[Redacted]

Bob Perciasepe  
Deputy Administrator

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(c) +1 (b)(6) Privacy

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222010\_broad Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency



01268-EPA-3409

**Lisa  
Heinzerling/DC/USEPA/US**  
02/03/2010 05:39 PM

To Bob Perciasepe  
cc Bob Sussman, Richard Windsor  
bcc  
Subject Re: BACT FOR GHGS

**(b)(5) Deliberative**

Bob Perciasepe **(b)(5) Deliberative** 02/03/2010 04:54:03 PM

From: Bob Perciasepe/DC/USEPA/US  
To: Lisa Heinzerling/DC/USEPA/US@EPA  
Cc: Bob Sussman/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA  
Date: 02/03/2010 04:54 PM  
Subject: Re: BACT FOR GHGS

**(b)(5) Deliberative**

[Redacted]

Bob Perciasepe  
Deputy Administrator

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(c) +1 **(b)(6) Privacy**

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222010\_broad Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-3410

Bob Sussman/DC/USEPA/US

To Bob Perciasepe

02/03/2010 06:29 PM

cc Lisa Heinzerling, Richard Windsor

bcc

Subject Re: BACT FOR GHGS

(b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Bob Perciasepe

(b)(5) Deliberative

02/03/2010 04:54:03 PM

From: Bob Perciasepe/DC/USEPA/US  
To: Lisa Heinzerling/DC/USEPA/US@EPA  
Cc: Bob Sussman/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA  
Date: 02/03/2010 04:54 PM  
Subject: Re: BACT FOR GHGS

(b)(5) Deliberative

Bob Perciasepe  
Deputy Administrator

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(c) +1 (b)(6) Privacy

Lisa Heinzerling

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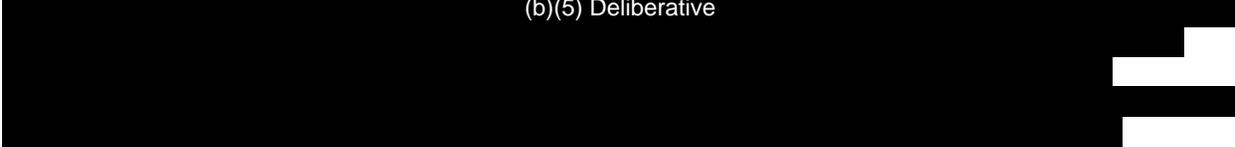
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Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-3411

David  
McIntosh/DC/USEPA/US  
02/03/2010 06:33 PM

To Richard Windsor  
cc  
bcc

Subject Fw: fyi: Graham supports comprehensive clean energy/global warming legislation; opposes energy only bill

FYI, see below. (b)(5) Deliberative

----- Forwarded by David McIntosh/DC/USEPA/US on 02/03/2010 06:32 PM -----

From: Dan Weiss <dweiss@americanprogress.org>  
To: undisclosed-recipients;;  
Date: 02/03/2010 06:17 PM  
Subject: fyi: Graham supports comprehensive clean energy/global warming legislation; opposes energy only bill

Daniel J. Weiss  
Senior Fellow and Director of Climate Strategy  
Center for American Progress  
Center for American Progress Action Fund  
202-481-8123 O  
202-390-1807 C  
dweiss@americanprogress.org

## [Stick a fork in the energy-only bill: Lindsey Graham \(R-SC\) slams push for a "half-assed energy bill"](#)

**"If the lesson from health care is let's not do anything hard, then why don't we all go home... But if we go home, China won't."**

February 3, 2010

By Dr. Joseph Romm

[Video of Sinatra singing "All or Nothing at All. ]

If it's climate and energy independence and clean energy jobs, there is no in between — at least not for the conservative senator from South Carolina. Today, Graham told a group of [200 business leaders](#) who advocate comprehensive legislation:

Every day we wait in this nation China is going to eat our lunch. The Chinese don't need 60 votes. I guess they just need 1 guys vote over there – and that guy's voted.

**What Congress is going to come up here and do all these hard things? Who are these people in the future? Because we constantly count on them. I don't know who they are.**

**I've yet to find them.**

So I guess it falls to me and you. So let's do it.

Who would have guessed that Lindsey Graham — [among the 20 most conservative U.S. Senators in 2008](#) — would have more of a backbone for a comprehensive bill than many Senate progressives and the President himself!

Yes, as expected, the President set the record straight today on his [utterly misinterpreted remarks](#) yesterday that led to TPM's sensational headline, "Stick A Fork In Cap-and-Trade." In [remarks](#) to Senate Democrats today, Obama praised Graham's efforts with Lieberman and Kerry to "find a workable, bipartisan structure so that we are incentivizing and rewarding the future":

So don't give up on that. I don't want us to just say the easy way out is for us to just give a bunch of tax credits to clean energy companies. The market works best when it responds to price.

Good statement, but compare it to Graham's:

If the approach is to try to pass some half-assed energy bill and say that's moving the ball down the road, forget it with me.

Graham has emerged as the best at messaging on the comprehensive bill (see [Lindsey Graham: "Every day that we delay trying to find a price for carbon is a day that China uses to dominate the green economy"](#) and [Graham: "The idea of not pricing carbon, in my view, means you're not serious about energy independence. The odd thing is you'll never have energy independence until you clean up the air, and you'll never clean up the air until you price carbon."](#))

But he isn't alone in seeing political problems with the half-assed approach. As *E&E Daily* reported two weeks ago in its piece, "[Offshore drilling language poses problems for 'energy only' bill](#)":

"Energy only" backers have portrayed such legislation as a path to a bipartisan achievement, particularly in the wake of the Massachusetts Senate election widely seen as a repudiation of the Democrats' ambitious agenda.

But while liberal and coastal lawmakers might have been willing to allow more offshore drilling in exchange for a cap on greenhouse gas emissions, they are less likely to give up that leverage if a cap-and-trade plan is jettisoned.

"There are provisions that are more difficult for us to accept if they're not part of a comprehensive bill," said Sen. Ben Cardin (D-Md.). "In a broader package I am more understanding of some of the other regional concerns."

And Graham has been clear on this to fellow conservatives:

Conversely, Sen. Lindsey Graham (R-S.C.), who is trying to put together a joint climate and energy bill has been telling Republicans that they cannot get the offshore drilling, nuclear and other pro-production measures they want without a cap.

"I can get every Republican for an energy independence bill, OK? But there are not 60 votes," Graham said. "You're not going to get the nuclear power provisions you want unless you do something on emission controls."

And the "half-assed" bill would have problems in the House:

And prospects would not be much better in the House. The House cap-and-trade bill did not include any offshore drilling. Speaker Nancy Pelosi (D-Calif.) is a longtime foe of offshore drilling

and once derided the idea that it might lower gas prices as a "hoax."

But wouldn't progressives go for some of the clean energy elements of a half-assed bill, like the renewable energy standard?

Daniel Weiss, director of climate strategy at the Center for American Progress, said the RES in the Senate energy bill has too many loopholes.

Weiss looks at drilling as the political equivalent of dessert. Measures to reduce greenhouse gases amount to eating your vegetables, he said — not as pleasant, but better in the long run. He worries that any such bill will have too much sugar and not enough broccoli.

"We need a balanced energy menu with vegetables and protein, not just a pile of Cool Whip," Weiss said.

Well, drilling is only dessert in the way that, say, [coal ash is a cereal topping!](#)

But the point is, the Senate energy bill as written is half-assed — maybe quarter-assed. If you throw in nuclear power and drilling, I don't think it has a clearer path to Congressional passage than the comprehensive climate and clean energy jobs bill that puts a price on carbon and moves us toward true energy independence.

So it may well be all or nothing at all.

Let me end by excerpting Graham's remarks today to Business Advocacy Day for Jobs, Climate & New Energy Leadership in DC:

Every day we wait in this nation China is going to eat our lunch. The Chinese don't need 60 votes. I guess they just need 1 guys vote over there — and that guy's voted.

(laughter)

He has decided to do two things:

first, kind of play footsie with us on emissions control stuff but go like gangbusters when it comes to producing alternative energy. The solar and wind and battery-powered cars is an amazing thing to watch. And we're stuck in neutral here.

So my message to you — you're up here to advocate — advocate. Let the Congress know that you want a comprehensive approach to two serious problems.

You don't have to believe that Iowa is going to become beachfront property to want to clean up carbon.

It is not about polar bears to me, it's about jobs. I like the polar bears as much as anyone else but I want to create jobs.

If just a fraction of what is being predicted about global warming is true, that's enough to motivate us all. But if worse thing you did — as Tony Blair would say — is you provided a cleaner environment, I don't think you'd go down in history in a bad way.

The key in my view to those who believe we should address carbon pollution is to make sure that the energy initiatives that will get us there are done in a package.

If you break this apart you'll have a watered down solution on both fronts

health care was big – it was controversial – I didn't like the bill – but that doesn't mean you can't do other hard problems.

If lesson from health care is let's not do anything hard, then why don't we all go home, which might be good for the country by the way.

But if we go home, China won't.

The world is moving, pollution is growing, we've got a chance to get ahead and lead. If we wait too long and if we try to take half measures as the preferred route on all these hard problems they just get worse.

My challenge to you and to myself is to not let this moment pass. This is the best opportunity I've seen in my political lifetime for a Republican and Democrat to do something bold and meaningful.

Why did I get involved in this? I ask myself that a lot. I saw an opportunity. I've become convinced that carbon pollution is a bad thing, not a good thing, and it can be dealt with, and we can create jobs

This is the time, this is the Congress, and this is the moment. So if we retreat and try to just go to the energy only approach which will never yield the legislative results that I want on energy independence, then we just made the problem worse.

What Congress is going to come up here and do all these hard things?

Who are these people in the future?

Because we constantly count on them.

I don't know who they are. I've yet to find them.

So I guess it falls to me and you.

So let's do it.

The time to act on a comprehensive bill is now.

01268-EPA-3412

**Richard Windsor/DC/USEPA/US**  
02/03/2010 07:18 PM

To David McIntosh  
cc  
bcc

Subject Re: fyi: Graham supports comprehensive clean energy/global warming legislation; opposes energy only bill

Wow. We all had a GOOD day today. Congrats.  
David McIntosh

----- Original Message -----

**From:** David McIntosh  
**Sent:** 02/03/2010 06:33 PM EST  
**To:** Richard Windsor  
**Subject:** Fw: fyi: Graham supports comprehensive clean energy/global warming legislation; opposes energy only bill  
FYI, see below. Today, Graham really did become a co-equal partner with the President on climate legislation.

----- Forwarded by David McIntosh/DC/USEPA/US on 02/03/2010 06:32 PM -----

From: Dan Weiss <dweiss@americanprogress.org>  
To: undisclosed-recipients;;  
Date: 02/03/2010 06:17 PM  
Subject: fyi: Graham supports comprehensive clean energy/global warming legislation; opposes energy only bill

---

Daniel J. Weiss  
Senior Fellow and Director of Climate Strategy  
Center for American Progress  
Center for American Progress Action Fund  
202-481-8123 O  
202-390-1807 C  
*dweiss@americanprogress.org*

## [Stick a fork in the energy-only bill: Lindsey Graham \(R-SC\) slams push for a "half-assed energy bill"](#)

**"If the lesson from health care is let's not do anything hard, then why don't we all go home... But if we go home, China won't."**

February 3, 2010

By Dr. Joseph Romm

[*Video of Sinatra singing "All or Nothing at All."* ]

If it's climate and energy independence and clean energy jobs, there is no in between — at least not for the conservative senator from South Carolina. Today, Graham told a group of [200 business leaders](#) who advocate comprehensive legislation:

Every day we wait in this nation China is going to eat our lunch. The Chinese don't need 60 votes. I guess they just need 1 guys vote over there – and that guy's voted.

**What Congress is going to come up here and do all these hard things? Who are these people in the future? Because we constantly count on them. I don't know who they are. I've yet to find them.**

So I guess it falls to me and you. So let's do it.

Who would have guessed that Lindsey Graham — [among the 20 most conservative U.S. Senators in 2008](#) — would have more of a backbone for a comprehensive bill than many Senate progressives and the President himself!

Yes, as expected, the President set the record straight today on his [utterly misinterpreted remarks](#) yesterday that led to TPM's sensational headline, "Stick A Fork In Cap-and-Trade." In [remarks](#) to Senate Democrats today, Obama praised Graham's efforts with Lieberman and Kerry to "find a workable, bipartisan structure so that we are incentivizing and rewarding the future":

So don't give up on that. I don't want us to just say the easy way out is for us to just give a bunch of tax credits to clean energy companies. The market works best when it responds to price.

Good statement, but compare it to Graham's:

If the approach is to try to pass some half-assed energy bill and say that's moving the ball down the road, forget it with me.

Graham has emerged as the best at messaging on the comprehensive bill (see [Lindsey Graham: "Every day that we delay trying to find a price for carbon is a day that China uses to dominate the green economy"](#) and [Graham: "The idea of not pricing carbon, in my view, means you're not serious about energy independence. The odd thing is you'll never have energy independence until you clean up the air, and you'll never clean up the air until you price carbon."](#))

But he isn't alone in seeing political problems with the half-assed approach. As *E&E Daily* reported two weeks ago in its piece, "[Offshore drilling language poses problems for 'energy only' bill](#)":

"Energy only" backers have portrayed such legislation as a path to a bipartisan achievement, particularly in the wake of the Massachusetts Senate election widely seen as a repudiation of the Democrats' ambitious agenda.

But while liberal and coastal lawmakers might have been willing to allow more offshore drilling in exchange for a cap on greenhouse gas emissions, they are less likely to give up that leverage if a cap-and-trade plan is jettisoned.

"There are provisions that are more difficult for us to accept if they're not part of a comprehensive bill," said Sen. Ben Cardin (D-Md.). "In a broader package I am more understanding of some of the other regional concerns."

And Graham has been clear on this to fellow conservatives:

Conversely, Sen. Lindsey Graham (R-S.C.), who is trying to put together a joint climate and energy bill has been telling Republicans that they cannot get the offshore drilling, nuclear and other pro-production measures they want without a cap.

"I can get every Republican for an energy independence bill, OK? But there are not 60 votes," Graham said. "You're not going to get the nuclear power provisions you want unless you do something on emission controls."

And the "half-assed" bill would have problems in the House:

And prospects would not be much better in the House. The House cap-and-trade bill did not include any offshore drilling. Speaker Nancy Pelosi (D-Calif.) is a longtime foe of offshore drilling and once derided the idea that it might lower gas prices as a "hoax."

But wouldn't progressives go for some of the clean energy elements of a half-assed bill, like the renewable energy standard?

Daniel Weiss, director of climate strategy at the Center for American Progress, said the RES in the Senate energy bill has too many loopholes.

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The time to act on a comprehensive bill is now.

01268-EPA-3414

Mathy  
Stanislaus/DC/USEPA/US  
02/04/2010 11:02 AM

To Bob Sussman, Richard Windsor, Lisa Heinzerling  
cc  
bcc

Subject Fw: Invitation to Speak to EEI Executive Advisory Committee  
-- february 25, 2010

(b)(5) Deliberative

Mathy Stanislaus  
USEPA Assistant Administrator  
Office of Solid Waste & Emergency Response

----- Forwarded by Mathy Stanislaus/DC/USEPA/US on 02/04/2010 11:01 AM -----

From: "Roewer, James" <JRoewer@eei.org>  
To: Carolyn McDonald/DC/USEPA/US@EPA  
Cc: Mathy Stanislaus/DC/USEPA/US@EPA  
Date: 02/04/2010 10:49 AM  
Subject: Invitation to Speak to EEI Executive Advisory Committee -- february 25, 2010

---

Mr. Stanislaus – I would like to extend an invitation for you to meet with and speak to the Edison Electric Institute (EEI) Environment Executive Advisory Committee (EEAC) on Thursday, February 28, 2010. The meeting will be held at EEI's offices, 701 Pennsylvania Avenue, NW Washington, Dc 20004 from 8 AM – 1 PM. We are in the process of organizing the meeting agenda, and we have flexibility to be able to accommodate your schedule and slot you at a time that best fits with your schedule. We envision an informal presentation of ~15 – 20 minutes with additional time for Q& A and discussion.

The EEAC is composed of vice president-level utility executives responsible for the development and implementation of environmental compliance and policy for EEI member companies.

We would be interested in hearing from you regarding OSWER activities, particularly the Agency's rulemaking addressing the management of Coal Combustion Residues (CCR).

Please respond at your earliest convenience regarding your availability.

Thank you

Jim Roewer  
Executive Director  
USWAG  
202/508-5645 (voice)  
202/508-5150 (fax)

[jim.roewer@uswag.org](mailto:jim.roewer@uswag.org)  
[www.uswag.org](http://www.uswag.org)

01268-EPA-3415

**Richard Windsor/DC/USEPA/US**  
02/04/2010 11:10 AM

To Mathy Stanislaus, Bob Sussman, Lisa Heinzerling  
cc  
bcc

Subject Re: Invitation to Speak to EEI Executive Advisory Committee  
-- february 25, 2010

(b)(5) Deliberative

Mathy Stanislaus

----- Original Message -----

**From:** Mathy Stanislaus

**Sent:** 02/04/2010 11:02 AM EST

**To:** Bob Sussman; Richard Windsor; Lisa Heinzerling

**Subject:** Fw: Invitation to Speak to EEI Executive Advisory Committee --  
february 25, 2010

(b)(5) Deliberative

Mathy Stanislaus

USEPA Assistant Administrator

Office of Solid Waste & Emergency Response

----- Forwarded by Mathy Stanislaus/DC/USEPA/US on 02/04/2010 11:01 AM -----

From: "Roewer, James" <JRoewer@eei.org>  
To: Carolyn McDonald/DC/USEPA/US@EPA  
Cc: Mathy Stanislaus/DC/USEPA/US@EPA  
Date: 02/04/2010 10:49 AM  
Subject: Invitation to Speak to EEI Executive Advisory Committee -- february 25, 2010

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Thank you

Jim Roewer  
Executive Director  
USWAG  
202/508-5645 (voice)  
202/508-5150 (fax)

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[www.uswag.org](http://www.uswag.org)

01268-EPA-3417

**Richard Windsor/DC/USEPA/US**  
02/04/2010 03:26 PM

To Adora Andy  
cc Allyn Brooks-LaSure, Arvin Ganesan, Betsaida Alcantara, Bob Perciasepe, Bob Sussman, Brendan Gilfillan, David McIntosh, Diane Thompson, Michael Moats, Peter Silva, Seth Oster, Stephanie Owens  
bcc  
Subject Re: NYT/GREENWIRE: Sen. Rockefeller Criticizes Obama Over Coal Policy

(b)(5) Deliberative

Adora Andy February 4, 2010 Sen. Rockefeller Criti... 02/04/2010 03:24:47 PM

From: Adora Andy/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA  
Cc: Betsaida Alcantara/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Michael Moats/DC/USEPA/US@EPA, Stephanie Owens/DC/USEPA/US@EPA  
Date: 02/04/2010 03:24 PM  
Subject: NYT/GREENWIRE: Sen. Rockefeller Criticizes Obama Over Coal Policy

February 4, 2010

# Sen. Rockefeller Criticizes Obama Over Coal Policy

By DARREN SAMUELSON of [Greenwire](#)

West Virginia Sen. Jay Rockefeller (D) lashed out at President Obama today for sending inconsistent messages about the future of coal.

Speaking at a Senate Finance Committee hearing on Obama's fiscal 2011 budget request, Rockefeller took umbrage first with the administration's decision to eliminate four tax breaks for the industry.

"It's going to be partly psychological," Rockefeller told White House budget chief Peter Orszag. "People are going to reduce their production because they feel, 'Uh oh, here comes the Obama administration,' and they are going to cut out coal."

But Rockefeller said his concerns snowballed when he considered recent U.S. EPA decisions on mountaintop-removal coal mining and work on regulations to control greenhouse gas emissions across the economy. Given that, he said, he isn't sure he trusts the president's commitments to coal, even as Obama promotes the fossil fuel through a series of other administration actions.

"He says it in his speeches, but he doesn't say it in here," Rockefeller said, referring to the budget proposal. "He doesn't say it in the actions of [EPA Administrator] Lisa Jackson. And he doesn't

say it in the minds of my own people. And he's beginning to not be believable to me. So I want you to put me at rest or put me away."

Orszag, the director of the Office of Management and Budget, cited the new Cabinet-level task force Obama formed yesterday that aims to start five to 10 carbon capture and storage commercial demonstration projects around the country by 2016. He also cited the budget request of more than \$500 million for research and development for carbon storage.

And the OMB chief explained that the president wants Congress to pass a comprehensive climate bill capping greenhouse gas emissions, a program that would generate billions more for carbon storage.

Rockefeller pushed back at the Obama budget request, saying it fell well short of what was necessary to prompt widespread deployment of the "clean coal" technologies. And he said the new task force had some of the same goals as already existing federal programs.

In an interview as he left the hearing, Rockefeller said his complaints didn't rest with the budget.

"It's not a question of money, it's a question of the overall approach," he said. "I just wonder whether they really do understand the importance of coal, the fact the nation can't exist without it."

Rockefeller maintained that he, too, supports a comprehensive climate change bill, though he was doubtful the Senate could reach agreement on a bill capable of winning 60 votes by the Democratic leaders' timetable of this spring.

"I've got to be satisfied," he said. "There's some coal-state senators like myself that have to be satisfied, forget all the Republicans who vote 'no' on everything."

Obama's commitment to fossil fuels also came under fire from Sen. John Cornyn (R-Texas), the head of the party's 2010 campaign operations.

Cornyn repeatedly questioned whether the administration's climate change policies entailed raising domestic energy prices in order to make other energy alternatives more commercially competitive. "I don't think that's the intention," Orszag replied. "The goal is to move toward alternative sources of energy as rapidly as possible."

The Texas Republican countered that Obama's energy policies would increase oil and gas prices, driving up imports at a time when more than three-quarters of the nation's energy needs are projected to come from fossil fuels in 2035.

But Orszag rejected the premise of the question. "What we're trying to move toward is a future where that projection is not realized," he said.

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For more news on energy and the environment, visit [www.greenwire.com](http://www.greenwire.com).

Adora Andy  
Press Secretary  
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202-564-2715  
andy.adora@epa.gov

01268-EPA-3418

**Richard Windsor/DC/USEPA/US**  
02/04/2010 05:15 PM

To Adora Andy, Aaron Dickerson  
cc Allyn Brooks-LaSure, Seth Oster  
bcc

Subject Re: BLAKE MORRISON WINS ENVIRO REPORTING AWARD: DUHIGG GETS 2ND PLACE

remind me to send congrats notes to them.

Adora Andy	Columbia Awards USA TODAY Report...	02/04/2010 05:13:16 PM
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From: Adora Andy/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA  
Cc: Betsaida Alcantara/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Michael Moats/DC/USEPA/US@EPA, Stephanie Owens/DC/USEPA/US@EPA  
Date: 02/04/2010 05:13 PM  
Subject: BLAKE MORRISON WINS ENVIRO REPORTING AWARD: DUHIGG GETS 2ND PLACE

## Columbia Awards *USA TODAY* Reporters Environmental Journalism Award

By Amanda Ernst on Feb 04, 2010 03:30 PM

An investigative piece into toxic air around America's schools has garnered a 2009 **John B. Oakes** Award for two **USA TODAY** reporters.

The Columbia Graduate School of Journalism announced today that **Blake Morrison** and **Brad Heath** will be the recipients of this year's Oakes Award, which honors excellence in environmental journalism. The award recognizes the reporters' work on the investigative series "The Smokestack Effect: Toxic Air and America's Schools" and its companion Web site, which allows readers to search for their schools and discover the level of toxic air in its area. The series resulted in the Environmental Protection Agency launching a \$2.25 million program to monitor the air quality around schools.

"By yoking the locations of private and public schools around the country with an EPA model for tracking toxic chemicals, the reporters identified hundreds of schools where children seemed to be at risk," the Oakes Award judges' said. "As a result, the EPA and local environmental agencies began to do what they should have been doing for years: paying attention to the environment in which our children live and learn."

Second prize has been awarded to **The New York Times** series "Toxic Waters" written by **Charles Duhigg**.

The winners will receive their awards and speak on a panel about their work at the Oakes Award luncheon on March 30 at Columbia.

Full release after the jump

USA Today Wins the 2009 Oakes Award for Environmental Reporting

New York, N.Y. (February 4, 2010) -- The Columbia Graduate School of Journalism announced today that a USA Today investigation into the smokestack effects of toxic air around America's schools has won the 2009 John B. Oakes Award for excellence in environment journalism.

The Oakes Award judges cited USA Today reporters Blake Morrison and Brad Heath for their "commitment to the public good, that even government agencies entrusted with protecting the health of children—the most vulnerable among us—had failed to demonstrate." Their ambitious series, "The Smokestack Effect: Toxic Air and America's Schools," and companion website (<http://smokestack.usatoday.com>) focused the nation's attention on the quality of the air that children breathe eight hours a day. As a result, the Environmental Protection Agency (EPA) has launched a \$2.25 million program to monitor air quality outside schools, and a campaign is underway before Congress for tighter rules on where schools can be built.

"By yoking the locations of private and public schools around the country with an EPA model for tracking toxic chemicals, the reporters identified hundreds of schools where children seemed to be at risk," said the judges' citation. "As a result, the EPA and local environmental agencies began to do what they should have been doing for years: paying attention to the environment in which our children live and learn."

Second place goes to the New York Times for its series "Toxic Waters," an investigation that probed the effectiveness of the Clean Water Act and the Safe Drinking Water Act.

The series, written by Charles Duhigg, an investigative business reporter, detailed how the Environmental Protection Agency and local regulators failed to use environmental laws to stop illegal pollution.

Duhigg's "Toxic Waters" series (<http://www.nytimes.com/toxic-waters/>) chronicles in print, videos and photos "the failures of the Clean Water Act and the Safe Drinking Water Act, that federal and state agencies had been ignoring," the Oakes judges said. Duhigg, who interviewed more than 350 sources and filed 500 Freedom of Information Act requests, received more than 20 million electronic records, with which he built a database describing a compelling "pattern of pollution and lack of enforcement that jeopardizes the nation's water and health." The series catalyzed an effort to overhaul the Clean Water Act.

In a rare move, the Oakes Award judges have also named two recipients of certificates of merit to reporters Kristin Lombardi of the Center for Public Integrity and Kelly Kennedy of Military Times for the work they undertook in the small-to-medium size category, which included a Web-only project, to uncover systemic neglect in protecting people from environmental hazards.

Lombardi was recognized for her Web publication "The Hidden Cost of 'Clean Coal,'" (<http://www.publicintegrity.org/investigations/longwall>) which detailed how longwall mining, which yielded 176 million tons of coal in 2007, can have brutal social and environmental consequences. Kennedy was recognized for courage in breaking news and for following up with a compelling series of more than two dozen stories about the health threats to troops who are exposed to war-zone burn pits.

"We are quite excited that we have four superb projects this year to demonstrate how important and relevant reporting on the environment is to someone's health and well being," said Arlene Morgan, the school's associate dean for prizes and programs. A panel of journalists and scientists, under the direction of Lisa Redd, director of the Oakes Award, selected the finalists from among the approximately 80 newspaper, magazine and Web sites submitted for the prize. This year marks the first time, according to Redd, that an online entry receives recognition.

The Oakes award honors the career of the late John B. Oakes, a New York Times editor who was a pioneer in environmental journalism and creator of the Times Op-Ed page. The first place prize comes with a \$5,000 honorarium; the second with a \$1000 award. Certificates of merit each carry a \$500 honorarium. The winners will accept their awards and serve on a panel discussing their work at the Oakes Award luncheon on March 30 at the Journalism School.

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency

Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

01268-EPA-3419

**Richard Windsor/DC/USEPA/US**  
02/04/2010 05:22 PM

To Adora Andy  
cc  
bcc

Subject Re: BLAKE MORRISON WINS ENVIRO REPORTING AWARD: DUHIGG GETS 2ND PLACE

Yes you're right. Congrats to you too.  
Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 02/04/2010 05:21 PM EST  
**To:** Richard Windsor  
**Cc:** Aaron Dickerson; Allyn Brooks-LaSure; Seth Oster  
**Subject:** Re: BLAKE MORRISON WINS ENVIRO REPORTING AWARD: DUHIGG GETS 2ND PLACE

PLACE

Those reporters should send congrats notes to your OW and OECA staff - for without them, these clowns would be winning the "severance pay" award. :)

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

Richard Windsor remind me to send congrats notes to t... 02/04/2010 05:15:10 PM

From: Richard Windsor/DC/USEPA/US  
To: Adora Andy/DC/USEPA/US@EPA, Aaron Dickerson/DC/USEPA/US@EPA  
Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
Date: 02/04/2010 05:15 PM  
Subject: Re: BLAKE MORRISON WINS ENVIRO REPORTING AWARD: DUHIGG GETS 2ND PLACE

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From: Adora Andy/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA  
Cc: Betsaida Alcantara/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Michael Moats/DC/USEPA/US@EPA, Stephanie Owens/DC/USEPA/US@EPA  
Date: 02/04/2010 05:13 PM  
Subject: BLAKE MORRISON WINS ENVIRO REPORTING AWARD: DUHIGG GETS 2ND PLACE

## Columbia Awards *USA TODAY* Reporters Environmental Journalism Award

By Amanda Ernst on Feb 04, 2010 03:30 PM

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Award for two USA TODAY reporters.

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"By yoking the locations of private and public schools around the country with an EPA model for tracking toxic chemicals, the reporters identified hundreds of schools where children seemed to be at risk," the Oakes Award judges' said. "As a result, the EPA and local environmental agencies began to do what they should have been doing for years: paying attention to the environment in which our children live and learn."

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The winners will receive their awards and speak on a panel about their work at the Oakes Award luncheon on March 30 at Columbia.

Full release after the jump

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"By yoking the locations of private and public schools around the country with an EPA model for tracking toxic chemicals, the reporters identified hundreds of schools where children seemed to be at risk," said the judges' citation. "As a result, the EPA and local environmental agencies began to do what they should have been doing for years: paying attention to the environment in which our children live and learn."

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The series, written by Charles Duhigg, an investigative business reporter, detailed how the Environmental Protection Agency and local regulators failed to use environmental laws to stop illegal pollution.

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Lombardi was recognized for her Web publication "The Hidden Cost of 'Clean Coal,'" (<http://www.publicintegrity.org/investigations/longwall>) which detailed how longwall mining, which yielded 176 million tons of coal in 2007, can have brutal social and environmental consequences. Kennedy was recognized for courage in breaking news and for following up with a compelling series of more than two dozen stories about the health threats to troops who are exposed to war-zone burn pits.

"We are quite excited that we have four superb projects this year to demonstrate how important and relevant reporting on the environment is to someone's health and well being," said Arlene Morgan, the school's associate dean for prizes and programs. A panel of journalists and scientists, under the direction of Lisa Redd, director of the Oakes Award, selected the finalists from among the approximately 80 newspaper, magazine and Web sites submitted for the prize. This year marks the first time, according to Redd, that an online entry receives recognition.

The Oakes award honors the career of the late John B. Oakes, a New York Times editor who was a pioneer in environmental journalism and creator of the Times Op-Ed page. The first place prize comes with a \$5,000 honorarium; the second with a \$1000 award. Certificates of merit each carry a \$500 honorarium. The winners will accept their awards and serve on a panel discussing their work at the Oakes Award luncheon on March 30 at the Journalism School.

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01268-EPA-3420

Richard Windsor/DC/USEPA/US  
02/04/2010 05:31 PM

To Arvin Ganesan  
cc  
bcc

Subject Re: NYT/GREENWIRE: Sen. Rockefeller Criticizes Obama Over Coal Policy

(b)(5) Deliberative

Arvin Ganesan

----- Original Message -----

From: Arvin Ganesan  
Sent: 02/04/2010 05:29 PM EST  
To: Richard Windsor  
Subject: Re: NYT/GREENWIRE: Sen. Rockefeller Criticizes Obama Over Coal Policy

(b)(5) Deliberative

thanks.

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Richard Windsor (b)(5) Deliberative 02/04/2010 03:26:37 PM

From: Richard Windsor/DC/USEPA/US  
To: Adora Andy/DC/USEPA/US@EPA  
Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Michael Moats/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Stephanie Owens/DC/USEPA/US@EPA  
Date: 02/04/2010 03:26 PM  
Subject: Re: NYT/GREENWIRE: Sen. Rockefeller Criticizes Obama Over Coal Policy

(b)(5) Deliberative

Adora Andy February 4, 2010 Sen. Rockefeller Criti... 02/04/2010 03:24:47 PM

From: Adora Andy/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA  
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Date: 02/04/2010 03:24 PM  
Subject: NYT/GREENWIRE: Sen. Rockefeller Criticizes Obama Over Coal Policy

February 4, 2010

# Sen. Rockefeller Criticizes Obama Over Coal Policy

By DARREN SAMUELSOHN of [Greenwire](#)

West Virginia Sen. Jay Rockefeller (D) lashed out at President Obama today for sending inconsistent messages about the future of coal.

Speaking at a Senate Finance Committee hearing on Obama's fiscal 2011 budget request, Rockefeller took umbrage first with the administration's decision to eliminate four tax breaks for the industry.

"It's going to be partly psychological," Rockefeller told White House budget chief Peter Orszag. "People are going to reduce their production because they feel, 'Uh oh, here comes the Obama administration,' and they are going to cut out coal."

But Rockefeller said his concerns snowballed when he considered recent U.S. EPA decisions on mountaintop-removal coal mining and work on regulations to control greenhouse gas emissions across the economy. Given that, he said, he isn't sure he trusts the president's commitments to coal, even as Obama promotes the fossil fuel through a series of other administration actions.

"He says it in his speeches, but he doesn't say it in here," Rockefeller said, referring to the budget proposal. "He doesn't say it in the actions of [EPA Administrator] Lisa Jackson. And he doesn't say it in the minds of my own people. And he's beginning to not be believable to me. So I want you to put me at rest or put me away."

Orszag, the director of the Office of Management and Budget, cited the new Cabinet-level task force Obama formed yesterday that aims to start five to 10 carbon capture and storage commercial demonstration projects around the country by 2016. He also cited the budget request of more than \$500 million for research and development for carbon storage.

And the OMB chief explained that the president wants Congress to pass a comprehensive climate bill capping greenhouse gas emissions, a program that would generate billions more for carbon storage.

Rockefeller pushed back at the Obama budget request, saying it fell well short of what was necessary to prompt widespread deployment of the "clean coal" technologies. And he said the new task force had some of the same goals as already existing federal programs.

In an interview as he left the hearing, Rockefeller said his complaints didn't rest with the budget.

"It's not a question of money, it's a question of the overall approach," he said. "I just wonder whether they really do understand the importance of coal, the fact the nation can't exist without

it."

Rockefeller maintained that he, too, supports a comprehensive climate change bill, though he was doubtful the Senate could reach agreement on a bill capable of winning 60 votes by the Democratic leaders' timetable of this spring.

"I've got to be satisfied," he said. "There's some coal-state senators like myself that have to be satisfied, forget all the Republicans who vote 'no' on everything."

Obama's commitment to fossil fuels also came under fire from Sen. John Cornyn (R-Texas), the head of the party's 2010 campaign operations.

Cornyn repeatedly questioned whether the administration's climate change policies entailed raising domestic energy prices in order to make other energy alternatives more commercially competitive. "I don't think that's the intention," Orszag replied. "The goal is to move toward alternative sources of energy as rapidly as possible."

The Texas Republican countered that Obama's energy policies would increase oil and gas prices, driving up imports at a time when more than three-quarters of the nation's energy needs are projected to come from fossil fuels in 2035.

But Orszag rejected the premise of the question. "What we're trying to move toward is a future where that projection is not realized," he said.

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For more news on energy and the environment, visit [www.greenwire.com](http://www.greenwire.com).

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01268-EPA-3421

**Richard Windsor/DC/USEPA/US**  
02/04/2010 05:45 PM

To Adora Andy  
cc Allyn Brooks-LaSure, Arvin Ganesan, Betsaida Alcantara, Bob Perciasepe, Bob Sussman, Brendan Gilfillan, David McIntosh, Diane Thompson, Gina McCarthy, Michael Moats, Seth Oster, Stephanie Owens, Cynthia Giles-AA, Peter Silva  
bcc  
Subject Re: BLAKE MORRISON WINS ENVIRO REPORTING AWARD: DUHIGG GETS 2ND PLACE

Folks,

These are your awards too. Thanks you for stepping up to deal with the issues these reporters highlighted. Their work became our work. The result is a more responsive EPA that is earning the public's trust day-by-day. Special kudos to the press team - Brendan on the school air! Adora and Betsaida on water ! And the OECA folks - Cynthia on water enforcement! and Gina on school air. Lisa

Lisa

Adora Andy	<a href="#">Columbia Awards USA TODAY Report...</a>	02/04/2010 05:13:16 PM
From:	Adora Andy/DC/USEPA/US	
To:	Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA	
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01268-EPA-3422

Bob Sussman/DC/USEPA/US  
02/04/2010 06:53 PM

To Richard Windsor, Lisa Heinzerling, Bob Perciasepe, Gina  
McCarthy

cc

bcc

Subject Fw: Planned CA gas plant first w/GHG limits

## An important milestone.

### **CLIMATE: Planned Calif. power plant would be nation's first with GHG limits** (02/04/2010)

**Robin Bravender and Colin Sullivan, E&E reporters**

Calpine Corp. is poised to build the first U.S. power plant with federal limits on greenhouse gas emissions in California after clearing a final regulatory hurdle today.

The Bay Area Air Quality Management District granted the Houston-based utility its final air quality permit today, allowing the company to proceed with the planned construction of a 600-megawatt natural gas-fired Russell City Energy Center. The 15-acre project site is in Hayward, just east of the San Francisco Bay.

The Russell City plant will produce 50 percent fewer greenhouse gas emissions than even the most advanced coal-fired plants, Calpine said, and will emit 25 percent fewer heat-trapping gases than the California Public Utilities Commission's standard. Construction on the facility plant is expected to begin later this year.

"We applaud the BAAQMD and Calpine for going beyond existing federal law and being the first in the nation to require an enforceable greenhouse gas limit," said Linda Adams, secretary of the California EPA. "This action furthers efforts at a statewide level to balance our economic needs while meeting our environmental challenges."

The Prevention of Significant Deterioration, or PSD, permit was issued with an eye on greenhouse gas restrictions set to be implemented in California in less than two years. The state's Air Resources Board is still in the process of putting together rules for a cap-and-trade market intended to help cut greenhouse gases to 1990 levels by 2020; that market goes live Jan. 1, 2012.

Utilities like Calpine will most likely be participants in that market, though it is unclear how

permits issued before the advent of the market might be counted under a regulated regime. Moreover, building new, cleaner-burning power plants is viewed in California as a means to help achieve a 33 percent renewable power standard by 2020, as gas-fired plants would back up intermittent sources like wind and solar. So-called peaker plants, which only run when demand is highest, are often older and powered by coal.

Calpine spokeswoman Norma Dunn said the company intends to run the Russell plant as baseload generation, selling its power to Pacific Gas & Electric Co. Terms of that deal were not disclosed.

The Calpine permit is coming against the backdrop of rising political pressure to suspend California's climate law, A.B. 32. Voters will most likely get to decide for themselves this fall whether climate regulations should go forward, as opponents of A.B. 32 are in the process of gathering signatures to place on the November ballot a measure that would tie the law to high unemployment levels. If the measure makes it onto the ballot, and voters approve it, California could see its climate law delayed until unemployment dips below 5.5 percent.

Calpine is an active player in the renewable power industry in California. The company owns and operates the Geysers in Sonoma and Lake counties in Northern California, which is the largest complex of geothermal power plants in the world.

### **Precedent?**

Environmentalists hailed the development as a signal that steep reductions in utilities' greenhouse gas emissions can be made under existing federal air laws, while some opponents insist that the Clean Air Act is an inappropriate tool for tackling global warming emissions.

"It's an example of what is possible," Sierra Club chief climate counsel David Bookbinder said. "Calpine is leading the way and showing how it's possible to generate all the electricity that America needs with half the greenhouse gases."

U.S. EPA is expected to soon begin regulating greenhouse gas emissions from stationary sources under the Clean Air Act. The agency is planning to finalize standards next month to limit automobile emissions of the heat-trapping gases, which would automatically trigger permitting requirements for industrial sources. EPA is planning to require only the largest stationary sources to install greenhouse gas controls but has not yet issued guidance about what pollution controls will be required for those facilities.

"This could become an important precedent," Clean Air Watch President Frank O'Donnell said of the Calpine permit. "It shows that the current Clean Air Act can be used to limit greenhouse gas emissions from power plants."

But Scott Segal, an industry attorney and director of the Electric Reliability Coordinating Council, said existing clean air permitting laws are inappropriate for regulating greenhouse gases.

"As a general proposition, we believe that the use of permitting conditions to advance a CO2 regulatory agenda is an inflexible mechanism that is likely to have a number of unintended consequences," Segal said.

By limiting greenhouse gases through air permits, Segal said, facilities located in other regions of the country -- including coal-rich areas -- would be at a disadvantage. "There is no mechanism to either contain cost or allow for trading if you use permit conditions as a basis for regulating CO2," he said.

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01268-EPA-3423

Richard  
Windsor/DC/USEPA/US  
02/05/2010 07:08 AM

To Arvin Ganesan  
cc  
bcc

Subject Re: question time article on 538.com - NOT urgent at all

(b)(5) Deliberative

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**From:** Arvin Ganesan  
**Sent:** 02/04/2010 09:57 PM EST  
**To:** Richard Windsor  
**Subject:** question time article on 538.com - NOT urgent at all

(b)(5) Deliberative

## [A Few Questions about #QuestionTime](#)

by Nate Silver @ [9:32 PM](#)

Share This Content

As you may be aware, I've teamed up with a group of about 50 other thinkers, bloggers, insiders and outsiders to [help promote the idea of Question Time](#) -- a regularly held, televised and webcasted forum in which the President would take questions from Members of the Congress, much as President Obama did with the Republican House delegation on January 29th and members of the Democratic Senate yesterday. This is truly a bipartisan endeavor, with everyone from Markos Moulitsas to Grover Norquist on board. You can sign our petition to Demand Question Time [here](#), and follow us on twitter [here](#).

Just a brief word about why I've signed onto this cause: perhaps I'm an idealist, but I tend to think that the lack of open, unmediated, and honest dialog between members of Congress, between the Congress and the Executive, and between both Congress and the Executive and the public, is the greatest threat to the efficacy of our democracy today. While structural constraints like the filibuster certainly also play a large role, these structures are nothing new -- it's the ways that our political culture have evolved around them that may be more problematic. In particular, it seems to me that there is a need for conversations that are not staged, that are not reduced to 30-second soundbytes, and that are not filtered through the lens of the media. A Question Time period, if reasonably well structured, could be a significant step toward achieving that goal. Politics needn't always be zero-sum, particularly at the time when our country faces a number of threats -- from the economy, to Islamic and other forms of radicalism, to the aggregation of power by elites, to the the changing climate -- in which we will all sink or swim together. That's why you're seeing Democrats and Republicans, technocrats and populists all working together to agitate for Question Time.

Earlier today, I was sent a [comprehensive report on Question Time periods](#) by Matthew Glassman, an analyst for the Congressional Research Service, which contextualizes them relative to both the experience in parliamentary systems, of which they are a common facet, and relative to the American experience. Calls for question time periods are not new and have been proposed periodically by members of both the Executive and Legislative branches, including William Howard Taft, Walter Mondale, Estes Kefauver, and candidate John McCain among others. But, obviously, they have yet to become a regular

feature of American democracy. Our hope, then, is more to make the issue a little "stickier" in the eyes of both the public and our elected officials and less to advance some specific proposal.

Nevertheless, the details of the idea may matter -- from my vantage point, for example, President Obama's session with the House Republicans, which seemed more spontaneous, was considerably more constructive than his session with the Senate Democrats, which felt more staged. Therefore, I am going to address a handful of questions that Glassman raises in his report, as well as a couple of others that are salient to the conversation. The opinions expressed herein are mine alone and do not reflect an official position of the Demand Question Time coalition.

**How Often Would Question Time Occur ?** In parliamentary systems, question time periods may occur weekly (the United Kingdom) or even daily (Canada), but the American appetite for consuming political news is perhaps somewhat more limited. In addition, we have a relatively strong Executive Branch which has many other duties and responsibilities, including international diplomacy which requires frequent travel. The right balance, it seems to me, is monthly sessions, probably lasting between 60-90 minutes. The Congress and the President would probably need some discretion on when to schedule these sessions within each month, but a prime time slot on a Sunday through Thursday night, when TV audiences are the largest, would probably be most desirable.

**Which Executive Branch Officials would participate in Question Time ?** In most parliamentary systems, not only the Chief Executive but also members of his cabinet officials take regular questions from the legislature, either simultaneously or in separate sessions. The latter function, however, is arguably replicated to some extent by the Congressional Committee system, and would surely draw less public attention. My interest, then, is primarily on the President himself.

**How Would Questions be Chosen ?** This is the one issue on which I feel most strongly: I think it is essential that the questions be chosen in some random order. Absent this, there is too much opportunity for questions which are less spontaneous and more staged, and for "back bench" members of the Congress -- whom are equal to any others in the eyes of the Constitution -- to play a subservient role to those who are more senior, more vocal, or (as unfortunately was the case in the session with the Senate Democrats) who might derive more electoral benefit from posing questions.

In particular, I would probably design a procedure something along the lines of the following. In advance of each session of Question Time, members of the Congress who were interested in posing a question would indicate as such to the Speaker of the House. They would not have to disclose their question in advance. A list of those members of the Congress who were interested in asking a question would be posted immediately in advance of the session on the Internet.

After that, the interested members would simply be selected in a random order to pose their questions, as is done in the United Kingdom, the lone constraint being that no party could ask more than three questions in a row (provided that there remained at least one question in the queue from the other party). Members of the Congress could not jump into our out of the queue once the session had begun.

**Would a Question Period be Bicameral ?** It seems preferable to me to have Question Time be both bipartisan and bicameral. The larger the number of members of Congress who have the opportunity to pose questions at any given time, the less opportunity there would be for coordination, such as by leadership, that would serve to make the questions more self-serving and less spontaneous.

**How Would a Question Time Period be Initiated ?** There are basically three options: formally via either Constitutional Amendment or via statute, or informally through custom. Of these, an informal structure clearly seems the best to me, at least initially. A Constitutional Amendment would require several years to implement, in the unlikely event that it could be implemented at all. A statute in the absence of an Amendment, meanwhile, might run into Constitutional problems, since it's not clear that the Congress can compel members of the Executive Branch to appear before them without violating separation of powers. Therefore, the hope would simply be that Question Time would become a regular and highly popular feature that would take on something of its own momentum. Indeed, I am optimistic that once the practice got started, it would be hard to undo, as the Executive would lose significant face if he refused to answer

the Congress's questions.

**What Rules Would Govern Floor Procedure ?** It's likely that at least some governing rules would need to be adopted by the House and the Senate, particularly if question time took the form of a formal session of Congress. Glassman's report suggests that it would probably be easier to adopt a new set of rules than to adapt ordinary Congressional procedure. I don't yet have an opinion about how strictly things like the time allotted to each question and answer would need to be constrained, as it is likely that the balance between informal etiquette and formal procedures would evolve somewhat organically over time. It seems desirable, however, that any procedures would tend to give less power than more to the floor leadership, and more power rather than less to the individual members who are elected directly by the public.

\*\_\*

Time for me to get a late dinner, but please let me know what you think with your [tweets](#) and your comments, and don't forget to [sign that petition](#).

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
[Ganesan.Arvin@epa.gov](mailto:Ganesan.Arvin@epa.gov)  
(p) 202.564.5200  
(f) 202.501.1519

01268-EPA-3424

**Bob Sussman/DC/USEPA/US**

02/05/2010 03:30 PM

To Bob Perciasepe

cc Richard Windsor

bcc

Subject Voluntary Program Cuts

(b)(5) Deliberative

## **EPA: Voluntary programs under scrutiny as regulatory obligations rise (02/05/2010)**

**Robin Bravender, E&E reporter**

As U.S. EPA ramps up regulatory activities in climate change and other arenas, the agency may cut back some of its many voluntary programs in an effort to funnel resources toward regulations, a top official said this week.

Assistant Administrator Gina McCarthy, the agency's top air regulator, said her office would scrutinize where it is putting money and employees and consider shifting away from voluntary programs that proliferated in recent years.

"I believe that we've made tremendous progress with the voluntary programs, but if we're going to begin to regulate more effectively, some of the voluntary programs may no longer be the priority issues and we may want to shift resources," McCarthy told a panel of EPA air quality advisers at a meeting in Arlington, Va., this week.

"There are many areas where the past administrations have been less willing to move forward with regulatory requirements, and we are willing and they are the better strategy, so that means we need to relook at what we do," she said.

McCarthy's comments come as the air office plows forward with initiatives to reduce emissions of greenhouse gases and conventional air pollutants and in the wake of President Obama's proposal this week to trim EPA's fiscal 2011 budget by 3 percent from 2010 levels.

Voluntary programs have proliferated across EPA's program offices, ranging from the well-known Energy Star program for household appliances to the lesser known Green Racing Initiative, which uses race cars to develop new energy efficiency measures for motor vehicles, and the Carpet America Recovery Effort, designed to increase carpet recycling and reuse.

In 2008, the agency operated 46 voluntary programs, with about half of those run out of EPA's

air office.

While the George W. Bush administration championed such initiatives, the Obama EPA has sought to shift resources away from some of these programs as it takes on broad new regulatory initiatives.

Just after taking office in March 2009, EPA Administrator Lisa Jackson halted the National Environmental Performance Track Program, an initiative that rewarded corporations' voluntary pollution controls with reduced environmental inspections and less stringent regulation ( [Greenwire](#) , March 16, 2009).

The Bush administration had championed that program, but environmentalists denounced it as a public relations stunt.

Environmentalists have applauded EPA's willingness to re-evaluate the usefulness of voluntary initiatives.

John Walke, clean air director at the Natural Resources Defense Council, called it "good management" to reconsider some of these initiatives. Although some of the programs can help fill regulatory gaps, others represent logical targets for elimination or contraction as EPA faces funding cuts.

"It was very obvious to all observers that the Bush administration used voluntary programs as an excuse not to regulate and as an active tool to subvert regulations," Walke said in an interview. "And nowhere was that more clear than climate change."

Now, Walke added, "EPA's attention is turning rightly toward regulation and mandatory reporting."

Jeff Holmstead, former EPA air chief under the Bush administration, said he agreed that there are many voluntary programs at EPA that are of questionable value. "It's certainly sensible, especially given the need to reduce the size of government, to try to either eliminate or consolidate programs that have grown over time," he said.

Still, Holmstead said, it would be a mistake for EPA to cut voluntary programs indiscriminately. "There are some voluntary programs that are quite successful," he said. "I hope they are successful in separating the wheat from the chaff."

Holmstead disputed the notion that the Bush administration relied on or invested more in voluntary programs than any other administration, saying that officials under both Democratic and Republican administrations sought to start new programs in order to leave their mark on the agency. And once in place, those programs can be tough to cut.

If the Obama administration tries to slash voluntary programs, "they will get pushback for almost anything they try to cut, because all of these programs have a constituency," Holmstead said.

Some EPA voluntary programs seem safe for now, including the joint Energy Department-EPA Energy Star initiative. The program received a \$2 million boost in Obama's proposed 2011 budget.

"I don't want it to be a signal that we're disinvesting in our voluntary programs," McCarthy told the advisory panel, "but more of a signal that we have to look at the priorities ahead and see whether those voluntary programs should mature, whether they should change."

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-3426

David  
McIntosh/DC/USEPA/US  
02/08/2010 08:43 AM

To windsor.richard  
cc  
bcc

Subject draft opening statement for Thursday's EPW hearing

Hi Administrator. Congratulations on the Saints victory! (b)(5) Deliberative

[Redacted]

--David

**Statement of U.S. Environmental Protection Agency Administrator Lisa P. Jackson  
Hearing on Global Warming Impacts, Including Public Health, in the United States  
Senate Committee on Environment and Public Works  
February 11, 2010**

Good morning, Madame Chairman, Ranking Member Inhofe, and Members of the  
Committee. (b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[REDACTED] (b)(5) Deliberative [REDACTED]

[REDACTED]

[REDACTED]

01268-EPA-3427

Richard Windsor/DC/USEPA/US  
02/08/2010 12:10 PM

To David McIntosh  
cc  
bcc

Subject Re: draft opening statement for Thursday's EPW hearing

(b)(5)

**From:** David McIntosh  
**Sent:** 02/08/2010 08:43 AM EST  
**To:** windsor.richard@epa.gov  
**Subject:** draft opening statement for Thursday's EPW hearing

Hi Administrator. Congratulations on the Saints victory (b)(5) Deliberative  
[Redacted]  
--David

**Statement of U.S. Environmental Protection Agency Administrator Lisa P. Jackson  
Hearing on Global Warming Impacts, Including Public Health, in the United States  
Senate Committee on Environment and Public Works  
February 11, 2010**

Good morning, Madame Chairman, Ranking Member Inhofe, and Members of the Committee. I  
(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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[Redacted]

(b)(5) Deliberative  
[Redacted]

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[Redacted]

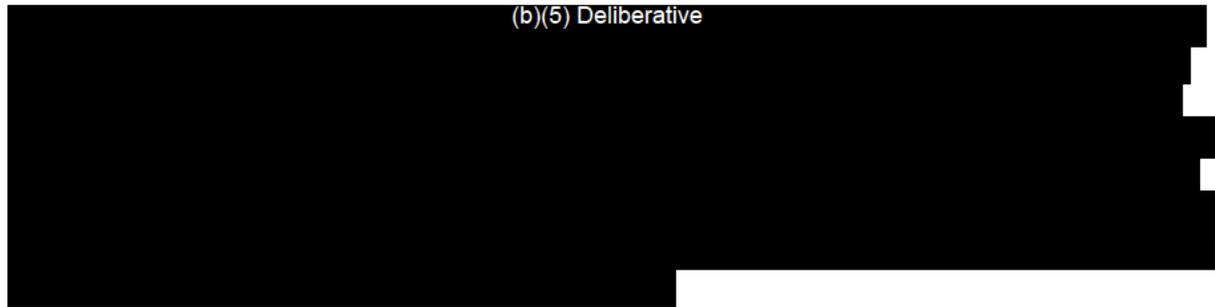
[Redacted]

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[Redacted]

[Redacted]

(b)(5) Deliberative



01268-EPA-3428

David  
McIntosh/DC/USEPA/US  
02/08/2010 12:12 PM

To Richard Windsor  
cc  
bcc

Subject Re: draft opening statement for Thursday's EPW hearing

(b)(5)

---

**From:** Richard Windsor  
**Sent:** 02/08/2010 12:10 PM EST  
**To:** David McIntosh  
**Subject:** Re: draft opening statement for Thursday's EPW hearing

(b)(5)

---

**From:** David McIntosh  
**Sent:** 02/08/2010 08:43 AM EST  
**To:** windsor.richard@epa.gov  
**Subject:** draft opening statement for Thursday's EPW hearing

Hi Administrator. Congratulations on the Saints victory! (b)(5) Deliberative  
[Redacted]  
--David

**Statement of U.S. Environmental Protection Agency Administrator Lisa P. Jackson  
Hearing on Global Warming Impacts, Including Public Health, in the United States  
Senate Committee on Environment and Public Works  
February 11, 2010**

Good morning, Madame Chairman, Ranking Member Inhofe, and Members of the Committee. I  
(b)(5) Deliberative

(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative  
(b)(5) Deliberative

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(b)(5) Deliberative

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[Redacted]

[Redacted]

I could not agree more.

Thank you, Madame Chairman.

01268-EPA-3431

**Richard Windsor/DC/USEPA/US**  
02/09/2010 10:00 AM

To David McIntosh  
cc  
bcc

Subject Re: Invitation from Senate EPW Committee

Climate change !  
David McIntosh

----- Original Message -----

**From:** David McIntosh  
**Sent:** 02/09/2010 09:58 AM EST  
**To:** Richard Windsor  
**Subject:** Fw: Invitation from Senate EPW Committee

God is just and righteous.

----- Forwarded by David McIntosh/DC/USEPA/US on 02/09/2010 09:57 AM -----

From: "Majors, Heather (EPW)" <Heather\_Majors@epw.senate.gov>  
To: Arvin Ganesan/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA  
Date: 02/09/2010 09:55 AM  
Subject: RE: Invitation from Senate EPW Committee

---

Good morning!

We are cancelling Thursday's hearing due to the inclement weather. An official notice will go out shortly. We will let you know when it is rescheduled.

Let me know if you have any questions.

Best regards,  
Heather

**From:** Majors, Heather (EPW)  
**Sent:** Thursday, February 04, 2010 6:28 PM  
**To:** 'Ganesan.Arvin@epamail.epa.gov'; 'McIntosh.David@epamail.epa.gov'  
**Subject:** Invitation from Senate EPW Committee

Attached please find an invitation addressed to you from the US Senate Environment and Public Works Committee.

Please confirm receipt. Thank you.

Heather Majors  
Majority Staff  
U.S. Senate Environment and Public Works Committee

410 Dirksen Senate Office Building  
Washington, DC 20510  
202.224.8832  
202.224.1273 Fax

01268-EPA-3432

**Richard Windsor/DC/USEPA/US**  
02/09/2010 07:27 PM

To Sarah Pallone  
cc  
bcc

Subject Re: Call with Gov Ritter

(b)(6) Privacy

Sarah Pallone

----- Original Message -----

**From:** Sarah Pallone  
**Sent:** 02/09/2010 07:26 PM EST  
**To:** Richard Windsor; Gina McCarthy  
**Subject:** Call with Gov Ritter

Hi Lisa and Gina,

I just got off the phone with Gov. Ritter's (CO) deputy CoS, Ken Weil. The Governor would like to speak to Lisa on Thursday on the following three issues: 1) pending legislation in CO to increase "RPS" from 20% to 30%; 2) fuel switching work with Excel Energy converting from coal to gas fired power plants. Wants to get a sense from EPA if the state is headed in the right direction before any state legislative action is taken to encourage this transition; and 3) SIP due in 2011. R8 has been in discussion with state however state feels it is "not realistic to hit this date."

Ken will be sending me more detailed outline of the issues. Which I will forward to Gina (b)(6) Privacy

(b)(5) Deliberative

I will forward the info as soon as I receive it. I have also asked Heidi to look for time on Thursday to have the call.

Thanks and if you need to reach me my cell is (b) (6) and my home #is (b) (6)

01268-EPA-3433

**Gina McCarthy/DC/USEPA/US**

To Sarah Pallone, Richard Windsor

02/09/2010 08:23 PM

cc Janet McCabe

bcc

Subject Re: Call with Gov Ritter

Thanks Sarah. I will get background info ready.  
Sarah Pallone

----- Original Message -----

**From:** Sarah Pallone

**Sent:** 02/09/2010 07:26 PM EST

**To:** Richard Windsor; Gina McCarthy

**Subject:** Call with Gov Ritter

Hi Lisa and Gina,

I just got off the phone with Gov. Ritter's (CO) deputy CoS, Ken Weil. The Governor would like to speak to Lisa on Thursday on the following three issues: 1) pending legislation in CO to increase "RPS" from 20% to 30%; 2) fuel switching work with Excel Energy converting from coal to gas fired power plants. Wants to get a sense from EPA if the state is headed in the right direction before any state legislative action is taken to encourage this transition; and 3) SIP due in 2011. R8 has been in discussion with state however state feels it is "not realistic to hit this date."

Ken will be sending me more detailed outline of the issues. Which I will forward to Gina( (b)(6) Privacy

(b)(5) Deliberative

I will forward the info as soon as I receive it. I have also asked Heidi to look for time on Thursday to have the call.

Thanks and if you need to reach me my cell is (b) (6)

01268-EPA-3435

Michael Moats/DC/USEPA/US  
02/10/2010 08:30 AM

To "Richard Windsor"  
cc Allyn Brooks-LaSure, "Michael Moats"  
bcc  
Subject ACTION changemakers answers and bio

Administrator, pasted below for your review are a Q&A and bio that we would like to submit for your profile on this site:

<http://www.change.org/changemakers>

(b)(5) Deliberative Let me know your edits and we'll go ahead and submit it. Thanks.

Mike

---

**From:** Michael Moats (b) (6) ]  
**Sent:** 02/10/2010 08:23 AM EST  
**To:** Michael Moats  
**Subject:** ACTION changemakers answers and bio

1. What cause or causes would you most like to promote as a Changemaker and why?

(b)(5) Deliberative

2. If you could ask 1 million people to all do 1 thing to advance causes that matter to you, what would it be?

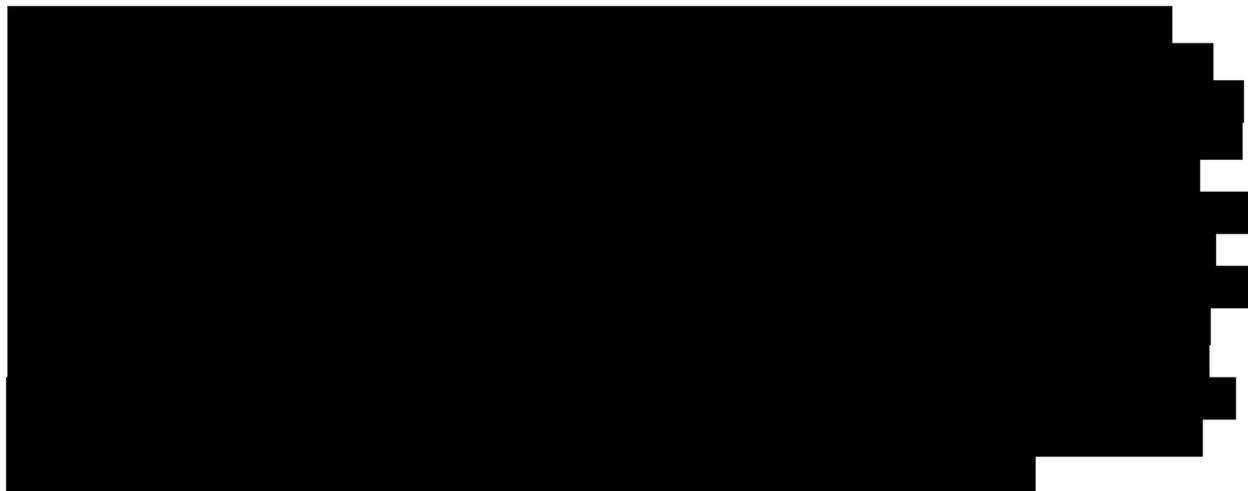
(b)(5) Deliberative

3. Tell us a bit about your personal story and how you came to care so much about these causes?

(b)(5) Deliberative

own lives.

(b)(5) Deliberative

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4. Who are other Changemakers who you look to for inspiration?

(b)(5) Deliberative

A large rectangular area of the document is completely redacted with black ink. The text "(b)(5) Deliberative" is printed in white at the top center of this redacted area.

-----

## Bio of Administrator Lisa P. Jackson

Administrator Lisa P. Jackson leads EPA's efforts to protect the health and environment for all Americans. She and a staff of approximately 18,000 professionals are working across the nation to usher in a green economy, address health threats from toxins and pollution, and renew public trust in EPA's work.

Raised a proud resident of New Orleans, Louisiana, Administrator Jackson is a *summa cum laude* graduate of Tulane University and earned a master's degree in chemical engineering from Princeton University. She started with EPA in 1987 as a staff-level scientist in the Washington, DC headquarters and EPA's Region 2 office in New York City. In 2002, Jackson joined the New Jersey Department of Environmental Protection and was appointed Commissioner of the agency in 2006. In her current role as Administrator she draws on her chemical engineering background and 20 years of environmental protection work at the regional and state levels.

Administrator Jackson has pledged to focus on seven priorities for EPA's future: taking action on climate change; improving air quality; cleaning up our communities; protecting America's waters; assuring the safety of chemicals; expanding the conversation on environmentalism and working for environmental justice; and building stronger state and tribal partnerships. She has promised that all of EPA's efforts will follow the best science, adhere to the rule of law, and be implemented with unparalleled transparency.

As the first African-American to serve as EPA Administrator, Jackson has made it a priority to expand outreach to communities that are historically under-represented in environmental action. Under her leadership, EPA has stepped up protection for vulnerable groups including children, the elderly, and low-income communities that are particularly susceptible to environmental and health threats. These efforts also include expanding economic opportunity for disadvantaged neighborhoods through the creation of green jobs and the cleanup of pollution and blight that cause costly health problems and hold back economic growth. To address these and other issues, Jackson has promised all stakeholders a place at the decision-making table.

EPA's progress in the Obama administration has been nothing short of historic. To respond to the greatest economic downturn since World War II, EPA invested billions of Recovery Act dollars to create green jobs. Administrator Jackson put forward principles to modernize our nation's 30-year old chemical management laws and ensure we are addressing the safety of chemicals in our products, our environment and our bodies. EPA joined the Department of Transportation in a proposed clean cars program, the first-ever mandatory reduction of greenhouse gases in American history. And in a long-overdue step forward, Administrator Jackson announced an Endangerment Finding on greenhouse gases, setting the stage for real action on climate change. In 2009 EPA also took steps to revitalize enforcement of clean water laws, strengthen standards on dangerous pollution in the air we breathe, and promote community cleanups.

Jackson now resides in Washington D.C. She is married to Kenny Jackson and is the proud mother of two sons, Marcus and Brian.

01268-EPA-3439

**Lisa Garcia/DC/USEPA/US**

02/10/2010 10:18 AM

To Richard Windsor

cc Diane Thompson, "Bob Perciasepe", "Scott Fulton", "Craig Hooks", "Heidi Ellis", "Robert Goulding", "Eric Wachter", "Seth Oster", "Allyn Brooks-Lasure", "David McIntosh", "Arvin Ganesan", "Bob Sussman", "Lisa Heinzerling", "Lawrence Elworth", "Aaron Dickerson"

bcc

Subject Re: Stakeholder meetings

(b)(5) Deliberative

thanks all!

-----Richard Windsor/DC/USEPA/US wrote: -----

To: Lisa Garcia/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA

From: Richard Windsor/DC/USEPA/US

Date: 02/10/2010 10:03AM

cc: "Bob Perciasepe" <perciasepe.bob@epa.gov>, "Scott Fulton" <fulton.scott@epa.gov>, "Craig Hooks" <hooks.craig@epa.gov>, "Heidi Ellis" <ellis.heidi@epa.gov>, "Robert Goulding" <goulding.robert@epa.gov>, "Eric Wachter" <wachter.eric@epa.gov>, "Seth Oster" <oster.seth@epa.gov>, "Allyn Brooks-Lasure" <Brooks-lasure.allyn@epa.gov>, "David McIntosh" <mcintosh.david@epa.gov>, "Arvin Ganesan" <ganesan.arvin@epa.gov>, "Bob Sussman" <Sussman.bob@epa.gov>, "Lisa Heinzerling" <heinzerling.lisa@epa.gov>, "Lawrence Elworth" <elworth.lawrence@epa.gov>, "Aaron Dickerson" <dickerson.aaron@epa.gov>

Subject: Re: Stakeholder meetings

(b)(5) Deliberative

**From:** Lisa Garcia

**Sent:** 02/10/2010 09:48 AM EST

**To:** Diane Thompson

**Cc:** "Bob Perciasepe" <perciasepe.bob@epa.gov>; "Scott Fulton" <fulton.scott@epa.gov>; "Craig Hooks" <hooks.craig@epa.gov>; "Heidi Ellis" <ellis.heidi@epa.gov>; "Robert Goulding" <goulding.robert@epa.gov>; "Eric Wachter" <wachter.eric@epa.gov>; "Seth Oster" <oster.seth@epa.gov>; "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>; "David McIntosh" <McIntosh.david@epa.gov>; "Arvin Ganesan" <ganesan.arvin@epa.gov>; "Bob Sussman" <sussman.bob@epa.gov>; "Lisa Heinzerling" <heinzerling.lisa@epa.gov>; Richard Windsor; Lisa Garcia; "Larry Elworth" <elworth.lawrence@epa.gov>; "Aaron Dickerson" <dickerson.aaron@epa.gov>

**Subject:** Stakeholder meetings

For the general Enviro Stakeholder Lunch and TSCA meetings, (b)(5) Deliberative

I can work with Heidi or Bob S.

-----Diane Thompson/DC/USEPA/US wrote: -----

To: "Bob Perciasepe" <perciasepe.bob@epa.gov>, "Scott Fulton" <fulton.scott@epa.gov>, "Craig Hooks" <hooks.craig@epa.gov>, "Heidi Ellis" <ellis.heidi@epa.gov>, "Robert Goulding" <goulding.robert@epa.gov>, "Eric Wachter" <wachter.eric@epa.gov>, "Seth Oster" <oster.seth@epa.gov>, "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>, "David McIntosh" <McIntosh.david@epa.gov>, "Arvin Ganesan" <ganesan.arvin@epa.gov>, "Bob Sussman" <sussman.bob@epa.gov>, "Lisa Heinzerling" <heinzerling.lisa@epa.gov>, "Richard Windsor" <Windsor.Richard@epamail.epa.gov>, Garcia.Lisa@epamail.epa.gov, "Larry Elworth" <elworth.lawrence@epa.gov>, "Aaron Dickerson" <dickerson.aaron@epa.gov>  
 From: Diane Thompson/DC/USEPA/US  
 Date: 02/08/2010 10:07PM  
 Subject: Re: Am call Tues

(b)(5) Deliberative

Aaron, please open the line again.

Diane Thompson

----- Original Message -----

**From:** Diane Thompson

**Sent:** 02/08/2010 08:40 AM EST

**To:** "Bob Perciasepe" <perciasepe.bob@epa.gov>; "Scott Fulton" <fulton.scott@epa.gov>; "Craig Hooks" <hooks.craig@epa.gov>; "Heidi Ellis" <ellis.heidi@epa.gov>; "Robert Goulding" <goulding.robert@epa.gov>; "Eric Wachter" <wachter.eric@epa.gov>; "Seth Oster" <oster.seth@epa.gov>; "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>; "David McIntosh" <McIntosh.david@epa.gov>; "Arvin Ganesan" <ganesan.arvin@epa.gov>; "Bob Sussman" <sussman.bob@epa.gov>; "Lisa Heinzerling" <heinzerling.lisa@epa.gov>; Richard Windsor; Lisa Garcia; "Larry Elworth" <elworth.lawrence@epa.gov>

**Subject:** Am call

I just emailed Aaron to see if he can open the line for 8:45. Not sure if he will be able to, but thought it wld make sense to try to touch base. (b) (6) code (b) (6)

01268-EPA-3441

Heidi Ellis/DC/USEPA/US

02/10/2010 10:54 AM

To Bob Sussman, Richard Windsor

cc Cynthia Giles-AA, "Lisa Heinzerling", Bob Perciasepe, "Mathy Stanislaus", "Bob Sussman", "Diane Thompson", "Aaron Dickerson"

bcc

Subject Re: Let's catch up on coal ash at 11. Ok?

The administrator's line is free.

(b) (6)

---

**From:** Bob Sussman  
**Sent:** 02/10/2010 10:49 AM EST  
**To:** Richard Windsor  
**Cc:** Cynthia Giles-AA; Heidi Ellis; "Lisa Heinzerling" <heinzerling.lisa@epa.gov>; Bob Perciasepe; "Mathy Stanislaus" <stanislaus.mathy@epa.gov>; "Bob Sussman" <Sussman.bob@epa.gov>; "Diane Thompson" <thompson.diane@epa.gov>  
**Subject:** Re: Let's catch up on coal ash at 11. Ok?

Normal call-in number?

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

From: Richard Windsor/DC/USEPA/US

To: "Bob Sussman" <Sussman.bob@epa.gov>, "Mathy Stanislaus" <stanislaus.mathy@epa.gov>, Cynthia Giles-AA/DC/USEPA/US@EPA, "Lisa Heinzerling" <heinzerling.lisa@epa.gov>  
Cc: "Heidi Ellis" <Ellis.Heidi@epamail.epa.gov>, "Diane Thompson" <thompson.diane@epa.gov>, "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>

Date: 02/10/2010 10:34 AM

Subject: Let's catch up on coal ash at 11. Ok?

cc:

---

01268-EPA-3442

Mathy  
Stanislaus/DC/USEPA/US  
02/10/2010 11:05 AM

To Bob Sussman, Richard Windsor, Bob Perciasepe, Lisa  
Heinzerling, Diane Thompson  
cc  
bcc

Subject CCR Article in Grist

**the limits of voluntarism**

## Are utilities' plans for shoring up hazardous coal ash dams good enough? [2](#)



9 Feb 2010 9:10 AM

by [Sue Sturgis](#)

- [Author Feed](#)
- Posted in
  - [Climate & Energy](#),
  - [Environmental Health](#)
- Read More About
  - [coal](#),
  - [coal ash](#),
  - [Duke Energy](#),
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The U.S. Environmental Protection Agency has released action plans submitted by 22 coal-fired power plants to improve the safety of the massive dammed surface impoundments where they store toxic coal ash, but environmental advocates question whether the plans do enough to protect the public from disaster.

That's because in the absence of federal regulations treating coal ash as hazardous waste, the EPA lacks authority to strictly enforce the plans.

The utilities submitted the plans to EPA in response to the agency's on-site assessments of the impoundments, ordered after the catastrophic December 2008 [collapse of a coal ash](#)

[impoundment at the Tennessee Valley Authority's Kingston power plant](#) in eastern Tennessee. The agency made the plans available to the public last week.

"EPA is committed to making communities across the country safer places to live," [said](#) Mathy Stanislaus, assistant administrator for EPA's Office of Solid Waste and Emergency Response. "The information we are releasing today shows that we continue to make progress in our efforts to prevent future coal ash spills."

The plans made public so far address recommendations for 43 impoundments at 22 plants. Altogether, the agency has [identified](#) 49 coal ash impoundments at 30 different plants as high-hazard, meaning that a failure would probably cause a loss of human life. Not all of the action plans submitted to date are for the highest-hazard facilities.

Attorney Lisa Evans, a coal ash specialist with the environmental law firm Earthjustice, praised EPA for sharing the companies' plans with the public. But she questioned whether these voluntary plans for shoring up the structures are adequate given the potential threat to communities.

"Where are the administrative orders to the facilities with enforceable time lines?" asked Evans. "Unless these things are formalized, enforceable and tracked by the agency, I don't think there's much use to them."

EPA stated that if facilities "fail to take sufficient measures, EPA will take additional action, if the circumstances warrant"—but it does not specify what that action might be. Evans pointed out that unless coal ash is declared hazardous, there cannot be strict federal enforcement. And to date, the EPA has declined to designate coal ash as hazardous waste.

"We can't fault EPA for not issuing orders in lieu of accepting voluntary agreements, since the law is not there for them to enforce," Evans acknowledged. "This clearly illustrates an important gap that could have life-or-death consequences."

Since last May, EPA has been conducting on-site assessments of coal ash impoundments and similar waste storage facilities at electric utilities nationwide. It hired contractors with expertise in dam safety to assess all of the known units with a dam hazard potential rating of "high" or "significant" as reported by the electric utilities themselves (except for those owned by the federally overseen Tennessee Valley Authority, which are being evaluated on a separate schedule).

Evans also questioned the adequacy of the inspections, which were based on visual assessments of the sites, interviews with on-site personnel and reviews of technical reports and other documents where available. "No new core samples or really invasive and diagnostic testing was conducted," she said.

In some cases, the companies' vague plans to address serious problems seem to justify concerns about EPA's lack of enforcement authority. For example:

\* The [final inspection report](#) [pdf] for **Alabama Power/Southern Co.'s Plant Gorgas in Walker County, Ala.** noted "minor" seepage at one location on the dam. In response, the company said it "intends to monitor this issue and take any measure as [it] may deem necessary to ensure the continued integrity of the structure," but it did not offer any specifics. Plant Gorgas is [located on the Mulberry Branch of the Black Warrior River](#), which along with its tributaries is a major source of drinking water for cities including Tuscaloosa and Birmingham, Ala.

\* The [final inspection report](#) [pdf] for **Duke Energy's Allen plant in Gaston County, N.C.** documented the presence of scarps—large cracks cause by erosion—near the crest of a dam as well as seepage, and recommended maintenance work to detect stability issues. In its [action](#)

[plan](#) [pdf], the company said that the “scarps and seepage noted in this inspection report have been identified in previous inspections performed by independent engineering consultants” and that it “will continue to monitor these areas.” The Allen plant sits on Lake Wylie, a human-made reservoir on the Catawba River, which was [named the most endangered U.S. river](#) in 2008 by American Rivers.

\* Inspectors [recommended](#) [pdf] that the **LG&E/E.ON US Trimble plant near Bedford, Ky.** develop plans to establish a firm schedule for maintenance at its ash pond. But the company’s [action plan](#) [pdf] said only that it is “currently considering development” of such plans. The plant is located on the Ohio River 50 miles northeast of Louisville, Ky.

\* At **Progress Energy’s Cape Fear plant in Chatham County, N.C.**, [inspectors found](#) [pdf] an area of ponded water at the edge of one dike and recommended improving the grading or, if the area couldn’t be fully drained, buttressing the structure. Progress Energy [responded](#) [pdf] that it needed to gain permission from an adjacent landowner to access the problem area and would make the necessary improvements “[p]roviding access is allowed.” The plant sits alongside the Haw River, a tributary of the Cape Fear.

\* Meanwhile, EPA is getting push-back on [inspectors’ recommendations](#) for the impoundments at **American Electric Power’s Philip Sporn plant along the Ohio River in Mason County, W.Va.** The company has indicated its willingness to conduct some stability studies, but said the recommended [liquefaction tests](#)—another assessment of stability—would not be necessary since the company has conducted generic liquefaction tests. However, EPA’s inspector for the site continues to believe liquefaction studies should be conducted for the plant’s two impoundments, which have been designated high-hazard facilities. On Nov. 13, 2009, EPA sent a letter to AEP requesting the tests, but there is no indication that the company will conduct them.

The EPA had promised to release proposed federal regulations for coal ash by the end of 2009, but in December said that it was [delaying the release](#) “due to the complexity of the analysis.” The utility industry has been [lobbying hard](#) to keep coal ash from being designated as hazardous waste, even though the material contains potentially dangerous levels of toxins including arsenic, lead, and mercury.

To see the action plans submitted by the utilities, click [here](#) and scroll down to the documents marked “New.”

Mathy Stanislaus  
USEPA Assistant Administrator  
Office of Solid Waste & Emergency Response

01268-EPA-3443

Richard Windsor/DC/USEPA/US  
02/10/2010 02:33 PM

To Michael Moats  
cc  
bcc

Subject Re: ACTION changemakers answers and bio - MY THOUGHTS

**Some suggestions in caps below.**

1. What cause or causes would you most like to promote as a Changemaker and why?

(b)(5) Deliberative



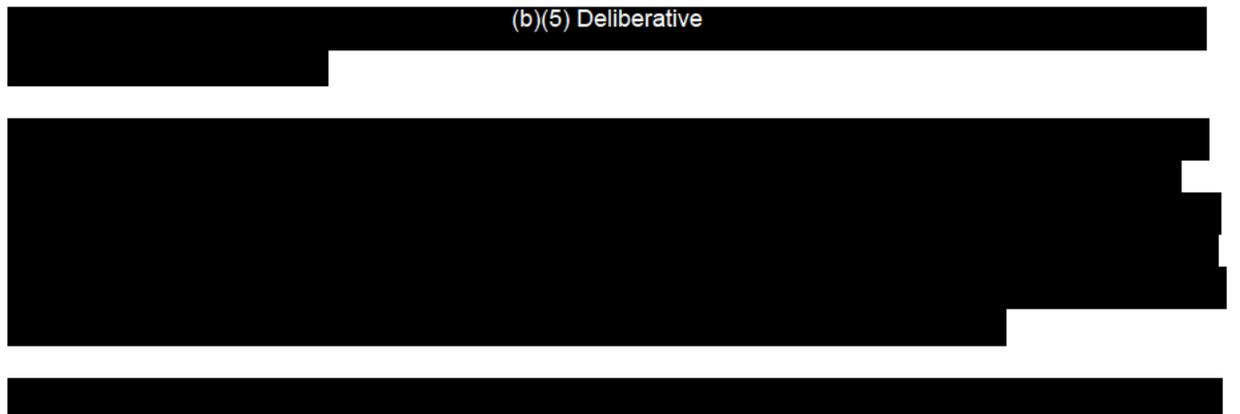
2. If you could ask 1 million people to all do 1 thing to advance causes that matter to you, what would it be?

(b)(5) Deliberative



3. Tell us a bit about your personal story and how you came to care so much about these causes?

(b)(5) Deliberative



(b)(5) Deliberative



4. Who are other Changemakers who you look to for inspiration?

(b)(5) Deliberative



-----  
**Bio of Administrator Lisa P. Jackson**

Administrator Lisa P. Jackson leads EPA's efforts to protect the health and environment for all Americans. She and a staff of approximately 18,000 professionals are working across the nation to usher in a green economy, address health threats from toxins and pollution, and renew public trust in EPA's work.

Raised a proud resident of New Orleans, Louisiana, Administrator Jackson is a *summa cum laude*

graduate of Tulane University and earned a master's degree in chemical engineering from Princeton University. She started with EPA in 1987 as a staff-level scientist in the Washington, DC headquarters and EPA's Region 2 office in New York City. In 2002, Jackson joined the New Jersey Department of Environmental Protection and was appointed Commissioner of the agency in 2006. In her current role as Administrator she draws on her chemical engineering background and 20 years of environmental protection work at the regional and state levels.

Administrator Jackson has pledged to focus on seven priorities for EPA's future: taking action on climate change; improving air quality; cleaning up our communities; protecting America's waters; assuring the safety of chemicals; expanding the conversation on environmentalism and working for environmental justice; and building stronger state and tribal partnerships. She has promised that all of EPA's efforts will follow the best science, adhere to the rule of law, and be implemented with unparalleled transparency.

As the first African-American to serve as EPA Administrator, Jackson has made it a priority to expand outreach to communities that are historically under-represented in environmental action. Under her leadership, EPA has stepped up protection for vulnerable groups including children, the elderly, and low-income communities that are particularly susceptible to environmental and health threats. These efforts also include expanding economic opportunity for disadvantaged neighborhoods through the creation of green jobs and the cleanup of pollution and blight that cause costly health problems and hold back economic growth. To address these and other issues, Jackson has promised all stakeholders a place at the decision-making table.

EPA's progress in the Obama administration has been nothing short of historic. To respond to the greatest economic downturn since World War II, EPA invested billions of Recovery Act dollars to create green jobs. Administrator Jackson put forward principles to modernize our nation's 30-year old chemical management laws and ensure we are addressing the safety of chemicals in our products, our environment and our bodies. EPA joined the Department of Transportation in a proposed clean cars program, the first-ever mandatory reduction of greenhouse gases in American history. And in a long-overdue step forward, Administrator Jackson announced an Endangerment Finding on greenhouse gases, setting the stage for real action on climate change. In 2009 EPA also took steps to revitalize enforcement of clean water laws, strengthen standards on dangerous pollution in the air we breathe, and promote community cleanups.

Jackson now resides in Washington D.C. She is married to Kenny Jackson and is the proud mother of two sons, Marcus and Brian.

01268-EPA-3450

**Katharine Gage/DC/USEPA/US**  
02/12/2010 01:23 PM

To Wyatt Rockefeller, Candace White, Nancy Stoner, Daniel Kanninen, Marygrace Galston, Debbie Dietrich, Lisa Garcia, Paul Anastas, Alecia Allston, Barbara Bennett, Heidi Ellis, Christopher Busch, Clay Diette, Stephanie Owens, Bob Perciasepe, Craig Hooks, Michelle DePass, Steve Owens, Peter Silva, Peter Grevatt, Sarah Pallone, Mathy Stanislaus, Cynthia Giles-AA, Gina McCarthy, Alicia Kaiser, Lawrence Elworth, Seth Oster, Katharine Gage, Stephanie Washington, Diane Thompson, Arvin Ganesan, Marcus McClendon, Ray Spears, Sarah Dale, Georgia Bednar, Carla Veney, Scott Fulton, Bob Sussman, Allyn Brooks-LaSure, Richard Windsor, Eric Wachter, (b)(6) Robert Goulding, Lisa Heinzerling, David McIntosh

cc

bcc

Subject Tuesday, February 16, 2010 Schedule for Lisa P. Jackson

\*\*\* do not copy or forward this information \*\*\*

**Schedule for Lisa P. Jackson EPA Administrator  
Tuesday, February 16, 2010**

Notes: Please note that this schedule is subject to change over the weekend. Updates will be sent out if changes are made.

Drivers	Shift Leaders	Staff Contact
(b) (6)		Heidi Ellis 202-355-5212
07:30 AM - 08:15 AM	Residence	Depart for Ariel Rios
08:15 AM - 08:45 AM	Administrator's Office	1 on 1 with Gina McCarthy Ct: Don Maddox (OAR) 564-7404  Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)
08:45 AM - 09:15 AM	Administrator's Office	Daily Meeting
09:15 AM - 09:45 AM	Administrator's Office	1 on 1 with Bob Sussman Ct: Georgia Bednar (OA) 564-9816
09:45 AM - 12:00 PM	Administrator's Office	Office Time
10:30 AM - 11:30 AM	WH TBD	HOLD Green Cabinet Meeting Ct: Steve Moilanen (WH Office of Energy and Climate Change) (b) (6)
12:00 PM - 01:00 PM	Administrator's Office	No Meetings
01:00 PM - 02:00 PM	Bullet Room	Senior Staff Meeting
02:00 PM - 03:00 PM	Administrator's Office	Office Time

03:00 PM - 05:15 PM    Bullet Room

Congressional Budget Hearing Briefings  
Ct: Lucille Baker (OCFO) 564-1714

Agenda:

OCFO/OCIR    3 - 3:15 PM  
OAR            3:15 - 4 PM  
OSWER        4 - 4:45 PM  
OEI            4:45 - 5:05 PM  
OHS            5:05 - 5:15 PM

Each meeting time will include the Program Office AA as well as:

Bob Perciasepe, Diane Thompson (OA)  
Scott Fulton (OGC)  
David McIntosh, Sven-Erik Kaiser (OCIR)  
Seth Oster (OPA)  
Barbara Bennett, Maryann Froehlich, Josh Baylson, Ed Walsh, David  
Bloom, Carol  
Terris, Pamala List (OCFO)

---

07:30 PM - 11:00 PM

(b) (6)

Mardi Gras Celebration  
Ct: Heidi Ellis (OA)

---

\*\*\* 02/12/2010 01:22:10 PM \*\*\*

01268-EPA-3451

**Aaron Dickerson/DC/USEPA/US**  
02/12/2010 01:29 PM

To Richard Windsor  
cc  
bcc

Subject Fw: Tuesday, February 16, 2010 Schedule for Lisa P. Jackson

OCFO is updating your budget book for the hearing prep on Tuesday. Do you want the book over the weekend or just leave it here at the office?

----- Forwarded by Aaron Dickerson/DC/USEPA/US on 02/12/2010 01:26 PM -----

From: Katharine Gage/DC/USEPA/US  
To: [REDACTED] (b) (6)  
Dennis James/DC/USEPA/US@EPA, Gladys Stroman/DC/USEPA/US@EPA, Aaron Dickerson/DC/USEPA/US@EPA  
Date: 02/12/2010 01:23 PM  
Subject: Tuesday, February 16, 2010 Schedule for Lisa P. Jackson

\*\*\* do not copy or forward this information \*\*\*

**Schedule for Lisa P. Jackson EPA Administrator  
Tuesday, February 16, 2010**

Notes: Please note that this schedule is subject to change over the weekend. Updates will be sent out if changes are made.

Drivers	Shift Leaders	Staff Contact
[REDACTED] (b) (6)		Heidi Ellis 202-355-5212
07:30 AM - 08:15 AM	Residence	Depart for Ariel Rios
08:15 AM - 08:45 AM	Administrator's Office	1 on 1 with Gina McCarthy Ct: Don Maddox (OAR) 564-7404  Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)
08:45 AM - 09:15 AM	Administrator's Office	Daily Meeting
09:15 AM - 09:45 AM	Administrator's Office	1 on 1 with Bob Sussman Ct: Georgia Bednar (OA) 564-9816
09:45 AM - 12:00 PM	Administrator's Office	Office Time
10:30 AM - 11:30 AM	WH TBD	HOLD Green Cabinet Meeting Ct: Steve Moilanen (WH Office of Energy and Climate Change) (b) (6)
12:00 PM - 01:00 PM	Administrator's Office	No Meetings

01:00 PM - 02:00 PM	Bullet Room	Senior Staff Meeting
02:00 PM - 03:00 PM	Administrator's Office	Office Time
03:00 PM - 05:15 PM	Bullet Room	Congressional Budget Hearing Briefings Ct: Lucille Baker (OCFO) 564-1714  Agenda:  OCFO/OCIR 3 - 3:15 PM OAR 3:15 - 4 PM OSWER 4 - 4:45 PM OEI 4:45 - 5:05 PM OHS 5:05 - 5:15 PM  Each meeting time will include the Program Office AA as well as:  Bob Perciasepe, Diane Thompson (OA) Scott Fulton (OGC) David McIntosh, Sven-Erik Kaiser (OCIR) Seth Oster (OPA) Barbara Bennett, Maryann Froehlich, Josh Baylson, Ed Walsh, David Bloom, Carol Terris, Pamala List (OCFO)
07:30 PM - 11:00 PM	(b) (6)	Mardi Gras Celebration Ct: Heidi Ellis (OA)

\*\*\* 02/12/2010 01:22:10 PM \*\*\*

01268-EPA-3452

**Richard Windsor/DC/USEPA/US**  
02/12/2010 01:34 PM

To Aaron Dickerson  
cc  
bcc  
Subject Re: Tuesday, February 16, 2010 Schedule for Lisa P. Jackson

Leave it. Tx  
Aaron Dickerson

----- Original Message -----

**From:** Aaron Dickerson  
**Sent:** 02/12/2010 01:29 PM EST  
**To:** Richard Windsor  
**Subject:** Fw: Tuesday, February 16, 2010 Schedule for Lisa P. Jackson  
OCFO is updating your budget book for the hearing prep on Tuesday. Do you want the book over the weekend or just leave it here at the office?

----- Forwarded by Aaron Dickerson/DC/USEPA/US on 02/12/2010 01:26 PM -----

From: Katharine Gage/DC/USEPA/US  
To: (b) (6)  
Dennis James/DC/USEPA/US@EPA, Gladys Stroman/DC/USEPA/US@EPA, Aaron Dickerson/DC/USEPA/US@EPA  
Date: 02/12/2010 01:23 PM  
Subject: Tuesday, February 16, 2010 Schedule for Lisa P. Jackson

\*\*\* do not copy or forward this information \*\*\*

**Schedule for Lisa P. Jackson EPA Administrator  
Tuesday, February 16, 2010**

Notes: Please note that this schedule is subject to change over the weekend. Updates will be sent out if changes are made.

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(b) (6)		Heidi Ellis 202-355-5212
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07:30 PM - 11:00 PM	(b) (6)	Mardi Gras Celebration Ct: Heidi Ellis (OA)

01268-EPA-3454

Richard Windsor/DC/USEPA/US  
02/12/2010 10:38 PM

To David McIntosh  
cc  
bcc

Subject Re: CEA on "Tranforming the Energy Sector and Addressing Climate Change"

Wow. V impressive. [REDACTED] (b)(5) deliberative

David McIntosh

----- Original Message -----

**From:** David McIntosh

**Sent:** 02/12/2010 05:19 PM EST

**To:** Richard Windsor; Diane Thompson; Bob Perciasepe; Lisa Heinzerling; Arvin Ganesan; Bob Sussman; Craig Hooks; Seth Oster; Allyn Brooks-LaSure; Lawrence Elworth; Eric Wachter; Robert Goulding; Heidi Ellis; Ray Spears; Scott Fulton; Lisa Garcia

**Subject:** CEA on "Tranforming the Energy Sector and Addressing Climate Change"

Yesterday, the Council of Economic Advisors released the 2010 Economic Report of the President (<http://www.whitehouse.gov/administration/eop/cea/economic-report-of-the-President>). I hadn't seen any drafts of the report and didn't know it was coming. But I've just finished reading Chapter 9, "Transforming the Energy Sector and Addressing Climate Change" (<http://www.whitehouse.gov/sites/default/files/microsites/economic-report-president-chapter-9r2.pdf>). I

(b)(5) Deliberative

[REDACTED]

Pasted immediately below are some of the corresponding passages from the chapter.

In his first year in office, the President took several other significant and concrete steps to transform the energy sector and address climate change. Significantly, the Environmental Protection Agency (EPA) issued two findings in December 2009. The first finding was that six greenhouse gases endanger public health and welfare. The second finding was that the emissions of these greenhouse gases from motor vehicles cause or contribute to pollution that threatens public health and welfare. These findings do not in and of themselves trigger any requirements for emitters, but they lay the foundation for regulating greenhouse gas emissions. Following up on these findings, the Administration has proposed the first mandatory greenhouse gas emission standards for new passenger vehicles. The standards are expected to be finalized in the spring of 2010. By model year 2016, new cars and light trucks sold in the United States will be required to meet a fleet-wide tailpipe emissions limit equivalent to a standard of about 35.5 miles per gallon if met entirely through fuel economy improvements. The EPA estimates that these standards will save about 36 billion gallons of fuel and reduce vehicle greenhouse gas emissions by about 760 million metric tons in CO<sub>2</sub>-equivalent terms over the lifetime of the vehicles.

The Administration also proposed renewable fuel standards consistent with the Energy Independence and Security Act (EISA), which requires that a minimum volume of renewable fuel be added to gasoline sold in the United States. Renewable fuels are derived from bio-based feedstocks such as corn, soy, sugar cane, or cellulose that have fewer life-cycle greenhouse gas emissions than the gasoline or diesel they replace. When fully implemented, the standards will increase the volume of renewable fuel blended into

gasoline from 9 billion gallons in 2008 to 36 billion gallons by 2022.

The Administration also has been proactive in establishing minimum energy efficiency standards for a wide variety of consumer products and commercial equipment. For instance, standards were proposed or finalized in 2009 for microwave ovens, dishwashers, small electric motors, lighting, vending machines, residential water heaters, and commercial clothes washers, among others. Overall, these actions will reduce energy consumption and, in turn, greenhouse gas emissions. The Energy Information Administration's 2009 Annual Energy Outlook projected that by 2030, higher fuel economy and lighting efficiency standards will contribute to lowering energy use per capita by 10 percent, compared with fairly stable energy use per capita between 1980 and 2008 (Department of Energy 2009b). The 2010 Annual Energy Outlook highlights appliance and building efficiency standards as one reason for lower projected carbon dioxide emissions growth, underscoring the benefits of these regulations (Department of Energy 2009a).

Beginning in 2010, the United States will begin collecting comprehensive high-quality data on greenhouse gases from large emitters in many sectors of the economy (for instance, electricity generators and cement producers). When fully implemented, this program will cover about 85 percent of U.S. emissions. The information supplied will provide a basis for formulating policy on how best to reduce emissions in the future. It will also be a valuable tool to allow industry to track emissions over time. Specifically, these data will make it possible for industry and government to identify the cheapest ways to reduce greenhouse gas emissions. Finally, the President issued an Executive Order requiring Federal agencies to set and meet aggressive goals for greenhouse gas emission reductions. Importantly, agencies are instructed to pursue reductions that lower energy expenses and save taxpayers money.

\*\*\*

Using a macroeconomic model, the Council of Economic Advisers (CEA) estimates that the approximately \$90 billion of Recovery Act investments will save or create about 720,000 job-years by the end of 2012 (a job-year is one job for one year). Projects in the renewable energy generation and transmission, energy efficiency, and transit categories create the most job-years. Approximately two-thirds of the job-years represent work on clean energy projects, either by workers employed directly on the projects or by workers at suppliers to the projects. These macroeconomic benefits make it clear that the Administration has made a tremendous down payment on the clean energy transformation.

\*\*\*

To derive the possible benefits associated with the U.S. contribution to these emission reductions, the CEA calculates that the ACES will result in approximately \$1.6 trillion to \$2.0 trillion of avoided global damages in present value terms

between 2012 and 2050 (in 2005 dollars).<sup>8</sup> The value of avoided damages includes such benefits as lower mortality rates, higher agricultural yields, money saved on adaptation measures, and the reduced likelihood of small-probability but high-impact catastrophic events. Further, the benefits will be significantly larger if U.S. policy induces other countries to undertake reductions in greenhouse gas emissions.

<sup>8</sup> The CEA uses estimates of the projected decline in emissions between 2012 and 2050 based on the President's proposed reductions in emissions and uses the central estimate of \$20 a ton for a unit of carbon dioxide emitted in 2007 (in 2007 dollars) that was recently developed as an interim value for regulatory analyses (Department of Energy 2009c). Additionally, it assumes that the benefit of reducing one additional ton of carbon dioxide grows at 3 percent over time and that future damages from current emissions are discounted using an average of 5 percent. Several Federal agencies have used these values in recent proposed rulemakings but have requested comment prior to the final rulemaking, so these estimates may be revised.

01268-EPA-3460

**Richard Windsor/DC/USEPA/US**  
02/16/2010 10:27 AM

To Seth Oster, Diane Thompson, Bob Perciasepe  
cc Allyn Brooks-LaSure  
bcc  
Subject Re: Energy Secretary Steven Chu, Carol Browner, Assistant to the President for Energy and Climate Change, to Hold Conference Call on Today's Nuclear Energy Announcement

(b)(5) Deliberative

Seth Oster

----- Original Message -----

**From:** Seth Oster  
**Sent:** 02/16/2010 10:26 AM EST  
**To:** Richard Windsor; Diane Thompson; Bob Perciasepe  
**Cc:** Allyn Brooks-LaSure  
**Subject:** Fw: Energy Secretary Steven Chu, Carol Browner, Assistant to the President for Energy and Climate Change, to Hold Conference Call on Today's Nuclear Energy Announcement  
FYI.

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

----- Forwarded by Seth Oster/DC/USEPA/US on 02/16/2010 10:26 AM -----

From: "White House Press Office" <whitehouse-lists-noreply@list.whitehouse.gov>  
To: Seth Oster/DC/USEPA/US@EPA  
Date: 02/16/2010 10:24 AM  
Subject: Energy Secretary Steven Chu, Carol Browner, Assistant to the President for Energy and Climate Change, to Hold Conference Call on Today's Nuclear Energy Announcement

THE WHITE HOUSE  
Office of the Press Secretary

FOR IMMEDIATE RELEASE  
February 16, 2010

**Energy Secretary Steven Chu, Carol Browner, Assistant to the President for Energy and Climate Change, to Hold Conference Call on Today's Nuclear Energy Announcement**

WASHINGTON – Following President Obama’s announcement today that his Administration will be granting the first loan guarantee for the construction and operation of a nuclear reactor since the Energy Policy Act of 2005, Dr.

Steven Chu, Secretary of Energy, and Carol Browner, Assistant to the President for Energy and Climate Change, will hold an on the record conference call with reporters. The call will take place at 12:30 p.m. EST. The loan guarantee will go toward the construction of two new nuclear reactors at an existing plant in Burke, GA.

The President has long believed that nuclear power should be part of our energy mix – that's why he has advocated for comprehensive energy and climate legislation that leverages all of our energy sources, including nuclear, to transition to a clean energy economy and create millions of jobs. The project he announced today is scheduled to be the first nuclear power plant to break ground for nearly three decades and will include approximately 3,500 onsite construction jobs and approximately 800 permanent operations jobs. Approximately 550,000 residential homes and 1.4 million people will be served by the power generated at the facility.

WHAT: Conference Call on Loan Guarantee for Nuclear Plant in Georgia with  
Energy Secretary Steven Chu and Carol Browner, Assistant to the President for Energy and Climate Change

WHEN: TODAY, Tuesday, February 16, 2010  
12:30 p.m. EST

DIAL-IN: Participant dial in (800) 230-1096, no code necessary.  
If prompted, ask to join the "White House Call"

##

01268-EPA-3461

Heidi Ellis/DC/USEPA/US  
02/16/2010 10:43 AM

To Wyatt Rockefeller, Candace White, Nancy Stoner, Daniel Kanninen, Marygrace Galston, Debbie Dietrich, Lisa Garcia, Paul Anastas, Alecia Allston, Barbara Bennett, Heidi Ellis, Christopher Busch, Clay Diette, Stephanie Owens, Bob Perciasepe, Craig Hooks, Michelle DePass, Steve Owens, Peter Silva, Peter Grevatt, Sarah Pallone, Mathy Stanislaus, Cynthia Giles-AA, Gina McCarthy, Alicia Kaiser, Lawrence Elworth, Seth Oster, Katharine Gage, Stephanie Washington, Diane Thompson, Arvin Ganesan, Marcus McClendon, Ray Spears, Sarah Dale, Georgia Bednar, Carla Veney, Scott Fulton, Bob Sussman, Allyn Brooks-LaSure, Richard Windsor, Eric Wachter, (b)(6) Robert Goulding, Lisa Heinzerling, David McIntosh

cc

bcc

Subject \*\*\*UPDATED\*\*\*Tuesday, February 16, 2010 Schedule for Lisa P. Jackson

----- Forwarded by Heidi Ellis/DC/USEPA/US on 02/16/2010 10:42 AM -----

\*\*\* do not copy or forward this information \*\*\*

**Schedule for Lisa P. Jackson EPA Administrator  
Tuesday, February 16, 2010**

Notes:		
Drivers	Shift Leaders	Staff Contact
(b) (6)		Heidi Ellis 202-355-5212
07:30 AM - 08:15 AM	Residence	Depart for Ariel Rios
08:15 AM - 08:45 AM	Administrator's Office	1 on 1 with Gina McCarthy Ct: Don Maddox (OAR) 564-7404  Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)
08:45 AM - 09:15 AM	Administrator's Office	Daily Meeting
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09:45 AM - 12:00 PM	Administrator's Office	Office Time
12:00 PM - 01:00 PM	Administrator's Office	No Meetings
01:00 PM - 02:00 PM	Bullet Room	Senior Staff Meeting
02:25 PM - 02:35 PM	Ariel Rios	Depart for WH
02:40 PM - 03:20 PM	Oval Office	POTUS Meeting

2:40 PM - Report to West Wing Lobby

2:50-3:20 PM- Meeting with POTUS to discuss the Administrator 2010 priorities

03:20 PM - 03:30 PM	WH	Depart for Ariel Rios
03:45 PM - 05:30 PM	Bullet Room	<p>Congressional Budget Hearing Briefings Ct: Lucille Baker (OCFO) 564-1714</p> <p>Agenda:</p> <p>OCFO/OCIR 3:45 - 4 PM OAR 4 - 4:30 PM OSWER 4:30 - 5 PM OEI 5 - 5:20 PM OHS 5:20 - 5:30 PM</p> <p>Each meeting time will include the Program Office AA as well as:</p> <p>Bob Perciasepe, Diane Thompson (OA) Scott Fulton (OGC) David McIntosh, Arvin Ganesan, Sven-Erik Kaiser (OCIR) Seth Oster (OPA) Barbara Bennett, Maryann Froehlich, Josh Baylson, Ed Walsh, David Bloom, Carol Terris, Pamala List (OCFO)</p>
05:30 PM - 05:45 PM		<p>FYI- ARRA Travel Call with David Axelrod Dial-in# (b) (6)</p>
05:30 PM - 05:40 PM	Ariel Rios	Depart for WH
05:45 PM - 06:15 PM	West Wing, Room: TBD	<p>EPA Meeting Subj: Coal Ash</p> <p>Attendees: Mona Sutphen Nancy Sutley Pete Rouse</p>
07:30 PM - 11:00 PM	(b) (6)	<p>Mardi Gras Celebration Ct: Heidi Ellis (OA)</p>

01268-EPA-3462

**Bob  
Perciasepe/DC/USEPA/US**  
02/16/2010 10:49 AM

To Bob Sussman, Diane Thompson, Richard Windsor, Arvin  
Ganesan, Lisa Garcia, Lisa Heinzerling, Scott Fulton, Aaron  
Dickerson

cc

bcc

Subject Fw: White House mtg today

Pre-meeting needed, Yes?

Bob Perciasepe  
Deputy Administrator

(o) +1 202 564 4711

(c) +1 (b)(6) Privacy

----- Forwarded by Bob Perciasepe/DC/USEPA/US on 02/16/2010 10:48 AM -----

From: Aaron Dickerson/DC/USEPA/US  
To: Aaron Dickerson/DC/USEPA/US@EPA, Robert Goulding/DC/USEPA/US, Heidi  
Ellis/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Lawrence  
Elworth/DC/USEPA/US@EPA, Lisa Garcia/DC/USEPA/US@EPA, Bob  
Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Ray  
Spears/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Allyn  
Brooks-LaSure/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US, David  
McIntosh/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Craig  
Hooks/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA  
Date: 02/16/2010 10:34 AM  
Subject: White House mtg today

---

FYI - The Administrator has a west wing meeting on coal ash today at 5:45pm.

01268-EPA-3463

**Richard Windsor/DC/USEPA/US**  
02/16/2010 10:50 AM

To Bob Perciasepe, Bob Sussman, Diane Thompson, Arvin Ganesan, Lisa Garcia, Lisa Heinzerling, Scott Fulton, Aaron Dickerson

cc

bcc

Subject Re: White House mtg today

Good idea. I need Mathy and Cynthia or their reps there too. Tx.  
Bob Perciasepe

----- Original Message -----

**From:** Bob Perciasepe

**Sent:** 02/16/2010 10:49 AM EST

**To:** Bob Sussman; Diane Thompson; Richard Windsor; Arvin Ganesan; Lisa Garcia; Lisa Heinzerling; Scott Fulton; Aaron Dickerson

**Subject:** Fw: White House mtg today

Pre-meeting needed, Yes?

Bob Perciasepe  
Deputy Administrator

(o) +1 202 564 4711

(c) +1 (b)(6) Privacy

----- Forwarded by Bob Perciasepe/DC/USEPA/US on 02/16/2010 10:48 AM -----

From: Aaron Dickerson/DC/USEPA/US  
To: Aaron Dickerson/DC/USEPA/US@EPA, Robert Goulding/DC/USEPA/US, Heidi Ellis/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Lawrence Elworth/DC/USEPA/US@EPA, Lisa Garcia/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Ray Spears/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US, David McIntosh/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Craig Hooks/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA  
Date: 02/16/2010 10:34 AM  
Subject: White House mtg today

---

FYI - The Administrator has a west wing meeting on coal ash today at 5:45pm.

01268-EPA-3464

**Richard Windsor/DC/USEPA/US**  
02/16/2010 11:24 AM

To Cynthia Giles-AA, Mathy Stanislaus  
cc "Heidi Ellis", "Aaron Dickerson"  
bcc  
Subject Re: \*Confidential: Fw: Confidential

I now have a mtg at the WH at 545 pm on the CCR issue. (b)(5) Deliberative

Also, Mathy, I'd like you to come to the WH mtg.

Finally, we are arranging a pre-mtg for later today.  
Cynthia Giles-AA

----- Original Message -----

**From:** Cynthia Giles-AA  
**Sent:** 02/10/2010 05:01 PM EST  
**To:** Mathy Stanislaus; Richard Windsor  
**Subject:** Re: \*Confidential: Fw: Confidential

(b)(5) Deliberative

[Redacted]

Enjoy the gumbo!

Cynthia

Cynthia Giles  
Assistant Administrator  
U.S. EPA, Office of Enforcement and Compliance Assurance  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
202-564-2440

THIS MESSAGE IS CONFIDENTIAL and may contain legally privileged information. If you receive it in error, please delete it immediately, do not copy, and notify the sender. Thank you.

Mathy Stanislaus    Mathy Stanislaus USEPA Assistant A...    02/10/2010 10:03:51 AM

From: Mathy Stanislaus/DC/USEPA/US  
To: Cynthia Giles-AA/DC/USEPA/US@EPA  
Date: 02/10/2010 10:03 AM  
Subject: \*Confidential: Fw: Confidential

Mathy Stanislaus  
USEPA Assistant Administrator  
Office of Solid Waste & Emergency Response

----- Forwarded by Mathy Stanislaus/DC/USEPA/US on 02/10/2010 10:03 AM -----

Routing path

EPAHUB16/USEPA/US, EPAHUB16/USEPA/US, DCICMAIL18/DC/USEPA/US

---

To: Richard Windsor/DC/USEPA/US@EPA, "Cynthia Giles" <Giles.Cynthia@epamail.epa.gov>, "Mathy Stanislaus" <stanislaus.mathy@epa.gov>

cc: "Bob Sussman" <Sussman.bob@epa.gov>

Date: 09:45:29 AM Today

Subject: Re: Confidential  
Will get something to you today  
Richard Windsor

----- Original Message -----

**From:** Richard Windsor

**Sent:** 02/10/2010 09:30 AM EST

**To:** "Cynthia Giles" <Giles.Cynthia@epamail.epa.gov>; "Mathy Stanislaus" <stanislaus.mathy@epa.gov>

**Cc:** "Bob Sussman" <Sussman.bob@epa.gov>

**Subject:** Confidential

Cynthia/Mathy,

(b)(5) Deliberative



Thanks, Lisa

01268-EPA-3469

**Aaron  
Dickerson/DC/USEPA/US**  
02/16/2010 01:49 PM

To Avi Garbow  
cc Bob Perciasepe, Bob Sussman, Cynthia Giles-AA, Heidi Ellis,  
Lisa Heinzerling, Mathy Stanislaus, Richard Windsor, Scott  
Fulton  
bcc

Subject Re: Coal Ash - C vs. D (analysis of co-proposal).xml

Yes, today's meeting has been postponed. Looking to be rescheduled for tomorrow or Thursday.

Avi Garbow Administrator, Attached is a slightly revi... 02/16/2010 01:40:02 PM

From: Avi Garbow/DC/USEPA/US  
To: , Richard Windsor/DC/USEPA/US@EPA  
Cc: Scott Fulton/DC/USEPA/US@EPA, Heidi Ellis/DC/USEPA/US@EPA, Aaron  
Dickerson/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Bob  
Perciasepe/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, Lisa  
Heinzerling/DC/USEPA/US@EPA, Cynthia Giles-AA/DC/USEPA/US@EPA  
Date: 02/16/2010 01:40 PM  
Subject: Coal Ash - C vs. D (analysis of co-proposal).xml

Administrator,

Attached is a slightly revised version of the document that Scott sent you earlier today - (b) (5) Attorney-client privilege

[Redacted]

. Thanks.

Avi

Avi Garbow  
Deputy General Counsel  
U.S. Environmental Protection Agency  
(202) 564-1917  
[attachment "~WRD0125.xml" deleted by Aaron Dickerson/DC/USEPA/US]

01268-EPA-3470

**Daniel Gerasimowicz/DC/USEPA/US**  
02/16/2010 05:20 PM

To Adora Andy, Wyatt Rockefeller, Candace White, Nancy Stoner, Daniel Kanninen, Marygrace Galston, Debbie Dietrich, Lisa Garcia, Paul Anastas, Alecia Allston, Barbara Bennett, Heidi Ellis, Christopher Busch, Clay Diette, Stephanie Owens, Bob Perciasepe, Craig Hooks, Michelle DePass, Steve Owens, Peter Silva, Peter Grevatt, Sarah Pallone, Mathy Stanislaus, Cynthia Giles-AA, Gina McCarthy, Alicia Kaiser, Lawrence Elworth, Seth Oster, Katharine Gage, Stephanie Washington, Diane Thompson, Arvin Ganesan, Marcus McClendon, Ray Spears, Sarah Dale, Georgia Bednar, Carla Veney, Scott Fulton, Bob Sussman, Allyn Brooks-LaSure, Richard Windsor, Eric Wachter, (b)(6) Robert Goulding, Lisa Heinzerling, David McIntosh

cc

bcc

Subject Wednesday, February 17, 2010 Schedule for Lisa P. Jackson

\*\*\* do not copy or forward this information \*\*\*

**Schedule for Lisa P. Jackson EPA Administrator  
Wednesday, February 17, 2010**

Notes:		
Drivers	Shift Leaders	Staff Contact
(b) (6)		Robert Goulding 202-596-0245
07:30 AM - 08:15 AM	Residence	Depart for Renaissance Hotel
08:15 AM - 08:45 AM	Renaissance Hotel 999 9th St, NW Washington, DC	Remarks at the NARUC Meeting Ct: Michelle Malloy (NARUC) (b) (6) Advance Ct: Megan Cryan 202-564-1553  DOE Undersecretary Johnson will speak before the Administrator  Remarks from 8:30 - 8:45 AM
08:45 AM - 09:15 AM	Administrator's Office	FYI - Daily Meeting
08:45 AM - 08:50 AM	Renaissance Hotel 999 9th St, NW Washington, DC	Meet and Greet with Tennessee Valley Authority COO Bill McCollum Ct: Annemarie Cooper (TVA) (b) (6) or Justin Maierhofer (Director of Gov't Relations, TVA) (b) (6)  This will be a very brief meet and greet - Mr. McCollum will be participating on one of the NARUC panels and has requested an opportunity to meet the Administrator face to face
08:50 AM - 09:05 AM	Renaissance Hotel	Depart for Ariel Rios
09:15 AM - 09:30 AM	Ariel Rios	Depart for West Wing Mathy Stanislaus will travel with the Administrator
09:30 AM - 10:00 AM	West Wing, Ward	EPA Meeting

	Room	Subj: Coal Ash
		Attendees: Mona Sutphen Nancy Sutley Pete Rouse Mathy Stanislaus
10:00 AM - 10:15 AM	West Wing	Depart for Ariel Rios Mathy Stanislaus will travel with The Administrator
10:30 AM - 11:00 AM	Administrator's Office	African American Media Roundtable Ct: Betsaida Alcantara (OPA) 564-1692  Staff: Allyn Brooks-LaSure, Betsaida Alcantara (OPA)
11:00 AM - 11:30 AM	Administrator's Office	No Meetings
11:30 AM - 12:00 PM	Administrator's Office	Interview Subj: Betsaida Alcantara (OPA) 564-1692  Subj: Ebony Magazine
12:00 PM - 12:30 PM	Administrator's Office	No Meetings
12:30 PM - 01:00 PM	Administrator's Office	1 on 1 with Michelle DePass Ct: Vanessa Fleeton (OIA) 564-4762  Optional attendees: Bob Perciasepe, Diane Thompson, Bob Sussman (OA)
01:00 PM - 03:20 PM	Bullet Room	Congressional Budget Hearing Briefings Ct: Lucille Baker (OCFO) 564-1714  Agenda:  OIA            1 - 1:10 PM OARM        1:15 - 1:35 PM OPPTS       1:40 - 2 PM OW            2 - 2:45 PM OECA        3 - 3:20 PM  Each meeting time will include the Program Office AA or delegate as well as:  Bob Perciasepe, Diane Thompson (OA) Scott Fulton (OGC) David McIntosh, Sven-Erik Kaiser (OCIR) Seth Oster (OPA) Barbara Bennett, Maryann Froehlich, Josh Baylson, Ed Walsh, David Bloom, Carol Terris, Pamala List (OCFO)
03:30 PM - 04:30 PM	5020 ARN	Senior Policy Meeting Staff:

Bob Perciasepe, Bob Sussman, Diane Thompson, Scott Fulton, Eric Wachter, Robert Goulding, Heidi Ellis, Larry Elworth (OA)  
 David McIntosh, Arvin Ganesan, Sarah Pallone (OCIR)  
 Lisa Heinzerling, Robert Verchick (OPEI)  
 Cynthia Giles, Lisa Garcia (OECA)  
 Pete Silva, Nancy Stoner (OW)  
 Steve Owens (OPPTS)  
 Michelle DePass (OIA)  
 Mathy Stanislaus, Lisa Feldt (OSWER)  
 Gina McCarthy (OAR)  
 Seth Oster, Allyn Brooks-LaSure (OPA)  
 Craig Hooks (OARM)  
 Barbara Bennett (OCFO)  
 Paul Anastas (ORD)  
 Peter Grevatt (OCHP)  
 Debbie Dietrich (OHS)

(hookup to Admin's conference line needed)

---

04:30 PM - 05:20 PM    Bullet Room

Congressional Budget Hearing Briefings  
 Ct: Lucille Baker (OCFO) 564-1714

Agenda:

ORD                    4:30 - 4:50 PM  
 OA/OPEI            5 - 5:20 PM

Each meeting time will include the Program Office AA or delegate as well as:

Bob Perciasepe, Diane Thompson (OA)  
 Scott Fulton (OGC)  
 David McIntosh, Sven-Erik Kaiser (OCIR)  
 Seth Oster (OPA)  
 Barbara Bennett, Maryann Froehlich, Josh Baylson, Ed Walsh, David Bloom, Carol Terris, Pamala List (OCFO)

---

05:30 PM - 05:45 PM    Ariel Rios

Depart for the Hay Adams Hotel  
 Ct: (b) (6)

---

05:45 PM - 06:30 PM    Hay Adams Hotel  
 800 16th Street  
 Northwest  
 Washington, DC  
 20006

Meeting with (b) (6)

01268-EPA-3471

**Bob Sussman/DC/USEPA/US**

To "Lisa P. Jackson"

02/16/2010 06:27 PM

cc "Seth Oster", "Arvin Ganesan"

bcc

Subject Fw: Spruce # 1 mine status

R3 sent the attached e-mail to Arch re Spruce [REDACTED] (b)(5) Deliberative

Gregory Peck

----- Original Message -----

**From:** Gregory Peck**Sent:** 02/16/2010 06:05 PM EST**To:** stoner.nancy@epa.gov; sussman.bob@epa.gov**Subject:** Fw: Spruce # 1 mine status

---

Gregory E. Peck  
Chief of Staff  
Office of Water  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

202-564-5778

----- Forwarded by Gregory Peck/DC/USEPA/US on 02/16/2010 06:04 PM -----

From: John Pomponio/R3/USEPA/US  
To: rshanks@archcoal.com  
Cc: Shawn Garvin/R3/USEPA/US@EPA, William Early/R3/USEPA/US, Stefania Shamet/R3/USEPA/US@EPA, Denise Keehner/DC/USEPA/US@EPA, David Evans/DC/USEPA/US@EPA, Jeffrey Lapp/R3/USEPA/US@EPA, Michael Dunn/R3/USEPA/US@EPA, Gregory Peck/DC/USEPA/US@EPA, Ann Campbell/DC/USEPA/US@EPA  
Date: 02/16/2010 06:00 PM  
Subject: Spruce # 1 mine status

---

John Pomponio/R3/USEPA/US

Bob,

As you know, on October 16, 2009, EPA notified the Corps that, pursuant to 40 CFR 231.3(a) it intended to issue a public notice of a proposed determination to restrict or prohibit the discharge of dredged or fill material at the Spruce No. 1 Mine project site consistent with EPA's authority under Section 404(c) of the Clean Water Act. That letter initiated a 15-day period for the recipients of the letter to demonstrate that no unacceptable adverse effects will occur, or that corrective action will be taken to prevent unacceptable adverse effects. Representatives of EPA and Mingo Logan/Arch Coal have met several times and had a frank exchange of views. In hopes that resolution could be achieved, EPA had extended the 15-day period pursuant to 40 CFR 231.8, and the Department of Justice, at EPA's request, had sought to stay the ongoing federal court litigation regarding the Section 404 permit for the Spruce No. 1 Mine. The latest

stay of the federal court litigation ends March 5. Accordingly, EPA views the extended period for negotiating that was initiated by the October 16, 2009 letter and extended pursuant to 40 CFR 231.8, to end as of March 5, 2010.

When last we spoke, on January 25, 2010, EPA Region 3 continued to express serious concerns regarding the facility's individual and cumulative impacts on water quality, habitat, and other important environmental and public health matters. As a fundamental principal, EPA continued to ask for construction of valley fills sequentially over time, rather than concurrently. Authorization for construction of later valley fills would be conditioned upon a demonstration that controls implemented in connection with earlier valley fills were successful in protecting water quality. We also suggested further minimization of sedimentation pond impacts to Pigeon Roost Branch and further avoidance of fills within Old House Branch. Arch Coal was unable to respond to these issues in a manner that addressed EPA's concerns and we were unable to reach agreement.

Please let me know if my description of your position on any of the issues described above is inaccurate or if you have changed your position on any of the issues.

Thank You.

John R. (Randy) Pomponio, Director  
Environmental Assessment & Innovation Division  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103

(215) 814-2702  
pomponio.john@epa.gov

J

01268-EPA-3472

**Richard Windsor/DC/USEPA/US**  
02/16/2010 06:30 PM

To Bob Sussman  
cc "Seth Oster", "Arvin Ganesan"  
bcc  
Subject Re: Spruce # 1 mine status

Ok.  
Bob Sussman

----- Original Message -----

**From:** Bob Sussman  
**Sent:** 02/16/2010 06:27 PM EST  
**To:** Richard Windsor  
**Cc:** Seth Oster; Arvin Ganesan  
**Subject:** Fw: Spruce # 1 mine status

R3 sent the attached e-mail to Arch re Spruce. (b)(5) Deliberative

Gregory Peck

----- Original Message -----

**From:** Gregory Peck  
**Sent:** 02/16/2010 06:05 PM EST  
**To:** stoner.nancy@epa.gov; sussman.bob@epa.gov  
**Subject:** Fw: Spruce # 1 mine status

---

Gregory E. Peck  
Chief of Staff  
Office of Water  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

202-564-5778

----- Forwarded by Gregory Peck/DC/USEPA/US on 02/16/2010 06:04 PM -----

**From:** John Pomponio/R3/USEPA/US  
**To:** rshanks@archcoal.com  
**Cc:** Shawn Garvin/R3/USEPA/US@EPA, William Early/R3/USEPA/US, Stefania Shamet/R3/USEPA/US@EPA, Denise Keehner/DC/USEPA/US@EPA, David Evans/DC/USEPA/US@EPA, Jeffrey Lapp/R3/USEPA/US@EPA, Michael Dunn/R3/USEPA/US@EPA, Gregory Peck/DC/USEPA/US@EPA, Ann Campbell/DC/USEPA/US@EPA  
**Date:** 02/16/2010 06:00 PM  
**Subject:** Spruce # 1 mine status

John Pomponio/R3/USEPA/US

Bob,

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consistent with EPA's authority under Section 404(c) of the Clean Water Act. That letter initiated a 15-day period for the recipients of the letter to demonstrate that no unacceptable adverse effects will occur, or that corrective action will be taken to prevent unacceptable adverse effects. Representatives of EPA and Mingo Logan/Arch Coal have met several times and had a frank exchange of views. In hopes that resolution could be achieved, EPA had extended the 15-day period pursuant to 40 CFR 231.8, and the Department of Justice, at EPA's request, had sought to stay the ongoing federal court litigation regarding the Section 404 permit for the Spruce No. 1 Mine. The latest stay of the federal court litigation ends March 5. Accordingly, EPA views the extended period for negotiating that was initiated by the October 16, 2009 letter and extended pursuant to 40 CFR 231.8, to end as of March 5, 2010.

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Please let me know if my description of your position on any of the issues described above is inaccurate or if you have changed your position on any of the issues.

Thank You.

John R. (Randy) Pomponio, Director  
Environmental Assessment & Innovation Division  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103

(215) 814-2702  
pomponio.john@epa.gov

J

01268-EPA-3473

**Richard Windsor/DC/USEPA/US**  
02/16/2010 06:31 PM

To: Brendan Gilfillan  
cc  
bcc

Subject: Re: Statement on TX, VA challenges to endangerment

Looks good.  
Brendan Gilfillan

----- Original Message -----

**From:** Brendan Gilfillan  
**Sent:** 02/16/2010 06:29 PM EST  
**To:** Richard Windsor  
**Cc:** Seth Oster <oster.seth@epa.gov>; Adora Andy; David McIntosh  
**Subject:** Statement on TX, VA challenges to endangerment

Administrator -

Texas and Virginia filed petitions with us today re: endangerment - (b)(5) Deliberative

[Redacted]

Please let me know if you have any concerns with this. Thanks:

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

Brendan Gilfillan  
Deputy Press Secretary

U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2081  
gilfillan.brendan@epa.gov

01268-EPA-3474

**David McIntosh/DC/USEPA/US**  
02/16/2010 06:35 PM

To: Brendan Gilfillan, Richard Windsor  
cc: "Seth Oster", Adora Andy  
bcc:  
Subject: Re: Statement on TX, VA challenges to endangerment

(b)(5) Deliberative

Brendan Gilfillan

----- Original Message -----

**From:** Brendan Gilfillan  
**Sent:** 02/16/2010 06:29 PM EST  
**To:** Richard Windsor  
**Cc:** Seth Oster <oster.seth@epa.gov>; Adora Andy; David McIntosh  
**Subject:** Statement on TX, VA challenges to endangerment

Administrator -

Texas and Virginia filed petitions with us today re: endangerment - (b)(5) Deliberative

[Redacted]

Please let me know if you have any concerns with this. Thanks:

(b)(5) Deliberative

[Redacted]

[Redacted]

Brendan Gilfillan  
Deputy Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2081  
gilfillan.brendan@epa.gov

01268-EPA-3475

Richard Windsor/DC/USEPA/US  
02/16/2010 06:36 PM

To David McIntosh  
cc Adora Andy, Brendan Gilfillan, "Seth Oster"  
bcc

Subject Re: Statement on TX, VA challenges to endangerment

(b)(5)

David McIntosh

(b)(5) deliberative

02/16/2010 06:35:45 PM

From: David McIntosh/DC/USEPA/US  
To: Brendan Gilfillan/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA  
Cc: "Seth Oster" <oster.seth@epa.gov>, Adora Andy/DC/USEPA/US@EPA  
Date: 02/16/2010 06:35 PM  
Subject: Re: Statement on TX, VA challenges to endangerment

(b)(5) Deliberative

Brendan Gilfillan

----- Original Message -----

From: Brendan Gilfillan  
Sent: 02/16/2010 06:29 PM EST  
To: Richard Windsor  
Cc: Seth Oster <oster.seth@epa.gov>; Adora Andy; David McIntosh  
Subject: Statement on TX, VA challenges to endangerment

Administrator -

Texas and Virginia filed petitions with us today re: endangerment - (b)(5) Deliberative

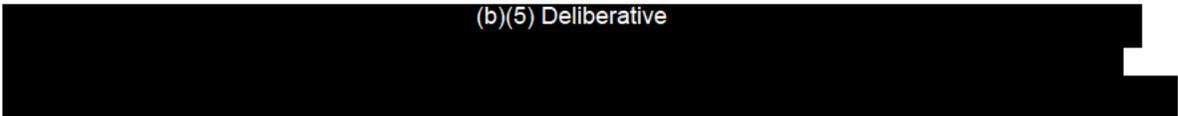
[Redacted]

Please let me know if you have any concerns with this. Thanks:

(b)(5) Deliberative

[Redacted]

(b)(5) Deliberative



Brendan Gilfillan  
Deputy Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2081  
gilfillan.brendan@epa.gov

01268-EPA-3478

**Richard Windsor/DC/USEPA/US**  
02/17/2010 05:22 PM

To Stephanie Owens  
cc  
bcc "Seth Oster", "Allyn Brooks-Lasure"  
Subject Re: African American Leadership Roundtables

V Cool. BTW can we do a similar thing for Bill Stetson's groups?  
Stephanie Owens

----- Original Message -----

**From:** Stephanie Owens  
**Sent:** 02/17/2010 04:53 PM EST  
**To:** Richard Windsor  
**Cc:** Allyn Brooks-LaSure <brooks-lasure.allyn@epa.gov>  
**Subject:** African American Leadership Roundtables

Administrator Jackson,

The Office of Public Outreach has developed a series of roundtable discussions with African American leaders during the final week of Black History Month. The events focus on expanding the environmental conversation. We are developing future roundtables for you with other diverse groups during the remainder of the year.

**Event: "A Dialogue with EPA Administrator Lisa P. Jackson: "Expanding the Environmental Conversation"**

- o Three 1-hour roundtables to discuss your top priorities and their health, economic and social impact on African Americans and their communities
- o Opportunity to hear the environmentalism perspective from African American leaders and garner feedback on strategies to further engage their constituencies
- o A call to action for greater organizational and individual participation in regulatory and voluntary EPA programs and activities

**Participants:** 20 -25 leaders from:

- o Business and Industry
- o Faith Organizations
- o Nonprofit, Social, Education and Youth Organizations

**Agenda:**

- o Welcome remarks and introductions
- o Remarks - Administrator Jackson
  - o Redefining "environmentalism"
  - o Overview of EPA's regulatory and enforcement roles
  - o Your 7 priorities
  - o The importance of diverse voices in the rule-making process
  - o EPA's voluntary programs
- o Dialogue on stakeholder environmental perceptions, interests and effective engagement strategies

- o Discussion on EPA programs and activities
- o Call to action for active participation in EPA programs and activities

**Follow – up:**

- o Staff will provide a two-page document highlighting EPA engagement opportunities i.e. Smart Growth Tools; Small Business Procurement, Grants and Resources; ORD Research Grants; Climate Showcase Grants; Community Action for Renewed Environment (CARE) Grants, EnergyStar Program, Greening Your Business Tools, College Internship Opportunities; and other free technical and financial advice and assistance programs
- o OPO staff will be assigned to each participant for long-term follow-up

Thanks,

Stephanie

01268-EPA-3479

Richard Windsor/DC/USEPA/US  
02/17/2010 05:24 PM

To Seth Oster  
cc  
bcc

Subject Re: New Statement on Endangerment Finding -- Response to State Lawsuits

(b)(5) Deliberative

Seth Oster

----- Original Message -----

**From:** Seth Oster  
**Sent:** 02/17/2010 04:30 PM EST  
**To:** Richard Windsor  
**Subject:** New Statement on Endangerment Finding -- Response to State Lawsuits

See below for a new statement. Input has come from David and Gina. (b)(5) Deliberative

(b)(5) Deliberative

(b)(5) Deliberative

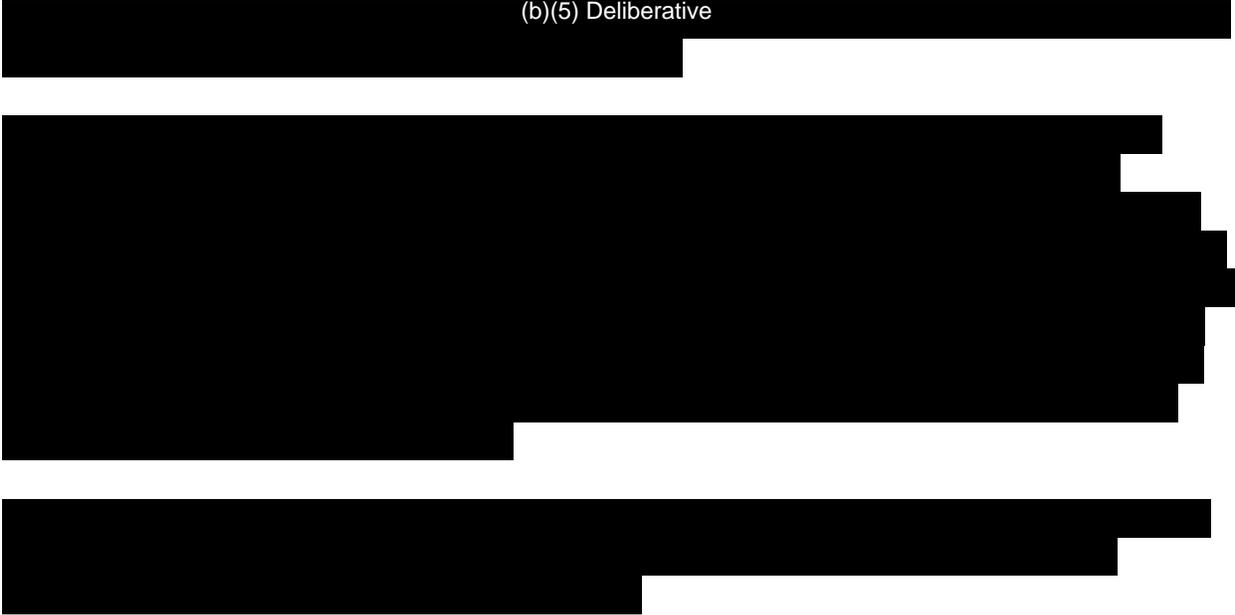
Seth

**STATEMENT ON STATE LITIGATION ON EPA ENDANGERMENT FINDING**

(b)(5) Deliberative

(b)(5) Deliberative

(b)(5) Deliberative



Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-3480

**David  
McIntosh/DC/USEPA/US**  
02/17/2010 06:08 PM

To windsor.richard, thompson.diane, perciasepe.bob, oster.seth,  
ganesan.arvin, brooks-lasure.allyn, goulding.robert,  
wachter.eric, mccarthy.gina, ellis.heidi

cc

bcc

Subject thanks, and Thursday/Friday

Thanks, everyone (and especially Administrator) for being indulgent about my not being  
around to pull a laboring oar the last few days. (b)(6) Personal, (b)(5) Deliberative

[REDACTED]

01268-EPA-3481

**Richard Windsor/DC/USEPA/US**  
02/17/2010 06:31 PM

To "Seth Oster"  
cc  
bcc

Subject Fw: African American Leadership Roundtables

Stephanie Owens

----- Original Message -----

**From:** Stephanie Owens  
**Sent:** 02/17/2010 06:30 PM EST  
**To:** Richard Windsor  
**Subject:** Re: African American Leadership Roundtables

Absolutely. I will coordinate with Bill.

Richard Windsor	V Cool. BTW can we do a similar thin...	02/17/2010 05:22:12 PM
-----------------	---	------------------------

From: Richard Windsor/DC/USEPA/US  
To: Stephanie Owens/DC/USEPA/US@EPA  
Date: 02/17/2010 05:22 PM  
Subject: Re: African American Leadership Roundtables

V Cool. BTW can we do a similar thing for Bill Stetson's groups?

Stephanie Owens

----- Original Message -----

**From:** Stephanie Owens  
**Sent:** 02/17/2010 04:53 PM EST  
**To:** Richard Windsor  
**Cc:** Allyn Brooks-LaSure <brooks-lasure.allyn@epa.gov>  
**Subject:** African American Leadership Roundtables

Administrator Jackson,

The Office of Public Outreach has developed a series of roundtable discussions with African American leaders during the final week of Black History Month. The events focus on expanding the environmental conversation. We are developing future roundtables for you with other diverse groups during the remainder of the year.

**Event: "A Dialogue with EPA Administrator Lisa P. Jackson: "Expanding the Environmental Conversation"**

- o Three 1-hour roundtables to discuss your top priorities and their health, economic and social impact on African Americans and their communities
- o Opportunity to hear the environmentalism perspective from African American leaders and garner feedback on strategies to further engage their constituencies
- o A call to action for greater organizational and individual participation in regulatory and voluntary EPA programs and activities

**Participants:** 20 -25 leaders from:

- o Business and Industry
- o Faith Organizations
- o Nonprofit, Social, Education and Youth Organizations

**Agenda:**

- o Welcome remarks and introductions
- o Remarks - Administrator Jackson
  - o Redefining "environmentalism"
  - o Overview of EPA's regulatory and enforcement roles
  - o Your 7 priorities
  - o The importance of diverse voices in the rule-making process
  - o EPA's voluntary programs
- o Dialogue on stakeholder environmental perceptions, interests and effective engagement strategies
- o Discussion on EPA programs and activities
- o Call to action for active participation in EPA programs and activities

**Follow – up:**

- o Staff will provide a two-page document highlighting EPA engagement opportunities i.e. Smart Growth Tools; Small Business Procurement, Grants and Resources; ORD Research Grants; Climate Showcase Grants; Community Action for Renewed Environment (CARE) Grants, EnergyStar Program, Greening Your Business Tools, College Internship Opportunities; and other free technical and financial advice and assistance programs
- o OPO staff will be assigned to each participant for long-term follow-up

Thanks,

Stephanie

01268-EPA-3482

**Richard Windsor/DC/USEPA/US**  
02/17/2010 06:55 PM

To Cynthia Giles-AA  
cc Allyn Brooks-LaSure, Bob Perciasepe, Diane Thompson, Lisa Garcia, Mathy Stanislaus, Seth Oster  
bcc

Subject Re: Fw: Blog Round-up - February 17, 2010

(b)(5) Deliberative

Cynthia Giles-AA

----- Original Message -----

**From:** Cynthia Giles-AA  
**Sent:** 02/17/2010 06:53 PM EST  
**To:** Richard Windsor  
**Cc:** Allyn Brooks-LaSure; Bob Perciasepe; Diane Thompson; Lisa Garcia; Mathy Stanislaus; Seth Oster  
**Subject:** Re: Fw: Blog Round-up - February 17, 2010

(b)(5) Deliberative

(b)(5) Deliberative

Cynthia

Cynthia Giles  
Assistant Administrator  
U.S. EPA, Office of Enforcement and Compliance Assurance  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
202-564-2440

THIS MESSAGE IS CONFIDENTIAL and may contain legally privileged information. If you receive it in error, please delete it immediately, do not copy, and notify the sender. Thank you.

Richard Windsor (b)(5) Deliberative 02/17/2010 03:22:21 PM

**From:** Richard Windsor/DC/USEPA/US  
**To:** Cynthia Giles-AA/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Lisa Garcia/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA  
**Cc:** Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA  
**Date:** 02/17/2010 03:22 PM  
**Subject:** Fw: Blog Round-up - February 17, 2010

(b)(5) Deliberative

----- Forwarded by Richard Windsor/DC/USEPA/US on 02/17/2010 03:21 PM -----

**From:** OPA Multimedia E-Clips  
**To:** Blog Round-up, Blog Round-up 1, Blog Round-up 2, Blog Round-up 3, Blog Round-up R6

Date: 02/17/2010 12:22 PM  
Subject: Blog Round-up - February 17, 2010

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[attachment "Blog Round-up - February 17, 2010.doc" deleted by Cynthia Giles-AA/DC/USEPA/US]

01268-EPA-3483

Richard  
Windsor/DC/USEPA/US  
02/17/2010 09:19 PM

To "Seth Oster"  
cc  
bcc

Subject Re: Greenwire Story Citing April CAIR Rule

Tx. How long did you stay? Tx for that.

---

**From:** "Seth Oster" [(b)(6) Privacy]  
**Sent:** 02/17/2010 09:14 PM EST  
**To:** Richard Windsor  
**Subject:** Greenwire Story Citing April CAIR Rule

New York Times/Greenwire  
February 17, 2010

## EPA Chief Promises 'Clear Road Map' on Air Pollution Rules for Utilities

By ROBIN BRAVENDER of [Greenwire](#)

U.S. EPA Administrator Lisa Jackson today vowed to give electric utilities and their state overseers regulatory certainty with a host of forthcoming environmental rules.

Speaking at a conference of state utility regulators today, Jackson outlined a series of pending regulations that will significantly affect utilities, including rules aimed at curbing soot, smog and mercury.

"I believe that we can do it smartly, that we will do it in partnership and that we will do it in a way that gives a clear road map for investors and for regulators and for ratepayers," Jackson said.

EPA will propose a replacement for the Clean Air Interstate Rule in April, Jackson said, to address pollution that crosses state lines.

President George W. Bush's cap-and-trade program was designed to cut sulfur dioxide and nitrogen oxide in the eastern United States. But CAIR was thrown out by a federal appeals court in 2008. The court temporarily reinstated the rule in December 2008 to give EPA time to craft a replacement. Members of the Senate, meanwhile, are pushing a legislative fix for the CAIR rule ([E&ENews PM](#), Feb. 4).

"Later this year, we'll propose a new utility MACT standard," Jackson added. EPA is facing a

court deadline to require plant-specific maximum achievable control technology for mercury and other hazardous air pollutants at power plants by November 2011 ([Greenwire](#) , Oct. 23, 2009).

"Working together, we'll set a strong foundation for achieving the reductions that a new MACT and new CAIR rules will require," Jackson said.

Jackson said that although challenges and disagreements will arise during the development of new standards, "the benefits of us getting this right are absolutely unprecedented."

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For more news on energy and the environment, visit [www.greenwire.com](http://www.greenwire.com).

01268-EPA-3484

**Mathy Stanislaus/DC/USEPA/US**  
02/17/2010 09:20 PM

To Richard Windsor, Cynthia Giles-AA  
cc Allyn Brooks-LaSure, Bob Perciasepe, Diane Thompson, Lisa Garcia, Seth Oster  
bcc

Subject Re: Fw: Blog Round-up - February 17, 2010

(b)(5) Deliberative

Richard Windsor

----- Original Message -----

**From:** Richard Windsor  
**Sent:** 02/17/2010 06:55 PM EST  
**To:** Cynthia Giles-AA  
**Cc:** Allyn Brooks-LaSure; Bob Perciasepe; Diane Thompson; Lisa Garcia; Mathy Stanislaus; Seth Oster  
**Subject:** Re: Fw: Blog Round-up - February 17, 2010

(b)(5) Deliberative

Cynthia Giles-AA

----- Original Message -----

**From:** Cynthia Giles-AA  
**Sent:** 02/17/2010 06:53 PM EST  
**To:** Richard Windsor  
**Cc:** Allyn Brooks-LaSure; Bob Perciasepe; Diane Thompson; Lisa Garcia; Mathy Stanislaus; Seth Oster  
**Subject:** Re: Fw: Blog Round-up - February 17, 2010

(b)(5) Deliberative

(b)(5) Deliberative

Cynthia

Cynthia Giles  
Assistant Administrator  
U.S. EPA, Office of Enforcement and Compliance Assurance  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
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02/17/2010 03:22:21 PM

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Subject: Blog Round-up - February 17, 2010

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[attachment "Blog Round-up - February 17, 2010.doc" deleted by Cynthia Giles-AA/DC/USEPA/US]

01268-EPA-3485

**Richard Windsor/DC/USEPA/US**  
02/18/2010 06:08 AM

To Adora Andy  
cc  
bcc

Subject Re: The Root.com : Green Is the New Black

Nice. Thanks much. I heart BHM.  
Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 02/17/2010 11:31 PM EST  
**To:** "Richard Windsor" <windsor.richard@epa.gov>  
**Cc:** "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>; "Seth Oster" <oster.seth@epa.gov>  
**Subject:** The Root.com : Green Is the New Black  
The items on your shelves get tons of coverage these days! See below.  
Betsaida Alcantara

----- Original Message -----

**From:** Betsaida Alcantara  
**Sent:** 02/17/2010 10:28 PM EST  
**To:** Seth Oster; Allyn Brooks-LaSure; Adora Andy; Brendan Gilfillan; Michael Moats  
**Subject:** The Root.com : Green Is the New Black  
(From our roundtable with af am media today...)

Green Is the New Black

EPA Administrator Lisa Jackson ties environmentalism to minority concerns.

The Root.com

The office of Environmental Protection Agency Administrator Lisa Jackson lies halfway between Congress and the White House. The placement is appropriate; the 48-year-old New Orleans native—the first African American to run the agency tasked with protecting the air, water and health of Americans—walks a line between action and negotiation every day. She keeps a copy of Dr. Seuss's *The Lorax*—the mythical creature who “speaks for the trees”—in her office, alongside photos of herself grinning with Gen. Colin Powell; her former boss, New Jersey Gov. Jon Corzine; and President Barack Obama.

Alongside these power shots sits a framed political cartoon of a man representing the town of New Bedford, N.J., dripping with pollution and waste. His hand is outstretched, toward a shovel marked “federal stimulus”—which he will use to dig himself out of the surrounding environmental hell. His words for President Obama, seen at the edge of the cartoon, are simple: “Thanks, brother.”

The sketch epitomizes the radical changes that have accrued at the EPA since the Obama administration hired Jackson, a Princeton-trained chemical engineer and experienced political hand. Once a bastion of resistance to environmental action, the character of the EPA has been drastically altered in the last 12 months. On the first anniversary of the American Reinvestment and Recovery Act, which provided \$80 billion of investment in alternative energy and environmental cleanup, Jackson touted the EPA's impact on communities like New Bedford—hit hard by twin forces of social inequality and environmental pollution. “We're here to help,” Jackson told reporters gathered in her office. “We have protection in our name. We're not the Department of Defense, but part of our job is protecting human health.”

Jackson visited a long-suffering area of Mississippi this month, the first stop on a tour, organized with members of the Congressional Black Caucus, of sites across the country promoting the message of health, non-pollution, economic opportunity and environmental justice. Closest to her heart is the goal of awareness—"putting this agency in the minds of the American people, and not just those who consider themselves environmentalists," she said. "I grew up in the city; I wasn't a girl scout; I didn't camp; I wasn't a skier; I wasn't an avid hiker—but the environmentalism I came to know was more about the effects of pollution in society."

Jackson was born in Philadelphia, raised in New Orleans and most recently worked as chief of staff to Corzine in New Jersey. In addition to her 16 prior years of experience at the EPA, she has a son with asthma—a big concern for black Americans living in areas with above average pollution. Her nontraditional profile made her one of Obama's most audacious cabinet picks—but she's ideally suited to the job of overhauling the image of a green crusader in the 21st century.

"When you're in charge of protecting human health and safety, it's easy to try and do everything," says Jackson. The EPA has multiple priorities under her leadership—improving air quality, ensuring chemical safety and transparency in labeling, cleaning up communities and protecting waters. First and foremost, she notes, is "taking action on climate change," which she says Obama "absolutely" supports—despite his failure to sign major cap-and-trade legislation since taking office.

But even these statements present a major change from the George W. Bush years. Whereas one of Bush's top advisers on energy, James Connaughton, asked "what's that?" when asked about green jobs, Jackson keeps a copy of *The Green Collar Economy*, a manifesto on environmental opportunity written by former White House green jobs adviser Van Jones, at hand. And she is keenly interested in building economic bridges to communities typically disinterested in going green. Because the modern environmental movement gained momentum around the same time as the civil rights movement, ethnic minorities felt they had to choose, she explains. But today, "environmental rights [are] a natural extension of civil rights." And tree-hugging activists, including herself, have adapted the message. "If I can't make you understand based on the environment, then I'd talk to you about jobs; and if you don't want to talk to me about jobs, I'd like to talk to you about national security."

Green jobs—in areas like home weatherization, home energy auditing, operating pollution controlling devices or cleaning up brownfields—do seem to provide a win-win situation. But are these jobs reaching the communities where environmental justice lacks? While the Recovery Act cash in these areas was expected to create or save up to 700,000 jobs, a recent study from the Kirwan Institute for the study of Race and Ethnicity suggested that it did not act swiftly enough and in targeted fashion to promote green jobs for communities of color. Jackson aims to make these jobs attractive and available for a new generation of workers. "Careers of the future [are] in water," she says, giving one of many examples. "Because the climate is going to change, and we're going to have problems with too much or too little water, all across the country. If we can train our students early on, we'll have a steady stream of talent."

In making this cultural and political change, Jackson has powerful allies in the federal government, including White House domestic policy adviser Melody Barnes, Labor Secretary Hilda Solis and the first couple themselves. Michelle Obama's White House Kitchen Garden is a prime example of rehabilitating the connection between communities of color and the earth. When Obama announced construction of two new nuclear facilities this week, he tied energy action to economic development. "The argument has been we can't do this now because we have to do jobs," Jackson says—referring to conservative and business opposition to clean energy incentives. But "he is rightfully reemphasizing and strengthening the connection between his clean agenda and his jobs agenda."

And while Jackson is not Secretary of State Hillary Clinton or Attorney General Eric Holder, she is emerging as one of the most powerful agency heads in the new Obama era.

Jackson was with the president and his entourage at the much-ballyhooed United Nations climate negotiations in Copenhagen, Denmark, the nonbinding outcome of which she called "the best we could get." Likewise, she was there when "energy czar" and former EPA head Carol Browner unveiled her

spring auto-industry coup, requiring a steep increase in tailpipe emissions standards for new cars. And it was she alone who made the historic pronouncement that the Bush administration and a host of corporate interests had tried to avoid: Greenhouse gases are hazardous to your health.

This important move began with the Supreme Court, which ruled in late 2007 that greenhouse gases counted as pollutants that could be regulated under the terms of the 1970 Clean Air Act. This meant that the federal government (specifically the EPA) could restrict emission of these pollutants if it determined that they endanger human health. The Bush administration, which had proven hostile to environmental causes, and particularly the mandate of the EPA, simply ignored the big news. Enter Jackson. Within weeks of taking office, she “dusted off the old studies” and soon issued a finding “returning science to its rightful place,” she says—and giving herself unprecedented authority to intervene in emissions production in the United States.

On both sides of Jackson’s office, the fight over such regulations is a heated one. The White House has signaled its support for the pro-regulatory position held by diverse senators such as Barbara Boxer, D-Calif., John Kerry, D-Mass., Lindsey Graham, R-S.C., and Joseph Lieberman, I-Conn. But many Republicans are of another mind on cap-and-trade legislation, which would put a price on the carbon emissions that cause climate change. Oil and coal companies and other major emitters are afraid that tough new standards for reducing pollution will cut into their profit margins (for oil companies, at near-record highs), and the U.S. Chamber of Commerce fears that any “tax” on energy consumption will reduce global competitiveness with countries that don’t cap emissions. But still, other conservatives, notably James Inhofe, R-Okla., deny the very scientific framework for needing to cap emissions.

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Dayo Olopade is Washington reporter of The Root. Follow her on Twitter.

01268-EPA-3486

**Richard Windsor/DC/USEPA/US**  
02/18/2010 06:09 AM

To Betsaida Alcantara  
cc  
bcc

Subject Re: The Root.com : Green Is the New Black

Very nice. Tx Betsaida. I heart BHM.  
Betsaida Alcantara

----- Original Message -----

**From:** Betsaida Alcantara  
**Sent:** 02/17/2010 10:42 PM EST  
**To:** Richard Windsor  
**Cc:** Allyn Brooks-LaSure  
**Subject:** The Root.com : Green Is the New Black

(From roundtable today..)

Green Is the New Black

EPA Administrator Lisa Jackson ties environmentalism to minority concerns.

The Root.com - Feb. 18

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Dayo Olopade is Washington reporter of The Root. Follow her on

01268-EPA-3487

Mathy  
Stanislaus/DC/USEPA/US  
02/18/2010 01:32 PM

To Richard Windsor, Lisa Garcia, Cynthia Giles-AA  
cc Allyn Brooks-LaSure, Bob Perciasepe, Diane Thompson,  
Seth Oster, "Lisa Feldt"  
bcc

Subject Re: Fw: Blog Round-up - February 17, 2010

(b)(5) Deliberative

Richard Windsor

----- Original Message -----

From: Richard Windsor  
Sent: 02/18/2010 12:15 PM EST  
To: Lisa Garcia; Cynthia Giles-AA  
Cc: Allyn Brooks-LaSure; Bob Perciasepe; Diane Thompson; Mathy Stanislaus;  
Seth Oster  
Subject: Re: Fw: Blog Round-up - February 17, 2010

(b)(5) Deliberative

Lisa Garcia

----- Original Message -----

From: Lisa Garcia  
Sent: 02/18/2010 11:38 AM EST  
To: Cynthia Giles-AA  
Cc: Allyn Brooks-LaSure; Bob Perciasepe; Diane Thompson; Mathy Stanislaus;  
Richard Windsor; Seth Oster  
Subject: Re: Fw: Blog Round-up - February 17, 2010

(b)(5) Deliberative

Cynthia Giles-AA

(b)(5) Deliberative

02/17/2010 06:53:22 PM

From: Cynthia Giles-AA/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane  
Thompson/DC/USEPA/US@EPA, Lisa Garcia/DC/USEPA/US@EPA, Mathy  
Stanislaus/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
Date: 02/17/2010 06:53 PM  
Subject: Re: Fw: Blog Round-up - February 17, 2010

(b)(5) Deliberative

(b)(5) Deliberative

Cynthia

Cynthia Giles  
Assistant Administrator  
U.S. EPA, Office of Enforcement and Compliance Assurance  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
202-564-2440

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Richard Windsor (b)(5) Deliberative 02/17/2010 03:22:21 PM

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Cc: Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA  
Date: 02/17/2010 03:22 PM  
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(b)(5) Deliberative

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Date: 02/17/2010 12:22 PM  
Subject: Blog Round-up - February 17, 2010

[attachment "Blog Round-up - February 17, 2010.doc" deleted by Cynthia Giles-AA/DC/USEPA/US]

01268-EPA-3489

**Richard Windsor/DC/USEPA/US**  
02/19/2010 02:18 PM

To Arvin Ganesan, David McIntosh  
cc  
bcc  
Subject Fw: sinnpets from Congressional testimony

(b)(5) Deliberative

----- Forwarded by Richard Windsor/DC/USEPA/US on 02/19/2010 02:17 PM -----

From: Arvin Ganesan/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Date: 02/17/2010 05:42 PM  
Subject: sinnpets from Congressional testimony

(b)(5) Deliberative

STATEMENT OF THE HONORABLE LAMAR ALEXANDER, A UNITED STATES SENATOR FROM THE STATE OF TENNESSEE

Senator Alexander. Madam Chairman, thank you.

I have no problem with the problem. My problem is with the solution. Eleven academies in industrialized countries say that climate change is real, humans have caused most of the recent warming. If fire chiefs of the same reputation told me my house was about to burn down, I would buy some fire insurance.

STATEMENT OF THE HONORABLE MIKE CRAPO, A UNITED STATES SENATOR FROM THE STATE OF IDAHO

I really don't believe there is a huge disagreement between us on the need for us to move forward and develop a very robust and meaningful national energy policy that will help us to dramatically remove or reduce our dependence on carbon-based forms of energy.

STATEMENT OF THE HONORABLE GEORGE V. VOINOVICH, A UNITED STATES SENATOR FROM THE STATE OF OHIO

Senator Voinovich. Thank you, Madam Chairwoman.

Climate change, I think we know, is a serious and complex issue that deserves our full attention. I think that Senator Alexander did a very good of eloquently stating that there alternatives to this legislation, and I think that Senator Bond did a very good job of outlining the impact that this legislation would have on the economy of our Country.

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency

Ganesan.Arvin@epa.gov  
(p) 202.564.5200  
(f) 202.501.1519

01268-EPA-3490

David  
McIntosh/DC/USEPA/US  
02/19/2010 02:28 PM

To Richard Windsor  
cc Arvin Ganesan  
bcc

Subject Re: Fw: sinppets from Congressional testimony

Thanks. Good timing. I'm working on the climate Q and A right now. I'll include this.

Richard Windsor

(b)(5) Deliberative

02/19/2010 02:18:05 PM

From: Richard Windsor/DC/USEPA/US  
To: Arvin Ganesan/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA  
Date: 02/19/2010 02:18 PM  
Subject: Fw: sinppets from Congressional testimony

(b)(5) Deliberative

----- Forwarded by Richard Windsor/DC/USEPA/US on 02/19/2010 02:17 PM -----

From: Arvin Ganesan/DC/USEPA/US  
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(b)(5) Deliberative

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Deputy Associate Administrator  
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Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov  
(p) 202.564.5200  
(f) 202.501.1519

01268-EPA-3492

David  
McIntosh/DC/USEPA/US  
02/19/2010 08:28 PM

To Richard Windsor, Diane Thompson, Seth Oster  
cc  
bcc

Subject Begich Presses EPA for Explanation of Endangerment  
Finding, Next Steps

Begich just put out this release about the letter. Darren Sammuelsohn is already emailing my private account asking me for the skinny. Seth, do you think it would make sense for OPA to call Darren just to tell him that EPA will reply to the letter on Monday?



**FOR IMMEDIATE RELEASE**  
February 19, 2010  
2010-037

Contact: Julie Hasquet, Press Secretary  
(907) 258-9304 office  
(907) 350-4846 cell

**Begich Presses EPA for Explanation of Endangerment Finding, Next Steps**  
*Eight senators outline concerns in letter to Administrator Jackson*

U.S. Sen. Mark Begich and West Virginia Sen. Jay Rockefeller have led a group of six other industrial state Democrats in a letter to Environmental Protection Agency (EPA) Administrator Lisa Jackson, expressing serious economic and energy security concerns about the potential regulation of greenhouse gases (GHGs) under the Clean Air Act. \_

The senators write that ill-timed or imprudent regulation of greenhouse gases may squander critical opportunities for the nation, impeding the investment necessary to create jobs and position the nation to develop and produce its own clean energy.

“I’m concerned about the possible negative effects on Alaska businesses as well as on the U.S. economy as a whole, as a result of potential EPA regulation of green house gas pollutants,” Begich said. “I’ve talked with Administrator Jackson about my concerns and we all want to better understand how the process would unfold for regulations to be written and implemented.”

“We need a clear understanding of how you view your agency’s responsibilities and the processes by which you intend to carry them out in order to represent workers, industries, taxpayers, and economic interests of our states,” says the letter signed by Begich, Rockefeller and Senators Sherrod Brown of Ohio, Bob Casey of Pennsylvania, Claire McCaskill of Missouri, Carl Levin of Michigan, Robert C. Byrd of West Virginia and Max Baucus of Montana.

The EPA has proposed to regulate six different GHG pollutants under the Clean Air Act. The agency's power to do so comes from the "endangerment finding" which resulted from a Supreme Court order. In April 2007, the U.S. Supreme Court in *Massachusetts v. EPA* ordered that the EPA must scientifically determine whether greenhouse gases (GHGs) from new motor vehicles cause or contribute to air pollution which endangers public health.

Begich and Sen. Jay Rockefeller have shared concerns of the potential impacts on their respective states. They have led the effort among like-minded senators to understand the situation better, thus writing to Administrator Jackson for clarification on several questions.

"We know that businesses need some degree of certainty to operate. And the answers we get back from the EPA will help us and help the business community understand how regulations could affect them," Begich added.

As President Obama has called on Congress to pass comprehensive legislation to enhance the nation's energy and climate security, lawmakers signing the letter to Jackson state concern that blunt EPA regulation of emissions will likely not result in the best treatment for Alaska and other states with resource and manufacturing as major components of their economies.

"We strongly believe this is ultimately Congress' responsibility, and if done properly, will create jobs, spur new clean energy industries, and greatly advance the goal of U.S. energy independence. If done improperly, these opportunities could be lost," the letter concludes.

###

01268-EPA-3494

**Bob  
Perciasepe/DC/USEPA/US**  
02/21/2010 09:13 AM

To Diane Thompson  
cc "Aaron Dickerson", "Scott Fulton", "Bob Perciasepe", "Eric  
Wachter", "Richard Windsor"  
bcc

Subject Re: Fw: Director Sam Hamilton passed away today

(b) (6)

## **Sam Hamilton, Fish and Wildlife official, remembered as 'visionary'**

February 20, 2010 11:20 p.m. EST



Sam Hamilton "left an indelible mark on the lands and wildlife we cherish," Secretary of the Interior Ken Salazar said.

### **STORY HIGHLIGHTS**

- Hamilton had served the U.S. Fish and Wildlife Service for more than 30 years
- Interior secretary: Hamilton had "forward-thinking approach to conservation"
- Hamilton was on a mountain at a Colorado ski resort when he complained of chest pains

### **RELATED TOPICS**

- [U.S. Fish and Wildlife Service](#)
  - [Colorado](#)
  - [Wildlife](#)

(CNN) -- Sam Hamilton, director of the U.S. Fish and Wildlife Service, died Saturday, authorities announced.

Hamilton, 54, died after suffering chest pains, a symptom reflective of an underlying heart condition, the Summit County, Colorado, coroner said. Hamilton was on a mountain at the Keystone Ski Resort in Keystone, Colorado, when he complained of the pains.

Hamilton had served the U.S. Fish and Wildlife Service for more than 30 years.

"Sam was a friend, a visionary, and a professional whose years of service and passionate dedication to his work have left an indelible mark on the lands and wildlife we cherish," Secretary of the Interior Ken Salazar said in a written statement.

"His forward-thinking approach to conservation - including his view that we must think beyond boundaries at the landscape-scale- will continue to shape our nation's stewardship for years to come."

Hamilton took over the leadership of the [U.S. Fish and Wildlife Service](#) in September. He was previously the regional director of the 10-state Southeast region for the agency. He was charged with a \$484 million budget and oversight over more than 350 threatened and endangered species

and 128 national wildlife refuges, according to the agency's Web site.

While regional director, he also supported the creation of a carbon sequestration program that helped restore about 80,000 acres of wildlife habitat.

His colleague, Thomas Strickland, assistant secretary for Fish and Wildlife and Parks, praised Hamilton's more than 30 years of service to the agency.

"Sam brought more than just a wealth of experience to the job, he brought courage and outstanding leadership," Strickland said in a statement. "The Department of the Interior will miss him greatly."

Hamilton first became involved with the agency when he was 15 years old, as a member of the Youth Conservation Corps in Mississippi with the Noxubee National Wildlife Refuge, according to the agency's Web site.

He is survived by his wife Becky; sons Sam Jr. and Clay, as well as his grandson, Davis.

Bob Perciasepe  
Deputy Administrator

(o) +1 202 564 4711

(c) +1 (b)(6) Privacy

Diane Thompson FYI From: Stan Meiburg 02/21/2010 09:00:14 AM

From: Diane Thompson/DC/USEPA/US  
To: "Richard Windsor" <Windsor.Richard@epamail.epa.gov>, "Bob Perciasepe" <perciasepe.bob@epa.gov>, "Scott Fulton" <fulton.scott@epa.gov>  
Cc: "Aaron Dickerson" <dickerson.aaron@epa.gov>, "Eric Wachter" <wachter.eric@epa.gov>  
Date: 02/21/2010 09:00 AM  
Subject: Fw: Director Sam Hamilton passed away today

FYI

---

**From:** Stan Meiburg  
**Sent:** 02/21/2010 08:12 AM EST  
**To:** Catherine McCabe; Diane Thompson; Susan Bromm; "Mike Shapiro" <shapiro mike@epa.gov>  
**Subject:** Fw: Director Sam Hamilton passed away today

(b) (6)

Stan  
A. Stanley Meiburg  
Acting Regional Administrator  
EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA. 30303

Office: (404) 562-8357  
Fax: (404) 562-9961

Cell: (404) 435-4234  
Email: meiburg.stan@epa.gov

Sent using Blackberry

---

**From:** Alan Farmer  
**Sent:** 02/20/2010 07:44 PM EST  
**To:** "Stan Meiburg" <meiburg.stan@epa.gov>; Beverly Banister; Scott Gordon  
**Subject:** Fw: Director Sam Hamilton passed away today

Unbelievably sad news.

---

**From:** Kristi\_Watkins  
**Sent:** 02/20/2010 07:42 PM EST  
**To:** Alan Farmer  
**Subject:** Fw: Director Sam Hamilton

-----  
Sent from my BlackBerry Wireless Handheld

---

**From:** Deputy Director  
**Sent:** 02/20/2010 06:36 PM EST  
**Subject:** Director Sam Hamilton

It is with a heavy heart that I inform you of the loss of Sam Hamilton. He died of a sudden heart attack today while skiing in Keystone, Colorado. Dan Ashe, Tom Melius, and Cindy Dohner accompanied him to Keystone after the Regional Directorate retreat ended Friday in Denver.

Throughout his 30 year career in the Service, Sam was always so proud to be a part of the Service, and always said how humbled and honored he felt to be asked to lead our agency. He was inspired by the men and women of the Service who dedicate their lives to protecting fish and wildlife and habitats, always believing that working together, and with our partners, we could accomplish so much.

We will miss him. Our hearts and prayers go out to his family,

Rowan Gould

Deputy Director

Washington, DC

01268-EPA-3495

**Richard Windsor/DC/USEPA/US**  
02/21/2010 09:22 AM

To Bob Perciasepe  
cc Diane Thompson, "Aaron Dickerson", "Scott Fulton", "Bob Perciasepe", "Eric Wachter"  
bcc

Subject Re: Fw: Director Sam Hamilton passed away today

very sad

Bob Perciasepe

(b) (6)

02/21/2010 09:13:59 AM

From: Bob Perciasepe/DC/USEPA/US  
To: Diane Thompson/DC/USEPA/US@EPA  
Cc: "Aaron Dickerson" <dickerson.aaron@epa.gov>, "Scott Fulton" <fulton.scott@epa.gov>, "Bob Perciasepe" <perciasepe.bob@epa.gov>, "Eric Wachter" <wachter.eric@epa.gov>, "Richard Windsor" <Windsor.Richard@epamail.epa.gov>  
Date: 02/21/2010 09:13 AM  
Subject: Re: Fw: Director Sam Hamilton passed away today

(b) (6)

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February 20, 2010 11:20 p.m. EST



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#### **RELATED TOPICS**

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He is survived by his wife Becky; sons Sam Jr. and Clay, as well as his grandson, Davis.

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Deputy Administrator

(o) +1 202 564 4711  
(c) +1 (b)(6) Privacy

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To: "Richard Windsor" <Windsor.Richard@epamail.epa.gov>, "Bob Perciasepe" <perciasepe.bob@epa.gov>, "Scott Fulton" <fulton.scott@epa.gov>  
Cc: "Aaron Dickerson" <dickerson.aaron@epa.gov>, "Eric Wachter" <wachter.eric@epa.gov>  
Date: 02/21/2010 09:00 AM  
Subject: Fw: Director Sam Hamilton passed away today

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Rowan Gould

Deputy Director

Washington, DC

01268-EPA-3496

**Richard Windsor/DC/USEPA/US**  
02/21/2010 10:57 AM

To Cynthia Giles-AA, "Mathy Stanislaus", "Bob Sussman"  
cc  
bcc  
Subject Fw: Emailing Article from Center for Progressive Reform:  
EPA's Cooperative Approach on Coal Ash Nets

FYI. Not sure who's stirring who ...

---

**From:** "Center for Progressive Reform on behalf of (b)(6) Privacy" [CPRBlog@progressivereform.org]  
**Sent:** 02/21/2010 09:28 AM EST  
**To:** Richard Windsor  
**Subject:** Emailing Article from Center for Progressive Reform: EPA's Cooperative Approach on Coal Ash Nets

You have been sent a link to the following Center for Progressive Reform article:  
[EPA's Cooperative Approach on Coal Ash Nets](#)

This link was sent to you by: (b) (6)

*Message:* coal ash

*If you have trouble with the above link, cut and paste this link into you browser's address bar:*  
<http://www.progressivereform.org/CPRblog.cfm?idBlog=DC7D472F-EAE3-ED21-82E6D44EC71DC22>  
6

01268-EPA-3497

Bob Sussman/DC/USEPA/US

To Richard Windsor

02/21/2010 12:09 PM

cc Cynthia Giles-AA, "Mathy Stanislaus", "Bob Sussman"

bcc

Subject Re: Fw: Emailing Article from Center for Progressive Reform: EPA's Cooperative Approach on Coal Ash Nets

(b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Richard Windsor FYI. Not sure who's stirring who ... F... 02/21/2010 10:57:18 AM

From: Richard Windsor/DC/USEPA/US  
To: Cynthia Giles-AA/DC/USEPA/US@EPA, "Mathy Stanislaus" <stanislaus.mathy@epa.gov>, "Bob Sussman" <Sussman.bob@epa.gov>  
Date: 02/21/2010 10:57 AM  
Subject: Fw: Emailing Article from Center for Progressive Reform: EPA's Cooperative Approach on Coal Ash Nets

FYI. Not sure who's stirring who ...

**From:** "Center for Progressive Reform on behalf of (b)(6) Privacy" [CPRBlog@progressivereform.org]  
**Sent:** 02/21/2010 09:28 AM EST  
**To:** Richard Windsor  
**Subject:** Emailing Article from Center for Progressive Reform: EPA's Cooperative Approach on Coal Ash Nets



You have been sent a link to the following Center for Progressive Reform article:  
[EPA's Cooperative Approach on Coal Ash Nets](#)

This link was sent to you by: (b)(5) Deliberative

Message: coal ash

*If you have trouble with the above link, cut and paste this link into you browser's address bar:*  
<http://www.progressivereform.org/CPRblog.cfm?idBlog=DC7D472F-EAE3-ED21-82E6D44EC71DC226>

01268-EPA-3498

**Richard Windsor/DC/USEPA/US**  
02/21/2010 12:10 PM

To Bob Sussman  
cc Cynthia Giles-AA, "Mathy Stanislaus", "Bob Sussman"  
bcc  
Subject Re: Fw: Emailing Article from Center for Progressive Reform: EPA's Cooperative Approach on Coal Ash Nets

Agreed.  
Bob Sussman

----- Original Message -----

**From:** Bob Sussman  
**Sent:** 02/21/2010 12:09 PM EST  
**To:** Richard Windsor  
**Cc:** Cynthia Giles-AA; "Mathy Stanislaus" <stanislaus.mathy@epa.gov>; "Bob Sussman" <Sussman.bob@epa.gov>  
**Subject:** Re: Fw: Emailing Article from Center for Progressive Reform: EPA's Cooperative Approach on Coal Ash Nets

(b)(5) Deliberative  
[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Richard Windsor FYI. Not sure who's stirring who ... F... 02/21/2010 10:57:18 AM

**From:** Richard Windsor/DC/USEPA/US  
**To:** Cynthia Giles-AA/DC/USEPA/US@EPA, "Mathy Stanislaus" <stanislaus.mathy@epa.gov>, "Bob Sussman" <Sussman.bob@epa.gov>  
**Date:** 02/21/2010 10:57 AM  
**Subject:** Fw: Emailing Article from Center for Progressive Reform: EPA's Cooperative Approach on Coal Ash Nets

FYI. Not sure who's stirring who ...

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**Sent:** 02/21/2010 09:28 AM EST  
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*If you have trouble with the above link, cut and paste this link into you browser's address bar:*

<http://www.progressivereform.org/CPRblog.cfm?idBlog=DC7D472F-EAE3-ED21-82E6D44EC71DC226>

01268-EPA-3499

Gina McCarthy/DC/USEPA/US

To Richard Windsor

02/22/2010 10:58 AM

cc

bcc

Subject Fw: ROCKEFELLER LEADS CHALLENGE TO EPA ON GREENHOUSE GAS REGULATIONS

(b)(5) Deliberative

----- Forwarded by Gina McCarthy/DC/USEPA/US on 02/22/2010 10:52 AM -----

From: Joseph Goffman/DC/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA  
Date: 02/22/2010 10:50 AM  
Subject: ROCKEFELLER LEADS CHALLENGE TO EPA ON GREENHOUSE GAS REGULATIONS



<http://rockefeller.senate.gov>

FOR IMMEDIATE RELEASE

February 19, 2010

Contact: Rebecca Gale  
202-236-0938 (cell)

# Rockefeller Leads Challenge to EPA on Greenhouse Gas Regulations

*Sends Letter to EPA Administrator Lisa Jackson –  
Joined By Other Coal State Senators*

[~ Letter Link Here ~](#)

Washington, D.C.—Senator John D. (Jay) Rockefeller IV, Chairman of the Senate Commerce, Science and Transportation Committee, lead a group of coal state Senators in sending a letter today to the Environmental Protection Agency (EPA) Administrator Lisa Jackson challenging EPA’s potential regulation of greenhouse gases (GHGs) from stationary sources under the Clean Air Act.

The letter requests that Administrator Jackson clarify the EPA timetable and suspend EPA

regulations for industrial facilities so Congress can consider comprehensive energy and climate legislation. EPA regulation of GHGs from stationary sources has far-reaching implications for the economy as a whole and the energy sector in particular. These affected industrial facilities are significant job generators in coal states, including West Virginia, and can ill-afford ad hoc regulations.

Senator Rockefeller was joined by Senators Begich, Byrd, Sherrod Brown, Casey, McCaskill, Levin, and Baucus in sending the letter, demanding a response to their concerns for the workers and industries affected in their states.

“At a time when so many people are hurting, we need to put the decisions about our energy future in to the hands of the people and their elected representatives—especially on issues impacting clean coal. EPA actions in this area would have enormous implications and these issues need to be handled carefully and appropriately dealt with by the Congress, not in isolation by a federal environmental agency,” said Senator Rockefeller.

**Senator Rockefeller is drafting legislation to suspend EPA’s regulatory authority to allow sufficient time for Congressional consideration of the nation's larger energy policy and economic needs.**

Excerpts from the letter include:

*“We remain concerned about the possible impacts on American workers and businesses in a number of industrial sectors, along with the farmers, miners, and small business owners who could be affected as your agency moves beyond automobile emissions standards to implement regulations to curtail GHG pollution from stationary sources.”*

*“We have a responsibility to the workers and industries in our states to address both your agency’s timetable for the implementation of these stationary source regulations, and what you intend the exact requirements for businesses to be.”*

*“The President and you have been explicit in calling on Congress to pass comprehensive legislation that would enhance our nation’s energy and climate security. We strongly believe this is ultimately Congress’ responsibility, and if done properly, will create jobs, spur new clean energy industries, and greatly advance the goal of U.S. energy independence. If done improperly, these opportunities could be lost.”*

To view the full text of the letter and the eight questions laid out, please click here ([Letter Link Here](#)).

###

01268-EPA-3500

**Richard Windsor/DC/USEPA/US**  
02/22/2010 12:19 PM

To Gina McCarthy  
cc "David McIntosh"  
bcc

Subject Re: ROCKEFELLER LEADS CHALLENGE TO EPA ON GREENHOUSE GAS REGULATIONS

(b)(5) Deliberative

Gina McCarthy

----- Original Message -----

**From:** Gina McCarthy  
**Sent:** 02/22/2010 10:58 AM EST  
**To:** Richard Windsor  
**Subject:** Fw: ROCKEFELLER LEADS CHALLENGE TO EPA ON GREENHOUSE GAS REGULATIONS

(b)(5) Deliberative

----- Forwarded by Gina McCarthy/DC/USEPA/US on 02/22/2010 10:52 AM -----

From: Joseph Goffman/DC/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA  
Date: 02/22/2010 10:50 AM  
Subject: ROCKEFELLER LEADS CHALLENGE TO EPA ON GREENHOUSE GAS REGULATIONS



<http://rockefeller.senate.gov>

FOR IMMEDIATE RELEASE

Contact: Rebecca

Gale

February 19, 2010

202-236-0938 (cell)

# Rockefeller Leads Challenge to EPA on

# Greenhouse Gas Regulations

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[~ Letter Link Here ~](#)

Washington, D.C.—Senator John D. (Jay) Rockefeller IV, Chairman of the Senate Commerce, Science and Transportation Committee, lead a group of coal state Senators in sending a letter today to the Environmental Protection Agency (EPA) Administrator Lisa Jackson challenging EPA's potential regulation of greenhouse gases (GHGs) from stationary sources under the Clean Air Act.

The letter requests that Administrator Jackson clarify the EPA timetable and suspend EPA regulations for industrial facilities so Congress can consider comprehensive energy and climate legislation. EPA regulation of GHGs from stationary sources has far-reaching implications for the economy as a whole and the energy sector in particular. These affected industrial facilities are significant job generators in coal states, including West Virginia, and can ill-afford ad hoc regulations.

Senator Rockefeller was joined by Senators Begich, Byrd, Sherrod Brown, Casey, McCaskill, Levin, and Baucus in sending the letter, demanding a response to their concerns for the workers and industries affected in their states.

“At a time when so many people are hurting, we need to put the decisions about our energy future in to the hands of the people and their elected representatives—especially on issues impacting clean coal. EPA actions in this area would have enormous implications and these issues need to be handled carefully and appropriately dealt with by the Congress, not in isolation by a federal environmental agency,” said Senator Rockefeller.

**Senator Rockefeller is drafting legislation to suspend EPA's regulatory authority to allow sufficient time for Congressional consideration of the nation's larger energy policy and economic needs.**

Excerpts from the letter include:

*"We remain concerned about the possible impacts on American workers and businesses in a number of industrial sectors, along with the farmers, miners, and small business owners who could be affected as your agency moves beyond automobile emissions standards to implement regulations to curtail GHG pollution from stationary sources."*

*"We have a responsibility to the workers and industries in our states to address both your agency's timetable for the implementation of these stationary source regulations, and what you intend the exact requirements for businesses to be."*

*"The President and you have been explicit in calling on Congress to pass comprehensive legislation that would enhance our nation's energy and climate security. We strongly believe this is ultimately Congress' responsibility, and if done properly, will create jobs, spur new clean energy industries, and greatly advance the goal of U.S. energy independence. If done improperly, these opportunities could be lost."*

To view the full text of the letter and the eight questions laid out, please click here ([Letter Link Here](#)).

###

01268-EPA-3501

David  
McIntosh/DC/USEPA/US  
02/22/2010 12:23 PM

To Richard Windsor  
cc Gina McCarthy, "David McIntosh"  
bcc

Subject Re: ROCKEFELLER LEADS CHALLENGE TO EPA ON  
GREENHOUSE GAS REGULATIONS

(b)(5) Deliberative

Richard Windsor (b)(5) Deliberative 02/22/2010 12:19:57 PM

From: Richard Windsor/DC/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA  
Cc: "David McIntosh" <mcintosh.david@epa.gov>  
Date: 02/22/2010 12:19 PM  
Subject: Re: ROCKEFELLER LEADS CHALLENGE TO EPA ON GREENHOUSE GAS REGULATIONS

(b)(5) Deliberative

Gina McCarthy

----- Original Message -----

**From:** Gina McCarthy  
**Sent:** 02/22/2010 10:58 AM EST  
**To:** Richard Windsor  
**Subject:** Fw: ROCKEFELLER LEADS CHALLENGE TO EPA ON GREENHOUSE GAS  
REGULATIONS

(b)(5) Deliberative

----- Forwarded by Gina McCarthy/DC/USEPA/US on 02/22/2010 10:52 AM -----

From: Joseph Goffman/DC/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA  
Date: 02/22/2010 10:50 AM  
Subject: ROCKEFELLER LEADS CHALLENGE TO EPA ON GREENHOUSE GAS REGULATIONS

JAY  
ROCKEFELLER  
UNITED STATES SENATOR FOR WEST VIRGINIA



N E W S R E L E A S E

<http://rockefeller.senate.gov>  
FOR IMMEDIATE RELEASE  
February 19, 2010

Contact: Rebecca Gale  
202-236-0938 (cell)

# Rockefeller Leads Challenge to EPA on Greenhouse Gas Regulations

*Sends Letter to EPA Administrator Lisa Jackson –  
Joined By Other Coal State Senators*

[~ Letter Link Here ~](#)

Washington, D.C.—Senator John D. (Jay) Rockefeller IV, Chairman of the Senate Commerce, Science and Transportation Committee, lead a group of coal state Senators in sending a letter today to the Environmental Protection Agency (EPA) Administrator Lisa Jackson challenging EPA’s potential regulation of greenhouse gases (GHGs) from stationary sources under the Clean Air Act.

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*“The President and you have been explicit in calling on Congress to pass comprehensive legislation that would enhance our nation’s energy and climate security. We strongly believe this is ultimately Congress’ responsibility, and if done properly, will create jobs, spur new clean energy industries, and greatly advance the goal of U.S. energy independence. If done improperly, these opportunities could be lost.”*

To view the full text of the letter and the eight questions laid out, please click here ([Letter Link Here](#)).

###

01268-EPA-3502

Gina McCarthy/DC/USEPA/US

To Richard Windsor

02/22/2010 12:28 PM

cc

bcc

Subject Re: ROCKEFELLER LEADS CHALLENGE TO EPA ON GREENHOUSE GAS REGULATIONS

(b)(5) Deliberative

Richard Windsor

----- Original Message -----

**From:** Richard Windsor

**Sent:** 02/22/2010 12:19 PM EST

**To:** Gina McCarthy

**Cc:** "David McIntosh" <mcintosh.david@epa.gov>

**Subject:** Re: ROCKEFELLER LEADS CHALLENGE TO EPA ON GREENHOUSE GAS REGULATIONS

(b)(5) Deliberative

Gina McCarthy

----- Original Message -----

**From:** Gina McCarthy

**Sent:** 02/22/2010 10:58 AM EST

**To:** Richard Windsor

**Subject:** Fw: ROCKEFELLER LEADS CHALLENGE TO EPA ON GREENHOUSE GAS REGULATIONS

(b)(5) Deliberative

----- Forwarded by Gina McCarthy/DC/USEPA/US on 02/22/2010 10:52 AM -----

From: Joseph Goffman/DC/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA  
Date: 02/22/2010 10:50 AM  
Subject: ROCKEFELLER LEADS CHALLENGE TO EPA ON GREENHOUSE GAS REGULATIONS

JAY  
ROCKEFELLER

UNITED STATES SENATOR FOR WEST VIRGINIA



N E W S R E L E A S E

<http://rockefeller.senate.gov>

FOR IMMEDIATE RELEASE

Contact: Rebecca

Gale

February 19, 2010

202-236-0938 (cell)

# Rockefeller Leads Challenge to EPA on Greenhouse Gas Regulations

*Sends Letter to EPA Administrator Lisa  
Jackson – Joined By Other Coal State  
Senators*

[~ Letter Link Here ~](#)

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###

01268-EPA-3503

David  
McIntosh/DC/USEPA/US  
02/22/2010 05:53 PM

To Allyn Brooks-LaSure  
cc Adora Andy, Arvin Ganesan, Bob Perciasepe, Brendan Gilfillan, Diane Thompson, Gina McCarthy, Lisa Heinzerling, Richard Windsor, Seth Oster, Stephanie Owens  
bcc  
Subject Re: Fw: EPA Clarifies Plans for New Carbon Regulations; Responds to Senators' Concerns

Here's a good first story.

## **CLIMATE: Murkowski dismisses 'temporary timeout' on EPA rules (Monday, February 22, 2010)**

Darren Samuelsohn and Robin Bravender, E&E reporters

Sen. Lisa Murkowski (R-Alaska) insisted today that she has the best strategy for stopping U.S. EPA climate regulations and dismissed a nascent alternative floated by a key coal-state Democrat.

In a statement, Murkowski argued that the Congressional Review Act -- which requires 51 votes to pass the Senate -- provides the clearest path to stop a sweeping series of Obama administration rules for power plants and a range of other industrial sources. She said her approach is better than legislation from Sen. Jay Rockefeller (D-W.Va.), which would need 60 votes to pass and would only halt EPA's rules for between two and five years.

"A temporary timeout isn't sufficient," said Murkowski spokesman Robert Dillon. "Bad regulations today are bad regulations tomorrow."

Murkowski had previously suggested a one-year stop for the EPA rules, but she has since taken a more extreme position advocating the overturning of the agency's underlying "endangerment" finding that states greenhouse gases are a threat to public health and welfare.

EPA Administrator Lisa Jackson fired back late today at Murkowski's resolution.

"A vote to vitiate the greenhouse-gas endangerment finding would be viewed as a vote to reject the scientific work of the thirteen U.S. government departments that contribute to the U.S. Global Change Research Program," Jackson said in a [letter](#) to Rockefeller. "It would also be viewed by many as a vote to move the United States to a position behind that of China on the issue of climate change, and more in line with the position of Saudi Arabia."

Dillon said Murkowski is aiming for a floor vote in mid-March before EPA finishes its first greenhouse gas standards for automobiles, a rule that will automatically trigger more regulations for large industrial sources under the Clean

Air Act. To date, Murkowski has 40 co-sponsors for her proposal, including Democrats Mary Landrieu of Louisiana, Blanche Lincoln of Arkansas and Ben Nelson of Nebraska.

Dillon acknowledged that Murkowski's statement is aimed at undercutting Rockefeller, who announced Friday that he would soon unveil legislation designed to block EPA's efforts while lawmakers work on a broader package to control greenhouse gases.

The bill, said Rockefeller spokeswoman Jamie Smith, is "an effort to give Congress the opportunity to secure and create jobs and boost the economy in clean coal states and make sure these decisions are not made ad hoc by a federal environmental agency."

But the prospects for that broader effort remain in doubt as the Senate trio of John Kerry (D-Mass.), Lindsey Graham (R-S.C.) and Joe Lieberman (I-Conn.) search for the elusive 60-vote sweet spot on a bill that caps greenhouse gases and expands domestic energy production. Senate Majority Leader Harry Reid (D-Nev.) has said he would schedule a floor debate this spring, though many doubt that will take place, given competing agenda items.

Clean Air Watch President Frank O'Donnell doubted that Rockefeller's efforts to block EPA were sincere. "I don't know if this is anything more than just a press release opportunity, and I suspect it might just be that," he said.

The bottom line, O'Donnell said, is that "the chances for effective [climate] legislation now appear minimal, and for them to throw up roadblocks to EPA is unconscionable, and if it's all just an effort to cover their tails, I would say it's a pity they can't do better."

In preparation for the Murkowski-led floor debate, Rockefeller and seven other Senate Democrats also sent EPA a letter on Friday pressing for answers on how it plans to implement the greenhouse gas rules, warning that the costs may be too much for their fossil fuel-reliant states. Also signing the [letter](#) to Jackson were Sens. Mark Begich of Alaska, Sherrod Brown of Ohio, Carl Levin of Michigan, Robert Casey of Pennsylvania, Robert Byrd of West Virginia, Claire McCaskill of Missouri and Max Baucus of Montana.

"We write with serious economic and energy security concerns relating to the potential regulation of greenhouse gases from stationary sources under the Clean Air Act," the senators wrote. "Ill-timed or imprudent regulation of GHGs may squander critical opportunities for our nation, impeding the investment necessary to create jobs and position our nation to develop and produce its own clean energy."

In their letter, the senators asked for a specific timeline for when EPA plans to

finish stationary source rules and other climate-focused permitting requirements, as well as other information on how the rules will affect the coal, natural gas, oil and petroleum refining industries. They question how EPA would deal with industry compliance in the absence of cost-effective pollution reduction technologies, as well as whether smaller sources like family farms, neighborhood dry cleaners and hospital power plants can expect to face restrictions.

In Jackson's response, she pledged to take actions by April to ensure that no large stationary sources would be required to account for greenhouse gases in their Clean Air Act permits this year. In the first half of 2011, large facilities that must already apply for Clean Air Act permits will need to address those emissions in their permit applications, she added. And permitting requirements for other large sources will phase in in the latter half of 2011.

In any event, EPA does not intend to subject the smallest sources to Clean Air Act permitting for greenhouse gas emissions any sooner than 2016, Jackson said.

In response to questions about how new rules will affect the coal, natural gas, oil and petroleum refining industries, Jackson said that EPA will consider the feasibility and commercial availability of required pollution control technologies when developing stationary source regulations.

[Click here](#) to read the senators' letter.

[Click here](#) to read Jackson's response.

Allyn Brooks-LaSure	----- M. Allyn Brooks-LaSure   De...	02/22/2010 05:46:31 PM
From:	Allyn Brooks-LaSure/DC/USEPA/US	
To:	Richard Windsor/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA	
Cc:	Seth Oster/DC/USEPA/US@EPA, Stephanie Owens/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA	
Date:	02/22/2010 05:46 PM	
Subject:	Fw: EPA Clarifies Plans for New Carbon Regulations; Responds to Senators' Concerns	

-----  
M. Allyn Brooks-LaSure | Deputy Associate Administrator for Public Affairs

U.S. Environmental Protection Agency | Office of the Administrator

Phone: 202-564-8368 | Email: [brooks-lasure.allyn@epa.gov](mailto:brooks-lasure.allyn@epa.gov)

----- Forwarded by Allyn Brooks-LaSure/DC/USEPA/US on 02/22/2010 05:45 PM -----

From:	"Josh Dorner, Sierra Club" < <a href="mailto:josh.dorner@sierraclub.org">josh.dorner@sierraclub.org</a> >
To:	Allyn Brooks-LaSure/DC/USEPA/US@EPA
Date:	02/22/2010 05:40 PM
Subject:	EPA Clarifies Plans for New Carbon Regulations; Responds to Senators' Concerns

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+++++

FOR IMMEDIATE RELEASE: February 22, 2010

CONTACT: Josh Dorner, 202.675.2384

EPA Letter Responds to Senators' Concerns, Clarifies Plans for New Carbon Regulations Under the Clean Air Act

Washington, D.C.--Environmental Protection Agency Administrator Lisa Jackson today sent a letter to Senator Jay Rockefeller in response to a letter he and seven other senators sent to EPA on Friday, February 19. Jackson's letter outlines EPA's plan for moving forward with new regulations for the largest carbon polluters and responds to several concerns raised by senators. It also raises numerous red flags about the ongoing campaign to gut the Clean Air Act. You can read the letter here:

<http://action.sierraclub.org/site/R?i=ohkJLGt-bFOnBwLLzOwtVA..>

Statement of Carl Pope, Sierra Club Executive Director

"This letter from EPA Administrator Jackson silences the Big Oil-backed disinformation campaign being waged against the Clean Air Act. Members of Congress should rely on these straightforward answers from the Environmental Protection Agency instead of the disingenuous smear campaign being waged by polluters.

"Administrator Jackson has laid out a reasonable timeline for new regulations for big carbon polluters under the Clean Air Act. Just as it has with other pollutants for 40 years, EPA has now made crystal clear that it will address global warming pollution in a way that benefits both our economy and our environment.

"EPA also successfully demonstrates just how sweeping an assault on the Clean Air Act is being proposed by Senator Murkowski and others. EPA states that undermining the Clean Air Act would imperil important new rules to raise fuel economy standards and reduce emissions from our vehicles. The historic new auto rules--supported by environmentalists, unions, and the auto industry alike--would also save consumers \$50 a month and cut oil use by 1.8 billion barrels. To do away with these rules would be nothing but a shameful bailout for Big Oil. The Senate has been unable to do anything on energy independence and now some senators want to do even less.

"The legislation being proposed by Senator Murkowski could even cut off badly needed funds for her own home state of Alaska to adapt to the impacts of climate change that are already occurring.

"It's time for Senators to dispense with these distractions and instead move forward with comprehensive clean energy and climate legislation that will cut pollution, fix our economy, and make America energy independent."

# # #

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01268-EPA-3506

**Richard Windsor/DC/USEPA/US**  
02/22/2010 08:22 PM

To David McIntosh, Arvin Ganesan  
cc  
bcc  
Subject Re: updated key numbers 1-pager

Nice. Tx. Arvin please bring a copy tomorrow. Lj  
David McIntosh

----- Original Message -----

**From:** David McIntosh  
**Sent:** 02/22/2010 08:19 PM EST  
**To:** Richard Windsor; Arvin Ganesan  
**Subject:** updated key numbers 1-pager

[attachment "Key Numbers 3.doc" deleted by Richard Windsor/DC/USEPA/US]

**Zero** – Number of stationary sources that will need to address greenhouse gas emissions in Clean Air Act permitting in 2010

**Zero** – Approximate amount by which EPA’s plan for greenhouse-gases will, in 2011, increase the current number (approximately 400) of stationary sources annually applying for permits already for other pollutants.

**Zero** – number of agricultural sources subject to EPA’s mandatory reporting rule

**1.8 billion** – Number of barrels of oil that will not be used thanks to the joint EPA-DOT rules for Model Year 2012-2016 light-duty vehicles.

**950 million metric tons** – Amount of CO<sub>2</sub>-equivalent greenhouse gas that will be eliminated thanks to the joint EPA-DOT rules for Model Year 2012-2016 light-duty vehicles.

**640 million metric tons** – Amount of CO<sub>2</sub>-equivalent greenhouse gas that would be eliminated without the EPA rule (i.e., with only the DOT rule).

When fully implemented, the RFS2 Rule will increase the volume of renewable fuel blended into gasoline **from 9 billion gallons in 2008 to 36 billion gallons by 2022.**

**\$13** – EPA’s high-end projection of the allowance price in 2015 under the House bill

**\$27** – EPA’s high-end projection of the allowance price in 2030 under the House bill

**-57%** – Cut in US conventional air pollution since 1970

**+207%** – US GDP growth since 1970

**20** – Factor by which industry overstated the per-ton cost of Acid Rain Trading Program

**Around 40 to 1** – Ratio of public-health benefits to regulatory costs of the Acid Rain Trading Program

**30 cents** – EPA’s high-end projection of the net present value of the daily reduction in consumption of the average American household over the lifetime of the bill

**48 cents** – CBO's projection of the daily reduction in consumption of the average American household in 2020 under the House bill

**20 GW** – Amount of non-CCS coal-fired electricity generation that would retire in the US by 2025 under the House bill

**25,000 metric tons** – Amount of CO<sub>2</sub> or CO<sub>2</sub>e that a source needs to emit per year in order to be subject to EPA's mandatory reporting rule

**131 rail-cars** full of coal – what you need to burn to generate 25,000 metric tons of CO<sub>2</sub>

**2 degrees Celsius** – Limit of global warming from pre-industrial levels that the President's emissions-reduction goals are consistent with, provided we secure significant emissions mitigation by other countries

**\$3.4 billion** – Amount of funding that the Recovery Act provided for low-carbon coal power and industrial projects

Council of Economic Advisers (CEA) estimates that the approximately \$90 billion of Recovery Act investments will save or create about **720,000 job-years** by the end of 2012. **Approximately two-thirds of the job-years represent work on clean energy projects**, either by workers employed directly on the projects or by workers at suppliers to the projects.

01268-EPA-3507

**David McIntosh/DC/USEPA/US**  
02/22/2010 09:03 PM

To Richard Windsor  
cc "Lisa Heinzerling", "Gina (Sheila) McCarthy", "David McIntosh", "Seth Oster", "Bob Perciasepe", "Bob Sussman", "Diane Thompson"  
bcc

Subject Re: Fw: NYTimes.com: Obama Mounts a Last-Ditch Attempt to Pass a 'Hybrid' Climate and Energy Bill

Reads like a story of two months ago.

Richard Windsor ----- Original Message ----- From: lisap... 02/22/2010 08:54:50 PM

From: Richard Windsor/DC/USEPA/US  
To: "David McIntosh" <mcintosh.david@epa.gov>, "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>, "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>, "Bob Sussman" <Sussman.bob@epa.gov>, "Lisa Heinzerling" <heinzerling@epa.gov>, "Diane Thompson" <thompson.diane@epa.gov>, "Seth Oster" <oster.seth@epa.gov>  
Date: 02/22/2010 08:54 PM  
Subject: Fw: NYTimes.com: Obama Mounts a Last-Ditch Attempt to Pass a 'Hybrid' Climate and Energy Bill

**From:** (b) (6) Personal Privacy  
**Sent:** 02/22/2010 08:53 PM EST  
**To:** Richard Windsor  
**Subject:** NYTimes.com: Obama Mounts a Last-Ditch Attempt to Pass a 'Hybrid' Climate and Energy Bill



This page was sent to you by: (b)(6) Privacy

BUSINESS / ENERGY & ENVIRONMENT | February 22, 2010  
**Obama Mounts a Last-Ditch Attempt to Pass a 'Hybrid' Climate and Energy Bill**

By JOEL KIRKLAND of ClimateWire  
The White House is mounting a last-ditch effort to piece together an energy and climate change bill that has enough incentive...



01268-EPA-3508

**Richard Windsor/DC/USEPA/US**  
02/22/2010 09:14 PM

To Arvin Ganesan  
cc  
bcc

Subject Re: documents for you tomorrow

Tx. We have the ARRA stuff for the OK site. And a list of climate funding right? Tx.  
Arvin Ganesan

----- Original Message -----

**From:** Arvin Ganesan  
**Sent:** 02/22/2010 08:30 PM EST  
**To:** Richard Windsor  
**Subject:** documents for you tomorrow

This is an annoying time for my printer to be broken. Nonetheless, tomorrow am, you can expect hardcopies of the following documents (in addition to your book)

- Your oral testimony
- Key Numbers and Figures
- (b)(5) Deliberative acid rain trading program.
- ARRA SRF by State
- Recent Polling. (b)(5) Deliberative

Is there anything else you want that's not in your book?

-----  
 ARVIN R. GANESAN  
 Deputy Associate Administrator  
 Congressional Affairs  
 Office of the Administrator  
 United States Environmental Protection Agency  
 Ganesan.Arvin@epa.gov  
 (p) 202.564.5200  
 (f) 202.501.1519

01268-EPA-3509

**Richard Windsor/DC/USEPA/US**  
02/22/2010 09:15 PM

To David McIntosh  
cc  
bcc

Subject Re: Fw: NYTimes.com: Obama Mounts a Last-Ditch Attempt to Pass a 'Hybrid' Climate and Energy Bill

The hyper fuel switch emphasis was a bit of news for me.  
David McIntosh

----- Original Message -----

**From:** David McIntosh  
**Sent:** 02/22/2010 09:03 PM EST  
**To:** Richard Windsor  
**Cc:** "Lisa Heinzerling" <heinzerling@epa.gov>; "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>; "David McIntosh" <mcintosh.david@epa.gov>; "Seth Oster" <oster.seth@epa.gov>; Bob Perciasepe; "Bob Sussman" <Sussman.bob@epa.gov>; "Diane Thompson" <thompson.diane@epa.gov>  
**Subject:** Re: Fw: NYTimes.com: Obama Mounts a Last-Ditch Attempt to Pass a 'Hybrid' Climate and Energy Bill  
Reads like a story of two months ago.

Richard Windsor      ----- Original Message ----- From: lisap...      02/22/2010 08:54:50 PM

From: Richard Windsor/DC/USEPA/US  
To: "David McIntosh" <mcintosh.david@epa.gov>, "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>, "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>, "Bob Sussman" <Sussman.bob@epa.gov>, "Lisa Heinzerling" <heinzerling@epa.gov>, "Diane Thompson" <thompson.diane@epa.gov>, "Seth Oster" <oster.seth@epa.gov>  
Date: 02/22/2010 08:54 PM  
Subject: Fw: NYTimes.com: Obama Mounts a Last-Ditch Attempt to Pass a 'Hybrid' Climate and Energy Bill

**From:** (b) (6) Personal Privacy  
**Sent:** 02/22/2010 08:53 PM EST  
**To:** Richard Windsor  
**Subject:** NYTimes.com: Obama Mounts a Last-Ditch Attempt to Pass a 'Hybrid' Climate and Energy Bill

The New York Times



E-Mail This

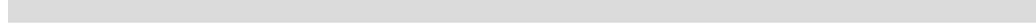


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BUSINESS / ENERGY & ENVIRONMENT | February 22, 2010  
**[Obama Mounts a Last-Ditch Attempt to Pass a 'Hybrid' Climate and Energy Bill](#)**

By JOEL KIRKLAND of ClimateWire  
The White House is mounting a last-ditch effort to piece

together an energy and climate change bill that has enough  
incentive...



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01268-EPA-3510

**David  
McIntosh/DC/USEPA/US**

02/22/2010 09:34 PM

To Richard Windsor

cc

bcc

Subject Fw: The 1-pager you requested

FYI. (b)(5) Deliberative

----- Forwarded by David McIntosh/DC/USEPA/US on 02/22/2010 09:33 PM -----

From: David McIntosh/DC/USEPA/US  
To: delia.scott@mail.house.gov, "Gray, Jason" <Jason.Gray@mail.house.gov>  
Cc: Ed Walsh/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA  
Date: 02/22/2010 07:54 PM  
Subject: The 1-pager you requested

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## WHY THE NEW CLIMATE FUNDING?

### What?

“This request includes an additional \$25 million to support state permit programs as they prepare to issue permits for large sources of GHGs.” (*FY 2011 EPA Budget in Brief* )

### Why?

Three years ago, the United States Supreme Court held that greenhouse-gas emissions are air pollution under the Clean Air Act. EPA is managing that situation, but there is no putting the genie back into the bottle. States know that. They know that, as a result of the Supreme Court’s decision, they will, some day soon, need to start considering greenhouse-gas emissions in the Clean Air Act permitting of large stationary sources. They are worried that they lack the resources to handle that. The Administration is requesting \$25 million so that EPA can help States get ready to handle it. By all accounts the states are grateful for the help.

### What?

“The request includes \$7.5 million to assess and potentially develop NSPS regulations for major industrial sectors and seek, where possible, market-oriented mechanisms and flexibilities to provide lowest cost compliance options.” (*FY 2011 EPA Budget in Brief* )

### Why?

Industry doesn’t like the part of the Clean Air Act’s stationary source program that eventually will be automatically triggered for greenhouse gas emissions, because that part (the so-called Prevention of Significant Deterioration Program) only doles out the actual pollution retrofit requirements on a case-by-case basis. The case-by-case aspect of the PSD element makes it difficult for industry to predict and plan. When it comes to greenhouse-gas emissions control, industry is crying out for EPA to identify nationally-uniform pollution retrofit requirements, and to do so long before anyone actually triggers them. EPA is authorized to do that under the Clean Air Act’s New Source Performance Standard program. So the Administration is requesting funds to use the NSPS program do the kind of uniform, up-front standard-setting that industry says it wants.

**What?**

“The FY 2011 budget request provides an increase of \$6 million for analysis, development and implementation of new emission standards that will reduce GHG emissions from transportation sources. This includes the implementation of new standards for light-duty vehicles (passenger cars, light-duty trucks, and medium duty passenger vehicles), covering model years 2012 through 2016.” (*FY 2011 EPA Budget in Brief* )

**Why?**

Last fall, EPA proposed a first-time rule to reduce greenhouse-gas pollution from new light-duty vehicles. The Agency took that action in conjunction with the National Highway Traffic Safety Administration’s proposed rule to raise vehicle fuel-economy standards. Together, the two rules will create a single, nation-wide vehicle program that will reduce the lifetime oil consumption of affected vehicles by 1.8 billion barrels while eliminating 950 million metric tons of greenhouse-gas pollution and creating strong incentives for the domestic manufacture of world-leading clean-energy technologies. The agencies’ joint proposal grew out of an historic collaboration between President Obama’s Administration, America’s automobile manufacturers, State governments, and citizen groups to create a clear path for producing the vehicles that America needs for a strong economy and safe environment. EPA’s proposal was also an integral part of the Agency’s response to the 2007 Supreme Court ruling, in *Massachusetts v. EPA* , that greenhouse gases are air pollutants under the Clean Air Act. The government of California has agreed that vehicles in compliance with the EPA rule will be considered to be in compliance with the state’s greenhouse-gas emissions standards. By bringing together diverse stakeholders – industry and labor, Democrats and Republicans, States and citizen groups – to craft strong, pragmatic solutions that everyone can stand behind, the EPA and NHTSA rulemakings epitomize the way this Administration seeks to do business. The Administration is seeking funding to implement this historic win-win and to explore whether it can be repeated for other categories of vehicles.

**What?**

The Agency will analyze critical air and climate-related issues relating to carbon capture and sequestration (CCS) technology, and eventually develop a framework for the permitting of the carbon dioxide capture component of the CCS project. This budget request includes an increase of \$2.0 million for this work.

**Why?**

Industry wants to achieve the commercial availability of systems for capturing, transporting, and storing carbon dioxide (e.g., from coal-fueled power plants). If we don’t accelerate the commercial development of those systems, we will have a much harder time curbing global warming. Part of achieving commercial availability is developing regulatory certainty. Industry wants there to be rules for storage, so that they know it will be harder for someone to sue them so long as they are following the rules. EPA has a role to play in providing those rules. The Administration has requested funding so that EPA can issue them expeditiously.

01268-EPA-3511

**David McIntosh/DC/USEPA/US**  
02/22/2010 10:22 PM

To Richard Windsor  
cc  
bcc

Subject Re: NYTimes.com: Obama Mounts a Last-Ditch Attempt to Pass a 'Hybrid' Climate and Energy Bill

(b)(5) Deliberative

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**From:** Richard Windsor  
**Sent:** 02/22/2010 08:54 PM EST  
**To:** "David McIntosh" <mcintosh.david@epa.gov>; "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>; Bob Perciasepe; "Bob Sussman" <Sussman.bob@epa.gov>; "Lisa Heinzerling" <heinzerling@epa.gov>; "Diane Thompson" <thompson.diane@epa.gov>; "Seth Oster" <oster.seth@epa.gov>  
**Subject:** Fw: NYTimes.com: Obama Mounts a Last-Ditch Attempt to Pass a 'Hybrid' Climate and Energy Bill

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**From:** (b) (6) Personal Privacy  
**Sent:** 02/22/2010 08:53 PM EST  
**To:** Richard Windsor  
**Subject:** NYTimes.com: Obama Mounts a Last-Ditch Attempt to Pass a 'Hybrid' Climate and Energy Bill

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BUSINESS / ENERGY & ENVIRONMENT | February 22, 2010

## **Obama Mounts a Last-Ditch Attempt to Pass a 'Hybrid' Climate and Energy Bill**

By JOEL KIRKLAND of ClimateWire

The White House is mounting a last-ditch effort to piece together an energy and climate change bill that has enough incentive...

01268-EPA-3512

**David McIntosh/DC/USEPA/US**  
02/22/2010 10:32 PM

To Richard Windsor  
cc  
bcc

Subject Re: NYTimes.com: Obama Mounts a Last-Ditch Attempt to Pass a 'Hybrid' Climate and Energy Bill

(b)(5) Deliberative

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**From:** Richard Windsor  
**Sent:** 02/22/2010 10:25 PM EST  
**To:** David McIntosh  
**Subject:** Re: NYTimes.com: Obama Mounts a Last-Ditch Attempt to Pass a 'Hybrid' Climate and Energy Bill

(b)(5) Deliberative

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**From:** David McIntosh  
**Sent:** 02/22/2010 10:22 PM EST  
**To:** Richard Windsor  
**Subject:** Re: NYTimes.com: Obama Mounts a Last-Ditch Attempt to Pass a 'Hybrid' Climate and Energy Bill

(b)(5) Deliberative

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**From:** Richard Windsor  
**Sent:** 02/22/2010 08:54 PM EST  
**To:** "David McIntosh" <mcintosh.david@epa.gov>; "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>; Bob Perciasepe; "Bob Sussman" <Sussman.bob@epa.gov>; "Lisa Heinzerling" <heinzerling@epa.gov>; "Diane Thompson" <thompson.diane@epa.gov>; "Seth Oster" <oster.seth@epa.gov>  
**Subject:** Fw: NYTimes.com: Obama Mounts a Last-Ditch Attempt to Pass a 'Hybrid' Climate and Energy Bill

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**From:** (b) (6) Personal Privacy  
**Sent:** 02/22/2010 08:53 PM EST  
**To:** Richard Windsor  
**Subject:** NYTimes.com: Obama Mounts a Last-Ditch Attempt to Pass a 'Hybrid' Climate and Energy Bill

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BUSINESS / ENERGY & ENVIRONMENT | February 22, 2010

**Obama Mounts a Last-Ditch Attempt to Pass a 'Hybrid' Climate and Energy Bill**

By JOEL KIRKLAND of ClimateWire

The White House is mounting a last-ditch effort to piece together an energy and climate change bill that has enough incentive...

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01268-EPA-3513

David  
McIntosh/DC/USEPA/US  
02/23/2010 08:24 AM

To Richard Windsor  
cc Seth Oster, Arvin Ganesan  
bcc

Subject this article pretty much sums up the impact of the letter

(b)(5) Deliberative

## **CLIMATE: EPA's gradual phase in of GHG regs garners qualified praise from senators (Tuesday, February 23, 2010)**

**Robin Bravender and Darren Samuelsohn, E&E reporters**

Facing mounting pressure from congressional lawmakers on both sides of the aisle, the Obama administration yesterday vowed to gradually phase in climate regulations for industrial sources.

U.S. EPA Administrator Lisa Jackson said that no stationary sources will face greenhouse gas regulations this year and that small sources will not be subject to permitting requirements any sooner than 2016. EPA is also considering "substantially" raising the thresholds in its proposed "tailoring" rule to exempt more facilities from requirements that they minimize their greenhouse gas emissions.

The announcement is seen as a step forward by both Republican and Democratic lawmakers who have expressed concerns about the possible economic consequences of regulating carbon dioxide and other gases, but several senators said they still plan to move forward with efforts to handcuff EPA's regulatory authority.

Jackson's [comments](#) came in response to a letter sent last week by eight moderate Senate Democrats pressing for answers on how and when EPA plans to begin regulating the heat-trapping gases, warning that the costs may be too much for their states.

"I share your goals of ensuring economic recovery at this critical time and of addressing greenhouse-gas emissions in sensible ways that are consistent with the call for comprehensive energy and climate legislation," Jackson wrote.

EPA will begin to phase in permitting requirements and regulating large stationary sources of greenhouse gases in 2011, Jackson said. In early 2011, only facilities that must already apply for Clean Air Act permits for other pollutants will need to address those emissions. Fewer than 400 facilities would be subject to those requirements, she said. The agency will begin to require permits from other large sources in the latter half of 2011.

Senators who are backing efforts to hamstring EPA's regulatory authority said the gradual schedule was a positive signal.

"It helps," said Commerce Chairman Jay Rockefeller (D-W.Va.), who was one of the lead signatories on the letter sent last week to EPA.

Still, Rockefeller said that EPA regulations would have enormous implications on coal state economies and should be handled by Congress instead of a federal agency. Rockefeller said he remains committed to "presenting legislation that would provide Congress the space it needs to craft a workable policy that will protect jobs and stimulate the economy."

Rockefeller has said he plans to introduce a bill that would halt EPA's rules for between two and five years.

"I can't say this with total authority, but I think that to some extent Lisa [Jackson] and to more extent the White House wants this," Rockefeller said of his bill. "We probably ask for more time than they want," he added, but when drafting the bill, "we talked as we went along with the EPA and the White House."

Sen. Lisa Murkowski (R-Alaska), who is pushing a separate resolution aimed at blocking EPA climate rules, also welcomed EPA's announcement.

Murkowski aides read the EPA letter for the first time just off the Senate floor. "It's a pretty substantial backing off," one staffer said, referring to Jackson's plan to delay until 2011 any climate-related stationary permits.

"Well, considering where we were yesterday, absolutely," Murkowski added. "Absolutely."

Murkowski, the ranking member of the Senate Energy and Natural Resources Committee, said EPA's planned schedule was "good" but said she had a number of questions as well.

"One of the unknowns is, if they're in agreement they're not going to be moving on stationary, that's certainly helpful, but what happens to permits in the meantime?" Murkowski said. "Will any permits be issued? Are they just kind of put on hold? I suppose you can expect to see litigation against EPA failing then to move on the stationary sources? What does that do to the permits then to move on the stationary sources?"

"What we're trying to do is gain a little certainty here," she added. "I'd be curious to know whether they actually believe we'll have more certainty or less."

Late yesterday, Murkowski said her resolution remains the best path because it

uses the Congressional Review Act -- which requires 51 votes to pass the Senate -- to block EPA, rather than Rockefeller's bill, which would require 60 votes to pass and for a shorter timer period.

"A temporary timeout isn't sufficient," said Murkowski spokesman Robert Dillon. "Bad regulations today are bad regulations tomorrow."

Sen. Mark Begich (D-Alaska), who also signed on to the letter questioning EPA's regulatory plans, said the calendar laid out by Jackson "makes me feel a lot more comfortable." Begich noted that he had not yet read EPA's response.

### **States laud timeline**

State and local air regulators also applauded EPA's plans to gradually roll out the permitting requirements.

"We are extremely pleased that EPA is providing states with the additional time and flexibility outlined in Administrator Jackson's letter," said Bill Becker, executive director of the National Association of Clean Air Agencies. "It will result in a much smoother transition and allow states to tailor their rules to comport to the federal regulations in a seamless manner."

EPA's proposed tailoring rule would have raised emission thresholds for facilities that need permits from 100 or 250 tons of pollution per year -- the Clean Air Act's thresholds for conventional pollutants -- to 25,000 tons of carbon dioxide equivalent per year.

Jackson said yesterday that EPA's final tailoring rule -- expected next month -- will include a "substantially higher" threshold than the proposal.

But while the draft rule seeks to raise the permitting thresholds across the country, state regulators and some industry groups have warned that states will need additional time to change lower thresholds that they have on the books.

Nearly 40 states operate under EPA-approved "State Implementation Plans" (SIPs) that establish a 100- or 250-ton threshold for the permitting requirements, according to an association of state and local air regulators. Those state limits would remain in place until state laws and regulations are modified, the group said.

01268-EPA-3517

**Richard Windsor/DC/USEPA/US**  
02/23/2010 03:05 PM

To Robert Goulding  
cc  
bcc

Subject Re: Ceres Conference in Boston, May 5-6

When is date?  
Robert Goulding

----- Original Message -----

**From:** Robert Goulding  
**Sent:** 02/23/2010 01:29 PM EST  
**To:** Richard Windsor  
**Cc:** Heidi Ellis  
**Subject:** Ceres Conference in Boston, May 5-6

Administrator

(b)(5) Deliberative  
[Redacted]

[Redacted]

Robert Goulding  
US EPA - Office of the Administrator  
1200 Pennsylvania Ave., NW  
Washington, DC 20460  
(p) 202-564-0473 - (f) 202-501-1450

\*Please consider the environment before printing this e-mail  
----- Forwarded by Robert Goulding/DC/USEPA/US on 02/23/2010 01:23 PM -----

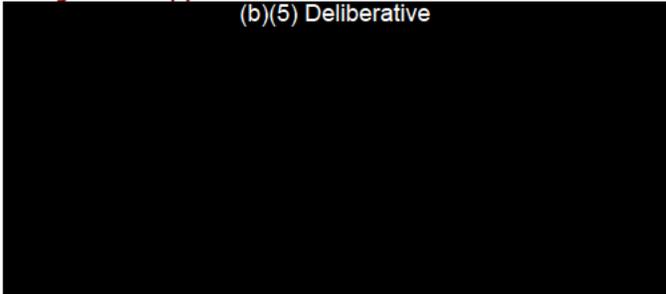
OEX#: AX-09-001-5402

Request Info

<b>Title:</b>	SCH002-Scheduling Request - Invitation- Keynote Speaker/ Ceres 2010 Conference: Roadmap for a Sustainable Future		
<b>Description</b>	The 2009 Ceres Conference. held in San Francisco, brought together close to 600 thought leaders from the business, investment and environmental communities.		
<b>Location:</b>	Renaissance Hotel Boston, MA		
<b>Tentative Date</b>	from	to	<b>EPA Org:</b>
			<b>Request Status:</b> Pending
<b>RSVP By:</b>	<input type="checkbox"/> PE		<b>Surrogate Offered :</b>

<b>Comments &amp; Interim Notification(s):</b> sent email to Mindy Lubber to acknowledge receipt 11/02 - VB	
<b>Event Contact info:</b> Mindy S. Lubber, (617) 247-0700 ext. 130, lubber@ceres.org	
<b>Organization</b>	Ceres
<b>Contact Name</b>	Lubber, Mindy
<b>Phone</b>	(617) 247-0700
<b>Fax</b>	
<b>Email</b>	
<b>Org.Address</b>	99 Chauncy Street Boston MA 02111-1703

**Vetting**

<p><b>Vetting Complete?</b> <input type="radio"/> Yes <input checked="" type="radio"/> No</p>																													
<p><b>Vetting Orgs</b></p> <table border="0"> <tr> <td><input type="checkbox"/> AIEO</td> <td><input checked="" type="checkbox"/> OECA</td> <td><input type="checkbox"/> ORD</td> <td><input type="checkbox"/> Reg-04</td> </tr> <tr> <td><input checked="" type="checkbox"/> OA</td> <td><input type="checkbox"/> OEI</td> <td><input type="checkbox"/> OSBP</td> <td><input type="checkbox"/> Reg-05</td> </tr> <tr> <td><input checked="" type="checkbox"/> OAR</td> <td><input checked="" type="checkbox"/> OGC</td> <td><input type="checkbox"/> OSWER</td> <td><input type="checkbox"/> Reg-06</td> </tr> <tr> <td><input type="checkbox"/> OARM</td> <td><input type="checkbox"/> OIA</td> <td><input type="checkbox"/> OW</td> <td><input type="checkbox"/> Reg-07</td> </tr> <tr> <td><input type="checkbox"/> OCFO</td> <td><input type="checkbox"/> OPA</td> <td><input type="checkbox"/> Reg-01</td> <td><input type="checkbox"/> Reg-08</td> </tr> <tr> <td><input type="checkbox"/> OCHP</td> <td><input checked="" type="checkbox"/> OPEI</td> <td><input type="checkbox"/> Reg-02</td> <td><input type="checkbox"/> Reg-09</td> </tr> <tr> <td><input type="checkbox"/> OCIR</td> <td><input type="checkbox"/> OPPTS</td> <td><input type="checkbox"/> Reg-03</td> <td><input type="checkbox"/> Reg-10</td> </tr> </table> <p><b>Priority Level:</b></p> <p><b>Notification List</b></p> <p><b>TO:</b></p> <p>Bob Sussman/DC/USEPA/US, Diane Thompson/DC/USEPA/US, Gina McCarthy/DC/USEPA/US, Catherine McCabe/DC/USEPA/US, Cynthia Giles/DC/USEPA/US, Justina Fugh/DC/USEPA/US, Daniel Fort/DC/USEPA/US, Jennie Keith/DC/USEPA/US, Scott Fulton/DC/USEPA/US, Lisa Heinzerling/DC/USEPA/US, Robert Verchick/DC/USEPA/US</p> <p><b>CC:</b></p> <p>Georgia Bednar/DC/USEPA/US, Stephanie Washington/DC/USEPA/US, Christopher Busch/DC/USEPA/US, Marta Montoro/DC/USEPA/US, Don Zinger/DC/USEPA/US, Barbara Morris/DC/USEPA/US, Teri Porterfield/RTP/USEPA/US, Linda Huffman/DC/USEPA/US, Beth Zelenski/DC/USEPA/US, Carla Veney/DC/USEPA/US, Robin Kime/DC/USEPA/US</p>	<input type="checkbox"/> AIEO	<input checked="" type="checkbox"/> OECA	<input type="checkbox"/> ORD	<input type="checkbox"/> Reg-04	<input checked="" type="checkbox"/> OA	<input type="checkbox"/> OEI	<input type="checkbox"/> OSBP	<input type="checkbox"/> Reg-05	<input checked="" type="checkbox"/> OAR	<input checked="" type="checkbox"/> OGC	<input type="checkbox"/> OSWER	<input type="checkbox"/> Reg-06	<input type="checkbox"/> OARM	<input type="checkbox"/> OIA	<input type="checkbox"/> OW	<input type="checkbox"/> Reg-07	<input type="checkbox"/> OCFO	<input type="checkbox"/> OPA	<input type="checkbox"/> Reg-01	<input type="checkbox"/> Reg-08	<input type="checkbox"/> OCHP	<input checked="" type="checkbox"/> OPEI	<input type="checkbox"/> Reg-02	<input type="checkbox"/> Reg-09	<input type="checkbox"/> OCIR	<input type="checkbox"/> OPPTS	<input type="checkbox"/> Reg-03	<input type="checkbox"/> Reg-10	<p><b>Vetting Comment(s)</b></p> <p>(b)(5) Deliberative</p> 
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**Original Request**



REC

Investors and environmentalists  
for sustainable prosperity

2009 OCT 12 12:05

OFFICE  
EXECUTIVE

October 8, 2009

Lisa P. Jackson  
Administrator  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N. W.  
Mail Code: 1101A  
Washington, DC 20460

Dear Lisa:

We would be honored if you would join us as a keynote speaker at *Ceres Conference 2010: Roadmap for a Sustainable Future*, to be held May 5 - 6 at the Renaissance Hotel in Boston. Your participation with and support of BICEP has been invaluable in recent months, as Ceres has worked hard to bring together corporate and government leaders to support forward thinking climate policy. Ceres has a long history of working with the EPA and other government bodies to promote real, lasting change and it would be wonderful to have you join us for Ceres' signature annual event. I know that our audience of business leaders, investors, and activists would be eager to hear your thoughts on how we can collectively move forward an agenda for future change and impact.

Ceres has partnered with these key stakeholders to bring about these dramatic changes, and continues to work hard to integrate sustainability into business strategy and long-term shareholder value. Next spring we will once again bring our partners together to engage in dialogue and examine the key issues and solutions that will keep us all moving forward. We hope that you will be part of that conversation.

The 2009 Ceres Conference, held in San Francisco, brought together close to 600 thought leaders from the business, investment, and environmental communities. Highlights from this year's gathering include:

- Celebrating Ceres' 20<sup>th</sup> Anniversary with a special dinner featuring actor and activist, Robert Redford.
- Visionary keynotes compelling us to act now and act boldly—including Bullitt Foundation president and Earth Day founder, Denis Hayes; Lester Brown, founder and president of the Earth Policy Institute; and Peter Darbee, CEO of PG&E.
- A compelling conversation between senior executives of Nike, Google, Jones Lang LaSalle, and the Assistant Comptroller for Pension Policy of NYC exploring what it means to be a sustainable company in the 21<sup>st</sup> century and how concepts like sustainable consumption, open sourcing, and the acceleration of clean energy technologies will get us there.

I can be reached by phone at (617) 247-0700 x130, or by email at [lubber@ceres.org](mailto:lubber@ceres.org) if you have any questions about the Ceres Conference 2010. Thank you for your consideration of our invitation; I hope to see you in Boston in the spring.

With best regards,

Your leadership has been crucial in these momentous times. I hope you will consider joining us in May —

Mindy S. Lubber  
President

99 Chauncy Street • Boston MA, 02111-1703 • TEL 617-247-0700 • FAX 617-267-5400

www.ceres.org

**Disposition Notes**

Created by: DCAPPS3 on 10/16/2009 at 06:04 PM  
Last Modified: Heidi Ellison 02/03 at 10:50 AM

**CMS Fields**

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CMSNotes	Event Date: 5/5-6/2010. Location: Boston, MA// Contact: Mindy S. Lubber, (617) 247-0700 ext. 130, lubber@ceres.org
CMSBody	

List of CMS Field for mapping

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- CMSEmail~
- CMSReceived~
- CMSDocumentDate~
- CMSNotes~
- CMSBody~

01268-EPA-3518

**Robert  
Goulding/DC/USEPA/US**  
02/23/2010 03:06 PM

To Richard Windsor  
cc  
bcc

Subject Re: Ceres Conference in Boston, May 5-6

(b)(5) Deliberative  
Richard Windsor

----- Original Message -----

**From:** Richard Windsor  
**Sent:** 02/23/2010 03:05 PM EST  
**To:** Robert Goulding  
**Subject:** Re: Ceres Conference in Boston, May 5-6

When is date?

Robert Goulding

----- Original Message -----

**From:** Robert Goulding  
**Sent:** 02/23/2010 01:29 PM EST  
**To:** Richard Windsor  
**Cc:** Heidi Ellis  
**Subject:** Ceres Conference in Boston, May 5-6

Administrator

(b)(5) Deliberative  
[Redacted]

[Redacted]

Robert Goulding  
US EPA - Office of the Administrator  
1200 Pennsylvania Ave., NW  
Washington, DC 20460  
(p) 202-564-0473 - (f) 202-501-1450

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----- Forwarded by Robert Goulding/DC/USEPA/US on 02/23/2010 01:23 PM -----

**OEX#:** AX-09-001-5402

**Request Info**

<b>Title:</b>	SCH002-Scheduling Request - Invitation- Keynote Speaker/ Ceres 2010 Conference: Roadmap for a Sustainable Future
<b>Description</b>	The 2009 Ceres Conference. held in San Francisco, brought together close to 600 thought leaders from the

business, investment and environmental communities.

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**Location:** Renaissance Hotel  
Boston, MA

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<b>Tentative Date</b>	<b>from</b>	<b>to</b>	<b>EPA Org:</b>	<b>Request Status:</b>
				Pending

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**RSVP By:**  PE **Surrogate Offered:**

---

**Comments & Interim Notification(s):** sent email to Mindy Lubber to acknowledge receipt 11/02 - VB

---

**Event Contact info:** Mindy S. Lubber, (617) 247-0700 ext. 130, lubber@ceres.org

<b>Organization</b>	Ceres	<b>Org.Address</b>	99 Chauncy Street Boston MA 02111-1703
<b>Contact Name</b>	Lubber, Mindy		
<b>Phone</b>	(617) 247-0700		
<b>Fax</b>			
<b>Email</b>			

**Vetting**

**Vetting Complete?**  Yes  No

<p><b>Vetting Orgs</b></p> <p><input type="checkbox"/> AIEO   <input checked="" type="checkbox"/> OECA   <input type="checkbox"/> ORD   <input type="checkbox"/> Reg-04  <input checked="" type="checkbox"/> OA   <input type="checkbox"/> OEI   <input type="checkbox"/> OSBP   <input type="checkbox"/> Reg-05  <input checked="" type="checkbox"/> OAR   <input checked="" type="checkbox"/> OGC   <input type="checkbox"/> OSWER   <input type="checkbox"/> Reg-06  <input type="checkbox"/> OARM   <input type="checkbox"/> OIA   <input type="checkbox"/> OW   <input type="checkbox"/> Reg-07  <input type="checkbox"/> OCFO   <input type="checkbox"/> OPA   <input type="checkbox"/> Reg-01   <input type="checkbox"/> Reg-08  <input type="checkbox"/> OCHP   <input checked="" type="checkbox"/> OPEI   <input type="checkbox"/> Reg-02   <input type="checkbox"/> Reg-09  <input type="checkbox"/> OCIR   <input type="checkbox"/> OPPTS   <input type="checkbox"/> Reg-03   <input type="checkbox"/> Reg-10</p> <p><b>Priority Level:</b></p> <p><b>Notification List</b></p> <p><b>TO:</b></p> <p>Bob Sussman/DC/USEPA/US, Diane Thompson/DC/USEPA/US, Gina McCarthy/DC/USEPA/US, Catherine McCabe/DC/USEPA/US, Cynthia Giles/DC/USEPA/US, Justina Fugh/DC/USEPA/US, Daniel Fort/DC/USEPA/US, Jennie Keith/DC/USEPA/US, Scott Fulton/DC/USEPA/US, Lisa Heinzerling/DC/USEPA/US, Robert Verchick/DC/USEPA/US</p> <p><b>CC:</b></p> <p>Georgia Bednar/DC/USEPA/US, Stephanie Washington/DC/USEPA/US, Christopher Busch/DC/USEPA/US, Marta Montoro/DC/USEPA/US, Don Zinger/DC/USEPA/US, Barbara Morris/DC/USEPA/US, Teri Porterfield/RTP/USEPA/US, Linda Huffman/DC/USEPA/US, Beth Zelenski/DC/USEPA/US, Carla Veney/DC/USEPA/US, Robin Kime/DC/USEPA/US</p>	<p><b>Vetting Comment(s)</b></p> <p>(b)(5) Deliberative</p>
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**Original Request**



REC

Investors and environmentalists  
for sustainable prosperity

2009 OCT 12 12:05

OFFICE  
EXECUTIVE

October 8, 2009

Lisa P. Jackson  
Administrator  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N. W.  
Mail Code: 1101A  
Washington, DC 20460

Dear Lisa:

We would be honored if you would join us as a keynote speaker at *Ceres Conference 2010: Roadmap for a Sustainable Future*, to be held May 5 - 6 at the Renaissance Hotel in Boston. Your participation with and support of BICEP has been invaluable in recent months, as Ceres has worked hard to bring together corporate and government leaders to support forward thinking climate policy. Ceres has a long history of working with the EPA and other government bodies to promote real, lasting change and it would be wonderful to have you join us for Ceres' signature annual event. I know that our audience of business leaders, investors, and activists would be eager to hear your thoughts on how we can collectively move forward an agenda for future change and impact.

Ceres has partnered with these key stakeholders to bring about these dramatic changes, and continues to work hard to integrate sustainability into business strategy and long-term shareholder value. Next spring we will once again bring our partners together to engage in dialogue and examine the key issues and solutions that will keep us all moving forward. We hope that you will be part of that conversation.

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- Visionary keynotes compelling us to act now and act boldly—including Bullitt Foundation president and Earth Day founder, Denis Hayes; Lester Brown, founder and president of the Earth Policy Institute; and Peter Darbee, CEO of PG&E.
- A compelling conversation between senior executives of Nike, Google, Jones Lang LaSalle, and the Assistant Comptroller for Pension Policy of NYC exploring what it means to be a sustainable company in the 21<sup>st</sup> century and how concepts like sustainable consumption, open sourcing, and the acceleration of clean energy technologies will get us there.

I can be reached by phone at (617) 247-0700 x130, or by email at [lubber@ceres.org](mailto:lubber@ceres.org) if you have any questions about the Ceres Conference 2010. Thank you for your consideration of our invitation; I hope to see you in Boston in the spring.

With best regards,

Your leadership has been crucial in these momentous times. I hope you will consider joining us in May —

Mindy S. Lubber  
President

99 Chauncy Street • Boston MA, 02111-1703 • TEL 617-247-0700 • FAX 617-267-5400

www.ceres.org

**Disposition Notes**

Created by: DCAPPS3 on 10/16/2009 at 06:04 PM  
Last Modified: Heidi Ellison 02/03 at 10:50 AM

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CMSNotes	Event Date: 5/5-6/2010. Location: Boston, MA// Contact: Mindy S. Lubber, (617) 247-0700 ext. 130, lubber@ceres.org
CMSBody	

List of CMS Field for mapping

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- CMSNotes~
- CMSBody~

01268-EPA-3519

**Richard Windsor/DC/USEPA/US**  
02/23/2010 03:51 PM

To Robert Goulding  
cc  
bcc

Subject Re: Ceres Conference in Boston, May 5-6

(b)(5) Deliberative

Robert Goulding

----- Original Message -----

**From:** Robert Goulding  
**Sent:** 02/23/2010 03:06 PM EST  
**To:** Richard Windsor  
**Subject:** Re: Ceres Conference in Boston, May 5-6

(b)(5) Deliberative

Richard Windsor

----- Original Message -----

**From:** Richard Windsor  
**Sent:** 02/23/2010 03:05 PM EST  
**To:** Robert Goulding  
**Subject:** Re: Ceres Conference in Boston, May 5-6

When is date?

Robert Goulding

----- Original Message -----

**From:** Robert Goulding  
**Sent:** 02/23/2010 01:29 PM EST  
**To:** Richard Windsor  
**Cc:** Heidi Ellis  
**Subject:** Ceres Conference in Boston, May 5-6

Administrator

(b)(5) Deliberative

(b)(5) Deliberative

Robert Goulding  
US EPA - Office of the Administrator  
1200 Pennsylvania Ave., NW  
Washington, DC 20460  
(p) 202-564-0473 - (f) 202-501-1450

\*Please consider the environment before printing this e-mail  
----- Forwarded by Robert Goulding/DC/USEPA/US on 02/23/2010 01:23 PM -----

OEX#: AX-09-001-5402

**Request Info**

<b>Title:</b>	SCH002-Scheduling Request - Invitation- Keynote Speaker/ Ceres 2010 Conference: Roadmap for a Sustainable Future		
<b>Description</b>	The 2009 Ceres Conference. held in San Francisco, brought together close to 600 thought leaders from the business, investment and environmental communities.		
<b>Location:</b>	Renaissance Hotel Boston, MA		
<b>Tentative Date</b>	from	to	<b>EPA Org:</b>
			<b>Request Status:</b> Pending
<b>RSVP By:</b>	<input type="checkbox"/> PE		<b>Surrogate Offered:</b>
<b>Comments &amp; Interim Notification(s):</b>	sent email to Mindy Lubber to acknowledge receipt 11/02 - VB		
<b>Event Contact info:</b>	Mindy S. Lubber, (617) 247-0700 ext. 130, lubber@ceres.org		
<b>Organization</b>	Ceres	<b>Org.Address</b>	99 Chauncy Street Boston MA 02111-1703
<b>Contact Name</b>	Lubber, Mindy		
<b>Phone</b>	(617) 247-0700		
<b>Fax</b>			
<b>Email</b>			

**Vetting**

<p><b>Vetting Orgs</b></p> <p> <input type="checkbox"/> AIEO   <input checked="" type="checkbox"/> OECA   <input type="checkbox"/> ORD   <input type="checkbox"/> Reg-04  <input checked="" type="checkbox"/> OA   <input type="checkbox"/> OEI   <input type="checkbox"/> OSBP   <input type="checkbox"/> Reg-05  <input checked="" type="checkbox"/> OAR   <input checked="" type="checkbox"/> OGC   <input type="checkbox"/> OSWER   <input type="checkbox"/> Reg-06  <input type="checkbox"/> OARM   <input type="checkbox"/> OIA   <input type="checkbox"/> OW   <input type="checkbox"/> Reg-07  <input type="checkbox"/> OCFO   <input type="checkbox"/> OPA   <input type="checkbox"/> Reg-01   <input type="checkbox"/> Reg-08  <input type="checkbox"/> OCHP   <input checked="" type="checkbox"/> OPEI   <input type="checkbox"/> Reg-02   <input type="checkbox"/> Reg-09  <input type="checkbox"/> OCIR   <input type="checkbox"/> OPPTS   <input type="checkbox"/> Reg-03   <input type="checkbox"/> Reg-10                 </p> <p><b>Priority Level:</b></p> <p><b>Notification List</b></p> <p><b>TO:</b></p> <p>Bob Sussman/DC/USEPA/US, Diane Thompson/DC/USEPA/US, Gina McCarthy/DC/USEPA/US, Catherine McCabe/DC/USEPA/US, Cynthia Giles/DC/USEPA/US, Justina Fugh/DC/USEPA/US, Daniel Fort/DC/USEPA/US, Jennie Keith/DC/USEPA/US, Scott Fulton/DC/USEPA/US, Lisa Heinzerling/DC/USEPA/US, Robert Verchick/DC/USEPA/US</p> <p><b>CC:</b></p> <p>Georgia Bednar/DC/USEPA/US, Stephanie Washington/DC/USEPA/US, Christopher Busch/DC/USEPA/US, Marta Montoro/DC/USEPA/US,</p>		<p><b>Vetting Complete?</b> <input type="radio"/> Yes <input checked="" type="radio"/> No</p> <p><b>Vetting Comment(s)</b></p> <p>(b)(5) Deliberative</p>
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Don Zinger/DC/USEPA/US, Barbara  
Morris/DC/USEPA/US, Teri  
Porterfield/RTP/USEPA/US, Linda  
Huffman/DC/USEPA/US, Beth  
Zelenski/DC/USEPA/US, Carla Veney/DC/USEPA/US,  
Robin Kime/DC/USEPA/US

**Original Request**



REC

Investors and environmentalists  
for sustainable prosperity

2009 OCT 12 12:05

OFFICE  
EXECUTIVE

October 8, 2009

Lisa P. Jackson  
Administrator  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N. W.  
Mail Code: 1101A  
Washington, DC 20460

Dear Lisa:

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I can be reached by phone at (617) 247-0700 x130, or by email at [lubber@ceres.org](mailto:lubber@ceres.org) if you have any questions about the Ceres Conference 2010. Thank you for your consideration of our invitation; I hope to see you in Boston in the spring.

With best regards,

Your leadership has been crucial in these momentous times. I hope you will consider joining us in May —

Mindy S. Lubber  
President

99 Chauncy Street • Boston MA, 02111-1703 • TEL 617-247-0700 • FAX 617-267-5400

www.ceres.org

**Disposition Notes**

Created by: DCAPPS3 on 10/16/2009 at 06:04 PM  
Last Modified: Heidi Ellison 02/03 at 10:50 AM

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CMSBody	

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- CMSBody~

01268-EPA-3521

**Robert  
Goulding/DC/USEPA/US**  
02/23/2010 05:02 PM

To Richard Windsor  
cc  
bcc

Subject Re: Ceres Conference in Boston, May 5-6

(b)(5) Deliberative  
Richard Windsor

----- Original Message -----

**From:** Richard Windsor  
**Sent:** 02/23/2010 03:51 PM EST  
**To:** Robert Goulding  
**Subject:** Re: Ceres Conference in Boston, May 5-6

(b)(5) Deliberative  
Robert Goulding

----- Original Message -----

**From:** Robert Goulding  
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**Sent:** 02/23/2010 01:29 PM EST  
**To:** Richard Windsor  
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**Subject:** Ceres Conference in Boston, May 5-6

Administrator

(b)(5) Deliberative  
[Redacted]

[Redacted]

Robert Goulding  
US EPA - Office of the Administrator

1200 Pennsylvania Ave., NW  
 Washington, DC 20460  
 (p) 202-564-0473 - (f) 202-501-1450

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			<b>Request Status:</b> Pending
<b>RSVP By:</b>	<input type="checkbox"/> PE		<b>Surrogate Offered:</b>
<b>Comments &amp; Interim Notification(s):</b>	sent email to Mindy Lubber to acknowledge receipt 11/02 - VB		
<b>Event Contact info:</b>	Mindy S. Lubber, (617) 247-0700 ext. 130, lubber@ceres.org		
<b>Organization</b>	Ceres	<b>Org.Address</b>	99 Chauncy Street Boston MA 02111-1703
<b>Contact Name</b>	Lubber, Mindy		
<b>Phone</b>	(617) 247-0700		
<b>Fax</b>			
<b>Email</b>			

**Vetting**

<b>Vetting Complete?</b> <input type="radio"/> Yes <input checked="" type="radio"/> No																													
<p><b>Vetting Orgs</b></p> <table border="0"> <tr> <td><input type="checkbox"/> AIEO</td> <td><input checked="" type="checkbox"/> OECA</td> <td><input type="checkbox"/> ORD</td> <td><input type="checkbox"/> Reg-04</td> </tr> <tr> <td><input checked="" type="checkbox"/> OA</td> <td><input type="checkbox"/> OEI</td> <td><input type="checkbox"/> OSBP</td> <td><input type="checkbox"/> Reg-05</td> </tr> <tr> <td><input checked="" type="checkbox"/> OAR</td> <td><input checked="" type="checkbox"/> OGC</td> <td><input type="checkbox"/> OSWER</td> <td><input type="checkbox"/> Reg-06</td> </tr> <tr> <td><input type="checkbox"/> OARM</td> <td><input type="checkbox"/> OIA</td> <td><input type="checkbox"/> OW</td> <td><input type="checkbox"/> Reg-07</td> </tr> <tr> <td><input type="checkbox"/> OCFO</td> <td><input type="checkbox"/> OPA</td> <td><input type="checkbox"/> Reg-01</td> <td><input type="checkbox"/> Reg-08</td> </tr> <tr> <td><input type="checkbox"/> OCHP</td> <td><input checked="" type="checkbox"/> OPEI</td> <td><input type="checkbox"/> Reg-02</td> <td><input type="checkbox"/> Reg-09</td> </tr> <tr> <td><input type="checkbox"/> OCIR</td> <td><input type="checkbox"/> OPPTS</td> <td><input type="checkbox"/> Reg-03</td> <td><input type="checkbox"/> Reg-10</td> </tr> </table> <p><b>Priority Level:</b></p> <p><b>Notification List</b></p> <p>TO:</p> <p>Bob Sussman/DC/USEPA/US, Diane Thompson/DC/USEPA/US, Gina McCarthy/DC/USEPA/US, Catherine</p>	<input type="checkbox"/> AIEO	<input checked="" type="checkbox"/> OECA	<input type="checkbox"/> ORD	<input type="checkbox"/> Reg-04	<input checked="" type="checkbox"/> OA	<input type="checkbox"/> OEI	<input type="checkbox"/> OSBP	<input type="checkbox"/> Reg-05	<input checked="" type="checkbox"/> OAR	<input checked="" type="checkbox"/> OGC	<input type="checkbox"/> OSWER	<input type="checkbox"/> Reg-06	<input type="checkbox"/> OARM	<input type="checkbox"/> OIA	<input type="checkbox"/> OW	<input type="checkbox"/> Reg-07	<input type="checkbox"/> OCFO	<input type="checkbox"/> OPA	<input type="checkbox"/> Reg-01	<input type="checkbox"/> Reg-08	<input type="checkbox"/> OCHP	<input checked="" type="checkbox"/> OPEI	<input type="checkbox"/> Reg-02	<input type="checkbox"/> Reg-09	<input type="checkbox"/> OCIR	<input type="checkbox"/> OPPTS	<input type="checkbox"/> Reg-03	<input type="checkbox"/> Reg-10	<p><b>Vetting Comment(s)</b></p> <p>(b)(5) Deliberative</p>
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McCabe/DC/USEPA/US, Cynthia  
Giles/DC/USEPA/US, Justina Fugh/DC/USEPA/US,  
Daniel Fort/DC/USEPA/US, Jennie  
Keith/DC/USEPA/US, Scott Fulton/DC/USEPA/US,  
Lisa Heinzerling/DC/USEPA/US, Robert  
Verchick/DC/USEPA/US

**CC:**

Georgia Bednar/DC/USEPA/US, Stephanie  
Washington/DC/USEPA/US, Christopher  
Busch/DC/USEPA/US, Marta Montoro/DC/USEPA/US,  
Don Zinger/DC/USEPA/US, Barbara  
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**Original Request**



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October 8, 2009

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 Ariel Rios Building  
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With best regards,

A handwritten signature in black ink, appearing to read 'Lisa P. Jackson'.

Your leadership has been crucial in these momentous times. I hope you will consider joining us in May —

Mindy S. Lubber  
President

99 Chauncy Street • Boston MA, 02111-1703 • TEL 617-247-0700 • FAX 617-267-5400

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- CMSBody~

01268-EPA-3522

**Richard Windsor/DC/USEPA/US**  
02/24/2010 01:15 PM

To Mathy Stanislaus  
cc  
bcc

Subject Status

Hi,

What's the status of your review of the Coal Combustion Partnership and the allegations about their relationship? Lisa

01268-EPA-3523

**Mathy  
Stanislaus/DC/USEPA/US**  
02/24/2010 01:43 PM

To Richard Windsor  
cc  
bcc  
Subject Re: Status

(b)(5) Deliberative



Richard Windsor

----- Original Message -----

**From:** Richard Windsor  
**Sent:** 02/24/2010 01:15 PM EST  
**To:** Mathy Stanislaus  
**Subject:** Status

Hi,

What's the status of your review of the Coal Combustion Partnership and the allegations about their relationship? Lisa

01268-EPA-3524

**Richard Windsor/DC/USEPA/US**  
02/24/2010 01:48 PM

To Mathy Stanislaus  
cc  
bcc  
Subject Re: Status

(b)(5) Deliberative  
Mathy Stanislaus

----- Original Message -----

**From:** Mathy Stanislaus  
**Sent:** 02/24/2010 01:43 PM EST  
**To:** Richard Windsor  
**Subject:** Re: Status

(b)(5) Deliberative

Richard Windsor

----- Original Message -----

**From:** Richard Windsor  
**Sent:** 02/24/2010 01:15 PM EST  
**To:** Mathy Stanislaus  
**Subject:** Status

Hi,

What's the status of your review of the Coal Combustion Partnership and the allegations about their relationship? Lisa

01268-EPA-3525

**Mathy  
Stanislaus/DC/USEPA/US**  
02/24/2010 04:53 PM

To Richard Windsor  
cc  
bcc

Subject Re: New EJ/EIP Report on CCW Damage Cases

Reinforces the extent of damages from leaching from both impoundments and  
mismanaged landfills in numerous states. (b)(5) Deliberative

----- Original Message -----

From: Richard Windsor  
Sent: 02/24/2010 04:51 PM EST  
To: Mathy Stanislaus  
Subject: Re: New EJ/EIP Report on CCW Damage Cases

Tx. Don't have time to open it. Anything huge?

----- Original Message -----

From: Mathy Stanislaus  
Sent: 02/24/2010 04:39 PM EST  
To: Bob Sussman; Lisa Heinzerling; Richard Windsor  
Subject: Fw: New EJ/EIP Report on CCW Damage Cases

----- Original Message -----

From: Lisa Evans [levans@earthjustice.org]  
Sent: 02/24/2010 01:13 PM PST  
To: Mathy Stanislaus  
Subject: New EJ/EIP Report on CCW Damage Cases

Hi Mathy,  
Just wanted to give you the heads up on a report we released today describing  
31 new coal ash damage cases.  
You can view the report at:  
[http://www.environmentalintegrity.org/news\\_reports/news\\_02\\_24\\_10.php](http://www.environmentalintegrity.org/news_reports/news_02_24_10.php)  
Please let me know if you have any questions.  
Sincerely,  
Lisa

Lisa Evans  
Senior Administrative Counsel  
Earthjustice  
21 Ocean Ave.

Marblehead, MA 01945  
T: (781) 631-4119  
F: (212) 918-1556  
[www.earthjustice.org](http://www.earthjustice.org)

\*please consider the environment before printing

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01268-EPA-3526

**Mathy  
Stanislaus/DC/USEPA/US**  
02/24/2010 04:55 PM

To "Richard Windsor"  
cc "Bob Sussman"  
bcc

Subject Follow to questions raised by Nancy Sutely @ last meeting -  
in case you need

.1. Are any coal-fired power plants in CA? We have identified six coal-fired utilities below (5 of the 6 below the EIA "small plant" cutoff for providing disposal data) (b)(5) Deliberative

[Redacted]

2. (b)(5) Deliberative

[Redacted]

01268-EPA-3532

**Daniel Gerasimowicz/DC/USEPA/US**  
02/26/2010 05:41 PM

To Charles Imohiosen, Matt Bogoshian, Clay Diette, Megan Cryan, Adora Andy, Wyatt Rockefeller, Candace White, Nancy Stoner, Daniel Kanninen, Marygrace Galston, Debbie Dietrich, Lisa Garcia, Paul Anastas, Alecia Allston, Barbara Bennett, Heidi Ellis, Christopher Busch, Clay Diette, Stephanie Owens, Bob Perciasepe, Craig Hooks, Michelle DePass, Steve Owens, Peter Silva, Peter Grevatt, Sarah Pallone, Mathy Stanislaus, Cynthia Giles-AA, Gina McCarthy, Alicia Kaiser, Lawrence Elworth, Seth Oster, Katharine Gage, Stephanie Washington, Diane Thompson, Arvin Ganesan, Marcus McClendon, Ray Spears, Sarah Dale, Georgia Bednar, Carla Veney, Scott Fulton, Bob Sussman, Allyn Brooks-LaSure, Richard Windsor, Eric Wachter, (b)(6) Robert Goulding, Lisa Heinzerling, David McIntosh

cc

bcc

Subject Monday, March 1, 2010 Schedule for Lisa P. Jackson

\*\*\* do not copy or forward this information \*\*\*

**Schedule for Lisa P. Jackson EPA Administrator  
Monday, March 1, 2010**

Notes:		
Drivers	Shift Leaders	Staff Contact
(b) (6)		Robert Goulding 202-596-0245
07:30 AM - 08:10 AM	Residence	Depart for NBC Washington
08:10 AM - 08:45 AM	NBC Washington Bureau 4001 Nebraska Ave. NW Washington, DC 20016	Weather Channel Interview Ct: Brendan Gilfillan (OPA) 2 (b) (6)  The Administrator should arrive at 8:10 AM  The interview will be LIVE via satellite from 8:40 - 8:45 AM  (b) (6)
08:45 AM - 09:15 AM	Administrator's Office	FYI - Daily Meeting
08:45 AM - 09:00 AM	NBC Washington	Depart for Ariel Rios
09:30 AM - 10:30 AM	Bullet Room	Meeting with American Chemistry Council Ct: Kate Carlson (b) (6)  Attendees:  Cal Dooley--President & CEO for American Chemistry Council  Chris Cathcart--President & COO for Consumer Specialty Products Association

Charlie Drevna--President of NPRA

Larry Sloan--President of Synthetic Organic Chemical Manufacturer Association

Staff:  
Bob Sussman (OA)  
Arvin Ganesan (OCIR)  
Steve Owens (OPPTS)

10:45 AM - 11:00 AM	Administrator's Office	Media Briefing Ct: Adora Andy (OPA) 564-2715
		Staff: Adora Andy (OPA) Allyn Brooks-LaSure (OPA)
11:00 AM - 12:00 PM	Bullet Room	Briefing on Utility MACT "Early Guidance" Ct: Teri Porterfield (OAR) 564-7404
		Staff: Bob Perciasepe, Peter Grevatt (OA) Gina McCarthy, Janet McCabe, Joe Goffman, Steve Page, Brian McLean, Rob Brenner, Peter Tsirigotis, Robert Wayland, Sam Napolitano, Kevin Culligan, Ellen Kurlansky (OAR) Scott Fulton, Patricia Embrey, Paul Versace (OGC) Bob Sussman (OA) Lisa Heinzerling (OPEI) Adam Kushner, Lisa Garcia (OECA)
		Optional: Diane Thompson (OA) and AAs  (hookup to Admin's conference line needed)
12:00 PM - 12:15 PM	Green Room	Promotion Ceremony for Steve Williams Ct: Juan Reyes (OHS) 564-2893
		*The Administrator will drop by to congratulate Steve.
12:15 PM - 01:00 PM	Administrator's Office	No Meetings
01:00 PM - 01:45 PM	Bullet Room	Senior Staff Meeting
01:45 PM - 02:00 PM	Ariel Rios	Depart for Hart The Deputy Administrator will travel with The Administrator
02:00 PM - 02:45 PM	Hart 331	Meeting with Senator Feinstein Ct: Bryer Davis (Senator Feinstein's Office) (b) (6)
		Staff: Bob Perciasepe (OA) Barbara Bennett (OCFO) Arvin Ganesan (OCIR)

02:45 PM - 03:05 PM	Hart	Depart for The Westin Washington
03:10 PM - 03:30 PM	Westin Washington Hotel 1400 M. Street, N.W	National Congress of American Indians 2010 Executive Council Winter Session Ct: 202-466-7761 Nketia Agyeman (ext 218) Robert Holden (ext 221) Advance Ct: Sarah Dale (OA) 202-384-6996  The Administrator is scheduled to speak at 3:10 after remarks by Secretary Donovan conclude  Congressman Pallone will follow The Administrator at 3:30 PM  Staff: Shalini Vajjhala (OIA) Pete Silva (OW)  Open Press
03:30 PM - 03:45 PM	Westin Washington	Depart for Ariel Rios Pete Silva will travel with The Administrator
04:00 PM - 04:30 PM	Bullet Room	Briefing to discuss MTM Guidance Ct: Georgia Bednar (OA) 564-9816  Staff:  Bob Sussman, Ann Campbell (OA) Peter Silva, Nancy Stoner, Greg Peck, Denise Keehner, Jim Hanlon, Ephraim King (OW) Scott Fulton, Kevin Minoli, Steve Neugeboren (OGC) Shawn Garvin, Bill Early, Randy Pomponio (R3) Stan Meiburg, Jim Giattina (R4) Bharat Mathur, Tinka Hyde (R5) Paul Anastas, Kevin Teichman, Peter Preuss (ORD) Cynthia Giles, Lisa Garcia, Susan Bromm, Catherine McCabe, Matthew Bogoshian (OECA) Seth Oster (OPA)  Optional attendee: Diane Thompson (OA)  (hookup to Admin's conference line needed)
04:45 PM - 05:15 PM	Administrator's Office	Briefing to discuss Personnel Ct: Sharnett Willis (OA) 564-7866  Staff: Diane Thompson, Daniel Kanninen (OA)

01268-EPA-3536

**Richard Windsor/DC/USEPA/US**  
02/27/2010 03:02 PM

To Seth Oster  
cc  
bcc

Subject Re: Interesting Daily Beast Piece

Jeez  
Seth Oster

----- Original Message -----

**From:** Seth Oster  
**Sent:** 02/27/2010 12:44 PM EST  
**To:** "Lisa Jackson" <windsor.richard@epa.gov>  
**Subject:** Interesting Daily Beast Piece

Hi. Interesting piece by Joel Kotkin in the Daily Beast. (b)(5) deliberative

Seth

Obama's Middle-Class Meltdown by

Joel Kotkin

Joel Kotkin is Distinguished Presidential Fellow in Urban Futures at Chapman University in Orange, California and an adjunct fellow with the Legatum Institute in London.

February 26, 2010 | 9:51pm

"By cozying up to Wall Street and pushing climate change, the president is playing to the coasts—and losing middle America.

Joel Kotkin on the Dems' disconnect—and the GOP's problems exploiting it.

"The rapid decline in public support for Democrats and President Obama represents one of the most breathtaking political collapses in modern times. Little over a year from a huge electoral triumph, President Obama's level of support has dropped from around 65% to under 50%. The Democrats in Congress, who held as much as a 10% edge over the Republicans last spring, actually are losing a "generic" vote.

Many Republicans and conservatives may think this represents a confirmation of their values. Yet in reality, the Democratic meltdown has less to do with belated admiration for the GOP—their support as a party remains at historically low levels—than a question of a massive disconnect between the people in power and the large, middle-class majority. The Great Disconnect reflects a growing chasm between the normative "wisdom" within political parties and their aligned media, academic and policy cadres. The Disconnect in part derives from the tendency of politicians and their associates to converse mostly with each other—and not develop much of a direct feel for that vast, and increasingly complex, country beyond the Beltway.

As President, Barack Obama's Great Disconnect seems most obvious. Although he occasionally uses populist middle-class rhetoric, both Obama's priorities and body language suggest his inspiration comes largely from the rarified world of the universities and Democratic Party contributors.

Not surprising then that he started with a stimulus package that, although one was needed, offered little to private sector Main Street businesses. Instead, the primary beneficiaries turned out to be Wall Street grandees, whose high salaries he variously denounces and excuses, and public employee unions.

Obama's move was encouraged by the aging leadership of the Democratic Party, shaped by places like Nancy Pelosi's San Francisco and Henry Waxman's lushly affluent Beverly Hills. It has little to do with the views of the middle class who reside generally in smaller towns and less-than-tonsy suburbs—but some of the wealthiest, and most privileged, populations on earth.

President Obama's other key constituency lies in the public sector unions, whose power in his home state of Illinois now rivals and perhaps surpasses that of Daley machine. Even as middle-class voters see their pensions dwindle along with their housing prices and jobs, the public sector has waxed into something resembling the Blue Meanie in Yellow Submarine who consumes everything in sight, and ultimately itself.

Perhaps nothing so illustrates the Great Disconnect than the president and the congressional lions embrace of the radical green climate change agenda. Still popular in upper-class urban areas and university towns, this agenda is notably less well-supported in middle and working class communities, particularly in the middle of the country.

Even before the Climategate revelations—which led to one top warmist figure admitting to the BBC that there had been in fact “no statistically significant” warming over the past fifteen years—the agenda was losing support, ranking it dead last among 20 priorities in a Pew survey last year. Now they are becoming openly skeptical, with support for the notion of primarily human-caused warming falling since April from 47 top 35%.

President Obama must realize that prioritization of the climate agenda, along with other coastal liberal priorities, undermines Democratic support in the Great Plains and the Great Lakes, where the party recently has been making some significant gains. The recent withdrawals of Senators Byron Dorgan and Evan Bayh reflect the Democrats' growing vulnerability in these regions. Recent polls in Iowa, where Obama won his signature primary victory in 2008, show the president's popularity at less than 50 percent, in large part to losses among independent voters.

Yet if Americans have been departing the Democrats, does it follow that they will shift en masse to the GOP? There is reason for skepticism here as well. After all, this is the same party that, along with the Democrats, supported massive spending under George Bush and actively promoted the disastrous de-regulation of the financial markets. The prescience of the likes of former Majority Leader Dick Army—a co-conspirator in the Bush era's profligacy—at the forefront of the Tea Parties should worry even the most credulous small-government activist.

The Republican claim to the populist mantle is even more suspect. Republicans like House Minority Leader John Boehner have cozied up to Wall Street, hoping to take advantage of rising “buyer's remorse” among the grandees. Suggesting Republicans could shield the financial sector from even modest Democrat efforts to make them face consequences for their loathsome and disastrous folly, they unintentionally show that their critique of the president's “crony capitalism” largely involves shifting the identity of the cronies.

The Republicans also have a bit of a demographic problem. Their Neanderthal stance on social issues varies radically from the rising millennial generation, and threatens to alienate them permanently. And perhaps even more seriously, the strong nativist wing of the party, epitomized by Tea Party keynoter former Representative Tom Tancredo, represent a threat to the other large emerging voting block, immigrants and their offspring.

If you want to see an illustration of what this means, just examine the plummeting GOP registration levels in increasingly multi-racial California. For the first time in modern history, according to veteran political observer Allan Hoffenblum, there is not a single congressional, state Senate or Assembly district in the state with a majority Republican registration.

Although the Republicans are riding high now, do not overestimate their ability to seize the field now so ineptly being vacated by the Democrats. It may well turn out that President Obama still may overcome the Great Disconnect before the GOP does. Obama's ability to change direction already can be seen in such things as his new-found enthusiasm for nuclear power and more drilling on public lands. His most recent jobs bill also has more of a focus on promoting private employment growth than past efforts.

Ultimately, the party that wins in 2010 and beyond will be the one that addresses the real issues of this age—the battle for private sector jobs and upward mobility—that matter to the vast majority of Americans. It is on those issues, not global warming, ethnic purity or gay marriage that the political future will now turn.

Joel Kotkin is a Distinguished Presidential Fellow in Urban Futures at Chapman University and an adjunct fellow with the London-based Legatum Institute. His new book, *The Next Hundred Million*, is available now from the Penguin Press

01268-EPA-3537

**Richard Windsor/DC/USEPA/US**  
02/27/2010 03:49 PM

To Bob Sussman, Bob Perciasepe, Lisa Heinzerling  
cc  
bcc  
Subject Re: Boiler MACT Rulemaking

(b)(5) Deliberative  
Bob Sussman

----- Original Message -----

**From:** Bob Sussman  
**Sent:** 02/27/2010 02:02 PM EST  
**To:** Richard Windsor; Bob Perciasepe; Lisa Heinzerling  
**Subject:** Fw: Boiler MACT Rulemaking

(b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 02/27/2010 02:00 PM -----

**From:** Gina McCarthy/DC/USEPA/US  
**To:** Bob Sussman/DC/USEPA/US@EPA  
**Cc:** Bob Perciasepe/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA, "Steve Page" <Page.Steve@Epa.GOV>, "Peter Tsirigotis" <Tsirigotis.Peter@EPA.GOV>, "Teri Porterfield" <porterfield.teri@epa.gov>  
**Date:** 02/27/2010 01:47 PM  
**Subject:** Re: Boiler MACT Rulemaking

(b)(5) Deliberative

(b)(5) Deliberative

(b)(5) Deliberative

Gina McCarthy

----- Original Message -----

**From:** Gina McCarthy  
**Sent:** 02/26/2010 10:10 PM EST  
**To:** Bob Sussman  
**Cc:** Bob Perciasepe; Lisa Heinzerling; Janet McCabe  
**Subject:** Re: Boiler MACT Rulemaking

(b)(5) Deliberative

Bob Sussman

----- Original Message -----

**From:** Bob Sussman

**Sent:** 02/26/2010 08:26 PM EST

**To:** Gina McCarthy

**Cc:** Bob Perciasepe; Lisa Heinzerling; Janet McCabe

**Subject:** Boiler MACT Rulemaking

Gina -- from discussions we had this afternoon with OSWER and OGC, it appears that the boiler MACT/area source proposal is heading to OMB in the next two weeks for a 30 day review

(b)(5)

Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-3538

**Richard Windsor/DC/USEPA/US**  
02/28/2010 10:41 AM

To Arvin Ganesan  
cc  
bcc

Subject Re: Memo for meeting with Senator Feinstein

Tx

---

**From:** Arvin Ganesan  
**Sent:** 02/28/2010 10:40 AM EST  
**To:** Richard Windsor  
**Cc:** Barbara Bennett  
**Subject:** Memo for meeting with Senator Feinstein

Administrator, I'll also be putting this in your book tomorrow am for your meeting with Feinstein. The main theme of this meeting will be climate and David has given you a supplemental memo.

Thanks.

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
[Ganesan.Arvin@epa.gov](mailto:Ganesan.Arvin@epa.gov)  
(p) 202.564.5200  
(f) 202.501.1519

01268-EPA-3539

**Lisa  
Heinzerling/DC/USEPA/US**  
03/01/2010 10:11 AM

To "Lisa Jackson"  
cc  
bcc  
Subject Utility MACT

(b) (6)

(b)(5) Deliberative

01268-EPA-3540

**Richard Windsor/DC/USEPA/US**  
03/01/2010 10:30 AM

To Lisa Heinzerling  
cc  
bcc  
Subject Re: Utility MACT

K. Tx and sorry.  
Lisa Heinzerling

----- Original Message -----

**From:** Lisa Heinzerling  
**Sent:** 03/01/2010 10:11 AM EST  
**To:** "Lisa Jackson" <windsor.richard@epa.gov>  
**Subject:** Utility MACT

(b) (6)

(b)(5) Deliberative

01268-EPA-3541

**Richard Windsor/DC/USEPA/US**  
03/01/2010 11:08 AM

To David McIntosh, Arvin Ganesan, Michael Moats, Seth Oster, Allyn Brooks-LaSure

cc

bcc

Subject (b)(5) Deliberative

## Climate change: 'Unequivocal' (*Washington Post* )

Monday, March 1, 2010; A20

In his [Feb. 21 op-ed column, "Climate science tantrums," George F. Will](#) concluded, incorrectly, that the Earth isn't warming. Mr. Will referred to climate scientist Phil Jones, who said that the planet did warm from 1995 to 2009 but not "at the 95 percent significance level." But Mr. Jones also cautioned that 15 years is too short to expect statistical significance. That is why climate norms -- such as the "normal" daily temperatures that forecasters show on the local news -- are 30-year averages. The Post's readers might be interested to know, therefore, that the global warming trend from 1980 to 2009 -- a little over 1 degree Fahrenheit -- is statistically significant at the 99.9999 percent level.

Climate scientists have always stated clearly that it takes decades to detect a change in the climate, so why focus on just the last 15 years?

From its own reading of the peer-reviewed literature, the National Academy of Sciences concluded, "It is unequivocal that the climate is changing, and it is very likely that this is predominantly caused by the increasing human interference with the atmosphere. These changes will transform the environmental conditions on Earth unless counter-measures are taken."

*Jay Gulledge, Arlington*

*The writer is senior scientist and director of the science and impacts program at the Pew Center on Global Climate Change.*

01268-EPA-3542

David  
McIntosh/DC/USEPA/US  
03/01/2010 11:21 AM

To Richard Windsor  
cc Allyn Brooks-LaSure, Arvin Ganesan, David McIntosh,  
Michael Moats, Seth Oster  
bcc  
Subject (b)(5) Deliberative

Will do.

Richard Windsor	Climate change: 'Unequivocal' (Washi...	03/01/2010 11:08:20 AM
-----------------	---	------------------------

From: Richard Windsor/DC/USEPA/US  
To: David McIntosh <McIntosh.David@EPA.GOV>, Arvin Ganesan/DC/USEPA/US@EPA, Michael Moats/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA  
Date: 03/01/2010 11:08 AM  
Subject: (b)(5) Deliberative

## Climate change: 'Unequivocal' (*Washington Post* )

Monday, March 1, 2010; A20

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*Jay Gulledge, Arlington*

*The writer is senior scientist and director of the science and impacts program at the Pew Center on Global Climate Change.*



01268-EPA-3543

Aaron  
Dickerson/DC/USEPA/US  
03/01/2010 04:49 PM

To Richard Windsor  
cc  
bcc

Subject Fw: Delivery Status Notification (Failure)

fyi

----- Forwarded by Aaron Dickerson/DC/USEPA/US on 03/01/2010 04:45 PM -----

From: Michael Martin <(b)(5) (b)(6) Privacy>  
To: Aaron Dickerson/DC/USEPA/US@EPA  
Date: 03/01/2010 03:56 PM  
Subject: FW: Delivery Status Notification (Failure)

---

Hi Aaron,

Michael Martin here. I met Administrator Jackson on 2/23 at the Black Eyed Peas Concert, where I helped her get backstage to meet the band with Marcus and his friend. We had a great connection and she told me about the speech she is giving at the National Press Club this month.

She asked me to send her some information and had sent me an email from her Blackberry from her personal Email account to facilitate this. The email I sent is attached. I have also sent her some pictures of her son with the PEAS from the meet and greet that bounced back to me.

Unfortunately, the emails keep bouncing back with the following error message:

"Unable to deliver message to the following recipients, due to being unable to connect successfully to the destination mail server."

(b)(6) Privacy

I don't know if this is an issue on my end or hers, and I am hoping you can get this message to her and let me know how I can send the pics to her. Also, I thought you should know about the error message being sent out.

Thank you so much.

All the best,

Michael Martin  
Founder and CEO



Michael Martin • Chief Effect Officer • EFFECT Partners™, Inc. • 4208 Park Glen Road, Minneapolis, Minnesota 55416 •  
[www.effectpartners.com](http://www.effectpartners.com) • w. 952.426.7800

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--

----- Message from postmaster@[REDACTED] (b)(6) Privacy on Fri, 26 Feb 2010 14:43:14 -0600 -----

**To:** MM@EffectPartners.com

**Subject:** Delivery Status Notification  
: (Failure)

This is an automatically generated Delivery Status Notification.

Unable to deliver message to the following recipients, due to being unable to connect successfully to the destination mail server.

[REDACTED] (b)(6) Privacy

Reporting-MTA: dns;mail.[REDACTED] (b)(6) Privacy

Final-Recipient: rfc822; [REDACTED] (b)(6) Privacy

Action: failed

Status: 4.4.7

----- Message from Michael Martin <mm@[REDACTED] (b)(6) Privacy on Wed, 24 Feb 2010 14:37:35 -0600 -----

**To:** [REDACTED] (b)(6) Privacy  
↳

**Subject:** Re: Thx!

Hi Lisa,

It was so great to meet you last night.

I can help you.

I am in a unique position based on my background, experiences and connections to help you in some way.

- Perhaps it is just giving you some concrete examples of huge environmental/business blending stories that are not public knowledge yet for your press conference at the National Press Club.
- Maybe helping you as you are wrestling with how to make EPA programs more effective.
- Possibly pulling together some of the perhaps (unknown) players who are the unsung heroes really changing how the environment is being embraced by corporate America.
- Maybe it is getting you some more great seats for your favorite artists! :)

Anyway, I am a huge fan of this administration, your work personally, and what you are working for.

So you can understand where I am coming from...

-I have been the "behind the scenes" guy for about 20 years now tinkering with how to blend

environmentalism and capitalism at the senior-most levels. Green economics. Focusing a lot on Global warming.

-In the process, I have taken Hundreds of tons of CO2 out of the atmosphere, recycled over 50 tons of waste that would have gone to a landfill, registered over 100,000 people to vote and generated an estimated million letters to Congress and business leaders while generating tens of millions of dollars of incremental revenue for businesses.

-The basic framework I have created is, I believe, the future needed for the environmental movement and business to actually be sustainable. It is called "EFFECT Marketing". EFFECT MARKETING is what comes AFTER cause marketing...where you actually EFFECT environmental change while you build your business. This HAS to happen for businesses to embrace sustainability. Businesses are NOT looking at the world this way yet. They will soon. You can help move the needle on this concept.

-I have created/co-created some of the fundamental programs of the modern environmental/business movement, many of them using the EFFECT Marketing model:

- Climate Counts.org (the pamphlet I gave you last night)
- Earth Day Network Campaigns dating back to 1990.
- Native Energy
- Green consumer energy concept via Green Mountain Energy launch
- Carbon Dioxide Offsets for the music industry
- Ben & Jerry's Dave Matthews Band One Sweet Whirled Global Warming Campaign (repositioned global warming for the environmental movement back in 2001—first ever product as an environmental campaign, campaign as a product.)
- Go Organic! Campaign. The organic industry's campaign to raise national awareness and sales of environmental products in 4,000 retail outlets (Kroger, Publix, etc.)
- Organic and Natural Experience. Grassroots tour to change public awareness of organic and natural products
- Jack Johnson, All At Once Campaign
- The EnviroRider™, the bible for green touring.

-Currently, we are working with the following organizations on how they can blend business and the environment:

- Proctor and Gamble, Future Friendly Brand Launch around Earth Day
- Green Giant/General Mills. Sustainability campaign launch
- Clorox.
- U2 world sustainability advisor
- Jack Johnson 2010 Tour greening
- Dave Matthews Band 2010 campaign to eliminate plastic water bottles
- Bill McDonough Cradle to Cradle Institute launch and Wal-Mart initiative

I have many ideas and connections that can help you achieve your goals and would be honored to assist you in any way that would help. Please let me know!!

(also, I am going to send you another email with some pics I took last night attached next...please look for them in case they get blocked by a spam filter.)

All the best,

Michael Martin  
Founder and CEO



Michael Martin • Chief Effect Officer • EFFECT Partners™, Inc. • 4208 Park Glen Road, Minneapolis, Minnesota 55416 •

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--

> From: <(b)(6) Privacy>  
> Reply-To: <(b)(6) Privacy>  
> Date: Tue, 23 Feb 2010 23:52:46 +0000  
> To: <[mm@effectpartners.com](mailto:mm@effectpartners.com)>  
> Subject: Thx!  
>  
>  
> Sent via BlackBerry by AT&T

01268-EPA-3546

**Richard Windsor/DC/USEPA/US**  
03/01/2010 07:57 PM

To David McIntosh  
cc  
bcc

Subject Re: revised key numbers page

Good stuff. Tx.  
David McIntosh

----- Original Message -----

**From:** David McIntosh  
**Sent:** 03/01/2010 07:47 PM EST  
**To:** Richard Windsor  
**Subject:** revised key numbers page

Administrator: [REDACTED] (b)(5) Deliberative

[REDACTED] I'll include this revised version in your book tomorrow.

[attachment "Key Numbers 3.doc" deleted by Richard Windsor/DC/USEPA/US]

**Zero** – Number of stationary sources that will need to address GHG emissions in Clean Air Act permitting in 2010.

**Zero** – Number of non-profit health or educational facilities that will ever need to address GHG emissions in Clean Air Act permitting (they already enjoy a categorical exclusion, and that will not change for GHGs).

**Zero** – number of agricultural sources subject to EPA's GHG mandatory reporting rule.

**67** – Percentage of US stationary-source emissions that come from stationary sources emitting more than 100,000 CO<sub>2</sub>e short tons.

**70** – Percentage of annual US stationary-source emissions that come from stationary sources emitting more than 50,000 CO<sub>2</sub>e short tons.

**75** – Percentage of annual US stationary-source emissions that come from stationary sources emitting more than 25,000 CO<sub>2</sub>e short tons.

**1.8 billion** – Barrels of oil that will not be used thanks to the joint EPA-DOT rules for MY 2012-2016 light-duty vehicles.

**950 million metric tons** – Amount of CO<sub>2</sub>-equivalent GHG that will be eliminated thanks to the joint EPA-DOT rules for Model Year 2012-2016 light-duty vehicles.

**640 million metric tons** – Amount of CO<sub>2</sub>-equivalent GHG that would be eliminated without the EPA rule (i.e., with only the DOT rule).

**From 9 billion gallons in 2008 to 36 billion gallons by 2022** – Amount by which the RFS2 Rule will increase the volume of renewable fuel blended into gasoline.

**+207%** – US GDP growth since 1970.

**20** – Factor by which industry overstated the per-ton cost of the Acid Rain Trading Program.

**Around 40 to 1** – Ratio of public-health benefits to regulatory costs of the Acid Rain Trading Program.

**119** – Rail-cars of coal that need to burn to generate 25,000 short tons of CO<sub>2</sub> (tailoring rule expressed in short tons).

**131** – Rail-cars of coal that need to burn to generate 25,000 metric tons of CO<sub>2</sub> (reporting rule expressed in metric tons).

**\$3.4 billion** – Amount of funding that the Recovery Act provided for low-carbon coal power and industrial projects.

**720,000** – Number of job-years that the Council of Economic Advisers estimates the approximately \$90 billion of Recovery Act investments will save or create about by the end of 2012.

**Two thirds** – Approximate proportion of those job-years that represent represent work on clean energy projects.

**Points That Divulge – Either Explicitly or Implicitly – Details That We Have NOT Yet Made Public**

**500** – Approximate number by which EPA's plan for GHGs will, in 2011, increase the current number (approximately 700) of stationary-source permit applications already submitted annually due to other pollutants (no increase in the first half of 2011, and a 1,000-per-year increase in the second half of 2011).

**1,000** – Approximate number by which EPA's plan for GHGs will, in 2012, increase the current number (approximately 700) of stationary-source permit applications already submitted annually due to other pollutants.

**550** – Approximate number by which EPA's plan for GHGs will, in the second half of 2011 and in 2012, increase the current number (approximately 15,000) of stationary sources already potentially subject to CAA permitting for other pollutants.

**475** – Number of rail-cars of coal that need to be burned each year to produce enough CO<sub>2</sub> in a year to cross a 100,000-ton (that's short tons) CO<sub>2</sub>e annual threshold.

**January 2013** – Earliest point at which EPA expects that PSD permitting could be required for anything falling below a 100,000-ton (again, short tons) CO<sub>2</sub>e annual threshold for new sources (or a 75,000-ton CO<sub>2</sub>e annual threshold for modifications at 100,000-ton-plus sources).

01268-EPA-3548

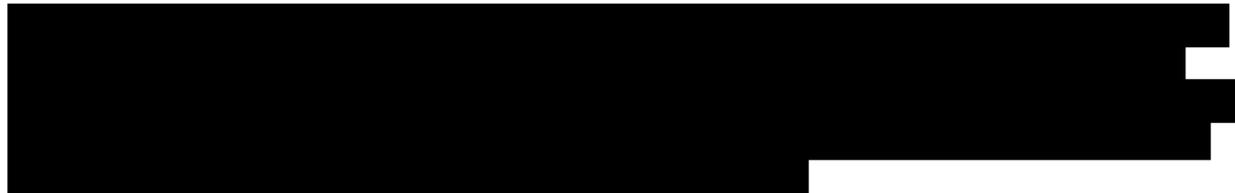
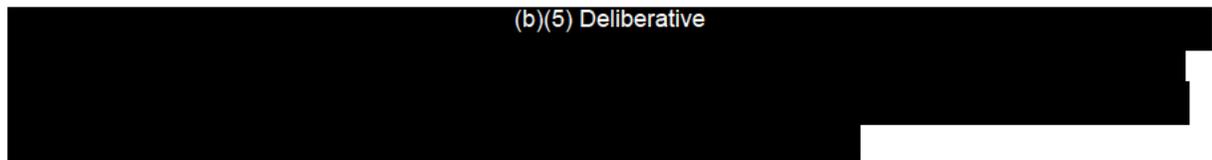
Bob Sussman/DC/USEPA/US  
03/02/2010 08:19 AM

To Richard Windsor, Bob Perciasepe, Lisa Heinzerling  
cc  
bcc

Subject BACT Guidance -- ACC Concerns

**As this INSIDE EPA article suggests, stakeholders (including industry groups) continue to propose interesting ideas for how to define BACT in a manner that would provide operational flexibility but achieve meaningful GHG reductions.**

(b)(5) Deliberative



## **EPA Air Advisers Weigh Allowing GHG Trading, Offsets In Facility Permits**

EPA's air advisers are weighing recommendations for giving the agency major flexibility in permits to cut stationary source greenhouse gas (GHG) emissions, including controversial suggestions to allow emissions trading and offsets to qualify toward a facility's compliance with GHG permit limits that EPA will soon impose.

The agency's Clean Air Act Advisory Committee (CAAAC) climate work group is scrutinizing a set of recent issue papers outlining novel approaches to GHG permitting, including two papers obtained by *Inside EPA* that describe options that would allow emissions trading and offsets under the agency's best available control technology (BACT) permitting program and the agency's new source performance standard (NSPS) program.

In a related development, EPA is seeking \$7.5 million in its fiscal year 2011 budget to use existing Clean Air Act authority to issue NSPS for GHGs that may include a cap-and-trade system, but the effort could spark a fight with some lawmakers who oppose EPA using its air law trading authority for GHGs ([see related story](#) ).

The CAAAC work group in early February approved a phase one report on how the agency should address GHGs through the BACT process and the group is now considering the issue papers in preparation for a phase two report, due at the end of March. The second report will focus on "alternative or supplementary approaches," to GHG permitting, including default, or "presumptive," BACT standards, emission trading or offsets, demand-side management

and efficiency measures such as combined heat and power (CHP).

EPA will consider the work group's reports as the agency writes guidance to states that soon will be required to write permit limits for GHGs at certain new and modified major stationary sources. States will set the limits using the BACT process, which traditionally requires a "top-down" review of controls required at other similar facilities.

### **Triggering GHG Permits**

EPA's pending GHG rule for vehicles will make GHGs a regulated pollutant under the Clean Air Act, triggering GHG permitting requirements for stationary sources. The agency's so-called tailoring rule, also due at the same time, will seek to limit the GHG permitting threshold to sources that emit more than 25,000 tons of GHGs per year.

[One issue paper](#), prepared by M.J. Bradley & Associates and submitted to the work group by the energy company Public Service Enterprise Group, suggests that GHG trading or offsets could be allowed under BACT or under a NSPS that is presumed to satisfy BACT requirements, rather than requiring source-by-source controls in permits.

The paper argues that although BACT is an "emission limitation" that is "based" on a facility-specific review, neither term is defined in the Clean Air Act, allowing EPA some discretion to allow trading or offsets. For example, the permitting authority would determine the best control technology, establish the emission limit that would result if the technology was used, and then allow the facility to use offsets or allowances in order to meet that emissions level, the paper says.

For offsets, EPA could set a facility-specific limit and then allow facilities to either meet the level through controls or invest in offsets to cover the difference, the paper says. This would be closer to traditional BACT because each facility would have its own limit, but a key issue would be determining which projects qualify for offsets, the paper says.

Additionally, EPA could establish a cap-and-trade program under BACT by adding together the emission limits of all facilities subject to GHG limits and then allowing emission trading among them, the paper says. But one drawback of this approach is that the cap would constantly change as new units come into the program, the paper notes.

However, the paper acknowledges that, "both options could invite legal challenges because they do not place an absolute limit on emissions at each facility (e.g. 100 tons per year); rather they would allow each facility to determine the right mix of emission reductions and allowances/offsets to meet the BACT standard."

Alternatively, EPA could determine NSPS rules for different sources of GHGs, which could also allow offsets or trading, and then assume that the NSPS fulfills individual BACT permitting requirements, the paper says. While EPA does not expressly have authority to allow trading under NSPS, the definition of "standard of performance" is vague, possibly allowing EPA to determine that trading is the "best system of emission reduction" for

GHGs, the paper says.

### **Meeting BACT Requirements**

The NSPS could then be assumed to meet BACT requirements, at least in the early years of the program, due to similarities in the requirements of both programs and a requirement that NSPS set the floor for BACT, the paper says. However, the paper notes that permit writers would be pressured to set a BACT that is more stringent than the NSPS. "Combining a presumptive BACT with a trading mechanism could risk losing the support of stakeholders that may be willing to support trading under NSPS, but not to demonstrate compliance with BACT," the paper notes.

Some environmentalists and legal experts back the idea of using the NSPS program to create GHG cap-and-trade systems, saying it is the section of the law that provides the EPA administrator with the greatest discretion to provide industry with flexibility under the law. But other sources say the plan is rife with complications, open to litigation, and may be at odds with the NSPS program's technology requirements.

A second issue paper, submitted to the BACT work group by the National Climate Coalition, endorses offset options while also including approaches to significantly limit the applicability of GHG permits. For example, the paper proposes to allow facilities to avoid permitting by reducing GHGs elsewhere at a facility or using efficiency projects such as CHP, which allow a facility to use both the heat and the power from combustion.

First, the paper outlines reasons why GHG permitting should be limited and how to achieve this. The paper argues that the new source review (NSR) program which requires BACT was intended to address pollutants for which the agency has set national ambient air quality standards (NAAQS). Since there is no NAAQS for GHGs, BACT for GHGs should only be required for sources that would otherwise trigger BACT limits for pollutants for which a NAAQS have been set, the paper says.

If a new or modified facility does trigger BACT limits under this approach, the paper argues that the applicability of GHG controls could be further curbed by only requiring permit limits for GHGs that are regulated under other rules. For example, EPA's upcoming vehicle rule will only regulate carbon dioxide (CO<sub>2</sub>), nitrous oxide (N<sub>2</sub>O) and methane (CH<sub>4</sub>) so it should only trigger stationary source controls for those three GHGs, the paper says.

GHG permit limits should only be required if a facility emits them in "significant" quantities, such as 50 tons per year of sulfur hexafluoride, perfluorocompounds and hydrofluorocarbon, or 25,000 CO<sub>2</sub>-equivalent tons per year of CO<sub>2</sub>, N<sub>2</sub>O and CH<sub>4</sub>, the paper says. Modified facilities could avoid triggering these requirements if they reduce these pollutants elsewhere at the facility to avoid net emission increases above the threshold, the paper says.

### **Permit Exemptions**

Finally, a project could be exempt from GHG permitting if it is “clearly beneficial from an energy intensity perspective,” the paper says. Cogeneration and CHP projects could fit into this category, the paper says.

While the paper outlines ways to limit BACT applicability, it says the GHG limits that are triggered should be viewed as an interim measure because they could discourage energy efficiency upgrades. Thus, GHG BACT permitting should sunset when Congress enacts a comprehensive climate change program or when EPA sets NSPS standards for GHGs. “The risk that a burdensome NSR program could chill such desired new development is not warranted by the insignificant benefits such a program could provide,” the paper says in a footnote.

If a facility does trigger GHG permitting after all of the above considerations, then it could choose whether to go through a facility-specific BACT review or use presumptive BACT efficiency standards to be established by EPA based on the fuel and technology the facility uses, the paper says.

The paper also outlines a number of other considerations in the BACT process, such as limiting source-specific controls to the same cost-effectiveness threshold EPA would use in setting the sector’s presumptive BACT.

Because the air act does not address how EPA and states should control GHGs, the act’s emphasis on criteria pollutants and recognition that BACT should take “into account energy, environmental, and economic impacts and other costs” should allow EPA to take a flexible approach to GHGs, the paper says.

The work group is also considering a number of other issue papers, including approaches to energy efficiency, natural gas as a control technology and how EPA should design a presumptive BACT, but those papers were not available by press time. The papers were produced to support discussion among the work group members and are not intended to represent the position of the work group or any individual member, sources say.

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-3549

**Richard Windsor/DC/USEPA/US**  
03/02/2010 02:17 PM

To Seth Oster, Gina McCarthy, "Lisa Jackson", "Diane Thompson", Bob Perciasepe, "Lisa Heinzerling", Charles Imohiosen, Bob Sussman, David McIntosh  
cc "Allyn Brooks-Lasure"  
bcc  
Subject Re: FACT SHEET: HOMESTAR ENERGY EFFICIENCY RETROFIT PROGRAM

(b)(5) Deliberative

---

**From:** Seth Oster  
**Sent:** 03/02/2010 01:57 PM EST  
**To:** Gina McCarthy; "Lisa Jackson" <windsor richard@epa.gov>; "Diane Thompson" <thompson.diane@epa.gov>; Bob Perciasepe; "Lisa Heinzerling" <Heinzerling.lisa@epa.gov>; Charles Imohiosen; Bob Sussman; David McIntosh  
**Cc:** "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>  
**Subject:** Fw: FACT SHEET: HOMESTAR ENERGY EFFICIENCY RETROFIT PROGRAM

---

**From:** "White House Press Office" [whitehouse-lists-noreply@list.whitehouse.gov]  
**Sent:** 03/02/2010 12:38 PM EST  
**To:** Seth Oster  
**Subject:** FACT SHEET: HOMESTAR ENERGY EFFICIENCY RETROFIT PROGRAM

THE WHITE HOUSE  
Office of the Press Secretary

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FOR IMMEDIATE RELEASE  
March 2, 2010

**FACT SHEET: HOMESTAR ENERGY EFFICIENCY RETROFIT PROGRAM**

**WASHINGTON--**In his State of the Union address, the President called on Congress to pass a program of incentives for homeowners who make energy efficiency investments in their homes. Today, while touring a training facility at Savannah Technical College, the President outlined more details of a new "HOMESTAR" program that would help create jobs by encouraging American families to invest in energy saving home improvements. Consistent with the President's call for a HOMESTAR program, the Senate Democratic leadership included a proposal of this kind as part of their [Jobs Agenda](#) released on February 4, 2010. The President looks forward to continuing to work with Members of Congress, business, environmental and labor leaders to enact a HOMESTAR program into law.

**Background on the HOMESTAR program**

With unemployment in the construction sector near 25% and with substantial underutilized capacity in our manufacturing sector, the HOMESTAR program has the potential to jumpstart our economic recovery by boosting demand for energy efficiency products and installation services. For middle-class families, this program will help them save hundreds of dollars a year in energy costs while improving the comfort and value of their most important investment – their homes. In addition, the program would help reduce our economy's dependence on oil and support the development of an energy efficiency services sector in our economy. Key components of the HOMESTAR Program include:

- **Rebates delivered directly to consumers:** Like the Cash for Clunkers program, consumers would be eligible for direct HOMESTAR rebates at the point of sale for a variety of energy-saving investments in their homes. A broad array of vendors, from small independent building material dealers, large national home improvement chains, energy efficiency installation professionals and utility energy efficiency programs (including rural utilities) would market the rebates, provide them directly to consumers and then be reimbursed by the federal government.
- **\$1,000 - \$1,500 Silver Star Rebates:** Consumers looking to have simple upgrades performed in their homes would be eligible for 50% rebates up to \$1,000 - \$1,500 for doing any of a straightforward set of upgrades, including: insulation, duct sealing, water heaters, HVAC units, windows, roofing and doors. Under Silver Star, consumers can choose a combination of upgrades for rebates up to a maximum of \$3,000 per home. Rebates would be limited to the most energy efficient categories of upgrades—focusing on products made primarily in the United States and installed by certified contractors.
- **\$3000 Gold Star Rebates:** Consumers interested in more comprehensive energy retrofits would be eligible for a \$3,000 rebate for a whole home energy audit and subsequent retrofit tailored to achieve a 20% energy savings in their homes. Consumers could receive additional rebate amounts for energy savings in excess of 20%. Gold Star would build on existing whole home retrofit programs, like EPA's successful Home Performance with Energy Star program.
- **Oversight to Ensure Quality Installations:** The program would require that contractors be certified to perform efficiency installations. Independent quality assurance providers would conduct field audits after work is completed to ensure proper installation so consumers receive energy savings from their upgrades. States would oversee the implementation of quality assurance to ensure that the program was moving the industry toward more robust standards and comprehensive energy retrofit practices.
- **Support for financing:** The program would include support to State and local governments to provide financing options for consumers seeking to make efficiency investments in their homes. This will help ensure that consumers can afford to make these investments.

The program will result in the creation of tens of thousands of jobs while achieving substantial reductions in energy use – the equivalent of the entire output of three coal-fired power plants each year. Consumers in the program are anticipated to save between \$200 - \$500 per year in energy costs, while improving the comfort and value of their homes.

## BACKGROUND ON PARTICIPANTS IN TODAY'S PRESIDENTIAL EVENT

- **Business Leaders**

- Larry Laseter, President of Masco Home Services. Masco is a Fortune 150 company specializing in products and services for the home building and home improvement business, including windows and doors, installation, and contracting. After being hit particularly hard by the recession (40% reduction in workforce over a several year period), Masco created Masco Home Services (MHS) a year ago with the intent to provide residential energy efficiency retrofits to American households. Laseter is a Georgia resident, and MHS will open a Home Performance branch in Atlanta in May.
- Mike Lawrence, Vice President and General Manager for Insulation Systems, Johns Manville. Johns Manville is a leading manufacturer and marketer of insulation and roofing materials for commercial, industrial, and residential applications. Johns Manville is based in Denver, CO and has manufacturing facilities in Georgia as well as California, Montana, Arizona, Indiana, Ohio, Virginia, Texas, and New Jersey.
- Mark Andrews, CEO, North America, Knauf Insulation. Knauf Mark was named to a newly created North American CEO position in January 2010. Knauf's US headquarters is in Shelbyville Indiana, and Knauf has manufacturing facilities in Indiana, Alabama, and California.

- **Local Efficiency Contractors**

- Patrick Shay, Green Swap. Patrick is an architect and co-founder of Green Sweep, an energy efficiency company that works with residential, commercial and industrial customers on cost saving clean energy and energy efficiency upgrades. Pat is also a Chatham County Commissioner and chair of the Chatham Environmental Forum, which is addressing energy, climate and other sustainability issues in the Savannah Chatham area.
- Howard Feldman, Coastal Green Building Solutions. Howard is a co-founder of Coastal Green Building Solutions. He is a builder, renovator and a certified RESNET HERS rater, which means he evaluates homes and businesses for energy efficiency opportunities and upgrades. Howard's company works in both Georgia and South Carolina. In addition to Patrick Shay and Howard Feldman, several other Savannah-area contractors and small businesses who would create jobs if this program were passed are in attendance.

###

01268-EPA-3550

**Gina McCarthy/DC/USEPA/US**

To Richard Windsor

03/02/2010 02:57 PM

cc

bcc

Subject Re: FACT SHEET: HOMESTAR ENERGY EFFICIENCY RETROFIT PROGRAM

**(b)(5) Deliberative**

**From:** Richard Windsor

**Sent:** 03/02/2010 02:17 PM EST

**To:** Seth Oster; Gina McCarthy; "Lisa Jackson" <windsor.richard@epa.gov>; "Diane Thompson" <thompson.diane@epa.gov>; Bob Perciasepe; "Lisa Heinzerling" <heinzerling.lisa@epa.gov>; Charles Imohiosen; Bob Sussman; David McIntosh

**Cc:** "Allyn Brooks-Lasure" <Brooks-lasure.allyn@epa.gov>

**Subject:** Re: FACT SHEET: HOMESTAR ENERGY EFFICIENCY RETROFIT PROGRAM

**(b)(5) Deliberative**

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**Sent:** 03/02/2010 01:57 PM EST

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**Cc:** "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>

**Subject:** Fw: FACT SHEET: HOMESTAR ENERGY EFFICIENCY RETROFIT PROGRAM

**From:** "White House Press Office" [whitehouse-lists-noreply@list.whitehouse.gov]

**Sent:** 03/02/2010 12:38 PM EST

**To:** Seth Oster

**Subject:** FACT SHEET: HOMESTAR ENERGY EFFICIENCY RETROFIT PROGRAM

THE WHITE HOUSE  
Office of the Press Secretary

FOR IMMEDIATE RELEASE

March 2, 2010

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###

01268-EPA-3552

**Richard Windsor/DC/USEPA/US**  
03/02/2010 06:00 PM

To David McIntosh  
cc  
bcc

Subject Re: letter of support from 569 scientists

awww

David McIntosh [Protect the Clean Air Act: A letter signe...](#) 03/02/2010 05:20:37 PM

From: David McIntosh/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Michael Moats/DC/USEPA/US@EPA  
Date: 03/02/2010 05:20 PM  
Subject: letter of support from 569 scientists

## **Protect the Clean Air Act:**

*A letter signed by 569 U.S. Scientists*

March 1, 2010

Dear Congress,

We the undersigned urge you to oppose an imminent attack on the Clean Air Act (CAA) that would undermine public health and prevent action on global warming. This attack comes in the form of House and Senate resolutions that would reverse the Environmental Protection Agency's (EPA) finding that global warming endangers public health and welfare. Because the EPA's finding is based on solid science, this amendment also represents a rejection of that science.

The EPA's "endangerment finding" is based on an exhaustive review of the massive body of scientific research showing a clear threat from climate change. The 2007 Fourth Assessment Report of the Intergovernmental Panel on Climate Change found that global warming will cause water shortages, loss of species, hazards to coasts from sea level rise, and an increase in the severity of extreme weather events.<sup>1</sup> The most recent science includes findings that sea level rise may be more pronounced than the IPCC report predicted<sup>2</sup> and that oceans will absorb less of our future emissions<sup>3</sup>. Recently, 18 American scientific societies sent a letter to the U.S. Senate confirming the consensus view on climate science and calling for action to reduce greenhouse gases "if we are to avoid the most severe impacts of climate change." The U.S. National Academy of Sciences and ten international scientific academies have also released such statements.<sup>4</sup> Unfortunately, these resolutions would force the EPA to ignore these scientific findings and statements.

The CAA is a law with a nearly 40-year track record of protecting public health and the environment and spurring innovation by cutting dangerous pollution. This effective policy can help address the threat of climate change - but only if the EPA retains its ability to respond to scientific findings. Instead of standing in the way of climate action, the Senate should move quickly to enact climate and energy legislation that will curb global warming, save consumers money, and create jobs. In the meantime, I urge you to

respect the scientific integrity of the EPA's endangerment finding by opposing Senate and House attacks on the Clean Air Act.

Sincerely,

<sup>1</sup> IPCC (2007) *Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change (AR4)*. S Solomon et al eds , Cambridge University Press, Cambridge, UK and NY, USA. More than 450 lead authors, 800 contributing authors, and an additional 2,500 reviewing experts from more than 130 countries contributed to AR4

<sup>2</sup> Stroeve, J Marika M Holland, Walt Meier, Ted Scambos, and Mark Serreze (2007) Arctic sea ice decline: Faster than forecast *Geophysical Research Letters*, Vol 34, L09501, Doi: 10.1029/2007gl029703

<sup>3</sup> Canadell, J G , C Le Quéré, M R Raupach, C B Field, E T Buitenhuis, P Ciais, T J Conway, N P Gillett, R A Houghton, and G Marland 2007 Contributions to accelerating atmospheric CO<sub>2</sub> growth from economic activity, carbon intensity, and efficiency of natural sinks, [Proceedings of the National Academy of Sciences](#)

<sup>4</sup> A list of these scientific societies and academies and links to their statements is available at <http://www.ucsusa.org/ssi/climate-change/scientific-consensus-on.html>

01268-EPA-3556

**Richard Windsor/DC/USEPA/US**  
03/02/2010 08:06 PM

To: Brendan Gilfillan, Bob Perciasepe, Diane Thompson, Cynthia Giles-AA, "Seth Oster", Allyn Brooks-LaSure, Bob Sussman, Adora Andy, David McIntosh, Arvin Ganesan

cc

bcc

Subject: Re: FYI: Wall Street Journal enforcement story tomorrow

Perfect. Tx.

Brendan Gilfillan

----- Original Message -----

**From:** Brendan Gilfillan**Sent:** 03/02/2010 08:04 PM EST**To:** Brendan Gilfillan; Richard Windsor; Bob Perciasepe; Diane Thompson; Cynthia Giles-AA; "Seth Oster" <oster.seth@epa.gov>; Allyn Brooks-LaSure; Bob Sussman; Adora Andy; David McIntosh; Arvin Ganesan**Subject:** Re: FYI: Wall Street Journal enforcement story tomorrow  
EPA Makes Polluters Pay Less

Obama's EPA is riling many businesses with proposals to regulate greenhouse gases, but data suggest it has been slow out of the gate in enforcing existing regulations on traditional pollutants.

By Stephen Power

The Environmental Protection Agency is riling many businesses with proposals to regulate greenhouse gases for the first time, but data suggest it has been slow out of the gate under President Barack Obama in enforcing existing regulations on traditional pollutants.

In fiscal 2009, the EPA's enforcement office required polluters to spend more than \$5 billion on cleanup and emission controls—down from \$11.8 billion the previous year, according to a report recently published by the agency. The report, which examines the EPA's performance in enforcing limits on pollutants like sulfur oxides, nitrogen oxides and soot, covers the fiscal year ended Sept. 30, a period that covers the last 3½ months of President George W. Bush's watch and the first 8½ months of Mr. Obama's.

Defendants in agency enforcement cases committed to cut pollution by about 580 million pounds in fiscal 2009, down from 3.9 billion pounds in fiscal 2008, according to the report.

The numbers for the latest fiscal year were also below levels recorded between 2004 and 2007, when the EPA required polluters to spend an average of \$8.3 billion annually cleaning up pollution and improving their controls. During the same period, defendants agreed to reduce pollution by 970 million pounds annually.

Obama administration officials say a small number of cases can cause the agency's enforcement results to vary sharply from year to year. In fiscal 2008, around 40% of the EPA's pollution reductions resulted from a settlement with American Electric Power Co.

Administration officials also say the report shows increases in other enforcement actions, such as the number of environmental-crime cases initiated in 2009 and the number of defendants charged with crimes.

"We're hard at work pursuing violators," said Cynthia Giles, the EPA's assistant administrator for enforcement and compliance assurance, in an interview. "The size of the cases and the pounds of

pollution reduced aren't the only measure of the enforcement effort."

Since taking office, Mr. Obama's administration has promised to take a tougher line on pollution than the Bush administration. During Mr. Obama's presidency, the EPA has clashed with business groups by holding up dozens of mountaintop-mining permits, launched an investigation into whether the herbicide atrazine causes cancer and birth defects, and promised new rules that would treat coal ash as hazardous waste. In the spring, the agency is expected to announce a new rule intended to limit air pollution that crosses state lines.

The agency is also moving to expand its reach. The Obama EPA has proposed regulations that would limit auto emissions of heat-trapping gases linked to climate change. More rules for power plants, refineries and other emitters are on the way.

The spate of new regulations has triggered lawsuits by the U.S. Chamber of Commerce and other groups seeking to challenge the legality of the EPA's determination that greenhouse gases endanger health and welfare, the legal predicate for regulating them. Lawmakers in both parties are pushing proposals to overturn the finding. The Obama administration says the finding is grounded in "overwhelming science" and the law, and that the urgency of scientific warnings about climate change warrants government action.

Not including stimulus-related funding, the EPA's overall budget rose 36% in 2010. But funding for enforcement rose by less than 5%. Mr. Obama has proposed cutting the EPA's overall budget slightly in fiscal 2011, but would increase funding for enforcement by 3%.

Granta Nakayama, who ran the EPA's enforcement office under Mr. Bush, said the agency's initial enforcement results under Mr. Obama could partly reflect the agency's increased emphasis on "environmental justice." The agency defines the term to mean addressing "the burdens pollution has disproportionately placed on vulnerable populations, including children, communities of color, Native Americans, and the poor."

A list of enforcement goals published by the EPA last month says the agency will "advance environmental justice by protecting vulnerable communities." EPA Administrator Lisa Jackson has separately said environmental justice "will inform all our actions."

Mr. Nakayama, an attorney who represents businesses regulated by the EPA, said the agency should try to protect vulnerable communities from being disproportionately affected by pollution. But he said focusing on that goal too much risks diverting manpower and resources from big polluters, such as coal-fired power plants, that operate in remote areas.

Ms. Giles, the EPA enforcement chief, said the agency's emphasis on environmental justice wasn't undercutting efforts to police big polluters. She pointed to a recent settlement with the U.S. unit of Lafarge SA, the French cement maker, as an example of how environmental justice went hand in hand with tackling big polluters.

As part of the settlement, Lafarge agreed to install up to \$170 million in new pollution controls at 13 plants. Some of the communities downwind from those plants are home to minorities or have traditionally been underserved by the agency, EPA officials said.

Brendan Gilfillan

----- Original Message -----

**From:** Brendan Gilfillan  
**Sent:** 03/02/2010 04:03 PM EST  
**To:** Richard Windsor; Bob Perciasepe; Diane Thompson; Cynthia Giles-AA; Seth Oster <oster.seth@epa.gov>; Allyn Brooks-LaSure; Bob Sussman; Adora Andy; David McIntosh; Arvin Ganesan  
**Subject:** FYI: Wall Street Journal enforcement story tomorrow

The Wall Street Journal will run a story on EPA's enforcement efforts tomorrow. The story will report that some folks say focusing on environmental justice in enforcement comes at the expense of major case settlements - citing lower figures for such settlements in FY2009. Cynthia spoke to the reporter and reiterated the Agency's commitment to enforcement, and to EJ - said the two are not in tension and used the LaFarge/St. Gobain settlement as an example. Cynthia also walked the reporter through the enforcement goals and explained why year to year settlement figures are not the only indicator of enforcement activities. Reporter also asked specifically about the focus on energy extraction, including natural gas, in the enforcement goals. Cynthia made clear that it's an area of focus because as we move to a clean energy economy EPA has to make sure new energy extraction techniques aren't harming the environment.

Brendan Gilfillan  
Deputy Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2081  
gilfillan.brendan@epa.gov

01268-EPA-3558

**Richard Windsor/DC/USEPA/US**  
03/02/2010 08:12 PM

To David McIntosh  
cc  
bcc  
Subject Re: America's competitive spirit

Tx

David McIntosh

----- Original Message -----

**From:** David McIntosh  
**Sent:** 03/02/2010 07:09 PM EST  
**To:** Richard Windsor  
**Subject:** America's competitive spirit

(b)(5) Deliberative

In the coming years, there will be a vigorous effort to limit carbon pollution that will require a massive deployment of clean energy technologies. The only question is – which countries will invent, manufacture, and export these clean technologies and which countries will become dependent on foreign products?

The Energy Information Administration – an independent statistical agency within the Department of Energy – recently estimated the market for a few key clean technologies. It based its analysis on a scenario derived by the International Energy Agency that could prevent the worst changes to our climate.

EIA found that, globally, the cumulative investment in wind turbines and solar photovoltaic panels from now through 2030 could be \$2.1 trillion and \$1.5 trillion, respectively. The policy decisions we make today will determine the U.S. share of this market. And many additional dollars, jobs and opportunities are at stake in other clean technologies.

China has already made its choice. China is spending about \$9 billion a month on clean energy. It is also investing \$44 billion by 2012 and \$88 billion by 2020 in Ultra High Voltage transmission lines. These lines will allow China to transmit power from huge wind and solar farms far from its cities. While every country's transmission needs are different, this is a clear sign of China's commitment to developing renewable energy.

The United States, meanwhile, has fallen behind. The world's largest turbine manufacturing company is headquartered in Denmark. 99 percent of the

batteries that power America's hybrid cars are made in Japan. We manufactured more than 40 percent of the world's solar cells as recently as the mid 1990s; today, we produce just 7 percent.

When the starting gun sounded on the clean energy race, the United States stumbled. But I remain confident that we can make up the ground. When we gear up our research and production of clean energy technologies, we can still surpass any other country.

[attachment "SEPW testimony 10-27-09 v10.doc" deleted by Richard Windsor/DC/USEPA/US]

01268-EPA-3559

**Bob Perciasepe/DC/USEPA/US**  
03/02/2010 08:43 PM

To Bob Sussman  
cc Lisa Heinzerling, Richard Windsor  
bcc  
Subject Re: BACT Guidance -- ACC Concerns

Lisa, Bob and Lisa:

(b)(5) Deliberative

[Redacted]

Let me know

Bob Perciasepe  
Deputy Administrator

(o) +1 202 564 4711  
(c) +1 (b)(6) Privacy

Bob Sussman As this INSIDE EPA article suggests, st... 03/02/2010 08:19:08 AM

From: Bob Sussman/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA  
Date: 03/02/2010 08:19 AM  
Subject: BACT Guidance -- ACC Concerns

**As this INSIDE EPA article suggests, stakeholders (including industry groups) continue to propose interesting ideas for how to define BACT in a manner that would provide operational flexibility but achieve meaningful GHG reductions.**

(b)(5) Deliberative

[Redacted]

### **EPA Air Advisers Weigh Allowing GHG Trading, Offsets In Facility Permits**

EPA's air advisers are weighing recommendations for giving the agency major flexibility in

permits to cut stationary source greenhouse gas (GHG) emissions, including controversial suggestions to allow emissions trading and offsets to qualify toward a facility's compliance with GHG permit limits that EPA will soon impose.

The agency's Clean Air Act Advisory Committee (CAAAC) climate work group is scrutinizing a set of recent issue papers outlining novel approaches to GHG permitting, including two papers obtained by *Inside EPA* that describe options that would allow emissions trading and offsets under the agency's best available control technology (BACT) permitting program and the agency's new source performance standard (NSPS) program.

In a related development, EPA is seeking \$7.5 million in its fiscal year 2011 budget to use existing Clean Air Act authority to issue NSPS for GHGs that may include a cap-and-trade system, but the effort could spark a fight with some lawmakers who oppose EPA using its air law trading authority for GHGs ([see related story](#) ).

The CAAAC work group in early February approved a phase one report on how the agency should address GHGs through the BACT process and the group is now considering the issue papers in preparation for a phase two report, due at the end of March. The second report will focus on "alternative or supplementary approaches," to GHG permitting, including default, or "presumptive," BACT standards, emission trading or offsets, demand-side management and efficiency measures such as combined heat and power (CHP).

EPA will consider the work group's reports as the agency writes guidance to states that soon will be required to write permit limits for GHGs at certain new and modified major stationary sources. States will set the limits using the BACT process, which traditionally requires a "top-down" review of controls required at other similar facilities.

### **Triggering GHG Permits**

EPA's pending GHG rule for vehicles will make GHGs a regulated pollutant under the Clean Air Act, triggering GHG permitting requirements for stationary sources. The agency's so-called tailoring rule, also due at the same time, will seek to limit the GHG permitting threshold to sources that emit more than 25,000 tons of GHGs per year.

[One issue paper](#), prepared by M.J. Bradley & Associates and submitted to the work group by the energy company Public Service Enterprise Group, suggests that GHG trading or offsets could be allowed under BACT or under a NSPS that is presumed to satisfy BACT requirements, rather than requiring source-by-source controls in permits.

The paper argues that although BACT is an "emission limitation" that is "based" on a facility-specific review, neither term is defined in the Clean Air Act, allowing EPA some discretion to allow trading or offsets. For example, the permitting authority would determine the best control technology, establish the emission limit that would result if the technology was used, and then allow the facility to use offsets or allowances in order to meet that emissions level, the paper says.

For offsets, EPA could set a facility-specific limit and then allow facilities to either meet the level through controls or invest in offsets to cover the difference, the paper says. This would be closer to traditional BACT because each facility would have its own limit, but a key issue would be determining which projects qualify for offsets, the paper says.

Additionally, EPA could establish a cap-and-trade program under BACT by adding together the emission limits of all facilities subject to GHG limits and then allowing emission trading among them, the paper says. But one drawback of this approach is that the cap would constantly change as new units come into the program, the paper notes.

However, the paper acknowledges that, “both options could invite legal challenges because they do not place an absolute limit on emissions at each facility (e.g. 100 tons per year); rather they would allow each facility to determine the right mix of emission reductions and allowances/offsets to meet the BACT standard.”

Alternatively, EPA could determine NSPS rules for different sources of GHGs, which could also allow offsets or trading, and then assume that the NSPS fulfills individual BACT permitting requirements, the paper says. While EPA does not expressly have authority to allow trading under NSPS, the definition of “standard of performance” is vague, possibly allowing EPA to determine that trading is the “best system of emission reduction” for GHGs, the paper says.

### **Meeting BACT Requirements**

The NSPS could then be assumed to meet BACT requirements, at least in the early years of the program, due to similarities in the requirements of both programs and a requirement that NSPS set the floor for BACT, the paper says. However, the paper notes that permit writers would be pressured to set a BACT that is more stringent than the NSPS. “Combining a presumptive BACT with a trading mechanism could risk losing the support of stakeholders that may be willing to support trading under NSPS, but not to demonstrate compliance with BACT,” the paper notes.

Some environmentalists and legal experts back the idea of using the NSPS program to create GHG cap-and-trade systems, saying it is the section of the law that provides the EPA administrator with the greatest discretion to provide industry with flexibility under the law. But other sources say the plan is rife with complications, open to litigation, and may be at odds with the NSPS program’s technology requirements.

A second issue paper, submitted to the BACT work group by the National Climate Coalition, endorses offset options while also including approaches to significantly limit the applicability of GHG permits. For example, the paper proposes to allow facilities to avoid permitting by reducing GHGs elsewhere at a facility or using efficiency projects such as CHP, which allow a facility to use both the heat and the power from combustion.

First, the paper outlines reasons why GHG permitting should be limited and how to achieve

this. The paper argues that the new source review (NSR) program which requires BACT was intended to address pollutants for which the agency has set national ambient air quality standards (NAAQS). Since there is no NAAQS for GHGs, BACT for GHGs should only be required for sources that would otherwise trigger BACT limits for pollutants for which a NAAQS have been set, the paper says.

If a new or modified facility does trigger BACT limits under this approach, the paper argues that the applicability of GHG controls could be further curbed by only requiring permit limits for GHGs that are regulated under other rules. For example, EPA's upcoming vehicle rule will only regulate carbon dioxide (CO<sub>2</sub>), nitrous oxide (N<sub>2</sub>O) and methane (CH<sub>4</sub>) so it should only trigger stationary source controls for those three GHGs, the paper says.

GHG permit limits should only be required if a facility emits them in "significant" quantities, such as 50 tons per year of sulfur hexafluoride, perfluorocompounds and hydrofluorocarbon, or 25,000 CO<sub>2</sub>-equivalent tons per year of CO<sub>2</sub>, N<sub>2</sub>O and CH<sub>4</sub>, the paper says. Modified facilities could avoid triggering these requirements if they reduce these pollutants elsewhere at the facility to avoid net emission increases above the threshold, the paper says.

### **Permit Exemptions**

Finally, a project could be exempt from GHG permitting if it is "clearly beneficial from an energy intensity perspective," the paper says. Cogeneration and CHP projects could fit into this category, the paper says.

While the paper outlines ways to limit BACT applicability, it says the GHG limits that are triggered should be viewed as an interim measure because they could discourage energy efficiency upgrades. Thus, GHG BACT permitting should sunset when Congress enacts a comprehensive climate change program or when EPA sets NSPS standards for GHGs. "The risk that a burdensome NSR program could chill such desired new development is not warranted by the insignificant benefits such a program could provide," the paper says in a footnote.

If a facility does trigger GHG permitting after all of the above considerations, then it could choose whether to go through a facility-specific BACT review or use presumptive BACT efficiency standards to be established by EPA based on the fuel and technology the facility uses, the paper says.

The paper also outlines a number of other considerations in the BACT process, such a limiting source-specific controls to the same cost-effectiveness threshold EPA would use in setting the sector's presumptive BACT.

Because the air act does not address how EPA and states should control GHGs, the act's emphasis on criteria pollutants and recognition that BACT should take "into account energy, environmental, and economic impacts and other costs" should allow EPA to take a flexible approach to GHGs, the paper says.

The work group is also considering a number of other issue papers, including approaches to energy efficiency, natural gas as a control technology and how EPA should design a presumptive BACT, but those papers were not available by press time. The papers were produced to support discussion among the work group members and are not intended to represent the position of the work group or any individual member, sources say.

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-3563

**Richard Windsor/DC/USEPA/US**  
03/03/2010 12:16 PM

To "Arvin Ganesan", "David McIntosh"  
cc  
bcc  
Subject Fw: Google Alert - lisa jackson epa

Good headline.

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**From:** Google Alerts [googlealerts-noreply@google.com]  
**Sent:** 03/03/2010 05:06 PM GMT  
**To:** Richard Windsor  
**Subject:** Google Alert - lisa jackson epa

## Google News Alert for: **lisa jackson epa**

### [Jackson: Effort to stop EPA 'step backward' for science](#)

The Hill (blog)

By Jim Snyder - 03/03/10 10:32 AM ET **EPA** Administrator **Lisa Jackson** said an effort in Congress to block her agency from regulating greenhouse gases would be ...

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01268-EPA-3564

**David McIntosh/DC/USEPA/US**  
03/03/2010 12:17 PM

To Richard Windsor  
cc "Arvin Ganesan", "David McIntosh"  
bcc

Subject Re: Fw: Google Alert - lisa jackson epa

Yes, exactly the headline we want. Excellent job.

Richard Windsor	Good headline.	From: Google Alert...	03/03/2010 12:16:36 PM
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From: Richard Windsor/DC/USEPA/US  
To: "Arvin Ganesan" <ganesan.arvin@epa.gov>, "David McIntosh" <mcintosh.david@epa.gov>  
Date: 03/03/2010 12:16 PM  
Subject: Fw: Google Alert - lisa jackson epa

Good headline.

**From:** Google Alerts [googlealerts-noreply@google.com]  
**Sent:** 03/03/2010 05:06 PM GMT  
**To:** Richard Windsor  
**Subject:** Google Alert - lisa jackson epa

## Google News Alert for: **lisa jackson epa**

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01268-EPA-3565

David  
McIntosh/DC/USEPA/US  
03/03/2010 01:36 PM

To Richard Windsor  
cc Seth Oster  
bcc

Subject this article on the hearing also looks fine



## **CLIMATE: Murkowski blasts EPA for conflicting statements on regulation (Wednesday, March 3, 2010)**

**Robin Bravender, E&E Reporter**

Alaska Republican Sen. Lisa Murkowski today grilled U.S. EPA Administrator Lisa Jackson on what the senator called conflicting statements on whether the agency's leader would prefer to curb greenhouse gas emissions using regulations or legislation.

Speaking today to the Senate Interior and Environment Appropriations Subcommittee, Murkowski asked Jackson to clarify whether she wanted Congress to move forward with a comprehensive energy and climate bill or whether agency rules were the best approach.

Murkowski cited previous quotes from Jackson where she said that EPA regulations and congressional action could go hand in hand. "This is not an either/or moment, it's a both/and moment," Murkowski quoted Jackson as saying. She also quoted her saying, "I absolutely prefer that the Senate take action."

Murkowski, the ranking member of the Senate Energy and Natural Resources Committee, is leading an effort in the Senate to overturn EPA's "endangerment" finding -- a determination that greenhouse gases threaten public health and welfare that allows the agency to move forward with climate regulations. The first set of those rules is expected out later this month.

"I'm not sure whether you agree with me that -- and I think the president as well -- that new legislation is the best way to deal with climate change or whether it should be EPA regulation," Murkowski said.

But Jackson continued to insist that the approaches can be complementary.

"I certainly stand behind the president's call for comprehensive energy legislation that puts a price on carbon, and I believe that's absolutely the best way, as you've

said, to move our country into a clean energy future, I think it's critical," Jackson replied. "And I also think that it's not an either/or moment.

"Even legislation that's currently passed the House, that's the standard we have right now, envisions that EPA will have certain roles to play," Jackson added. "And there is lots of regulatory work that the EPA can do that is entirely consistent with new legislation in the future."

That was not enough to satisfy Murkowski.

"I don't know that I'm any more clear based on your statement this morning as to whether or not you think it should be the Congress and those of us that are elected by our constituents and accountable to them to enact and advance climate policy," she told Jackson.

### **Jackson hints at new permitting thresholds**

Pressed by lawmakers on both sides of the aisle, Jackson offered additional details about EPA's plans to gradually phase in climate rules for industrial sources.

Over the next two years, stationary sources that emit less than 75,000 tons will not be subject to permitting requirements under the Clean Air Act, Jackson said. "And it would probably be at least two years before we'd look at something like say a 50,000 threshold," she added.

Last week, in [response](#) to a letter from Senate Democrats concerned about the reach of EPA's climate rules, Jackson said that the agency is also considering "substantially" raising the thresholds in its proposed "tailoring" rule to exempt more facilities from requirements that they minimize their greenhouse gas emissions ([E&E Daily](#) , Feb. 23).

The agency's draft rule proposed to tailor the Clean Air Act's permitting requirements to require greenhouse gas permits from sources that emit more than 25,000 tons annually. The final rule is expected to be finalized later this month and Jackson said the agency has not yet determined the number.

Jackson's letter also said that EPA will begin to phase in permitting requirements and regulating large stationary sources of greenhouse gases in early 2011, when only facilities that must already apply for Clean Air Act permits for other pollutants will need to address those emissions. Fewer than 400 facilities would be subject to those requirements, she said. The agency will begin to require permits from other large sources in the latter half of 2011.

Sen. Dianne Feinstein (D-Calif.), chairwoman of the subcommittee, welcomed further explanation about the agency's regulatory strategy.

"As EPA explains its plans, I believe my colleagues will increasingly realize that the agency is proceeding in a deliberate and legally defensible fashion, beginning with facilities already subject to regulation, tackling only the largest polluters at this time and developing a long-term approach to emissions that is as cost effective and flexible as the law permits," Feinstein said.

She added that she thinks it is the "wrong approach" for members of Congress to attempt to strip EPA of its regulatory authority. "The alternative to EPA proceeding, in my view, is that the Congress passes a new law, and thus far, we have refused or been unable, whichever it is, to do so," Feinstein said. "Therefore, EPA's mandate given to it by the [U.S. Supreme] Court in the [*Massachusetts v. EPA* ] case, I think, remains exceedingly clear."

Sen. Lamar Alexander (R-Tenn.), ranking member of the subcommittee, disagreed.

"I am ready to buy some insurance from climate change. I think it's a problem and we need to deal with it," Alexander said.

However, he added, "I support efforts in the Congress to make that the responsibility of Congress to deal with rather than the EPA because I think the current law doesn't give EPA the appropriate flexibility to deal with it, and I think it's of such major importance it ought to be done by members of Congress rather than an agency."

01268-EPA-3566

Richard  
Windsor/DC/USEPA/US  
03/03/2010 02:51 PM

To David McIntosh  
cc Seth Oster  
bcc

Subject Re: this article on the hearing also looks fine

bad headline. (b)(5) deliberative

David McIntosh CLIMATE: Murkowski blasts EPA for c... 03/03/2010 01:36:16 PM

From: David McIntosh/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Seth Oster/DC/USEPA/US@EPA  
Date: 03/03/2010 01:36 PM  
Subject: this article on the hearing also looks fine



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01268-EPA-3567

David  
McIntosh/DC/USEPA/US  
03/03/2010 03:14 PM

To Richard Windsor  
cc Seth Oster  
bcc

Subject Re: this article on the hearing also looks fine

(b)(5) Deliberative

Richard Windsor bad headline. (b)(5) deliberative 03/03/2010 02:51:54 PM

From: Richard Windsor/DC/USEPA/US  
To: David McIntosh/DC/USEPA/US@EPA  
Cc: Seth Oster/DC/USEPA/US@EPA  
Date: 03/03/2010 02:51 PM  
Subject: Re: this article on the hearing also looks fine

bad headline. (b)(5) deliberative

David McIntosh CLIMATE: Murkowski blasts EPA for c... 03/03/2010 01:36:16 PM

From: David McIntosh/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Seth Oster/DC/USEPA/US@EPA  
Date: 03/03/2010 01:36 PM  
Subject: this article on the hearing also looks fine



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But Jackson continued to insist that the approaches can be complementary.

"I certainly stand behind the president's call for comprehensive energy legislation that puts a price on carbon, and I believe that's absolutely the best way, as you've said, to move our country into a clean energy future, I think it's critical," Jackson replied. "And I also think that it's not an either/or moment.

"Even legislation that's currently passed the House, that's the standard we have right now, envisions that EPA will have certain roles to play," Jackson added. "And there is lots of regulatory work that the EPA can do that is entirely consistent with new legislation in the future."

That was not enough to satisfy Murkowski.

"I don't know that I'm any more clear based on your statement this morning as to whether or not you think it should be the Congress and those of us that are elected by our constituents and accountable to them to enact and advance climate policy," she told Jackson.

## **Jackson hints at new permitting thresholds**

Pressed by lawmakers on both sides of the aisle, Jackson offered additional details about EPA's plans to gradually phase in climate rules for industrial sources.

Over the next two years, stationary sources that emit less than 75,000 tons will not be subject to permitting requirements under the Clean Air Act, Jackson said. "And it would probably be at least two years before we'd look at something like say a 50,000 threshold," she added.

Last week, in [response](#) to a letter from Senate Democrats concerned about the reach of EPA's climate rules, Jackson said that the agency is also considering "substantially" raising the thresholds in its proposed "tailoring" rule to exempt more facilities from requirements that they minimize their greenhouse gas

emissions ([E&E Daily](#) , Feb. 23).

The agency's draft rule proposed to tailor the Clean Air Act's permitting requirements to require greenhouse gas permits from sources that emit more than 25,000 tons annually. The final rule is expected to be finalized later this month and Jackson said the agency has not yet determined the number.

Jackson's letter also said that EPA will begin to phase in permitting requirements and regulating large stationary sources of greenhouse gases in early 2011, when only facilities that must already apply for Clean Air Act permits for other pollutants will need to address those emissions. Fewer than 400 facilities would be subject to those requirements, she said. The agency will begin to require permits from other large sources in the latter half of 2011.

Sen. Dianne Feinstein (D-Calif.), chairwoman of the subcommittee, welcomed further explanation about the agency's regulatory strategy.

"As EPA explains its plans, I believe my colleagues will increasingly realize that the agency is proceeding in a deliberate and legally defensible fashion, beginning with facilities already subject to regulation, tackling only the largest polluters at this time and developing a long-term approach to emissions that is as cost effective and flexible as the law permits," Feinstein said.

She added that she thinks it is the "wrong approach" for members of Congress to attempt to strip EPA of its regulatory authority. "The alternative to EPA proceeding, in my view, is that the Congress passes a new law, and thus far, we have refused or been unable, whichever it is, to do so," Feinstein said. "Therefore, EPA's mandate given to it by the [U.S. Supreme] Court in the [*Massachusetts v. EPA* ] case, I think, remains exceedingly clear."

Sen. Lamar Alexander (R-Tenn.), ranking member of the subcommittee, disagreed.

"I am ready to buy some insurance from climate change. I think it's a problem and we need to deal with it," Alexander said.

However, he added, "I support efforts in the Congress to make that the responsibility of Congress to deal with rather than the EPA because I think the current law doesn't give EPA the appropriate flexibility to deal with it, and I think it's of such major importance it ought to be done by members of Congress rather than an agency."

01268-EPA-3568

Richard Windsor/DC/USEPA/US  
03/03/2010 03:41 PM

To David McIntosh  
cc Seth Oster  
bcc

Subject Re: this article on the hearing also looks fine

(b)(5) Deliberative

David McIntosh

----- Original Message -----

From: David McIntosh  
Sent: 03/03/2010 03:14 PM EST  
To: Richard Windsor  
Cc: Seth Oster  
Subject: Re: this article on the hearing also looks fine

(b)(5) Deliberative

Richard Windsor [bad headline.](#) (b)(5) deliberative 03/03/2010 02:51:54 PM

From: Richard Windsor/DC/USEPA/US  
To: David McIntosh/DC/USEPA/US@EPA  
Cc: Seth Oster/DC/USEPA/US@EPA  
Date: 03/03/2010 02:51 PM  
Subject: Re: this article on the hearing also looks fine

bad headline. (b)(5) deliberative

David McIntosh [CLIMATE: Murkowski blasts EPA for c...](#) 03/03/2010 01:36:16 PM

From: David McIntosh/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Seth Oster/DC/USEPA/US@EPA  
Date: 03/03/2010 01:36 PM  
Subject: this article on the hearing also looks fine



### CLIMATE: Murkowski blasts EPA for conflicting statements on regulation (Wednesday, March 3, 2010)

Robin Bravender, E&E Reporter

Alaska Republican Sen. Lisa Murkowski today grilled U.S. EPA Administrator Lisa Jackson on what the senator called conflicting statements on whether the agency's leader would prefer to curb greenhouse gas emissions using regulations or legislation.

Speaking today to the Senate Interior and Environment Appropriations

Subcommittee, Murkowski asked Jackson to clarify whether she wanted Congress to move forward with a comprehensive energy and climate bill or whether agency rules were the best approach.

Murkowski cited previous quotes from Jackson where she said that EPA regulations and congressional action could go hand in hand. "This is not an either/or moment, it's a both/and moment," Murkowski quoted Jackson as saying. She also quoted her saying, "I absolutely prefer that the Senate take action."

Murkowski, the ranking member of the Senate Energy and Natural Resources Committee, is leading an effort in the Senate to overturn EPA's "endangerment" finding -- a determination that greenhouse gases threaten public health and welfare that allows the agency to move forward with climate regulations. The first set of those rules is expected out later this month.

"I'm not sure whether you agree with me that -- and I think the president as well -- that new legislation is the best way to deal with climate change or whether it should be EPA regulation," Murkowski said.

But Jackson continued to insist that the approaches can be complementary.

"I certainly stand behind the president's call for comprehensive energy legislation that puts a price on carbon, and I believe that's absolutely the best way, as you've said, to move our country into a clean energy future, I think it's critical," Jackson replied. "And I also think that it's not an either/or moment.

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Last week, in [response](#) to a letter from Senate Democrats concerned about the reach of EPA's climate rules, Jackson said that the agency is also considering "substantially" raising the thresholds in its proposed "tailoring" rule to exempt more facilities from requirements that they minimize their greenhouse gas emissions ([E&E Daily](#) , Feb. 23).

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than an agency."

01268-EPA-3569

Bob Sussman/DC/USEPA/US  
03/03/2010 04:10 PM

To Seth Oster, Bob Perciasepe, "Lisa Jackson"  
cc "Diane Thompson", Arvin Ganesan  
bcc  
Subject Re: DEP News - WVDEP Seeking Input on Narrative Criteria Protocol

(b)(5) Deliberative

Seth Oster

----- Original Message -----

**From:** Seth Oster  
**Sent:** 03/03/2010 04:07 PM EST  
**To:** Bob Perciasepe; "Lisa Jackson" <windsor.richard@epa.gov>  
**Cc:** "Diane Thompson" <thompson.diane@epa.gov>; Bob Sussman; Arvin Ganesan  
**Subject:** Fw: DEP News - WVDEP Seeking Input on Narrative Criteria Protocol

Michael Kulik

----- Original Message -----

**From:** Michael Kulik  
**Sent:** 03/03/2010 04:02 PM EST  
**To:** Seth Oster; Bob Sussman; Arvin Ganesan  
**Subject:** Fw: DEP News - WVDEP Seeking Input on Narrative Criteria Protocol

(b)(5) Deliberative

----- Forwarded by Michael Kulik/R3/USEPA/US on 03/03/2010 03:58 PM -----

**From:** Jessica Greathouse/R3/USEPA/US  
**To:** Garvin.Shawn@epamail.epa.gov, Kulik.Michael@epamail.epa.gov, "William Early" <Early.William@epamail.epa.gov>, "John Pomponio" <Pomponio.John@epamail.epa.gov>, "Stefania Shamet" <Shamet.Stefania@epamail.epa.gov>, "Catherine Libertz" <Libertz.Catherine@epamail.epa.gov>, "Daniel Ryan" <Ryan.Daniel@epamail.epa.gov>  
**Date:** 03/03/2010 03:53 PM  
**Subject:** Fw: DEP News - WVDEP Seeking Input on Narrative Criteria Protocol

Jessica H. Greathouse  
State and Congressional Liaison  
U.S. Environmental Protection Agency  
304.224.3181

----- Original Message -----

**From:** [dep.online@wv.gov]  
**Sent:** 03/03/2010 03:40 PM EST  
**To:** Jessica Greathouse  
**Subject:** DEP News - WVDEP Seeking Input on Narrative Criteria Protocol

The following was sent to you because you are a  
Member of the DEP News List mailing list.

=====  
Wednesday, March 3, 2010 @ 3:40 PM  
=====

For More Information  
Kathy Cosco, 304-926-0440

#### WVDEP Seeks Input On Narrative Criteria Protocol

The West Virginia Department of Environmental Protection's Cabinet Secretary, Randy Huffman, spoke to the Senate Committee on Energy, Industry and Mining today. He was asked to give a report on the status of mining permits that are currently undergoing review by the Environmental Protection Agency.

During his presentation to the committee, Huffman announced that the agency is in the process of establishing a protocol for implementing and enforcing the state's narrative water quality criteria.

The lack of a solid plan for enforcing the narrative standard is the main criticism the EPA has had with the state of West Virginia's regulation of mountaintop mining activities over the past year. However, Huffman pointed out to the committee that the standard doesn't apply to just surface mining or mining in general, but has implications across all types of industrial activities.

As part of the process for establishing a state protocol, the DEP is researching what other states are doing as well as seeking input from interested parties within the state.

"Water quality has become the main topic of conversation across all types of industry, and there is a great deal of debate about what is or should be considered impairment," Huffman said. "Our goal is to take into consideration the ideas of others as we develop our plan for implementing and enforcing the narrative standard.

"I'm not looking for data and reports, I have that," he said. "Nor do I intend to debate the pros and cons of coal mining. What I am looking for are well-thought-out ideas on how we can measure aquatic life impacts and tie those impacts back to the problem where we can then fix it, using the tools of the Clean Water Act.

"The protocol we establish will be our own, but we want to give those who want to propose a solution the opportunity to have their ideas considered," Huffman said.

Those who would like to submit ideas or scientific theories for how the agency should implement and enforce the narrative water quality standard are invited to do so by March 26. Submissions can be emailed to [DEP.comments@wv.gov](mailto:DEP.comments@wv.gov) or mailed to:

The Department of Environmental Protection  
601 57th Street SE  
Charleston, WV 25304

All submissions will be placed on the agency's website for public review.

- 30 -

=====  
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01268-EPA-3570

Bob Sussman/DC/USEPA/US

03/03/2010 04:21 PM

To "Lisa P. Jackson"

cc "Seth Oster", "Bob Perciasepe"

bcc

Subject Fw: Ken Ward Reporting on Conversation with Randy Huffman - "WVDEP trying to head off EPA on mining limits?"

Ward hits the nail on the head.  
Gregory Peck

----- Original Message -----

**From:** Gregory Peck

**Sent:** 03/03/2010 04:12 PM EST

**To:** Nancy Stoner; Seth Oster; Bob Sussman; Shawn Garvin

**Cc:** Denise Keehner; David Evans; Kevin Minoli; Matthew Klasen

**Subject:** Ken Ward Reporting on Conversation with Randy Huffman - "WVDEP trying to head off EPA on mining limits?"

## WVDEP trying to head off EPA on mining

March 3, 2010 by Ken Ward Jr.



West Virginia's [Department of Environmental Protection](#) just announced plans to seek public input on how the state's [water quality standards](#).

But is this all just part of an effort to avoid any federal government crackdown on mountaintop removal, or is [WVDEP](#) [plan to reduce the impacts itself](#)?

WVDEP is going to start accepting public comments on implementation of what's known as the narrative standard [Tattoo](#), that standard prohibits:

*... Any other condition that adversely alters the integrity of the waters of the state ... no significant adverse impact on the physical, chemical, or biological components of aquatic ecosystems shall be allowed.*

Of course, that standard is one of the major legal triggers the federal Environmental Protection Agency has cited [regulators](#) and the state's coal industry to reduce the impacts of mountaintop removal.



WVDEP Secretary Randy Huffman called me this afternoon to tip me off that this formal announcement he was nice enough to do the same thing two months ago, [when WVDEP first announced plans to come up with a narrative standard](#). Oddly, though, Randy told me today that WVDEP is not putting out a proposed guidance document. WVDEP is just going to ask anyone who is interested to submit ideas for what such a document might look like.

*It's not a comment period, because it's not a standards issue.*

But, he added:

*That seems to be a big gap in the water regulatory program right now. it's necessary for us to do this.*

Randy said he doesn't want stacks of studies, reports or data, but actual suggestions for how to integrate science into the Act.

*I'm not looking for data and reports. I have that. Nor do I intend to debate the pros and cons of coal mining. We're looking for ideas on how we can measure aquatic life impacts and tie those impacts back to the problem where we can then address them in the Act.*

Comments can be sent to WVDEP's office at 601 57th Street SE  
Charleston, WV 25304. Or, you can [e-mail them](#).

Still, why is WVDEP doing this comment period now, rather than drafting its proposed policy and guidance?

Well, Randy explained that he was just on a conference call earlier this week with environmental protection officials from other states in the region, who were worried because of reports out of EPA Region 4 (which includes Kentucky and Tennessee) about a federal report that said that the current science says about the [levels of water conductivity or salinity that are causing serious problems](#).

According to Randy, that EPA report was putting the figure at between 280 and 350. Typically, conductivity is less than 100 [micro mhos/cm](#). And Randy and other state regulators were none too happy about this EPA report.

*You can't do anything with that. You can't clean off a parking lot with that. There is just no way.*

We've all been waiting for months for the results of [another in-depth EPA examination of mountaintop removal impacts](#). A journal Science published a peer-reviewed paper that found the impacts to be "pervasive and irreversible." And WVDEP has produced two reports, one a more general examination of mountaintop removal and another more narrow study on the impacts of mountaintop removal on aquatic life.

So it's a little confusing now for WVDEP to be seeking comment without even giving the public a draft proposal. It's focused on the narrative standard, instead of proposing numeric water quality standards that would give the coal industry a clear target. And, why did the WVDEP's news release try to draw attention away from the coal industry, the coal industry's

*Water quality has become the main topic of conversation across all types of industry, and there is a great deal of considered impairment. Our goal is to take into consideration the ideas of others as we develop our plan for improved standards.*

The goal of the as-yet unreleased EPA conductivity study was to figure out what level of pollution from mountains — so regulators could then set a standard and write permit limits meant to avoid that harm. Why not wait and see if regulations accordingly?



---

Gregory E. Peck  
Chief of Staff  
Office of Water  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

202-564-5778

01268-EPA-3571

Bob Sussman/DC/USEPA/US  
03/03/2010 04:25 PM

To Seth Oster, Bob Perciasepe, "Lisa Jackson"  
cc "Diane Thompson", Arvin Ganesan  
bcc

Subject Re: DEP News - WVDEP Seeking Input on Narrative Criteria Protocol

(b)(5) Deliberative

Seth Oster

----- Original Message -----

**From:** Seth Oster  
**Sent:** 03/03/2010 04:23 PM EST  
**To:** Bob Sussman; Bob Perciasepe; "Lisa Jackson" <windsor.richard@epa.gov>  
**Cc:** "Diane Thompson" <thompson.diane@epa.gov>; Arvin Ganesan  
**Subject:** Re: DEP News - WVDEP Seeking Input on Narrative Criteria Protocol

(b)(5) Deliberative

Bob Sussman

----- Original Message -----

**From:** Bob Sussman  
**Sent:** 03/03/2010 04:10 PM EST  
**To:** Seth Oster; Bob Perciasepe; "Lisa Jackson" <windsor.richard@epa.gov>  
**Cc:** "Diane Thompson" <thompson.diane@epa.gov>; Arvin Ganesan  
**Subject:** Re: DEP News - WVDEP Seeking Input on Narrative Criteria Protocol

(b)(5) Deliberative

Seth Oster

----- Original Message -----

**From:** Seth Oster  
**Sent:** 03/03/2010 04:07 PM EST  
**To:** Bob Perciasepe; "Lisa Jackson" <windsor.richard@epa.gov>  
**Cc:** "Diane Thompson" <thompson.diane@epa.gov>; Bob Sussman; Arvin Ganesan  
**Subject:** Fw: DEP News - WVDEP Seeking Input on Narrative Criteria Protocol

Michael Kulik

----- Original Message -----

**From:** Michael Kulik  
**Sent:** 03/03/2010 04:02 PM EST  
**To:** Seth Oster; Bob Sussman; Arvin Ganesan  
**Subject:** Fw: DEP News - WVDEP Seeking Input on Narrative Criteria Protocol

(b)(5) Deliberative

----- Forwarded by Michael Kulik/R3/USEPA/US on 03/03/2010 03:58 PM -----

From: Jessica Greathouse/R3/USEPA/US  
To: Garvin.Shawn@epamail.epa.gov, Kulik.Michael@epamail.epa.gov, "William Early" <Early.William@epamail.epa.gov>, "John Pomponio" <Pomponio.John@epamail.epa.gov>, "Stefania Shamet" <Shamet.Stefania@epamail.epa.gov>, "Catherine Libertz"

<Libertz.Catherine@epamail.epa.gov>, "Daniel Ryan" <Ryan.Daniel@epamail.epa.gov>  
 Date: 03/03/2010 03:53 PM  
 Subject: Fw: DEP News - WVDEP Seeking Input on Narrative Criteria Protocol

---

Jessica H. Greathouse  
 State and Congressional Liaison  
 U.S. Environmental Protection Agency  
 304.224.3181

----- Original Message -----

From: [dep.online@wv.gov]  
 Sent: 03/03/2010 03:40 PM EST  
 To: Jessica Greathouse  
 Subject: DEP News - WVDEP Seeking Input on Narrative Criteria Protocol

The following was sent to you because you are a  
 Member of the DEP News List mailing list.

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Wednesday, March 3, 2010 @ 3:40 PM

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For More Information  
 Kathy Cosco, 304-926-0440

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- 30 -

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01268-EPA-3573

**Richard Windsor/DC/USEPA/US**  
03/04/2010 06:27 AM

To Arvin Ganesan  
cc  
bcc  
Subject Re: Google Alert - lisa jackson, epa

:)

---

**From:** Arvin Ganesan  
**Sent:** 03/04/2010 05:58 AM EST  
**To:** Richard Windsor  
**Subject:** Fw: Google Alert - lisa jackson, epa

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**From:** Google Alerts [googlealerts-noreply@google.com]  
**Sent:** 03/04/2010 10:34 AM GMT  
**To:** Arvin Ganesan  
**Subject:** Google Alert - lisa jackson, epa

## Google News Alert for: **lisa jackson, epa**

### [EPA head blasts effort to block regs](#)

The Hill

Testifying before a Senate Appropriations panel, **Lisa Jackson** defended **EPA's** finding that carbon dioxide and other so-called greenhouse gases endanger human ...

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01268-EPA-3574

David  
McIntosh/DC/USEPA/US  
03/04/2010 08:45 AM

To Richard Windsor  
cc  
bcc

Subject Fw: 4 questions

(b)(5) Deliberative

----- Forwarded by David McIntosh/DC/USEPA/US on 03/04/2010 08:44 AM -----

From: David McIntosh/DC/USEPA/US  
To: Betsaida Alcantara/DC/USEPA/US@EPA  
Cc: Seth Oster/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Michael Moats/DC/USEPA/US@EPA  
Date: 03/04/2010 08:44 AM  
Subject: Re: 4 questions

---

**What are the practical , real-world impacts of Senator Murkowski 's resolution to overturn EPA 's finding that greenhouse-gas emissions endanger Americans ' health and welfare?**

(b)(5) Deliberative

For people who are concerned that addressing greenhouse -gas emissions under the Clean Air Act will necessarily mean regulating hospitals and schools and dry cleaners , the main alternative to Senator Murkowski's resolution seems to be the gradual phase -in plan that you described in your recent letter to Senator Rockefeller . But Senator Murkowski and her allies insist that the courts will prohibit you from proceeding gradually and require immediate regulation of even the smallest sources . How do you respond to their legal argument ?

(b)(5) Deliberative

Senator Murkowski keeps saying that your call for new climate legislation is fundamentally inconsistent with your desire to start using the Clean Air Act now to address greenhouse -gas emissions. How do you respond to that?

(b)(5) Deliberative



These days it must be very difficult for someone in South Korea or Brazil to discern where , if anywhere, the US is actually going on climate policy , and when. How would you cut through all the bewildering noise for a foreign audience and concisely sum up for them what the state of play really is in the US and what the world should really expect from the US in the next year ?

(b)(5) Deliberative

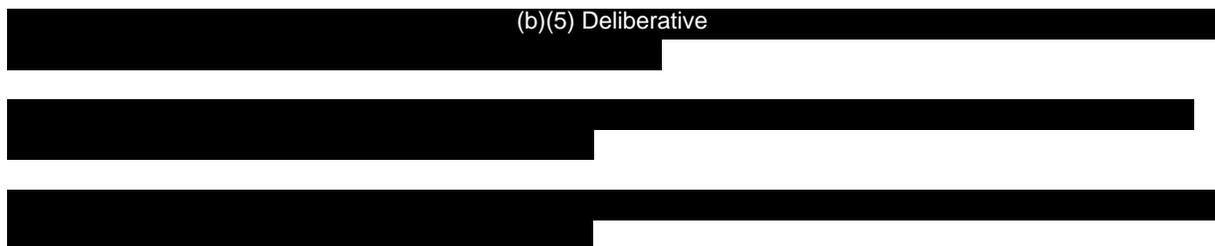


Betsaida Alcantara David. As you know, the Administrat... 03/03/2010 07:40:46 PM

From: Betsaida Alcantara/DC/USEPA/US  
To: David McIntosh/DC/USEPA/US@EPA  
Date: 03/03/2010 07:40 PM  
Subject: 4 questions

David.

(b)(5) Deliberative



Thanks.  
Betsaida Alcantara  
Deputy Press Secretary | Office of Public Affairs  
US Environmental Protection Agency  
202-564-1692  
alcantara.betsaida@epa.gov



01268-EPA-3575

**Richard Windsor/DC/USEPA/US**  
03/04/2010 09:51 AM

To "Heidi Ellis", "Aaron Dickerson"  
cc  
bcc

Subject Fw: 4 questions

Please keep copies in my book.  
David McIntosh

----- Original Message -----

**From:** David McIntosh  
**Sent:** 03/04/2010 08:45 AM EST  
**To:** Richard Windsor  
**Subject:** Fw: 4 questions

(b)(5) Deliberative

----- Forwarded by David McIntosh/DC/USEPA/US on 03/04/2010 08:44 AM -----

**From:** David McIntosh/DC/USEPA/US  
**To:** Betsaida Alcantara/DC/USEPA/US@EPA  
**Cc:** Seth Oster/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Michael Moats/DC/USEPA/US@EPA  
**Date:** 03/04/2010 08:44 AM  
**Subject:** Re: 4 questions

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(b)(5) Deliberative

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(b)(5) Deliberative

(b)(5) Deliberative

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It is very simple. We need new climate legislation in order to achieve the magnitude of emissions

(b)(5) Deliberative

These days it must be very difficult for someone in South Korea or Brazil to discern where , if anywhere, the US is actually going on climate policy , and when. How would you cut through all the bewildering noise for a foreign audience and concisely sum up for them what the state of play really is in the US and what the world should really expect from the US in the next year ?

(b)(5) Deliberative

Betsaida Alcantara David. As you know, the Administrat... 03/03/2010 07:40:46 PM

From: Betsaida Alcantara/DC/USEPA/US  
To: David McIntosh/DC/USEPA/US@EPA  
Date: 03/03/2010 07:40 PM  
Subject: 4 questions

David.

(b)(5) Deliberative

(b)(5) Deliberative

Thanks.

Betsaida Alcantara

Deputy Press Secretary | Office of Public Affairs

US Environmental Protection Agency

202-564-1692

[alcantara.betsaida@epa.gov](mailto:alcantara.betsaida@epa.gov)

01268-EPA-3578

Richard Windsor/DC/USEPA/US  
03/04/2010 10:59 AM

To Seth Oster, Michael Moats  
cc  
bcc

Subject For Your Consideration

First - I like the speech draft. Let's see how it delivers.

(b)(5) Deliberative  
[Redacted]

[Redacted]

Lisa

----- Message from Michael Martin <mm@ [Redacted] (b)(6) Privacy on Wed, 03 Mar 2010 20:57:54 -0600 -----

To: [Redacted] (b)(6) Privacy  
[Redacted] (b)(6) Privacy

Subject: Some thoughts for your speech

Lisa,

It is great to get to know you a little bit. I am so glad we ran into each other last week.

The speech you are going to give on Monday can be a pivotal moment for our nation's environmental progress. Seriously. In response to our conversation, please allow me to provide you with a point of view from an insider that has been part of the "green + business movement" for over two decades. I think some of these observations and facts might be helpful as you are assembling your speech. This topic has been the core of our work at Effect and I look forward to being part of the change that helps shape the future of sustainability.

1) It is clear from recent research that consumers WANT companies to do the right thing for the planet.

- a. All things being equal, 70% of consumers will choose brands that are doing good things for people and the planet. (Cone Communications, 2009)
- b. 74% of Americans believe companies should do more to protect the planet. (NMI Research, 2009)
- c. 57% of Americans will look for environmentally friendly attributes of a product in their next purchase decision. (USA Today Research)

2) From the corporate point of view, 82% of corporate executives believe that good corporate

citizenship helps the bottom line. (Boston College Report, 2009)

3) The notion that doing the right thing for the planet will increase shareholder value is just starting to take hold. This model (what we call "EFFECT Marketing") is what we've worked under for over a decade. The power of capitalism can be harnessed to actually leverage point #1 to achieve point #2. This is happening today and my company is helping this happen with some of America's largest companies.

I believe if you can shine a positive spotlight on this reality for companies, you will be able to turbocharge the movement towards doing what is right for the planet AND the bottom line simultaneously. Free market forces are really the only long-term way to create sustainability in a capitalistic framework. The "bad guys" are only "bad guys" because they are looking at the old models (profits OR planet) and do not yet see how they can actually make more money by operating in a more sustainable manner. You and I know this perspective all too well. Multiple that by tens of millions individuals and that is how we get the environmental problems we now face

The good news is a slightly changed perspective by corporations can be multiplied by those same tens of millions of individuals who ultimately can help solve the problem through their actions and buying behavior.

Here are some other examples to support this point:

Consider Climate Counts. Since 2007, ClimateCounts.org has been using its corporate Climate Scorecard to bring consumers and companies together to address the climate crisis. The idea behind Climate Counts is simple -- let the market drive the kind of innovation that leads to large-scale reduction in greenhouse gas emissions. When consumers make it very clear they want to support companies that take climate change seriously, companies will respond in dramatic ways to earn their business. Then, when those consumers find what they were looking for, businesses begin to realize a return on their investments in climate action. That's the market working to solve this incredible challenge.

We have a roster of clients that are reaching stride at addressing the issues of sustainability:

1) **Procter and Gamble's** "Future Friendly" brand is being formally launched in the U.S. next week. As part of P&G's corporate sustainability commitment, they have created an internal campaign to encourage all of their brands to identify steps that can be taken to reduce their environmental impact. The first examples include: Tide Cold water detergent, Dawn Direct Foam (a no-water soap), Duracell rechargeable batteries and PUR water filters. Over 3 billion people a day touch P&G products worldwide so by creating products with less environmental impact, just through regular use, P&G will literally take millions of tons of CO2 out of the atmosphere and hundreds of tons of waste out of landfills. The upcoming U.S. launch of Future Friendly is designed to inspire more sustainable consumption behaviors for mainstream consumers. The purpose of Future Friendly is to make conservation of natural resources, specifically energy, water and waste, more user friendly for mainstream consumers.

2) The **General Mills** oat milling facility in Fridley, Minn., will soon become the company's first biomass-powered plant. Construction has begun on a biomass burner that will consume about 12 percent of the oat hulls left over from the milling process to make food like Cheerios. The energy produced from the burning of the oat hulls will be enough to produce 90 percent of the steam needed for heating the plant and making oat flour. Not only will this reduce the plant's carbon footprint by an estimated 21 percent, it will also save more than \$500,000 in natural gas costs every year. Their **Green Giant** brand has dramatically reduced their use of pesticides, chemicals and water by focusing on their sustainable farming practices.

3) **Sellars Absorbent Materials** (a small manufacturing company based in Milwaukee) developed a technology that allows them to produce a paper towel made out of recycled fibers that has a lower raw material cost, lower environmental impact, and a higher absorbency than virgin fiber. A product that is better for the environment, higher performing, that is lower cost than existing product options. This product is rolling out in grocery stores nationally this quarter.

4) **Stonyfield** yogurt has reduced costs and waste by eliminating the use of plastic tops on their yogurt lids, saving 100 million tons of solid waste annually and increasing their profits in the process.

5) Artists such as **Jack Johnson** and **Dave Matthews Band** have changed how they tour to be green and have grown their businesses as a result of these programs.

Additionally, there are the well-documented cases of companies taking on a sustainability focus that has created economic and competitive advantages for them: **Walmart, Toyota Prius, General Electric**, etc. Or companies such as **Terracycle, Native Energy**, Pangea Organics that have embedded sustainability into their core business model from day 1.

In addition to working with the leading companies on sustainability and social change marketing, I lecture at universities around the country and am writing a book about Effect Marketing. Here is my summary: The planet operates on a path of sustainability. The current form of capitalism focuses on quarterly growth. The delta between the two represents the hole we are in, as a people and a planet. We, as a society, need to close that gap, ensuring that companies can still flourish thereby encouraging additional actions, and providing future generations with a world they can thrive in.

At the core, these examples above all look at the premise of full-cost accounting. Business leaders aren't ready to embrace full-cost accounting but, because consumers support those companies doing the right thing for the planet and consumers drive the capitalism equation, the solution to make a free market -based sustainable economic model goes as follows:

- 1) Educate consumers on what is best for the planet.
- 2) Provide transparent and honest information to consumers as to which companies are doing the right thing for the planet.

- 3) Consumer will gravitate towards those responsible companies.
- 4) Companies will produce products that are environmentally superior because consumers show they want them.

Thank you for allowing me to share my experience and passion for this topic and, I am available if you have any other questions or want to discuss this in greater detail. You can reach me at this email address or via phone at 612-940-1281,

All the best,

Michael Martin

PS: I have another couple of examples coming your way tomorrow but need to get company's approval first. Stand by!

---

Michael Martin  
Founder and CEO



Michael Martin • Chief Effect Officer • EFFECT Partners™, Inc. • 4208 Park Glen Road, Minneapolis, Minnesota 55416 •

[www.effectpartners.com](http://www.effectpartners.com) • w. 952.426.7800

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--

01268-EPA-3584

David  
McIntosh/DC/USEPA/US  
03/04/2010 01:10 PM

To Arvin Ganesan, "Diane Thompson", "Richard Windsor"  
cc  
bcc

Subject Re: Fw: March 4 -- Greenwire is ready

(b)(5) Deliberative

Arvin Ganesan

(b)(5) Deliberative

03/04/2010 01:07:06 PM

From: Arvin Ganesan/DC/USEPA/US  
To: "Richard Windsor" <Windsor.Richard@epamail.epa.gov>, "Diane Thompson" <Thompson.Diane@epamail.epa.gov>  
Cc: "David McIntosh" <mcintosh.david@epa.gov>  
Date: 03/04/2010 01:07 PM  
Subject: Fw: March 4 -- Greenwire is ready

(b)(5) Deliberative

[Redacted]

[Redacted]

Thx.

A

Sent from my Blackberry Wireless Device

From: "E&E Publishing, LLC" [ealerts@eenews.net]  
Sent: 03/04/2010 01:00 PM EST  
To: Arvin Ganesan  
Subject: March 4 -- Greenwire is ready

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Fiscal 2011: Budget & Appropriations -- An E&E Report

The Fiscal 2011 Report is a one-stop resource for tracking the fiscal 2011 spending process for environmental and energy accounts. The report includes tables for DOE, EPA, Interior, NOAA, and USDA, and links to related stories. [Click here](#) to go to the report.

Greenwire -- Thu., March 4, 2010 -- [Read the full edition](#)

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Four influential coal-state Democrats introduced companion bills in the House and Senate today that would block U.S. EPA from implementing any climate-related stationary source rules for two years, a timeout of sorts that they think gives Congress time to pass legislation dealing with the issue. Senate Commerce Chairman Jay Rockefeller of West Virginia unveiled

the Senate bill, while the House measure was introduced by West Virginia's Nick Rahall, the chairman of the Natural Resources Committee, and Alan Mollohan, a senior member of the Appropriations Committee. Rep. Rick Boucher (D-Va.), who played a pivotal role in negotiations last year on the House-passed climate bill, also signed up as an original co-sponsor.

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26. **CLIMATE**: IPAMS's Solich makes the case for including natural gas in

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Greenwire is written and produced by the staff of E&E Publishing, LLC. The one-stop source for those who need to stay on top of all of today's major energy and environmental action with an average of more than 20 stories a day, Greenwire covers the complete spectrum, from electricity industry restructuring to Clean Air Act litigation to public lands management. Greenwire publishes daily at Noon.

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01268-EPA-3585

**Richard Windsor/DC/USEPA/US**  
03/04/2010 01:49 PM

To Arvin Ganesan  
cc  
bcc

Subject Re: March 4 -- Greenwire is ready

Yup

---

**From:** Arvin Ganesan  
**Sent:** 03/04/2010 01:06 PM EST  
**To:** Richard Windsor; Diane Thompson  
**Cc:** "David McIntosh" <mcintosh.david@epa.gov>  
**Subject:** Fw: March 4 -- Greenwire is ready

(b)(5) Deliberative


Thx.

A

Sent from my Blackberry Wireless Device

---

**From:** "E&E Publishing, LLC" [ealerts@eenews.net]  
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**To:** Arvin Ganesan  
**Subject:** March 4 -- Greenwire is ready

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01268-EPA-3586

**Bob Sussman/DC/USEPA/US**

To Richard Windsor

03/04/2010 03:38 PM

cc Seth Oster

bcc

Subject [REDACTED] (b)(5) Deliberative

**(b)(5) Deliberative**

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 03/04/2010 03:38 PM -----

From: Adora Andy/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Gregory Peck/DC/USEPA/US@EPA  
Cc: Betsaida Alcantara/DC/USEPA/US@EPA  
Date: 03/04/2010 10:10 AM  
Subject: [REDACTED] (b)(5) Deliberative

---

**(b)(5) Deliberative**

----- Forwarded by Adora Andy/DC/USEPA/US on 03/04/2010 10:09 AM -----

From: "Ken Ward Jr." <kward@wvgazette.com>  
To: Adora Andy/DC/USEPA/US@EPA  
Date: 03/04/2010 10:02 AM  
Subject: Comment on mining plans?

---

Adora,

Hey, I hope you are well ... I'm writing to try to get someone from EPA who will talk to me on the record today for a story I'm working on about EPA's plans to announce (perhaps as early as March 10 -- but apparently it's been delayed) it's plan for providing mining operators with some "certainty" about what standards they need to meet to get Clean Water Act permits for surface mines in Appalachia.

See below an email that was provided to me that outlines what EPA Region IV has told at least one mining state is going to be in EPA's plan.

I understand that the March 10 announcement has been delayed so EPA can brief other federal agencies on it, but that the announcement had been timed to coincide with an announcement about the Spruce Mine -- action on which is due very soon by EPA under the federal litigation over that permit.

I also understand that part of this e-mail has some of the details wrong ... For example, the correct figures for action regarding conductivity are 300 and 500, not 400 and 500 -- based on the findings of the new EPA ORD study that has yet to be released, but which is months overdue.

As you can imagine this is a competitive situation. We have enough now

for the story we're going to do, but I certainly want to talk to someone from EPA. But I would need to do that today.

Thanks, Ken.

From: Greg Conrad [mailto:gconrad@imcc.isa.us]  
Sent: Friday, February 12, 2010 10:36 AM  
To: Lambert, Butch; paul.schmierbach@tn.gov  
Subject: EPA Region IV Actions

Butch and Paul:

I heard via Randy Johnson of Alabama that EPA Region IV has decided to move ahead with the following initiatives re coal mine permits.

- 1) RP analysis must include narrative WQ standards
- 2) Background data collected under federal/state mining requirements must be used in RPs
- 3) Water quality-based effluent limits to achieve narrative WQ standards must be included in permits
- 4) Permits must include chronic/acute WET requirements, whichever is appropriate based on the discharge
- 5) Offsets must be obtained for new discharges to impaired waters
- 6) Enhanced BMPs must be included in the permit
- 7) Effluent and instream monitoring must be included in the permit
  - in-stream trigger for additional BMPs and increased monitoring frequency is >400 conductivity
  - in-stream triggers for reduction of acreage or cease mining is >500 conductivity for 2 QTRs
- 8) Imposing a discharge limit for Selenium (unknown)
- 9) Blocking any CWA 404 Nationwide 21 permits for coal mining activities in any state.

Are you familiar with any of this? Randy thinks we need to schedule a conference call in the very near future to talk this over with all the states. Your thoughts?

Thanks,

Greg

Gregory E. Conrad  
Executive Director  
Interstate Mining Compact Commission  
445A Carlisle Drive  
Herndon, VA 20170  
Ph: 703.709.8654  
Fax: 703.709.8655  
Email: gconrad@imcc.isa.us  
Website: www.imcc.isa.us

Ken Ward Jr.  
Staff Writer  
The Charleston Gazette  
1001 Virginia St., East  
Charleston, W.Va. 25301  
(304) 348-1702  
Fax: (304) 348-1233

<http://wvgazette.com> or <http://wvgazette.com/News/Mining+the+Mountains>

Read my blog, Coal Tattoo at <http://blogs.wvgazette.com/coalattoo/> and follow me on Twitter, <http://twitter.com/Kenwardjr>  
And check out Sustained Outrage, a Gazette watchdog journalism blog, <http://blogs.wvgazette.com/watchdog/>

01268-EPA-3587

**Richard Windsor/DC/USEPA/US**  
03/04/2010 03:47 PM

To Bob Sussman  
cc Seth Oster  
bcc

Subject [REDACTED] (b)(5) Deliberative

[REDACTED] (b)(5) Deliberative

[REDACTED]

[REDACTED]  
Bob Sussman

----- Original Message -----

**From:** Bob Sussman  
**Sent:** 03/04/2010 03:38 PM EST  
**To:** Richard Windsor  
**Cc:** Seth Oster  
**Subject:** [REDACTED] (b)(5) Deliberative

[REDACTED] (b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency  
----- Forwarded by Bob Sussman/DC/USEPA/US on 03/04/2010 03:38 PM -----

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To: Seth Oster/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Gregory Peck/DC/USEPA/US@EPA  
Cc: Betsaida Alcantara/DC/USEPA/US@EPA  
Date: 03/04/2010 10:10 AM  
Subject: [REDACTED] (b)(5) Deliberative

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Fax: 703.709.8655  
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And check out Sustained Outrage, a Gazette watchdog journalism blog, <http://blogs.wvgazette.com/watchdog/>



01268-EPA-3588

**Bob Sussman/DC/USEPA/US**

To Richard Windsor

03/04/2010 03:48 PM

cc Seth Oster

bcc

Subject (b)(5) Deliberative

am e-mailing you now.

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Richard Windsor

(b)(5) Deliberative

03/04/2010 03:47:28 PM

From: Richard Windsor/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA  
Cc: Seth Oster/DC/USEPA/US@EPA  
Date: 03/04/2010 03:47 PM  
Subject: (b)(5) Deliberative

(b)(5) Deliberative

Bob Sussman

----- Original Message -----

**From:** Bob Sussman  
**Sent:** 03/04/2010 03:38 PM EST  
**To:** Richard Windsor  
**Cc:** Seth Oster  
**Subject:** (b)(5) Deliberative

(b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 03/04/2010 03:38 PM -----

From: Adora Andy/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Gregory Peck/DC/USEPA/US@EPA  
Cc: Betsaida Alcantara/DC/USEPA/US@EPA  
Date: 03/04/2010 10:10 AM  
Subject: (b)(5) Deliberative

(b)(5) Deliberative

----- Forwarded by Adora Andy/DC/USEPA/US on 03/04/2010 10:09 AM -----

From: "Ken Ward Jr." <kward@wv Gazette.com>  
To: Adora Andy/DC/USEPA/US@EPA  
Date: 03/04/2010 10:02 AM  
Subject: Comment on mining plans?

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Adora,

Hey, I hope you are well ... I'm writing to try to get someone from EPA who will talk to me on the record today for a story I'm working on about EPA's plans to announce (perhaps as early as March 10 -- but apparently it's been delayed) it's plan for providing mining operators with some "certainty" about what standards they need to meet to get Clean Water Act permits for surface mines in Appalachia.

See below an email that was provided to me that outlines what EPA Region IV has told at least one mining state is going to be in EPA's plan.

I understand that the March 10 announcement has been delayed so EPA can brief other federal agencies on it, but that the announcement had been timed to coincide with an announcement about the Spruce Mine -- action on which is due very soon by EPA under the federal litigation over that permit.

I also understand that part of this e-mail has some of the details wrong ... For example, the correct figures for action regarding conductivity are 300 and 500, not 400 and 500 -- based on the findings of the new EPA ORD study that has yet to be released, but which is months overdue.

As you can imagine this is a competitive situation. We have enough now for the story we're going to do, but I certainly want to talk to someone from EPA. But I would need to do that today.

Thanks, Ken.

From: Greg Conrad [mailto:gconrad@imcc.isa.us]  
Sent: Friday, February 12, 2010 10:36 AM  
To: Lambert, Butch; paul.schmierbach@tn.gov  
Subject: EPA Region IV Actions

Butch and Paul:

I heard via Randy Johnson of Alabama that EPA Region IV has decided to move ahead with the following initiatives re coal mine permits.

- 1) RP analysis must include narrative WQ standards
- 2) Background data collected under federal/state mining requirements must be used in RPs

- 3) Water quality-based effluent limits to achieve narrative WQ standards must be included in permits
- 4) Permits must include chronic/acute WET requirements, whichever is appropriate based on the discharge
- 5) Offsets must be obtained for new discharges to impaired waters
- 6) Enhanced BMPs must be included in the permit
- 7) Effluent and instream monitoring must be included in the permit
  - in-stream trigger for additional BMPs and increased monitoring frequency is >400 conductivity
  - in-stream triggers for reduction of acreage or cease mining is >500 conductivity for 2 QTRs
- 8) Imposing a discharge limit for Selenium (unknown)
- 9) Blocking any CWA 404 Nationwide 21 permits for coal mining activities in any state.

Are you familiar with any of this? Randy thinks we need to schedule a conference call in the very near future to talk this over with all the states. Your thoughts?

Thanks,

Greg

Gregory E. Conrad  
Executive Director  
Interstate Mining Compact Commission  
445A Carlisle Drive  
Herndon, VA 20170  
Ph: 703.709.8654  
Fax: 703.709.8655  
Email: gconrad@imcc.isa.us  
Website: www.imcc.isa.us

Ken Ward Jr.  
Staff Writer

The Charleston Gazette  
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<http://wvgazette.com> or <http://wvgazette.com/News/Mining+the+Mountains>

Read my blog, Coal Tattoo at <http://blogs.wvgazette.com/coaltattoo/> and  
follow me on Twitter, <http://twitter.com/Kenwardjr>  
And check out Sustained Outrage, a Gazette watchdog journalism blog,  
<http://blogs.wvgazette.com/watchdog/>

01268-EPA-3589

**David  
McIntosh/DC/USEPA/US**  
03/04/2010 05:25 PM

To Arvin Ganesan, Richard Windsor  
cc  
bcc

Subject Senator Byrd statement on Rockefeller bill

No, I hadn't seen that. Senator Byrd's office continues to astound. God, they're terrific. Administrator, FYI.

Arvin Ganesan

[See this?](#)

03/04/2010 05:23:05 PM

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From: Arvin Ganesan/DC/USEPA/US  
To: "David McIntosh" <mcintosh.david@epa.gov>  
Date: 03/04/2010 05:23 PM  
Subject: Fw: FYI

---

See this?

Sent from my Blackberry Wireless Device

----- Original Message -----

From: "Jacobs, Jesse (Byrd)" [Jesse\_Jacobs@byrd.senate.gov]  
Sent: 03/04/2010 05:16 PM EST  
To: Arvin Ganesan  
Subject: FYI

STATEMENT OF SENATOR ROBERT C. BYRD, D-W.Va.  
March 4, 2010

"I do not plan to cosponsor Senator Rockefeller's legislation at this time. I was encouraged by the response last week from EPA Administrator Lisa Jackson to a letter that I signed along with other Senators that would delay into next year the application of stronger standards regarding increased efficiency or reduced pollution at large power plants and factories. Following up on my previous conversations with her in my office, I take her at her word."

"In addition, as I have pointed out in my op-ed of December 3, 2009 entitled 'Coal Must Embrace the Future,' West Virginia needs to have a seat at the negotiating table. I am continuing to have significant discussions about how to ensure the future of coal as a long-term energy resource. I am reluctant to give up on talks that might produce benefits for West Virginia's coal interests by seeming to turn away from on-going negotiations. I will continue to negotiate with all who are earnestly engaged in the pursuit of a proper balance between saving jobs, protecting the environment and ensuring the health of our communities."

###

01268-EPA-3591

**Mathy  
Stanislaus/DC/USEPA/US**

03/04/2010 06:31 PM

To Richard Windsor, Bob Sussman, Bob Perciasepe, Lisa  
Heinzerling

cc

bcc

Subject Meeting with Coal Ash Association regarding: beneficial use

Below is a detailed description of the meeting I had yesterday with the Coal Ash Association regarding beneficial use. [REDACTED] (b)(5) Deliberative

On March 3, 2010, a meeting was held between EPA and certain companies that beneficially use coal combustion residuals (CCRs), as well as the American Coal Ash Association (ACAA). Present at the meeting were: Mathy Stanislaus, Assistant Administrator for the Office of Solid Waste and Emergency Response (OSWER), Barry Breen, Deputy Assistant Administrator of OSWER, Matt Straus, OSWER, David Cohen and Stephanie Owens from EPA's Public Affairs Office, Thomas Adams from ACAA, Lisa Cooper, PMI Ash Technologies, and Charles Price, PriceLite. This meeting is a followup to a meeting that the beneficial use industry had with the Administrator of EPA in January 2010. The following are a summary of the points raised/discussed at the meeting:

- It was noted that there are many green jobs created by those companies that beneficially use CCRs, many of which are small businesses, and that if one took a narrow view of defining "green jobs" to the use of fly ash in concrete and fluidized gas desulfurization (FGC) sludge in wall board, the industry today has about 4,000 green jobs; the number of green jobs would double in a year to a year and a half if the CCR rule "goes the right way." If one took a more expansive view of "green jobs," the beneficial use industry has about 10,000 to 15,000 green jobs.
- They indicated that they are beginning to see the markets being affected by the uncertainty, and that some of their customers are not willing to use such materials containing CCRs due to the uncertainty; they also noted that their competitors, who use other secondary materials, are claiming that their materials are not hazardous and using that against them. Furthermore, they noted that contracts they have signed, at least in some cases, includes clauses which suggests that if CCRs are identified as a hazardous

waste, or they may be identified as a hazardous waste, that that may be reason to cancel the contract.

- EPA representatives noted that EPA strongly supports the sound beneficial use of CCRs and that based on increased costs alone, the amount of CCRs that are beneficially used should increase and that the Agency does not see what this "stigma" issue is based on.
- It was noted that they see the utility industry moving away from the use of impoundments, and indicated that from what they have seen, the utility industry (or most of the industry) will not be using this method of management in about 10 years. They also noted that new landfills are being built with composite liners (and they pointed to the new Maryland regulations as a model) and thus, the industry is moving in the right direction. (It was noted by EPA representatives that this may be the case for new units, but still much of the CCRs are managed in unlined units and will continue to be used in the future.)
- The beneficial use industry has looked at a number of approaches for regulation of CCRs, such as contingent management (identify CCRs as non-hazardous and give the states some amount of time to adopt the regulations, such as two years, and if they do not adopt them, regulate CCRs under the hazardous waste provisions), retain the Bevill waste for CCRs, and indicate that CCRs that are beneficially used are not "solid wastes," and a listing scheme where CCRs are given a different label. Based on discussions with standards setting organizations and an attorney they hired who is expert in RCRA, they believe the solution is subtitle D of RCRA. They indicated that they were told, particularly by the standard setting organizations, that if CCRs had the label or was regulated under subtitle C of RCRA, it would have a severe impact on the beneficial use of CCRs. The primary reasons they provided were: (1) legal liability and (2) if managed as a hazardous waste will be considered a hazardous waste no matter what it is called. They also identified other issues, but they appeared to be secondary.
- EPA representatives asked if the CCRs were not called hazardous waste, but were labeled differently, whether that would have an impact; they indicated that they were told no. The fact that there are subject to subtitle C regulation would be enough to impact the beneficial use of CCRs.
- EPA representatives then noted that the record is fairly clear that the mismanagement of CCRs does present a risk, and that even under a subtitle D

scheme, if that is the approach that is considered, the regulations would be tight and the Agency would need to indicate that these wastes present a risk, based on the risk assessment, the damage cases, etc (and not that they are non-hazardous) and whether that would impact the beneficial use of CCRs. They said that they would support tight regulation, and indicated that they were informed by the standard setting organizations that if it would not be considered or labeled or managed as a hazardous waste, it would be seen differently.

- They did indicate that they believe that federal oversight of the management of CCRs is important, and that if CCRs were subject to the same management scheme as municipal solid waste, wouldn't that be protective and wanted to know if EPA would support subtitle D if the RCRA was amended. We indicated that we were not prepared nor was it appropriate to discuss legislation.
- They did suggest that they believed that they were caught in the middle of the dialogue and suggested that EPA sit down with the standard setting organizations, such as ACI, ASTM International, and AASHTO and have the dialogue with them.
- It was also noted that the sister organization to ACAA in other countries were asked how such a designation would impact the beneficial use of CCRs in their countries, and that once that information is obtained, that they would provide it to EPA.

Mathy Stanislaus  
USEPA Assistant Administrator  
Office of Solid Waste & Emergency Response

01268-EPA-3592

Bob Sussman/DC/USEPA/US

To Mathy Stanislaus

03/04/2010 07:25 PM

cc Bob Perciasepe, Lisa Heinzerling, Richard Windsor

bcc

Subject Re: Meeting with Coal Ash Association regarding: beneficial use

(b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Mathy Stanislaus

[Below is a detailed description of the...](#)

03/04/2010 06:31:44 PM

From: Mathy Stanislaus/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA  
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- EPA representatives noted that EPA strongly supports the sound beneficial use of CCRs and that based on increased costs alone, the amount of CCRs that are beneficially used should increase and that the Agency does not see what this "stigma" issue is based on.
- It was noted that they see the utility industry moving away from the use of impoundments, and indicated that from what they have seen, the utility industry (or most of the industry) will not be using this method of management in about 10 years. They also noted that new landfills are being built with composite liners (and they pointed to the new Maryland regulations as a model) and thus, the industry is moving in the right direction. (It was noted by EPA representatives that this may be the case for new units, but still much of the CCRs are managed in unlined units and will continue to be used in the future.)
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Mathy Stanislaus  
USEPA Assistant Administrator  
Office of Solid Waste & Emergency Response

01268-EPA-3593

**Bob Perciasepe/DC/USEPA/US**  
03/04/2010 09:07 PM

To Bob Sussman  
cc Lisa Heinzerling, Mathy Stanislaus, Richard Windsor  
bcc  
Subject Re: Meeting with Coal Ash Association regarding: beneficial use

(b)(5) Deliberative  
[Redacted]

Bob Perciasepe  
Deputy Administrator

(o) +1 202 564 4711  
(c) +1 (b)(6) Privacy

Bob Sussman (b)(5) Deliberative 03/04/2010 07:25:50 PM

From: Bob Sussman/DC/USEPA/US  
To: Mathy Stanislaus/DC/USEPA/US@EPA  
Cc: Bob Perciasepe/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA  
Date: 03/04/2010 07:25 PM  
Subject: Re: Meeting with Coal Ash Association regarding: beneficial use

(b)(5) Deliberative  
[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

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Mathy Stanislaus  
USEPA Assistant Administrator  
Office of Solid Waste & Emergency Response

01268-EPA-3594

Gina McCarthy/DC/USEPA/US

To "Richard Windsor"

cc

03/04/2010 09:48 PM

bcc

Subject Fw: NYT: Lawmakers From Coal States Seek to Delay  
Emission Limits

(b)(5) Deliberative

Adora Andy

----- Original Message -----

**From:** Adora Andy**Sent:** 03/04/2010 09:39 PM EST**To:** "Richard Windsor" <windsor.richard@epa.gov>; "Bob Sussman" <sussman.bob@epa.gov>; Bob Perciasepe; Diane Thompson; David McIntosh; "Arvin Ganesan" <ganesan.arvin@epa.gov>; Gina McCarthy; "Seth Oster" <oster.seth@epa.gov>; "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>**Cc:** "Betsaida Alcantara" <alcantara.betsaida@epa.gov>; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; Michael Moats; Alisha Johnson; Stephanie Owens**Subject:** NYT: Lawmakers From Coal States Seek to Delay Emission Limits  
Lawmakers From Coal States Seek to Delay Emission Limits

By JOHN M. BRODER

Published: March 05, 2010

WASHINGTON - Coal-country lawmakers moved Thursday to impose a two-year moratorium on potential federal regulation of carbon dioxide and other climate-altering gases.

Senator John D. Rockefeller IV, Democrat of West Virginia, said the Environmental Protection Agency should refrain from issuing any new rules on greenhouse gas emissions from power plants and other major stationary sources for two years to allow Congress to pass comprehensive legislation on energy and climate change.

Representatives Alan B. Mollohan and Nick J. Rahall II of West Virginia and Rick Boucher of Virginia, also Democrats, introduced a similar bill in the House.

The moves are the latest effort by members of both parties in Congress to slow or halt carbon regulation by the administration. Separate bills are before both houses that would essentially prevent the E.P.A. from issuing any greenhouse gas regulations.

Lisa P. Jackson, the agency's administrator, wrote Mr. Rockefeller and seven other Democratic senators last week outlining her timetable for such regulation. She said that limits on carbon dioxide pollution from vehicles would be issued this year under an agreement negotiated last year with major automakers.

Limits for large coal-burning power plants and industrial facilities would be phased in beginning in 2011, with no restrictions on smaller sources until 2016.

But that timetable is apparently too fast for Mr. Rockefeller and other representatives of coal-producing regions.

"This is a positive change and good progress," Mr. Rockefeller said, referring to Ms. Jackson's timetable, "but I am concerned it may not be enough time. We must set this delay in stone and give Congress enough time to consider a comprehensive energy bill to develop the clean coal technologies we need."

He added that decisions with such a broad impact on the nation's economy and energy future should be made by elected representatives, not bureaucrats.

The E.P.A. said it was studying the Rockefeller proposal but that it was not as dismaying as the measure introduced by Senator Lisa Murkowski, Republican of Alaska, and several others that would ban any regulation of carbon dioxide, including emissions from vehicles.

"It is important to note that Senator Rockefeller's bill, unlike Senator Murkowski's resolution, does not attempt to overturn or deny the scientific fact that unchecked greenhouse gas pollution threatens the well-being of the American people," said Adora Andy, an E.P.A. spokeswoman, "nor would it threaten the historic clean cars program announced by the Obama administration last year."

The agency's proposed regulations are opposed not only by coal companies and their customers but also by a wide range of American industries that fear that new rules will impose huge costs and make it difficult for American manufacturers to compete with goods from countries without carbon dioxide limits.

Environmental groups generally support the prospect of E.P.A. regulation as a prod to Congress to impose carbon restrictions across the economy. Several issued statements opposing Mr. Rockefeller's measure.

01268-EPA-3595

**Richard Windsor/DC/USEPA/US**  
03/04/2010 10:33 PM

To Gina McCarthy  
cc  
bcc

Subject Re: NYT: Lawmakers From Coal States Seek to Delay Emission Limits

(b)(5) Deliberative

Gina McCarthy

----- Original Message -----

**From:** Gina McCarthy  
**Sent:** 03/04/2010 09:48 PM EST  
**To:** Richard Windsor  
**Subject:** Fw: NYT: Lawmakers From Coal States Seek to Delay Emission Limits

(b)(5) Deliberative

Adora Andy

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**Cc:** "Betsaida Alcantara" <alcantara.betsaida@epa.gov>; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; Michael Moats; Alisha Johnson; Stephanie Owens  
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The E.P.A. said it was studying the Rockefeller proposal but that it was not as dismaying as the measure introduced by Senator Lisa Murkowski, Republican of Alaska, and several others that would ban any regulation of carbon dioxide, including emissions from vehicles.

"It is important to note that Senator Rockefeller's bill, unlike Senator Murkowski's resolution, does not attempt to overturn or deny the scientific fact that unchecked greenhouse gas pollution threatens the well-being of the American people," said Adora Andy, an E.P.A. spokeswoman, "nor would it threaten the historic clean cars program announced by the Obama administration last year."

The agency's proposed regulations are opposed not only by coal companies and their customers but also by a wide range of American industries that fear that new rules will impose huge costs and make it difficult for American manufacturers to compete with goods from countries without carbon dioxide limits.

Environmental groups generally support the prospect of E.P.A. regulation as a prod to Congress to impose carbon restrictions across the economy. Several issued statements opposing Mr. Rockefeller's measure.

01268-EPA-3596

Gina McCarthy/DC/USEPA/US

To Richard Windsor

03/05/2010 08:18 AM

cc

bcc

Subject Re: NYT: Lawmakers From Coal States Seek to Delay Emission Limits

(b)(5) Deliberative

Richard Windsor

----- Original Message -----

From: Richard Windsor

Sent: 03/04/2010 10:33 PM EST

To: Gina McCarthy

Subject: Re: NYT: Lawmakers From Coal States Seek to Delay Emission Limits

(b)(5) Deliberative

Gina McCarthy

----- Original Message -----

From: Gina McCarthy

Sent: 03/04/2010 09:48 PM EST

To: Richard Windsor

Subject: Fw: NYT: Lawmakers From Coal States Seek to Delay Emission Limits

(b)(5) Deliberative

Adora Andy

----- Original Message -----

From: Adora Andy

Sent: 03/04/2010 09:39 PM EST

To: "Richard Windsor" <windsor.richard@epa.gov>; "Bob Sussman" <sussman.bob@epa.gov>; Bob Perciasepe; Diane Thompson; David McIntosh; "Arvin Ganesan" <ganesan.arvin@epa.gov>; Gina McCarthy; "Seth Oster" <oster.seth@epa.gov>; "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>

Cc: "Betsaida Alcantara" <alcantara.betsaida@epa.gov>; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; Michael Moats; Alisha Johnson; Stephanie Owens

Subject: NYT: Lawmakers From Coal States Seek to Delay Emission Limits  
Lawmakers From Coal States Seek to Delay Emission Limits

By JOHN M. BRODER

Published: March 05, 2010

WASHINGTON - Coal-country lawmakers moved Thursday to impose a two-year moratorium on potential federal regulation of carbon dioxide and other climate-altering gases.

Senator John D. Rockefeller IV, Democrat of West Virginia, said the Environmental Protection Agency should refrain from issuing any new rules on greenhouse gas emissions from power plants and other major stationary sources for two years to allow Congress to pass comprehensive legislation on energy and climate change.

Representatives Alan B. Mollohan and Nick J. Rahall II of West Virginia and Rick Boucher of Virginia, also Democrats, introduced a similar bill in the House.

The moves are the latest effort by members of both parties in Congress to slow or halt carbon regulation

by the administration. Separate bills are before both houses that would essentially prevent the E.P.A. from issuing any greenhouse gas regulations.

Lisa P. Jackson, the agency's administrator, wrote Mr. Rockefeller and seven other Democratic senators last week outlining her timetable for such regulation. She said that limits on carbon dioxide pollution from vehicles would be issued this year under an agreement negotiated last year with major automakers.

Limits for large coal-burning power plants and industrial facilities would be phased in beginning in 2011, with no restrictions on smaller sources until 2016.

But that timetable is apparently too fast for Mr. Rockefeller and other representatives of coal-producing regions.

"This is a positive change and good progress," Mr. Rockefeller said, referring to Ms. Jackson's timetable, "but I am concerned it may not be enough time. We must set this delay in stone and give Congress enough time to consider a comprehensive energy bill to develop the clean coal technologies we need."

He added that decisions with such a broad impact on the nation's economy and energy future should be made by elected representatives, not bureaucrats.

The E.P.A. said it was studying the Rockefeller proposal but that it was not as dismaying as the measure introduced by Senator Lisa Murkowski, Republican of Alaska, and several others that would ban any regulation of carbon dioxide, including emissions from vehicles.

"It is important to note that Senator Rockefeller's bill, unlike Senator Murkowski's resolution, does not attempt to overturn or deny the scientific fact that unchecked greenhouse gas pollution threatens the well-being of the American people," said Adora Andy, an E.P.A. spokeswoman, "nor would it threaten the historic clean cars program announced by the Obama administration last year."

The agency's proposed regulations are opposed not only by coal companies and their customers but also by a wide range of American industries that fear that new rules will impose huge costs and make it difficult for American manufacturers to compete with goods from countries without carbon dioxide limits.

Environmental groups generally support the prospect of E.P.A. regulation as a prod to Congress to impose carbon restrictions across the economy. Several issued statements opposing Mr. Rockefeller's measure.

01268-EPA-3597

David  
McIntosh/DC/USEPA/US  
03/05/2010 08:43 AM

To Richard Windsor, Seth Oster  
cc  
bcc

Subject Mike Morris, AEP CEO, on global warming

From the article below:

Pressed further on his view of the link between mankind and warming, Morris said "there's enough data" to justify cutting carbon output and making investments to do so. "There's no issue that the billions of us who are occupying the globe are affecting things," said Morris, adding that he favors setting a price on carbon to send consistent signals to industry. "Let's do it. If we're wrong, we've made the world better. I think it's the right thing to do."

(b)(5) Deliberative

## **CARBON STORAGE: AEP chief wants to expand sequestration project in W.Va. (Friday, March 5, 2010)**

Colin Sullivan, E&E reporter

SANTA BARBARA, Calif. -- A carbon capture and sequestration project started in West Virginia last year is working and ready to be ramped up to a level that would pump significant levels of carbon into formations several miles below the Earth's surface, said the chief executive of American Electric Power Co. Inc.

AEP CEO Mike Morris, who presides over the largest utility emitter of greenhouse gases in the United States, today said a pilot project at the company's 1,300-megawatt Mountaineer power plant started in October has successfully captured 90 percent of the carbon from a 20-megawatt portion of the plant's exhaust.

"It's working really quite nicely," said Morris during a conference here sponsored by *The Wall Street Journal*, adding that he believes the project can be scaled up to 240 megawatts by 2013 or 2014.

The CCS project was started last October at the plant near New Haven, W.Va., in an attempt to demonstrate the feasibility of capturing carbon from a coal-fired generation facility. Ohio-based AEP owns and operates more coal-fired plants than any other U.S. utility.

The captured CO<sub>2</sub> from the 20-megawatt "slipstream" portion of the facility's flue gas exhaust, which amounts to less than 2 percent of the power plant's total emissions, has been compressed and piped for storage into geologic formations

about 1.5 miles below the Earth's surface.

Looking forward, Morris said the utility plans to inject more CO<sub>2</sub> from the plant and is looking at a \$660 million project, half of which will be funded by the Energy Department. Such an expansion would step beyond the relatively small 20-megawatt experiment to store CO<sub>2</sub> from 200 to 240 megawatts at the same facility.

Still, the executive said CCS technology faces a number of ancillary challenges, among them legal questions about liability if something goes wrong and "not in my backyard" jurisdictional fights stemming from local opposition to hosting the buried emissions. He also fears real estate prices related to subsurface property rights could escalate to "some outlandish numbers" when and if speculators realize there is money to be made.

Morris said he would favor legislation similar to the Price-Anderson nuclear liability law that would protect CCS projects in the event of a major catastrophe, like an earthquake, that could lead to leakage. Such a measure would cover property damage associated with an accident but not the power plant itself, he said, much like Price-Anderson insures damage from a nuclear power incident. Price-Anderson caps the liability of nuclear utilities in a major accident and shifts it to the federal government.

### **Morris on IPCC controversy**

AEP's chief was also asked to address a raging controversy over climate science at the U.N. Intergovernmental Panel on Climate Change, whose conclusions on global warming have been challenged in light of revealed factual errors and e-mails that some say prove the body tried to suppress data that contradicted its findings.

Morris said he is "pleased" the IPCC and the National Academy of Sciences have decided to take another look at the hard data, but he urged lawmakers and other observers to continue pursuing third-party assessments and peer-reviewed reports rather than trusting the same U.N. scientists responsible for the errors.

"I think it's a little silly to have the U.N. people take a look at it," he said. "What conclusion do you think they might come to?"

Pressed further on his view of the link between mankind and warming, Morris said "there's enough data" to justify cutting carbon output and making investments to do so.

"There's no issue that the billions of us who are occupying the globe are affecting things," said Morris, adding that he favors setting a price on carbon to send consistent signals to industry. "Let's do it. If we're wrong, we've made the world

better. I think it's the right thing to do."

Following the comments from Morris (and others who called the IPCC corrupt), David Hawkins, director of the climate center at the Natural Resources Defense Council, said he felt that some in the coal industry have focused on the controversy at their own peril. He asserted that studies commissioned by the George W. Bush administration and a National Academy of Sciences report compiled during President Bush's term have confirmed the IPCC's basic finding that global warming is linked to human consumption of fossil fuels.

"Uncertainty is not the coal industry's friend," Hawkins said.

01268-EPA-3598

**Mathy Stanislaus/DC/USEPA/US**  
03/05/2010 08:54 AM

To Bob Perciasepe  
cc Bob Sussman, Lisa Heinzerling, Richard Windsor  
bcc

Subject Re: Meeting with Coal Ash Association regarding: beneficial use

(b)(5) Deliberative

Mathy Stanislaus  
USEPA Assistant Administrator  
Office of Solid Waste & Emergency Response

Bob Perciasepe (b)(5) Deliberative 03/04/2010 09:07:17 PM

From: Bob Perciasepe/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA  
Cc: Lisa Heinzerling/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA  
Date: 03/04/2010 09:07 PM  
Subject: Re: Meeting with Coal Ash Association regarding: beneficial use

(b)(5) Deliberative

[Redacted]

[Redacted]

Bob Perciasepe  
Deputy Administrator

(o) +1 202 564 4711  
(c) +1 (b)(6) Privacy

Bob Sussman (b)(5) Deliberative 03/04/2010 07:25:50 PM

From: Bob Sussman/DC/USEPA/US  
To: Mathy Stanislaus/DC/USEPA/US@EPA  
Cc: Bob Perciasepe/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA  
Date: 03/04/2010 07:25 PM  
Subject: Re: Meeting with Coal Ash Association regarding: beneficial use

(b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Mathy Stanislaus

[Below is a detailed description of the...](#)

03/04/2010 06:31:44 PM

From: Mathy Stanislaus/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA  
Date: 03/04/2010 06:31 PM  
Subject: Meeting with Coal Ash Association regarding: beneficial use

---

Below is a detailed description of the meeting I had yesterday with the Coal Ash Association regarding beneficial use. (b)(5) Deliberative

On March 3, 2010, a meeting was held between EPA and certain companies that beneficially use coal combustion residuals (CCRs), as well as the American Coal Ash Association (ACAA). Present at the meeting were: Mathy Stanislaus, Assistant Administrator for the Office of Solid Waste and Emergency Response (OSWER), Barry Breen, Deputy Assistant Administrator of OSWER, Matt Straus, OSWER, David Cohen and Stephanie Owens from EPA's Public Affairs Office, Thomas Adams from ACAA, Lisa Cooper, PMI Ash Technologies, and Charles Price, PriceLite. This meeting is a followup to a meeting that the beneficial use industry had with the Administrator of EPA in January 2010. The following are a summary of the points raised/discussed at the meeting:

- It was noted that there are many green jobs created by those companies that beneficially use CCRs, many of which are small businesses, and that if one took a narrow view of defining "green jobs" to the use of fly ash in concrete and fluidized gas desulfurization (FGC) sludge in wall board, the industry today has about 4,000 green jobs; the number of green jobs would double in a year to a year and a half if the CCR rule "goes the right way." If one took a more expansive view of "green jobs," the beneficial use industry has about 10,000 to 15,000 green jobs.
- They indicated that they are beginning to see the markets being affected by the uncertainty, and that some of their customers are not willing to use such materials containing CCRs due to the uncertainty; they also noted that their competitors, who use other secondary materials, are claiming that their materials are not hazardous and using that against them. Furthermore, they noted that contracts they have signed, at least in some cases, includes clauses which suggests that if CCRs are identified as a hazardous

waste, or they may be identified as a hazardous waste, that that may be reason to cancel the contract.

- EPA representatives noted that EPA strongly supports the sound beneficial use of CCRs and that based on increased costs alone, the amount of CCRs that are beneficially used should increase and that the Agency does not see what this "stigma" issue is based on.
- It was noted that they see the utility industry moving away from the use of impoundments, and indicated that from what they have seen, the utility industry (or most of the industry) will not be using this method of management in about 10 years. They also noted that new landfills are being built with composite liners (and they pointed to the new Maryland regulations as a model) and thus, the industry is moving in the right direction. (It was noted by EPA representatives that this may be the case for new units, but still much of the CCRs are managed in unlined units and will continue to be used in the future.)
- The beneficial use industry has looked at a number of approaches for regulation of CCRs, such as contingent management (identify CCRs as non-hazardous and give the states some amount of time to adopt the regulations, such as two years, and if they do not adopt them, regulate CCRs under the hazardous waste provisions), retain the Bevill waste for CCRs, and indicate that CCRs that are beneficially used are not "solid wastes," and a listing scheme where CCRs are given a different label. Based on discussions with standards setting organizations and an attorney they hired who is expert in RCRA, they believe the solution is subtitle D of RCRA. They indicated that they were told, particularly by the standard setting organizations, that if CCRs had the label or was regulated under subtitle C of RCRA, it would have a severe impact on the beneficial use of CCRs. The primary reasons they provided were: (1) legal liability and (2) if managed as a hazardous waste will be considered a hazardous waste no matter what it is called. They also identified other issues, but they appeared to be secondary.
- EPA representatives asked if the CCRs were not called hazardous waste, but were labeled differently, whether that would have an impact; they indicated that they were told no. The fact that there are subject to subtitle C regulation would be enough to impact the beneficial use of CCRs.
- EPA representatives then noted that the record is fairly clear that the mismanagement of CCRs does present a risk, and that even under a subtitle D

scheme, if that is the approach that is considered, the regulations would be tight and the Agency would need to indicate that these wastes present a risk, based on the risk assessment, the damage cases, etc (and not that they are non-hazardous) and whether that would impact the beneficial use of CCRs. They said that they would support tight regulation, and indicated that they were informed by the standard setting organizations that if it would not be considered or labeled or managed as a hazardous waste, it would be seen differently.

- They did indicate that they believe that federal oversight of the management of CCRs is important, and that if CCRs were subject to the same management scheme as municipal solid waste, wouldn't that be protective and wanted to know if EPA would support subtitle D if the RCRA was amended. We indicated that we were not prepared nor was it appropriate to discuss legislation.
- They did suggest that they believed that they were caught in the middle of the dialogue and suggested that EPA sit down with the standard setting organizations, such as ACI, ASTM International, and AASHTO and have the dialogue with them.
- It was also noted that the sister organization to ACAA in other countries were asked how such a designation would impact the beneficial use of CCRs in their countries, and that once that information is obtained, that they would provide it to EPA.

Mathy Stanislaus  
USEPA Assistant Administrator  
Office of Solid Waste & Emergency Response

01268-EPA-3599

**Richard Windsor/DC/USEPA/US**  
03/05/2010 04:52 PM

To Diane Thompson  
cc  
bcc  
Subject Re: AD appointment

(b)(5) Deliberative

Diane Thompson

----- Original Message -----

**From:** Diane Thompson  
**Sent:** 03/05/2010 03:24 PM EST  
**To:** Richard Windsor  
**Subject:** Fw: AD appointment

(b)(5) Deliberative

\*\*\*\*\*

Diane E. Thompson  
Chief of Staff  
U. S. Environmental Protection Agency  
202-564-6999

----- Forwarded by Diane Thompson/DC/USEPA/US on 03/05/2010 03:21 PM -----

From: Al Armendariz/R6/USEPA/US  
To: Daniel Kanninen/DC/USEPA/US@EPA  
Cc: Diane Thompson/DC/USEPA/US@EPA  
Date: 03/05/2010 12:40 PM  
Subject: AD appointment

Hello Dan,

Thanks for the email! (b)(5) Deliberative, (b)(6) Personal

[Redacted content]

(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

Best,

AI

(b)(5) Deliberative, (b)(6) Personal

[Redacted]



(b)(5) Deliberative, (b)(6) Personal

[Redacted text block]

(b)(5) Deliberative, (b) [Redacted] "Salary History.doc" deleted by Richard Windsor/DC/USEPA/US]  
CV, 2010.pdf" deleted by Richard Windsor/DC/USEPA/US]

01268-EPA-3600

**Richard Windsor/DC/USEPA/US**  
03/05/2010 04:54 PM

To Adora Andy  
cc Seth Oster, Bob Sussman  
bcc  
Subject Re: DECISION: MTM Quote?

**(b)(5) Deliberative**  
Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 03/05/2010 03:49 PM EST  
**To:** Richard Windsor  
**Cc:** Seth Oster; Bob Sussman  
**Subject:** DECISION: MTM Quote?

Administrator,

**(b)(5) Deliberative**  
[Redacted]

After speaking with Seth, **(b)(5) Deliberative**  
[Redacted]

Thanks,  
Adora

----- Forwarded by Adora Andy/DC/USEPA/US on 03/05/2010 03:17 PM -----

From: "Ken Ward Jr." <kward@wvgazette.com>  
To: Adora Andy/DC/USEPA/US@EPA  
Date: 03/04/2010 10:02 AM  
Subject: Comment on mining plans?

Adora,

Hey, I hope you are well ... I'm writing to try to get someone from EPA who will talk to me on the record today for a story I'm working on about EPA's plans to announce (perhaps as early as March 10 -- but apparently

it's been delayed) it's plan for providing mining operators with some "certainty" about what standards they need to meet to get Clean Water Act permits for surface mines in Appalachia.

See below an email that was provided to me that outlines what EPA Region IV has told at least one mining state is going to be in EPA's plan.

I understand that the March 10 announcement has been delayed so EPA can brief other federal agencies on it, but that the announcement had been timed to coincide with an announcement about the Spruce Mine -- action on which is due very soon by EPA under the federal litigation over that permit.

I also understand that part of this e-mail has some of the details wrong ... For example, the correct figures for action regarding conductivity are 300 and 500, not 400 and 500 -- based on the findings of the new EPA ORD study that has yet to be released, but which is months overdue.

As you can imagine this is a competitive situation. We have enough now for the story we're going to do, but I certainly want to talk to someone from EPA. But I would need to do that today.

Thanks, Ken.

From: Greg Conrad [mailto:gconrad@imcc.isa.us]  
Sent: Friday, February 12, 2010 10:36 AM  
To: Lambert, Butch; paul.schmierbach@tn.gov  
Subject: EPA Region IV Actions

Butch and Paul:

I heard via Randy Johnson of Alabama that EPA Region IV has decided to move ahead with the following initiatives re coal mine permits.

- 1) RP analysis must include narrative WQ standards
- 2) Background data collected under federal/state mining requirements must be used in RPs
- 3) Water quality-based effluent limits to achieve narrative WQ standards must be included in permits
- 4) Permits must include chronic/acute WET requirements, whichever is appropriate based on the discharge
- 5) Offsets must be obtained for new discharges to impaired waters
- 6) Enhanced BMPs must be included in the permit
- 7) Effluent and instream monitoring must be included in the permit
  - in-stream trigger for additional BMPs and increased

monitoring frequency is >400 conductivity

- in-stream triggers for reduction of acreage or cease mining is >500 conductivity for 2 QTRs

8) Imposing a discharge limit for Selenium (unknown)

9) Blocking any CWA 404 Nationwide 21 permits for coal mining activities in any state.

Are you familiar with any of this? Randy thinks we need to schedule a conference call in the very near future to talk this over with all the states. Your thoughts?

Thanks,

Greg

Gregory E. Conrad

Executive Director

Interstate Mining Compact Commission

445A Carlisle Drive

Herndon, VA 20170

Ph: 703.709.8654

Fax: 703.709.8655

Email: gconrad@imcc.isa.us

Website: www.imcc.isa.us

Ken Ward Jr.

Staff Writer

The Charleston Gazette

1001 Virginia St., East

Charleston, W.Va. 25301

(304) 348-1702

Fax: (304) 348-1233

<http://wvgazette.com> or <http://wvgazette.com/News/Mining+the+Mountains>

Read my blog, Coal Tattoo at <http://blogs.wvgazette.com/coalattoo/> and follow me on Twitter, <http://twitter.com/Kenwardjr>

And check out Sustained Outrage, a Gazette watchdog journalism blog, <http://blogs.wvgazette.com/watchdog/>



01268-EPA-3601

**Richard Windsor/DC/USEPA/US**  
03/05/2010 04:58 PM

To Adora Andy  
cc  
bcc

Subject Re: DECISION: MTM Quote?

Just tweeted -

HU students continue to impress! Remember green jobs and a clean planet is what EPA is working 4 - for u!

Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 03/05/2010 04:56 PM EST  
**To:** Richard Windsor  
**Cc:** Bob Sussman; Seth Oster  
**Subject:** Re: DECISION: MTM Quote?

thanks.

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

Richard Windsor

(b)(5) Deliberative

03/05/2010 04:54:07 PM

**From:** Richard Windsor/DC/USEPA/US  
**To:** Adora Andy/DC/USEPA/US@EPA  
**Cc:** Seth Oster/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA  
**Date:** 03/05/2010 04:54 PM  
**Subject:** Re: DECISION: MTM Quote?

(b)(5) Deliberative

Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 03/05/2010 03:49 PM EST  
**To:** Richard Windsor  
**Cc:** Seth Oster; Bob Sussman  
**Subject:** DECISION: MTM Quote?

Administrator,

(b)(5) Deliberative

[Redacted content]

(b)(5) Deliberative

Thanks,  
Adora

----- Forwarded by Adora Andy/DC/USEPA/US on 03/05/2010 03:17 PM -----

From: "Ken Ward Jr." <kward@wvgazette.com>  
To: Adora Andy/DC/USEPA/US@EPA  
Date: 03/04/2010 10:02 AM  
Subject: Comment on mining plans?

---

Adora,

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Sent: Friday, February 12, 2010 10:36 AM  
To: Lambert, Butch; paul.schmierbach@tn.gov  
Subject: EPA Region IV Actions

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- 2) Background data collected under federal/state mining requirements must be used in RPs
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- 7) Effluent and instream monitoring must be included in the permit
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  - in-stream triggers for reduction of acreage or cease mining is >500 conductivity for 2 QTRs
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- 9) Blocking any CWA 404 Nationwide 21 permits for coal mining activities in any state.

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Thanks,

Greg

Gregory E. Conrad

Executive Director

Interstate Mining Compact Commission

445A Carlisle Drive

Herndon, VA 20170

Ph: 703.709.8654

Fax: 703.709.8655

Email: [gconrad@imcc.isa.us](mailto:gconrad@imcc.isa.us)

Website: [www.imcc.isa.us](http://www.imcc.isa.us)

Ken Ward Jr.

Staff Writer

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1001 Virginia St., East

Charleston, W.Va. 25301

(304) 348-1702

Fax: (304) 348-1233

<http://wvgazette.com> or <http://wvgazette.com/News/Mining+the+Mountains>

Read my blog, Coal Tattoo at <http://blogs.wvgazette.com/coalattoo/> and

follow me on Twitter, <http://twitter.com/Kenwardjr>

And check out Sustained Outrage, a Gazette watchdog journalism blog,

<http://blogs.wvgazette.com/watchdog/>

01268-EPA-3603

Richard Windsor/DC/USEPA/US  
03/05/2010 07:36 PM

To Adora Andy  
cc  
bcc

Subject Re: DECISION: MTM Quote?

(b)(5) Deliberative

Adora Andy

----- Original Message -----

From: Adora Andy  
Sent: 03/05/2010 07:35 PM EST  
To: Adora Andy  
Cc: Bob Sussman; Richard Windsor; Seth Oster  
Subject: Re: DECISION: MTM Quote?

(b)(5) Deliberative

Adora Andy (b)(5) Deliberative 03/05/2010 03:49:08 PM

From: Adora Andy/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Seth Oster/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA  
Date: 03/05/2010 03:49 PM  
Subject: DECISION: MTM Quote?

Administrator,

(b)(5) Deliberative  
[Redacted content]

Thanks,  
Adora

----- Forwarded by Adora Andy/DC/USEPA/US on 03/05/2010 03:17 PM -----

From: "Ken Ward Jr." <kward@wvgazette.com>

To: Adora Andy/DC/USEPA/US@EPA  
Date: 03/04/2010 10:02 AM  
Subject: Comment on mining plans?

---

Adora,

Hey, I hope you are well ... I'm writing to try to get someone from EPA who will talk to me on the record today for a story I'm working on about EPA's plans to announce (perhaps as early as March 10 -- but apparently it's been delayed) it's plan for providing mining operators with some "certainty" about what standards they need to meet to get Clean Water Act permits for surface mines in Appalachia.

See below an email that was provided to me that outlines what EPA Region IV has told at least one mining state is going to be in EPA's plan.

I understand that the March 10 announcement has been delayed so EPA can brief other federal agencies on it, but that the announcement had been timed to coincide with an announcement about the Spruce Mine -- action on which is due very soon by EPA under the federal litigation over that permit.

I also understand that part of this e-mail has some of the details wrong ... For example, the correct figures for action regarding conductivity are 300 and 500, not 400 and 500 -- based on the findings of the new EPA ORD study that has yet to be released, but which is months overdue.

As you can imagine this is a competitive situation. We have enough now for the story we're going to do, but I certainly want to talk to someone from EPA. But I would need to do that today.

Thanks, Ken.

From: Greg Conrad [mailto:gconrad@imcc.isa.us]  
Sent: Friday, February 12, 2010 10:36 AM  
To: Lambert, Butch; paul.schmierbach@tn.gov  
Subject: EPA Region IV Actions

Butch and Paul:

I heard via Randy Johnson of Alabama that EPA Region IV has decided to move ahead with the following initiatives re coal mine permits.

- 1) RP analysis must include narrative WQ standards
- 2) Background data collected under federal/state mining requirements must be used in RPs
- 3) Water quality-based effluent limits to achieve narrative WQ standards must be included in permits

- 4) Permits must include chronic/acute WET requirements, whichever is appropriate based on the discharge
- 5) Offsets must be obtained for new discharges to impaired waters
- 6) Enhanced BMPs must be included in the permit
- 7) Effluent and instream monitoring must be included in the permit
  - in-stream trigger for additional BMPs and increased monitoring frequency is >400 conductivity
  - in-stream triggers for reduction of acreage or cease mining is >500 conductivity for 2 QTRs
- 8) Imposing a discharge limit for Selenium (unknown)
- 9) Blocking any CWA 404 Nationwide 21 permits for coal mining activities in any state.

Are you familiar with any of this? Randy thinks we need to schedule a conference call in the very near future to talk this over with all the states. Your thoughts?

Thanks,

Greg

Gregory E. Conrad  
Executive Director  
Interstate Mining Compact Commission  
445A Carlisle Drive  
Herndon, VA 20170  
Ph: 703.709.8654  
Fax: 703.709.8655  
Email: gconrad@imcc.isa.us  
Website: www.imcc.isa.us

Ken Ward Jr.  
Staff Writer  
The Charleston Gazette  
1001 Virginia St., East  
Charleston, W.Va. 25301

(304) 348-1702

Fax: (304) 348-1233

<http://wvgazette.com> or <http://wvgazette.com/News/Mining+the+Mountains>

Read my blog, Coal Tattoo at <http://blogs.wvgazette.com/coaltattoo/> and follow me on Twitter, <http://twitter.com/Kenwardjr>

And check out Sustained Outrage, a Gazette watchdog journalism blog, <http://blogs.wvgazette.com/watchdog/>

01268-EPA-3604

**Bob Sussman/DC/USEPA/US**

03/06/2010 06:10 AM

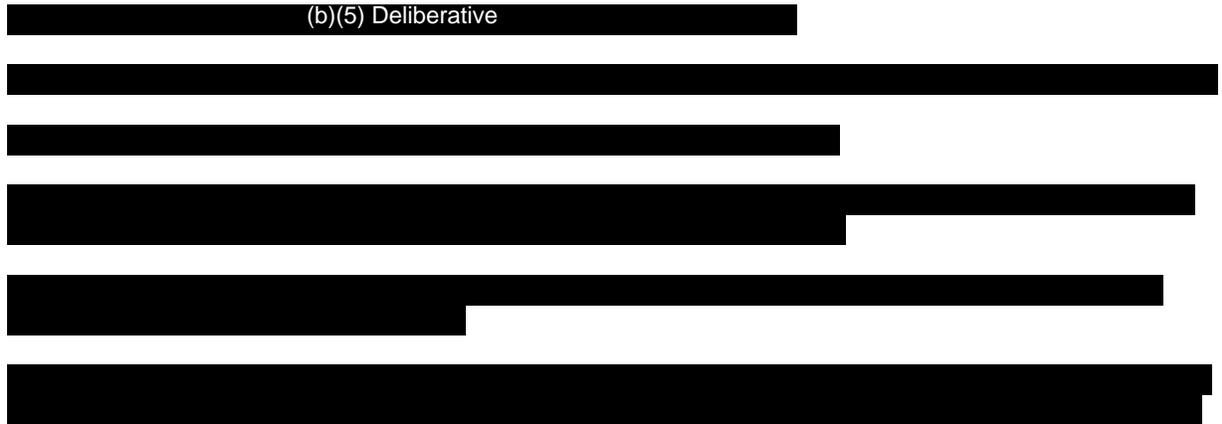
To "Lisa P. Jackson"

cc Perciasepe.Bob, "Lisa Heinzerling", "Seth Oster", "Scott  
Fulton", "Mathy Stanislaus"

bcc

Subject Some good things to remember about CCR

(b)(5) Deliberative



01268-EPA-3605

**Richard Windsor/DC/USEPA/US**  
03/06/2010 06:53 AM

To Bob Sussman  
cc "Scott Fulton", "Lisa Heinzerling", "Seth Oster", Perciasepe.Bob, "Mathy Stanislaus"  
bcc  
Subject Re: Some good things to remember about CCR

**(b)(5) Deliberative**

Bob Sussman

**(b)(5) Deliberative**

03/06/2010 06:10:42 AM

From: Bob Sussman/DC/USEPA/US  
To: "Lisa P. Jackson" <Windsor.Richard@epamail.epa.gov>  
Cc: Perciasepe.Bob@epamail.epa.gov, "Lisa Heinzerling" <Heinzerling.Lisa@epamail.epa.gov>, "Seth Oster" <Oster.Seth@epamail.epa.gov>, "Scott Fulton" <Fulton.Scott@epamail.epa.gov>, "Mathy Stanislaus" <Stanislaus.Mathy@epamail.epa.gov>  
Date: 03/06/2010 06:10 AM  
Subject: Some good things to remember about CCR

---

**(b)(5) Deliberative**

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

01268-EPA-3607

**Richard Windsor/DC/USEPA/US**  
03/06/2010 09:19 AM

To Charles Imohiosen  
cc "Gina McCarthy", "Bob Perciasepe", "Bob Sussman"  
bcc  
Subject Re: Ugh!

its good news.

Charles Imohiosen Mobile-Friendly Display (Disable) D... 03/06/2010 09:16:11 AM

From: Charles Imohiosen/DC/USEPA/US  
To: "Richard Windsor" <Windsor.Richard@epamail.epa.gov>, "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>, "Bob Sussman" <sussman.bob@epa.gov>, "Gina McCarthy" <McCarthy.Gina@epamail.epa.gov>  
Date: 03/06/2010 09:16 AM  
Subject: Ugh!

Mobile-Friendly Display (Disable) Daily Environment Report: All Issues > 2010 > March > 03/08/2010 > News > Energy: Senate Bill Would Provide Rebates, Loans For Commercial Energy Efficiency Upgrades 43 DEN A-11Energy Senate Bill Would Provide Rebates, LoansFor Commercial Energy Efficiency Upgrades Legislation that would provide consumer rebates and low-interest loans to be used for energy efficiency improvement projects in commercial and multifamily residential buildings was introduced in the Senate March 4. The Building STAR Energy Efficiency Act of 2010 (S. 3079), introduced by Sens. Jeff Merkley (D-Ore.) and Mark Pryor (D-Ark.), would authorize \$6 billion in rebates for improvements such as the installation of high-efficiency heating systems and improved insulation. The legislation also would "extend low-interest financing options" to small business and building owners to help cover the up-front costs of energy efficiency building retrofits, according to a statement from Merkley's office. "Buildings represent 40 percent of the energy used in the United States, and many have old equipment that wastes energy and money," Pryor said in a written statement. According to the bill's backers, the legislation would create about 150,000 jobs, would save building owners more than \$3 billion in energy bills, and would reduce "the pollution that contributes to climate change" by 21 million metric tons. "As we take action to put Americans back to work, we need to set our targets on programs that provide the biggest bang for our buck and set our economy up for future growth," Merkley said in a written statement. "Clean energy is not only the next great growth industry, but it's an engine for job creation today." The legislation parallels the Home Star Act of 2010, unveiled as a draft by Sen. Jeff Bingaman (D-N.M.) and other lawmakers, which would create a homeowner energy efficiency rebate program championed by President Obama (41 DEN A-3, 3/4/10). Co-sponsors of the "Building Star" legislation include Sens. Debbie Stabenow (D-Mich.), Sherrod Brown (D-Ohio), Bernie Sanders (I-Vt.), and Ben Cardin (D-Md.) By Ari Natter

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

\*\*\*\*\*

Sent via Blackberry

01268-EPA-3608

**Bob Perciasepe/DC/USEPA/US**  
03/06/2010 10:12 AM

To Richard Windsor, Bob Sussman  
cc Scott Fulton, Lisa Heinzerling, Seth Oster, Mathy Stanislaus  
bcc  
Subject Re: Some good things to remember about CCR

(b)(5) Deliberative

Glass way more than half full !!!!  
Bob Perciasepe  
Office of the Administrator  
(o)202 564 4711  
(c) (b)(6) Privacy  
Richard Windsor

----- Original Message -----

**From:** Richard Windsor  
**Sent:** 03/06/2010 06:53 AM EST  
**To:** Bob Sussman  
**Cc:** Scott Fulton; Lisa Heinzerling; Seth Oster; Bob Perciasepe; Mathy Stanislaus  
**Subject:** Re: Some good things to remember about CCR

(b)(5) Deliberative

Bob Sussman (b)(5) Deliberative 03/06/2010 06:10:42 AM

**From:** Bob Sussman/DC/USEPA/US  
**To:** "Lisa P. Jackson" <Windsor.Richard@epamail.epa.gov>  
**Cc:** Perciasepe.Bob@epamail.epa.gov, "Lisa Heinzerling" <Heinzerling.Lisa@epamail.epa.gov>, "Seth Oster" <Oster.Seth@epamail.epa.gov>, "Scott Fulton" <Fulton.Scott@epamail.epa.gov>, "Mathy Stanislaus" <Stanislaus.Mathy@epamail.epa.gov>  
**Date:** 03/06/2010 06:10 AM  
**Subject:** Some good things to remember about CCR

(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

01268-EPA-3609

Gina McCarthy/DC/USEPA/US

To Richard Windsor, Charles Imohiosen

03/06/2010 12:25 PM

cc Bob Perciasepe, "Bob Sussman", Joseph Goffman

bcc

Subject Re: Ugh!

Agreed.

(b)(5) deliberative

Richard Windsor

----- Original Message -----

**From:** Richard Windsor**Sent:** 03/06/2010 09:19 AM EST**To:** Charles Imohiosen**Cc:** Gina McCarthy; Bob Perciasepe; "Bob Sussman" <sussman.bob@epa.gov>**Subject:** Re: Ugh!

its good news.

Charles Imohiosen

Mobile-Friendly Display (Disable) D...

03/06/2010 09:16:11 AM

**From:** Charles Imohiosen/DC/USEPA/US**To:** "Richard Windsor" <Windsor.Richard@epamail.epa.gov>, "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>, "Bob Sussman" <sussman.bob@epa.gov>, "Gina McCarthy" <McCarthy.Gina@epamail.epa.gov>**Date:** 03/06/2010 09:16 AM**Subject:** Ugh!

Mobile-Friendly Display (Disable) Daily Environment Report: All

Issues > 2010 > March > 03/08/2010 > News > Energy: Senate Bill Would Provide Rebates, Loans For Commercial Energy Efficiency Upgrades 43 DEN A-11 Energy Senate Bill Would Provide Rebates, Loans For Commercial Energy Efficiency Upgrades Legislation that would provide consumer rebates and low-interest loans to be used for energy efficiency improvement projects in commercial and multifamily residential buildings was introduced in the Senate March 4. The Building STAR Energy Efficiency Act of 2010 (S. 3079), introduced by Sens. Jeff Merkley (D-Ore.) and Mark Pryor (D-Ark.), would authorize \$6 billion in rebates for improvements such as the installation of high-efficiency heating systems and improved insulation. The legislation also would "extend low-interest financing options" to small business and building owners to help cover the up-front costs of energy efficiency building retrofits, according to a statement from Merkley's office. "Buildings represent 40 percent of the energy used in the United States, and many have old equipment that wastes energy and money," Pryor said in a written statement. According to the bill's backers, the legislation would create about 150,000 jobs, would save building owners more than \$3 billion in energy bills, and would reduce "the pollution that contributes to climate change" by 21 million metric tons. "As we take action to put Americans back to work, we need to set our targets on programs that provide the biggest bang for our buck and set our economy up for future growth," Merkley said in a written statement. "Clean energy is not only the next great growth industry, but it's an engine for job creation today." The legislation parallels the Home Star Act of 2010, unveiled as a draft by Sen. Jeff Bingaman (D-N.M.) and other lawmakers, which would create a homeowner energy efficiency rebate program championed by President Obama (41 DEN A-3, 3/4/10). Co-sponsors of the "Building Star" legislation include Sens. Debbie Stabenow (D-Mich.), Sherrod Brown (D-Ohio), Bernie Sanders (I-Vt.), and Ben Cardin (D-Md.) By Ari Natter

Charles Imohiosen

Office of the Administrator

US Environmental Protection Agency

1200 Pennsylvania Avenue, N.W.

\*\*\*\*\*

Sent via Blackberry

01268-EPA-3612

Richard Windsor/DC/USEPA/US  
03/07/2010 10:16 AM

To Stan Meiburg  
cc  
bcc

Subject Re: Google Alert - lisa jackson epa

Hey Stan. [Redacted] (b)(5) Deliberative, (b)(6) Privacy [Redacted] Tx.

Stan Meiburg [Redacted] (b)(5) deliberative 03/07/2010 08:29:30 AM

From: Stan Meiburg/R4/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Bob Perciasepe/DC/USEPA/US@EPA, "Bob Sussman" <Sussman.bob@epa.gov>  
Date: 03/07/2010 08:29 AM  
Subject: Re: Google Alert - lisa jackson epa

[Redacted] (b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted] (b)(5) Deliberative, (b)(6) Privacy

Stan  
A. Stanley Meiburg  
Acting Regional Administrator  
EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA. 30303

Office: (404) 562-8357  
Fax: (404) 562-9961  
Cell: (404) 435-4234  
Email: meiburg.stan@epa.gov

Sent using Blackberry

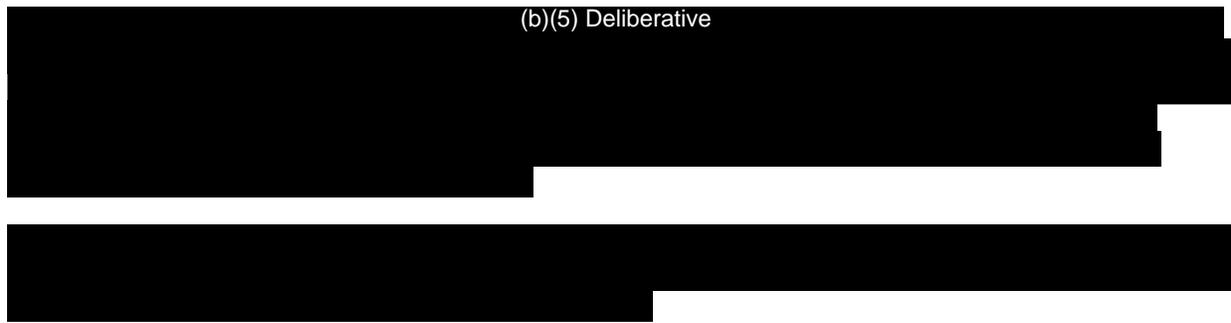
---

**From:** Richard Windsor  
**Sent:** 03/07/2010 06:56 AM EST  
**To:** Stan Meiburg  
**Cc:** Bob Perciasepe; "Bob Sussman" <Sussman.bob@epa.gov>  
**Subject:** Fw: Google Alert - lisa jackson epa

Stan,

Hope you are well this weekend.

(b)(5) Deliberative



Thanks, Lisa

---

**From:** Google Alerts [googlealerts-noreply@google.com]  
**Sent:** 03/07/2010 05:13 AM GMT  
**To:** Richard Windsor  
**Subject:** Google Alert - lisa jackson epa

## Google News Alert for: **lisa jackson epa**

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Tampa Tribune

When Environmental Protection Agency director **Lisa Jackson** was in Tampa in June, said Sierra Club regional representative Phil Compton, "She said that the ...

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### [EPA delays action on mountaintop removal plan](#)

Charleston Gazette

Adora Andy, press secretary for EPA Administrator **Lisa P. Jackson**, said late Friday that **Jackson** had previously assured West Virginia Sen. ...

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01268-EPA-3613

Richard Windsor/DC/USEPA/US  
03/07/2010 10:17 AM

To Adora Andy  
cc  
bcc

Subject Re: Gazette: EPA delays action on mountaintop removal plan

(b) (6)

Adora Andy

(b)(5) Deliberative

03/07/2010 10:16:23 AM

From: Adora Andy/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Date: 03/07/2010 10:16 AM  
Subject: Re: Gazette: EPA delays action on mountaintop removal plan

(b)(5) Deliberative

Adora Andy

----- Original Message -----

**From:** Adora Andy  
**Sent:** 03/07/2010 10:15 AM EST  
**To:** Richard Windsor  
**Subject:** Re: Gazette: EPA delays action on mountaintop removal plan

(b)(5) Deliberative

Richard Windsor

----- Original Message -----

**From:** Richard Windsor  
**Sent:** 03/07/2010 10:14 AM EST  
**To:** Adora Andy  
**Subject:** Re: Gazette: EPA delays action on mountaintop removal plan

(b)(5) Deliberative

Adora Andy

Charleston Gazette: EPA delays action...

03/07/2010 10:13:31 AM

From: Adora Andy/DC/USEPA/US  
To: "Richard Windsor" <windsor.richard@epa.gov>, "Bob Sussman" <sussman.bob@epa.gov>, "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>, "Diane Thompson" <Thompson.Diane@epamail.epa.gov>, "Peter Silva" <Silva.Peter@epamail.epa.gov>, "Seth Oster" <oster.seth@epa.gov>, "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>, "Arvin Ganesan" <ganesan.arvin@epa.gov>, "David McIntosh" <McIntosh.David@epamail.epa.gov>  
Cc: "Betsaida Alcantara" <alcantara.betsaida@epa.gov>, "Brendan Gilfillan" <gilfillan.brendan@epa.gov>, "Michael Moats" <Moats.Michael@epamail.epa.gov>, "Stephanie Owens" <Owens.Stephanie@epamail.epa.gov>, "Alisha Johnson" <Johnson.Alisha@epamail.epa.gov>  
Date: 03/07/2010 10:13 AM  
Subject: Gazette: EPA delays action on mountaintop removal plan

Charleston Gazette:  
EPA delays action on mountaintop removal plan

March 6, 2010

By Ken Ward Jr.

## Staff writer

The Obama administration has delayed action on a set of broad-ranging and specific measures to reduce the environmental impacts of mountaintop removal, after details of the plan were leaked to coal-state mining regulators.

U.S. Environmental Protection Agency officials are also facing a cool reception from other government agencies, including the federal Office of Surface Mining Reclamation and Enforcement.

"EPA is under significant pressure from the coal industry and its friends," said Joe Lovett, director of the Appalachian Center for the Economy and the Environment. "But the science has now become clear that mountaintop removal is harming the state's water resources in real and measurable ways, and EPA has no choice but to do this."

Details of the EPA proposals are being circulated among state regulators in coal-producing states after EPA southeastern regional officials leaked the information to those regulators.

EPA has for months been close to finalizing a plan the agency hopes would provide coal companies with clearer guidelines for obtaining new permits, but also mandate tougher protections to limit damage to water quality.

Agency officials are pushing for more stringent water pollution standards, tougher permit requirements and more extensive monitoring downstream from mining operations.

Among the initiatives are initial steps toward tighter mining discharge limits on the toxic pollutant selenium and on electrical conductivity, which serves as a measure of harmful salts and metals and has been identified by scientists as an indicator of coal-mining water damage. An announcement had been planned for Wednesday, but has been delayed for at least several weeks.

Adora Andy, press secretary for EPA Administrator Lisa P. Jackson, said late Friday that Jackson had previously assured West Virginia Sen. Robert C. Byrd that EPA "will release additional guidance about how it reviews water quality impacts.

"We will keep that commitment and we will issue that guidance soon," Andy said.

OSM Director Joe Pizarchik refused an interview request for this story, and agency spokesman Peter Mali said OSM would have no comment.

Carol Raulston, a spokeswoman for the National Mining Association, said her organization is familiar with some of the EPA proposals but is not yet prepared to offer specific comments on them.

"I think we're still gathering information," Raulston said Friday. "Right now, we're in the process of reviewing it with our membership."

A year ago, the Obama administration announced a crackdown on mountaintop removal. The administration has said it is taking "unprecedented steps" to reduce mining's environmental impacts, with a focus on cutting the downstream water quality effects.

So far those steps have focused on EPA's taking a closer look at Clean Water Act permits being issued by the Army Corps of Engineers and state regulators. In one instance, the Hobet 45 permit along the Boone-Lincoln county line, EPA's review forced Patriot Coal to cut its stream impacts in half while still mining nearly all of the coal it originally sought.

Administration officials have refused to support a complete ban on the practice, or to propose new rules to outlaw the burial of streams by valley fills.

EPA has not announced specific new limits on mining pollution, opening itself up to criticism from industry and coalfield politicians that the industry needs "clarity" about what is required for permit approval.

The delay in EPA's announcement of more detailed permit guidelines came last week, as the agency also asked U.S. District Judge Robert C. Chambers for more time to decide if it will veto the largest mountaintop removal mining permit in West Virginia history, the nearly 2,300-acre Spruce No. 1 Mine in Logan County.

In mid-February, EPA southeastern regional officials leaked to Alabama regulators details of the federal agency's plans to toughen coal mine regulations. The Interstate Mining Compact Commission, the lobby group for coal-state regulatory agencies, quickly spread word of those details to its members.

Greg Conrad, the commission's executive director, told group members in an e-mail message that EPA planned to announce initiatives including:

Requiring states to include in all coal-related water pollution permits a detailed analysis of whether the proposed mining would be expected to violate narrative water quality standards, which prohibit adverse impacts to aquatic life.

Forcing states to include discharge limits in permits that will ensure such violations of narrative water quality standards don't occur.

Imposing on mine operators tougher new discharge limits for selenium runoff from mining sites. Selenium can be toxic to fish in very tiny amounts, and has been tied to fish deformities downstream from at least one major mining operation in West Virginia, Patriot Coal's Hobet 21 Mine along the Boone-Lincoln County line.

EPA is also seeking to force states to require mine operators to perform water sampling called whole effluent toxicity, or WET, testing. This method better accounts for the impacts on aquatic life from a mix of various pollutants, such as that discharged by strip mines.

But perhaps the biggest changes being planned by EPA involve conductivity, which is a measure of the electrical charge of water and is a key indicator of the presence of many harmful pollutants, include chlorides, sulfides and dissolved solids.

One widely cited EPA study, published in 2008, found that streams with high conductivity -- above 500 on a scale measured in micro-siemens per centimeter -- were biologically impaired.

According to Conrad's e-mail, EPA planned to require additional monitoring of any permits where conductivity was measured above 400 micro-siemens per centimeter, and a reduction in mine size or a stop of mining above 500 micro-siemens per centimeter.

Already, EPA Region III officials have been seeking to impose such standards on water pollution permits for coal mines in West Virginia, according to comment letters submitted by EPA to the state Department of Environmental Protection.

At the same time, though, an EPA scientific report due out soon is expected to conclude that conductivity above 300 micro-siemens per centimeter should be avoided to protect water quality.

DEP Secretary Randy Huffman said his agency would want to take a very close look if EPA proposed the 300 number.

"If we decide that is where impairment occurs, we better be right," Huffman said. "Because the impact to the state economy is pretty severe."

But in at least one watershed cleanup plan issued for the Coal River, DEP experts pinpointed 300 micro-siemens per centimeter as the level at which conductivity can impair aquatic life.

DEP officials have identified high levels of conductivity as part of the cause of the Dunkard Creek fish kill in Monongalia County, and have listed conductivity as the cause of biological impairment in other heavily mined watersheds, including the Upper Kanawha and the Gauley.

In each instance, though, state officials said, "Because available information is insufficient to address biological impairment attributed to ionic toxicity," the DEP would propose no action on the problem.

Last week, EPA's Jackson said her agency is analyzing pending U.S. Senate legislation to ban valley fills and is increasingly concerned about the water quality impacts it sees from mountaintop removal. EPA has not supported that legislation.

"Certainly it is my belief as we learn more and more from outside scientists and inside scientists, we know that there are clear water quality impacts that come from filling in streams," Jackson told a Senate Appropriations subcommittee. "That's pretty intuitive."

Reach Ken Ward Jr. at [kw...@wvgazette.com](mailto:kw...@wvgazette.com) or 304-348-1702.

01268-EPA-3617

Bob Sussman/DC/USEPA/US  
03/08/2010 06:51 AM

To "Lisa P. Jackson", "Seth Oster", "Bob Perciasepe", "Diane Thompson", "Adora Andy"  
cc  
bcc

Subject Fw: Google Alert - lisa jackson epa

(b)(5) Deliberative  
[Redacted]

Stan Meiburg

----- Original Message -----

**From:** Stan Meiburg  
**Sent:** 03/07/2010 07:58 PM EST  
**To:** Bob Sussman  
**Subject:** Re: Google Alert - lisa jackson epa

Indeed. Jim Giattina and I have been trying to track this down all day.

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

Take a careful look at what the story says. My comments are in *italics*. I have highlighted certain words from the article in [blue](#)

-----

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

At the same time, though, an EPA scientific report due out soon is expected to conclude that conductivity above 300 micro-siemens per centimeter should be avoided to protect water quality."

-----

(b)(5) Deliberative

[Redacted]

[Redacted]

(b)(5) Deliberative

[Redacted]

[Redacted]

Re: Google Alert - lisa jackson epa

Re: Google Alert - lisa jackson epa 📎

Bob Sussman to: Stan Meiburg

03/07/2010 07:07 PM

Cc: Bob Perciasepe

---

(b)(5) Deliberative

---

**From:** Richard Windsor  
**Sent:** 03/07/2010 06:56 AM EST  
**To:** Stan Meiburg  
**Cc:** Bob Perciasepe; "Bob Sussman" <Sussman.bob@epa.gov>  
**Subject:** Fw: Google Alert - lisa jackson epa

Stan,

Hope you are well this weekend.

(b)(5) Deliberative

[Redacted]

[Redacted]

Thanks, Lisa

---

**From:** Google Alerts [googlealerts-noreply@google.com]  
**Sent:** 03/07/2010 05:13 AM GMT  
**To:** Richard Windsor  
**Subject:** Google Alert - lisa jackson epa

## Google News Alert for: **lisa jackson epa**

### [EPA delays putting water standards into effect](#)

Tampa Tribune

When Environmental Protection Agency director **Lisa Jackson** was in Tampa in June, said Sierra Club regional representative Phil Compton, "She said that the ...

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### [EPA delays action on mountaintop removal plan](#)

Charleston Gazette

Adora Andy, press secretary for **EPA Administrator Lisa P. Jackson**, said late Friday that **Jackson** had previously assured West Virginia Sen. ...

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01268-EPA-3623

David  
McIntosh/DC/USEPA/US  
03/08/2010 07:13 PM

To Richard Windsor  
cc  
bcc

Subject Fw: Letter to Administrator Jackson

FYI, please see below (as per the other message I sent you). (b)(5) Deliberative

----- Forwarded by David McIntosh/DC/USEPA/US on 03/08/2010 07:05 PM -----

From: David McIntosh/DC/USEPA/US  
To: "Campbell, McKie (Energy)" <McKie\_Campbell@energy.senate.gov>  
Cc: Arvin Ganesan/DC/USEPA/US@EPA, "Hayes, Colin (Energy)" <Colin\_Hayes@energy.senate.gov>, Josh Lewis/DC/USEPA/US@EPA, Joyce Frank/DC/USEPA/US@EPA, "Perciasepe.Robert@epamail.epa.gov" <Perciasepe.Robert@epamail.epa.gov>  
Date: 03/08/2010 06:46 PM  
Subject: Re: FW: Letter to Administrator Jackson

Dear McKie,

EPA has never indicated that the agency will wait to receive the other subcommittee members' post-hearing questions before responding to the post-hearing questions that you forwarded directly to EPA on Senator Murkowski's behalf on Friday. Rather, EPA has indicated that the agency will respond to all of the subcommittee members' post-hearing questions, including the ones that you sent on Friday. We have noted the irregularity, but that is a matter between Senator Murkowski and Chairman Feinstein. EPA will of course respond expeditiously to Senator Murkowski's questions. While I'm flattered that you follow EPA's correspondence with other Senators so closely, I trust that Senator Murkowski will not misconstrue a difference of a few days as a difference in esteem.

Best wishes,  
David

"Campbell, McKie (Energy)" David - In an article in tod... 03/08/2010 02:52:41 PM

From: "Campbell, McKie (Energy)" <McKie\_Campbell@energy.senate.gov>  
To: David McIntosh/DC/USEPA/US@EPA  
Cc: Joyce Frank/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Josh Lewis/DC/USEPA/US@EPA, "Perciasepe.Robert@epamail.epa.gov" <Perciasepe.Robert@epamail.epa.gov>, "Hayes, Colin (Energy)" <Colin\_Hayes@energy.senate.gov>  
Date: 03/08/2010 02:52 PM  
Subject: FW: Letter to Administrator Jackson

David –

In an article in today's E&amp;E, the last lines are:

*"The Alaska senator also asked whether EPA has conducted a full analysis of the economic and employment impacts that the agency anticipates as a result of climate regulations, and whether EPA has fully analyzed the effects that U.S. emission limits will have on pushing businesses overseas. Murkowski asked Jackson for a response by tomorrow.*

*“We are still waiting for the post-hearing questions of the [appropriations] subcommittee's other members but will of course respond to all of them,” said EPA representative Adora Andy.*”

I think we were clear on Friday night that Senator Murkowski does not view her letter as part of “Questions for the Record,” but rather a direct letter from Senator Murkowski to Administrator Jackson in the same manner of Senator Rockefeller's. Senator Murkowski has asked me to reemphasize that she was impressed with the speed of your answers to Senator Rockefeller's much longer letter and has requested a response in a similar timeframe.

On a personal note, I want to add that it is somewhat to our distress that we have found ourselves at odds with the EPA lately. While we strongly believe the Clean Air Act is not the appropriate legal structure for regulating greenhouse gases, we do believe the EPA is an important agency with a vital role to play in protecting the environment. If you ever over here and would like to discuss, I would always be open to do so.

McKie

McKie Campbell  
Senate Energy Committee  
202-224-5305  
[McKie\\_Campbell@energy.senate.gov](mailto:McKie_Campbell@energy.senate.gov)

**From:** Campbell, McKie (Energy)  
**Sent:** Friday, March 05, 2010 11:18 PM  
**To:** McIntosh.David@epamail.epa.gov; Frank.Joyce@epamail.epa.gov; Ganesan.Arvin@epamail.epa.gov; Lewis.Josh@epamail.epa.gov  
**Subject:** RE: Letter to Administrator Jackson

David –

Sorry for the delay in answering. I was driving home.

We have the greatest respect for Senator Feinstein, but Senator Murkowski does not view her letter as part of “Questions for the Record.” As you are aware we have had an interest in this issue for a considerable amount of time before the hearing, the questions would exist whether there had been a hearing or not, and our interest goes beyond aspects limited to the Appropriations Committee.

If you think it would be helpful, I am happy to copy Chairman Feinstein's and Ranking Member Alexander's staff on our letter and you are welcome to copy them on Administrator Jackson's direct response to Senator Murkowski. I would think that they and many others would be interested in the answers.

McKie

McKie Campbell  
Senate Energy Committee  
202-224-5305

**From:** McIntosh.David@epamail.epa.gov [mailto:McIntosh.David@epamail.epa.gov]  
**Sent:** Friday, March 05, 2010 9:52 PM  
**To:** Campbell, McKie (Energy); Frank.Joyce@epamail.epa.gov; Ganesan.Arvin@epamail.epa.gov; Lewis.Josh@epamail.epa.gov  
**Subject:** Re: Letter to Administrator Jackson

But you ask all these follow-up questions from the hearing, McKie. OK, if you won't respect the chairman of the subcommittee, then I will. So odd that you won't forward your own letter to the chairman, though.

---

**From:** "Campbell, McKie (Energy)" [McKie\_Campbell@energy.senate.gov]  
**Sent:** 03/05/2010 09:47 PM EST  
**To:** David McIntosh; Joyce Frank; Arvin Ganesan; Josh Lewis  
**Subject:** Re: Letter to Administrator Jackson

David -

This is a direct letter from Senator Murkowski to Administrator Jackson as was Senator Rockefeller's. The Senator has requested a direct reply.

It has nothing to do with going around anyone, but you are certainly welcome to forward a copy of the letter to Senator Feinstein if you wish.

McKie

McKie Campbell  
Senate Energy Committee  
202-224-5305

---

**From:** McIntosh.David@epamail.epa.gov <McIntosh.David@epamail.epa.gov>  
**To:** Campbell, McKie (Energy); Frank.Joyce@epamail.epa.gov <Frank.Joyce@epamail.epa.gov>; Ganesan.Arvin@epamail.epa.gov <Ganesan.Arvin@epamail.epa.gov>; Lewis.Josh@epamail.epa.gov <Lewis.Josh@epamail.epa.gov>  
**Sent:** Fri Mar 05 21:30:09 2010  
**Subject:** Re: Letter to Administrator Jackson

Hi McKie,

Are you trying to go around the Chairman of the Appropriations Subcommittee, or is it all right for me to forward this to Chairman Feinstein's staff as Senator Murkowski's requested post-hearing written questions for the Administrator?

Best,  
David

---

**From:** "Campbell, McKie (Energy)" [McKie\_Campbell@energy.senate.gov]  
**Sent:** 03/05/2010 08:28 PM EST  
**To:** David McIntosh; Joyce Frank; Arvin Ganesan; Josh Lewis  
**Subject:** Letter to Administrator Jackson

If you would deliver the attached letter from Senator Murkowski to Administrator Jackson, it would be greatly appreciated.

Thank you,  
McKie

McKie Campbell  
Senate Energy Committee  
202-224-5305  
[McKie\\_Campbell@energy.senate.gov](mailto:McKie_Campbell@energy.senate.gov)



01268-EPA-3626

**Richard Windsor/DC/USEPA/US**  
03/08/2010 07:28 PM

To David McIntosh  
cc  
bcc

Subject Re: AEP Analysis of Cantwell-Collins

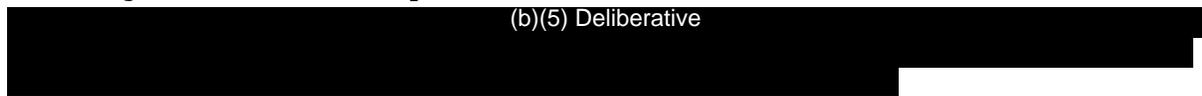
Tx

David McIntosh

----- Original Message -----

**From:** David McIntosh  
**Sent:** 03/08/2010 07:26 PM EST  
**To:** Richard Windsor  
**Subject:** Fw: AEP Analysis of Cantwell-Collins

(b)(5) Deliberative



----- Forwarded by David McIntosh/DC/USEPA/US on 03/08/2010 07:24 PM -----

From: mamcbroom@aep.com  
To: "McBroom" <mamcbroom@aep.com>  
Date: 03/04/2010 11:32 AM  
Subject: Fw: AEP Analysis of Cantwell-Collins

Please find attached our analysis of S. 2877 -- the Carbon Limits and Energy for America's Renewal (CLEAR) Act as introduced by Senators Cantwell and Collins.

Please call if you have any questions. I apologize if any of you receive this more than once.

----- Original Message -----

From: Rodney D Nespeca  
Sent: 03/04/2010 10:14 AM EST  
To: Martin McBroom  
Subject: AEP Analysis of Cantwell-Collins

(See attached file: AEP Analysis of CLEAR Proposal - S.2877.doc)

Rodney Nespeca  
American Electric Power  
(614) 716-1299

[attachment "AEP Analysis of CLEAR Proposal - S.2877.doc" deleted by Richard Windsor/DC/USEPA/US]

01268-EPA-3629

**Richard Windsor/DC/USEPA/US**  
03/09/2010 07:53 AM

To David McIntosh  
cc  
bcc

Subject Re: AEP Analysis of Cantwell-Collins

[Redacted] (b)(5) Deliberative

David McIntosh

----- Original Message -----

**From:** David McIntosh  
**Sent:** 03/08/2010 07:26 PM EST  
**To:** Richard Windsor  
**Subject:** Fw: AEP Analysis of Cantwell-Collins

[Redacted] (b)(5) Deliberative

----- Forwarded by David McIntosh/DC/USEPA/US on 03/08/2010 07:24 PM -----

From: mamcbroom@aep.com  
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(See attached file: AEP Analysis of CLEAR Proposal - S.2877.doc)

Rodney Nespeca  
American Electric Power  
(614) 716-1299

[attachment "AEP Analysis of CLEAR Proposal - S.2877.doc" deleted by Richard Windsor/DC/USEPA/US]

01268-EPA-3630

David McIntosh/DC/USEPA/US  
03/09/2010 07:54 AM

To Richard Windsor  
cc  
bcc

Subject Re: AEP Analysis of Cantwell-Collins

[Redacted] (b)(5) Deliberative

Richard Windsor [Redacted] (b)(5) Deliberative 03/09/2010 07:53:35 AM

From: Richard Windsor/DC/USEPA/US  
To: David McIntosh/DC/USEPA/US@EPA  
Date: 03/09/2010 07:53 AM  
Subject: Re: AEP Analysis of Cantwell-Collins

[Redacted] (b)(5) Deliberative

David McIntosh

----- Original Message -----

From: David McIntosh  
Sent: 03/08/2010 07:26 PM EST  
To: Richard Windsor  
Subject: Fw: AEP Analysis of Cantwell-Collins

[Redacted] (b)(5) Deliberative

----- Forwarded by David McIntosh/DC/USEPA/US on 03/08/2010 07:24 PM -----

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(See attached file: AEP Analysis of CLEAR Proposal - S.2877.doc)

Rodney Nespeca  
American Electric Power

(614) 716-1299

[attachment "AEP Analysis of CLEAR Proposal - S.2877.doc" deleted by Richard Windsor/DC/USEPA/US]

01268-EPA-3631

**Richard Windsor/DC/USEPA/US**  
03/09/2010 07:56 AM

To David McIntosh  
cc  
bcc

Subject Re: AEP Analysis of Cantwell-Collins

Lol

David McIntosh

----- Original Message -----

**From:** David McIntosh  
**Sent:** 03/09/2010 07:54 AM EST  
**To:** Richard Windsor  
**Subject:** Re: AEP Analysis of Cantwell-Collins

[Redacted] (b)(5) Deliberative

Richard (b)(5) [Redacted] 03/09/2010 07:53:35 AM

**From:** Richard Windsor/DC/USEPA/US  
**To:** David McIntosh/DC/USEPA/US@EPA  
**Date:** 03/09/2010 07:53 AM  
**Subject:** Re: AEP Analysis of Cantwell-Collins

[Redacted] (b)(5) Deliberative

David McIntosh

----- Original Message -----

**From:** David McIntosh  
**Sent:** 03/08/2010 07:26 PM EST  
**To:** Richard Windsor  
**Subject:** Fw: AEP Analysis of Cantwell-Collins

[Redacted] (b)(5) Deliberative

----- Forwarded by David McIntosh/DC/USEPA/US on 03/08/2010 07:24 PM -----

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To: Martin McBroom

Subject: AEP Analysis of Cantwell-Collins

(See attached file: AEP Analysis of CLEAR Proposal - S.2877.doc)

Rodney Nespeca

American Electric Power

(614) 716-1299

[attachment "AEP Analysis of CLEAR Proposal - S.2877.doc" deleted by Richard Windsor/DC/USEPA/US]

01268-EPA-3632

**Bob Sussman/DC/USEPA/US**

03/09/2010 08:01 PM

To Richard Windsor

cc Diane Thompson, Bob Perciasepe

bcc

Subject Boiler MACT Proposal

Lisa -- you have a 1-on-1 with Gina on Thursday morning.

(b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-3633

**Richard Windsor/DC/USEPA/US**  
03/09/2010 08:06 PM

To Bob Sussman  
cc  
bcc

Subject Re: Boiler MACT Proposal

Ok

Bob Sussman

----- Original Message -----

**From:** Bob Sussman  
**Sent:** 03/09/2010 08:01 PM EST  
**To:** Richard Windsor  
**Cc:** Diane Thompson; Bob Perciasepe  
**Subject:** Boiler MACT Proposal

Lisa -- you have a 1-on-1 with Gina on Thursday morning. (b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-3635

Gina McCarthy/DC/USEPA/US

To Lisa Garcia, Bob Sussman, Richard Windsor, Bob Perciasepe

03/09/2010 09:18 PM

cc Mathy Stanislaus, Cynthia Giles-AA

bcc

Subject Re: Non-hazardous solid waste definition

(b)(5) Deliberative

Lisa Garcia

----- Original Message -----

From: Lisa Garcia

Sent: 03/09/2010 08:37 PM EST

To: Bob Sussman; Richard Windsor; Bob Perciasepe

Cc: Gina McCarthy; Mathy Stanislaus; Cynthia Giles-AA

Subject: Re: Non-hazardous solid waste definition

Definitely a huge EJ issue and NGOs are hoping for a good result.

(b)(5) Deliberative

Lisa g.

Bob Sussman

----- Original Message -----

From: Bob Sussman

Sent: 03/09/2010 07:24 PM EST

To: Richard Windsor; Bob Perciasepe

Cc: Gina McCarthy; Mathy Stanislaus; Lisa Garcia; Cynthia Giles-AA

Subject: Fw: Non-hazardous solid waste definition

(b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 03/09/2010 07:22 PM -----

From: James Pew <jpew@earthjustice.org>  
To: "jackson.lisa@epa.gov" <jackson.lisa@epa.gov>  
Cc: Bob Sussman/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Steve Page/RTP/USEPA/US@EPA, Peter Tsigotis/RTP/USEPA/US@EPA, Richard Ossias/DC/USEPA/US@EPA, Patricia Embrey/DC/USEPA/US@EPA, Wendy Blake/DC/USEPA/US@EPA, Lisa Garcia/DC/USEPA/US@EPA, Charles Lee/DC/USEPA/US@EPA  
Date: 03/09/2010 06:38 PM  
Subject: Non-hazardous solid waste definition

Dear Administrator Jackson:

Please find attached a letter from more than 50 community and national public-interest groups regarding EPA's forthcoming rulemaking to define non-hazardous solid waste. This

rulemaking will have enormous public health significance for communities across the country and we ask you to issue a proposed rule that will protect these communities.

If you have any questions about the letter or the issues it discusses, please do not hesitate to contact me.

Sincerely,

Jim Pew

James S. Pew  
Staff Attorney  
Earthjustice  
1625 Massachusetts Avenue, NW  
Washington, D.C. 20036  
(202) 667-4500 (phone)  
(202) 667-2356 (fax)

[attachment "Definition of Non-Hazardous Solid Waste EPA Administrator Letter\_03 09 2010.pdf" deleted by Lisa Garcia/DC/USEPA/US]

01268-EPA-3641

**Richard Windsor/DC/USEPA/US**  
03/10/2010 12:39 PM

To Diane Thompson  
cc  
bcc

Subject Re: Boiler MACT Proposal

Jeez

Diane Thompson

----- Original Message -----

**From:** Diane Thompson  
**Sent:** 03/10/2010 12:32 PM EST  
**To:** Richard Windsor  
**Cc:** Bob Perciasepe  
**Subject:** Re: Boiler MACT Proposal

[Redacted] (b)(5) Deliberative

\*\*\*\*\*

Diane E. Thompson  
Chief of Staff  
U. S. Environmental Protection Agency  
202-564-6999

Bob Sussman [Redacted] (b)(5) Deliberative 03/09/2010 08:01:24 PM

From: Bob Sussman/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Diane Thompson/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA  
Date: 03/09/2010 08:01 PM  
Subject: Boiler MACT Proposal

Lisa -- you have a 1-on-1 with Gina on Thursday morning. [Redacted] (b)(5) Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-3644

Bob Sussman/DC/USEPA/US

To Richard Windsor, Bob Perciasepe

03/10/2010 06:14 PM

cc Cynthia Giles-AA

bcc

Subject Fw: TVA -- Moving Forward

I've broached these issues with Lisa but not with Bob.

(b)(5) Attorney-Client, (b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 03/10/2010 06:03 PM -----

From: Adam Kushner/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Cynthia Giles-AA/DC/USEPA/US@EPA, Charles Imohiosen/DC/USEPA/US@EPA  
Cc: Charles Imohiosen/DC/USEPA/US@EPA  
Date: 03/10/2010 05:40 PM  
Subject: TVA -- Moving Forward

Bob, Cynthia --

Below is a summary of the points that we are proposing to make to TVA during our next call and questions that require a response. I may have missed some issues. Edit freely. I will be out of town for tomorrow's scheduled call. I would try to tie in by phone, but I expect I will be on a train and reception is typically poor. We are meeting again with TVA on Friday morning.

1. (b)(5)

(b)(5) Deliberative  
[Redacted]

(b)(5) Deliberative

[Redacted]

Adam M. Kushner  
Director  
Office of Civil Enforcement  
United States Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460  
Telephone: 202-564-2220  
Facsimile: 202-564-0011

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<http://www.epa.gov/compliance/complaints/index.html>

---

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01268-EPA-3645

**Bob Perciasepe/DC/USEPA/US**  
03/10/2010 09:22 PM

To Bob Sussman  
cc Cynthia Giles-AA, Richard Windsor  
bcc  
Subject Re: Fw: TVA -- Moving Forward

Bob:

Thanks for the update. (b)(5) Deliberative  
[Redacted]

Thanks again, anxious to help

Bob Perciasepe  
Deputy Administrator

(o) +1 202 564 4711  
(c) +1 (b)(6) Privacy

Bob Sussman I've broached these issues with Lisa bu... 03/10/2010 06:14:32 PM

From: Bob Sussman/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA  
Cc: Cynthia Giles-AA/DC/USEPA/US@EPA  
Date: 03/10/2010 06:14 PM  
Subject: Fw: TVA -- Moving Forward

I've broached these issues with Lisa but not with Bob.

(b)(5) Deliberative  
[Redacted]

(b)(5)

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 03/10/2010 06:03 PM -----

From: Adam Kushner/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Cynthia Giles-AA/DC/USEPA/US@EPA, Charles Imohiosen/DC/USEPA/US@EPA  
Cc: Charles Imohiosen/DC/USEPA/US@EPA  
Date: 03/10/2010 05:40 PM  
Subject: TVA -- Moving Forward

---

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1. (b)(5)

(b)(5) Deliberative

[Redacted]



01268-EPA-3648

**Lisa  
Heinzerling/DC/USEPA/US**  
03/10/2010 10:45 PM

To "Lisa Jackson"  
cc  
bcc  
Subject ideas

(b)(5) Deliberative

01268-EPA-3651

**Richard Windsor/DC/USEPA/US**  
03/11/2010 07:24 AM

To Lisa Heinzerling, "Lisa Jackson"  
cc "Bob Sussman", "Bob Perciasepe", "Diane Thompson"  
bcc  
Subject Re: ideas

Lisa,

(b)(5) Deliberative  
[Redacted]

[Redacted]

Lisa  
Lisa Heinzerling

----- Original Message -----

**From:** Lisa Heinzerling  
**Sent:** 03/10/2010 10:45 PM EST  
**To:** "Lisa Jackson" <windsor.richard@epa.gov>  
**Subject:** ideas

(b)(5) Deliberative  
[Redacted]

[Redacted]

01268-EPA-3652

**Richard Windsor/DC/USEPA/US**  
03/11/2010 08:07 AM

To Cynthia Giles-AA, Bob Perciasepe  
cc Bob Sussman  
bcc

Subject Re: Fw: TVA -- Moving Forward

Yup. The time is right. Tx.  
Cynthia Giles-AA

----- Original Message -----

**From:** Cynthia Giles-AA  
**Sent:** 03/11/2010 08:05 AM EST  
**To:** Bob Perciasepe  
**Cc:** Bob Sussman; Richard Windsor  
**Subject:** Re: Fw: TVA -- Moving Forward

(b)(5) Deliberative

Cynthia

Cynthia Giles  
Assistant Administrator  
U.S. EPA, Office of Enforcement and Compliance Assurance  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
202-564-2440

THIS MESSAGE IS CONFIDENTIAL and may contain legally privileged information. If you receive it in error, please delete it immediately, do not copy, and notify the sender. Thank you.

Bob Perciasepe    Bob: Thanks for the update    (b)(5)    03/10/2010 09:22:47 PM

**From:** Bob Perciasepe/DC/USEPA/US  
**To:** Bob Sussman/DC/USEPA/US@EPA  
**Cc:** Cynthia Giles-AA/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA  
**Date:** 03/10/2010 09:22 PM  
**Subject:** Re: Fw: TVA -- Moving Forward

Bob:

Thanks for the update. (b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

Thanks again, anxious to help

Bob Perciasepe  
Deputy Administrator

(o) +1 202 564 4711  
(c) +1 (b)(6) Privacy

Bob Sussman I've broached these issues with Lisa bu... 03/10/2010 06:14:32 PM

From: Bob Sussman/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA  
Cc: Cynthia Giles-AA/DC/USEPA/US@EPA  
Date: 03/10/2010 06:14 PM  
Subject: Fw: TVA -- Moving Forward

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(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency  
----- Forwarded by Bob Sussman/DC/USEPA/US on 03/10/2010 06:03 PM -----

From: Adam Kushner/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Cynthia Giles-AA/DC/USEPA/US@EPA, Charles Imohiosen/DC/USEPA/US@EPA  
Cc: Charles Imohiosen/DC/USEPA/US@EPA  
Date: 03/10/2010 05:40 PM  
Subject: TVA -- Moving Forward

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1. (b)(5)

(b)(5) Deliberative

[Redacted]

(b)(5) Deliberative

Adam M. Kushner  
Director  
Office of Civil Enforcement  
United States Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460  
Telephone: 202-564-2220  
Facsimile: 202-564-0011

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<http://www.epa.gov/compliance/complaints/index.html>

---

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01268-EPA-3653

**Bob Sussman/DC/USEPA/US**  
03/11/2010 08:14 AM

To Richard Windsor  
cc Bob Perciasepe, Cynthia Giles-AA  
bcc

Subject Re: Fw: TVA -- Moving Forward

Bob -- there's a very good presentation Cynthia can provide which presents an overview of the settlement. Once we get past today's call with TVA, we should schedule a briefing for the two of you.

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Richard Windsor [Yup. The time is right. Tx. ----- Orig...](#) 03/11/2010 08:07:35 AM

From: Richard Windsor/DC/USEPA/US  
To: Cynthia Giles-AA/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA  
Cc: Bob Sussman/DC/USEPA/US@EPA  
Date: 03/11/2010 08:07 AM  
Subject: Re: Fw: TVA -- Moving Forward

Yup. The time is right. Tx.

Cynthia Giles-AA

----- Original Message -----

**From:** Cynthia Giles-AA  
**Sent:** 03/11/2010 08:05 AM EST  
**To:** Bob Perciasepe  
**Cc:** Bob Sussman; Richard Windsor  
**Subject:** Re: Fw: TVA -- Moving Forward

(b)(5) Deliberative

Cynthia

Cynthia Giles  
Assistant Administrator  
U.S. EPA, Office of Enforcement and Compliance Assurance  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
202-564-2440

THIS MESSAGE IS CONFIDENTIAL and may contain legally privileged information. If you receive it in error, please delete it immediately, do not copy, and notify the sender. Thank you.

Bob Perciasepe [Bob: Thanks for the update \(b\)\(5\)](#) 03/10/2010 09:22:47 PM

From: Bob Perciasepe/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA  
Cc: Cynthia Giles-AA/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA  
Date: 03/10/2010 09:22 PM  
Subject: Re: Fw: TVA -- Moving Forward

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Bob:

Thanks for the update. [REDACTED] (b)(5) deliberative

[REDACTED]

[REDACTED]

[REDACTED]

Thanks again, anxious to help

Bob Perciasepe  
Deputy Administrator

(o) +1 202 564 4711  
(c) +1 (b)(6) Privacy

Bob Sussman | I've broached these issues with Lisa bu... | 03/10/2010 06:14:32 PM

From: Bob Sussman/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA  
Cc: Cynthia Giles-AA/DC/USEPA/US@EPA  
Date: 03/10/2010 06:14 PM  
Subject: Fw: TVA -- Moving Forward

---

I've broached these issues with Lisa but not with Bob.

[REDACTED] (b)(5) Deliberative

[REDACTED]

[REDACTED]

[REDACTED]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 03/10/2010 06:03 PM -----

From: Adam Kushner/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Cynthia Giles-AA/DC/USEPA/US@EPA, Charles Imohiosen/DC/USEPA/US@EPA  
Cc: Charles Imohiosen/DC/USEPA/US@EPA  
Date: 03/10/2010 05:40 PM  
Subject: TVA -- Moving Forward

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Bob, Cynthia --

Below is a summary of the points that we are proposing to make to TVA during our next call and questions that require a response. I may have missed some issues. Edit freely. I will be out of town for tomorrow's scheduled call. I would try to tie in by phone, but I expect I will be on a train and reception is typically poor. We are meeting again with TVA on Friday morning.

1. (b)(5)

(b)(5) Deliberative  
[Redacted]



01268-EPA-3654

**Bob Sussman/DC/USEPA/US**

To Richard Windsor

03/11/2010 08:35 AM

cc "Bob Perciasepe", "Bob Sussman", "Diane Thompson", "Lisa Jackson"

bcc

Subject Re: ideas

(b)(5) Deliberative

[Redacted]

[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Richard Windsor

(b)(5) Deliberative

03/11/2010 07:24:24 AM

From: Richard Windsor/DC/USEPA/US  
To: Lisa Heinzerling/DC/USEPA/US@EPA, "Lisa Jackson" <windsor.richard@epa.gov>  
Cc: "Bob Sussman" <Sussman.bob@epa.gov>, "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>, "Diane Thompson" <thompson.diane@epa.gov>  
Date: 03/11/2010 07:24 AM  
Subject: Re: ideas

Lisa,

(b)(5) Deliberative

[Redacted]

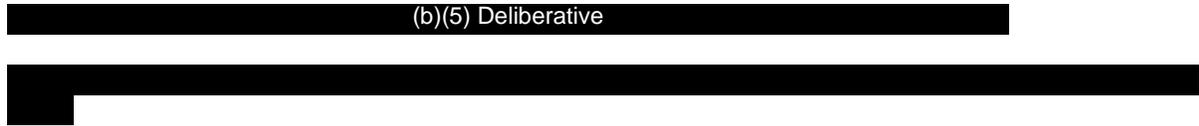
Lisa

Lisa Heinzerling

----- Original Message -----

**From:** Lisa Heinzerling  
**Sent:** 03/10/2010 10:45 PM EST  
**To:** "Lisa Jackson" <windsor.richard@epa.gov>  
**Subject:** ideas

(b)(5) Deliberative

The text "(b)(5) Deliberative" is centered within a thick black horizontal bar. Below this bar, there is a large, irregular black redaction covering the majority of the page's content.

01268-EPA-3655

**David  
McIntosh/DC/USEPA/US**

03/11/2010 08:39 AM

To Richard Windsor, Diane Thompson, Bob Perciasepe, Arvin  
Ganesan, Seth Oster

cc

bcc

Subject Paul Anastas under climate science questioning in the House  
yesterday

FYI. It looks like Paul did a very good job yesterday. Kudos to him, and to Arvin for preparing him well. The quotes from Representative Ehlers (R-MI) are notable.



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**CLIMATE: EPA, House Republicans spar over 'endangerment'  
finding (Thursday, March 11, 2010)**

Sara Goodman, E&amp;E reporter

The head of U.S. EPA's research division yesterday defended the science used in the agency's pending climate regulations to skeptical GOP lawmakers.

"The overwhelming science that this finding is relied on is solvent and reliable," Paul Anastas, assistant administrator for EPA's Office of Research and Development, told the House Science and Technology Committee yesterday. "I have seen nothing in these individual questions that change my perspective that the overwhelming science is that which supports the endangerment finding."

Several Republicans continued to hammer EPA on its plans to begin rolling out greenhouse gas regulations this month after it determined last year that the heat-trapping emissions endanger human health and welfare. Science Committee ranking member Ralph Hall (R-Texas) called on EPA to review that finding after the recent findings of errors in the reports from the Intergovernmental Panel on Climate Change that were used to develop EPA's finding and the recent controversy surrounding e-mails stolen from climate scientists.

"Are you just going to rely on your findings and to heck with anything else?" Hall said. "How does EPA justify moving forward on the questionable foundation when the magnitude of the endangerment finding will impact every sector of the nation's economy?"

Added Rep. Paul Broun (R-Ga.): "You have really very strongly endorsed something that is not scientific, there is no scientific consensus to anthropogenic global warming, and you are proselytizing this idea that is being promulgated by radical environmentalists. And you and this administration are just drinking the Kool-Aid and going down the road to destroy our economy."

The Obama administration, as well as the majority of climate scientists and Democratic lawmakers, have maintained that nothing in the e-mails upends the scientific consensus that man-made emissions are contributing to climate change.

Rep. Vernon Ehlers (R-Mich.) chided his fellow Republicans for sometimes failing to understand the evolution of science as theories are tested and scientists disagree before a theory becomes widely accepted. "It's time for me to speak up," Ehlers said. "The scientific method is, unless you've used it consistently and thoroughly, is not always well-understood by people.

"Science is a continually growing subject," Ehlers added.

Ehlers said the e-mail controversy has been largely misrepresented and that the kind of discourse revealed by the stolen texts -- some showing frustration with attacks from global warming skeptics that opponents of greenhouse gas regulations have pointed as proof that scientists intentionally withheld climate data -- is common within the scientific community.

"If you're trying to disprove the climate change issues or any of that, let's get the people together who can answer the question and let's fund the research that's necessary," Ehlers said. "I really think the economic factor is what has generated so much opposition that has led to a lot of people saying things that are simply not correct in the scientific sense."