U. S. Environmental Protection Agency
Blog Round-up
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ROUND-UP OF MAJOR BLOGS

AIR

July 1, 2010

EPA Scraps Texas Clean Air Program, Will Make Oil Refineries To File For New Permits (*Huffington Post*)

RAMIT PLUSHNICK-MASTI | 06/30/10 05:35 PM | AP
Al Armendariz, Bryan Shaw, Carbon Emissions, Clean Air, Clean Air Act, Climate Change, Epa, Exxon Mobil, Flexible Permits, Oil Refineries, Pollution, Rick Perry, State Rights, Texas, Texas Commission On Environmental Quality, Green News

HOUSTON — The U.S. Environmental Protection Agency on Wednesday officially overturned a 16-year-old Texas air permitting program it says violates the Clean Air Act, leaving some of the country's largest refineries in a state of limbo.

The move comes after years of backdoor bickering, negotiations and public arguments between the EPA and Texas. The argument recently escalated from a battle over environmental issues into a heated political dispute over states' rights.

Gov. Rick Perry has been using it to drive home his contention that President Barack Obama's administration is overreaching, saying in a statement Wednesday that "Texas will continue to fight this federal takeover of a successful state program."

The EPA's decision, announced in a statement, will force some 125 refineries and petrochemical plants to invest millions of dollars to get new permits. Many of the plants may also have to invest in updates to comply with federal regulations.

The decision did not come as a surprise to Texas or the industries. EPA regional director Al Armendariz has said for months he would disapprove the permits if Texas did not comply with the Clean Air Act.

The Texas Commission on Environmental Quality's chairman Bryan Shaw insisted Wednesday the state's permitting program complies with the Clean Air Act and has improved air quality in Texas. However, in an effort to satisfy the EPA's concerns, Shaw said the commission recently changed the rules but apparently the EPA "did not take them into consideration."

Texas can challenge the ruling in court, but a commission spokesman said it hasn't decided whether to go that route.

Armendariz said the proposed rules were in the first stage of a lengthy approval process that could take months or even years.

"I can't wait to take action on these permits. I've got to act soon because these permits are seriously flawed," Armendariz told The Associated Press.

The EPA's move on Wednesday addresses Texas' so-called flexible permits, which set a general limit on how much air pollutants an entire facility can release. The federal Clean Air Act requires state-issued permits to set limits on each of the dozens of individual production units inside a plant. The EPA says Texas' system masks pollution and makes it impossible to regulate emissions and protect public health.

Texas has been issuing the permits since 1994 even though it never received the required federal approval. The EPA made clear at least five years ago it believed the permits violated federal air laws, warning Texas and the refinery and petrochemical industry it would take action. The industry, uncomfortable with the uncertainty, sued the EPA in 2008, demanding the agency take action on this and several other programs that remained in limbo.

The EPA was under a court-ordered deadline of June 30 to either approve or disapprove the flexible permit program. On Wednesday, a federal court rejected a last minute appeal by the industry to extend the deadline.

Armendariz said he has instructed his staff to work closely with Texas and industry leaders to fix the permits.

The EPA has been working with industry leaders to find a way to effectively and efficiently issue new air permits to the impacted plants, including the nation's largest refinery, Exxon Mobil in Baytown, Texas. The EPA has offered them an independent audit mechanism that would allow them to correctly measure air pollutants to get the new permits, while ensuring them they would not be penalized for violations uncovered.

Matthew Tejada, executive director of Air Alliance Houston, one of several environmental groups that has opposed the permits, welcomed the EPA move but said he expects a state and industry-led legal battle against the agency.
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BP SPILL

Pressure Prods Feds to Loosen Regulations, Aiding Oil Spill Cleanup (*Huffington Post*)

June 30, 2010
Pressure from Senator George LeMieux (R, FL) and others has paid off with an emergency federal ruleto permit more oil cleanup vessels to leave their posts elsewhere along America's coastline and finally head to the Gulf of Mexico to provide help.

The Coast Guard and Environmental Protection Agency are to publish the formal rule Wednesday (June 30), LeMieux announced. Normally, large amounts of ships and equipment are required by law to be kept in standby reserve to handle possible spills in harbors, drilling areas, etc. Those federal dictates have prevented them from joining the under-supplied oil spill cleanup.

The situation is analogous to a major fire--when units are called in from neighboring jurisdictions after one area is overwhelmed by a major blaze.

LeMieux responded by expressing thanks--and wondering why it took so long:

"We are at day 71 of this crisis and just now the bureaucracy is clearing a path for more skimmers. After waves of oil, tar and sludge-stained beaches, after families have lost their jobs, their business, and their way of life, we are finally beginning to see a sense of urgency from the federal government. I am glad the rule has been issued, but I wish this determination had been made weeks ago, when the oil could have been skimmed before it hit our coastlines."

Still, the additional American ships will continue to be inadequate for the vast job. Of 2,000 skimming-capable vessels in the U.S., Lemieux says only 400 are being used in the Gulf. But all of them have only minor capacity compared to a huge foreign ship that has just arrived in the Gulf, but has not been approved for use.

Might the newfound urgency lead to a quick acceptance of the largest help that's been offered so far? That would mean authorizing use of the giant A Whale tanker ship that its Taiwanese owners have equipped to collect 500,000 barrels of oil per day--250 times the capacity of most vessels now being used to skim oil from the Gulf. The Coast Guard reportedly will test the ship's capabilities this week, but has not said how long its review will take.

Putting the ship to work will require approval by the Coast Guard and the EPA, and may or may not require a Jones Act waiver. The EPA is involved because the skimming process picks up about seven times as much water as oil. Without EPA permission, skimming ships may be prohibited from discharging the water which they separate from the oil. The discharged water is significantly cleaned but not purified to the extent EPA desires.

Using a giant tanker to suck up the oil is a strategy that Saudi Arabia successfully employed in 1993 to clean up a 700-million gallon spilloff its coast. Yet Coast Guard Admiral Thad Allen just a few weeks ago claimed no such ship was availableto help in the Gulf of Mexico. The arrival of the A Whalehopefully will change his mind. Meantime, keeping up the pressure may help.

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CLIMATE CHANGE

Green Groups Hit The Airwaves Hoping To Use Spill To Prompt Climate Acton In the Senate (*Treehugger)*

June 30, 2010
The League of Conservation Voters (LCV), VoteVets.org Action Fund, Sierra Club and Service Employees International Union (SEIU) today went live with some hard hitting TV ads designed to pressure targeted Senators to support climate and energy action. The $11 million ad campaign names Sens. Burr (NC), Johanns (NE), Nelson (NE), McCaskill (MO) and Reid (NV), and highlights the recent vote on what the groups are calling Sen. Murkowski's "Big Oil Bailout" resolution, which would have stripped the EPA of its authority to regulate carbon emissions.

The Sierra Club's Michael Brune on the ads:

"As the nation continues to grapple with the BP oil disaster, one thing remains very clear - the urgent need to end to our dependence on oil. Now is the time for real action from our nation's leaders to craft a foundation on which we can build an America free from oil addiction, create millions of new clean energy manufacturing, construction, and service jobs here at home, and reduce the carbon pollution that is threatening our economy, our health, and our climate. We're joining our colleagues in the national security, labor, and conservationist communities today to tell Senators that the American people won't tolerate shills for Big Oil and that won't settle for anything less than a clean energy future."

The ads in Florida depict Sen. Nelson as covered in oil, with his life in danger. Only action on climate and energy can save him. Nelson has been attacked over his connection to Big Oil and his vote is considered crucial to getting to 60, the minimum to avoid a filibuster.

It's unclear which bill the coalition supports. Sens. Kerry and Lieberman have a bill, but so do Sens. Bingaman, Collins, Cantwell, and Lugar.

FUEL

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SD Gov. Rounds critical of EPA delay on ethanol (*Huffington Post)*

WAYNE ORTMAN |June 30, 2010 05:50 PM EST

SIOUX FALLS, S.D. — Gov. Mike Rounds criticized the federal government for delaying a decision on allowing a 15 percent ethanol blend in gasoline during a conference Wednesday on using technology and research to expand South Dakota's agriculture economy.

Executives at the Governor's Ag Development Summit talked about scientific and biotechnological research that can be used to grow more grain and create new fuel sources.

In his welcoming address, Rounds said the world will need more food and fuel so breakthroughs in the laboratory allow the state's farmers and ranchers to produce more with less.

Rounds chastised the federal government for promoting the use of renewable fuels while the Environmental Protection Agency postponed for a second time a decision on whether the ethanol blend in gas can go from 10 percent to 15 percent.

"It's just ridiculous to have this kind of delay in that type of an important decision-making process," Rounds said.

He noted that annual ethanol production in South Dakota has grown 600 percent since 2002. The 15 percent level would assure a continued and expanded market for ethanol, he said.

The EPA, which had been expected to decide by this month if U.S. car engines can handle the higher concentration, has said initial tests "look good" and should be completed by the end of September. The ethanol industry says the 15 percent blend will not hurt engine performance, while the refining industry, small engine manufacturers and some environmental groups have argued against an increase.

Monsanto Co. executive David Fischhoff said the world population is growing and wants more animal protein in its diet, something that will drive up the demand for grains to be used as livestock feed. That will require higher yields because the amount of land available for crop production is shrinking, said Fischhoff, vice president of technology strategy and development at Monsanto.

Average corn yields in the U.S. have doubled in the past 40 years to around 165 bushels per acre last year. The same growth rate could mean 200 bushels per acre by 2030 but perhaps even more because of expected advancements in farming practices, plant breeding and biotechnology.

"I think the possibility exists, and really it's a credible possibility ... that we could get yields to go up close to 300 bushels an acre in that same time frame," Fischhoff said.

Mark Matlock, senior vice president of research for Archer Daniels Midland Co., said biofuels such as ethanol will help fill a growing need for energy in developing countries.

The idea of using grains for more than food and clothing has been around since the 1920s and '30s but didn't get far while petroleum prices were stable, he said. Now, as oil prices periodically spike, there's a move to use renewables in manufacturing or as fuels.

"Every year we can grow another crop of soybeans, another crop of corn, another crop of wheat, so if we can use these feedstocks we can create products that we will always have in civilization," Matlock said.

Increasing the use of renewable farm products will require innovation to catch up with petroleum; efficient use of water, chemicals and fertilizers on the farm, and investment in infrastructure to transport, process and store larger crops, he said.

MINING

June 30, 2010

"Reckoning at Eagle Creek: The Secret Legacy of Coal in the Heartland" (*Huffington Post*)

Posted: June 30, 2010 11:06 AM
Where's the Outrage? EPA Betrays Coalfields (Again) with New Mountaintop Removal Permit
Arch Coal , Australia , Bp , Coal , Dirty Coal , Epa , Europe , Green Energy , Lisa Jackson , Mongolia , Mountaintop Removal , Peabody , President Obama , Ran , Robert Byrd , Water , Green News

I'm not sure if the EPA is addled, or downright shameless, but on the heels of meeting with besieged Appalachian coalfield residents and less than three months since its ballyhooed new guidance rules to halt reckless mountaintop removal operations, President Obama's Environmental Protection Agency has once again gone back on its word and green-lighted a dangerous mountaintop removal permit in a hair-brained pander to Big Coal that will knowingly destroy miles of critical headwater streams.

The piss poor week of coal news this week makes the BP disaster look like a cake walk. If only I could be glib and declare: The more things change, the more things stay the same. Peabody Energy announced they're opening a massive strip mine in Mongolia that will dwarf Wyoming's Powder River Basin to "solve world poverty"; Australia's strip mines continue to disappear historic communities; and the NY Times pointed out that Big Coal receives over $100 billion annually in welfare from Europe.

In the case of the Appalachian coalfields, where millions of pounds of ammonium nitrate fuel oil explosives are detonated daily in historic mountain communities and American citizens live in contaminated watersheds, the EPA's giddy support for the St. Louis-based Arch Coal's Pine Creek strip mine in Logan County, West Virginia is not only a travesty, but a costly one.

Logan County is already under assault for flooding, due to extensive strip mines in the area.

And the misguided decision, alas, comes at such a sad moment--the same week of the death of legendary West Virginia Senator Robert Byrd, who announced only one month ago:

If the process of mining destroys nearby wells and foundations, if blasting and digging and relocating streams unearths harmful elements and releases them into the environment causing illness and death, that process should be halted and the resulting hazards to the community abated.

Exactly one year ago, EPA official John Pomponio testified before the Senate that mountaintop removal irreversibly destroyed headwater streams. Pomponio declared:

"These little streams are like capillaries in your blood system," Pomponio said. "They're what travel through the landscape and capture the pollutants, clean those pollutants. And we frankly don't know where the tipping point is in losing one stream, five streams, or 18 streams in a particular watershed."

Last week, Pomponio authored the letter to the US Army Corps of Engineers, which allows Arch Coal to go forth with its mountaintop removal operation, after making changes to its application that will affect only 22% of the damage--which means, 78 % of the estimated 14,000 feet of critical streams will be destroyed.

In his letter, Pomponio lauds Arch Coal's efforts to create artificial ditches as replacements for natural headwaters, a bogus "mitigating" effort that Dr. Margaret Palmer decried as too ineffective to support the native aquatic community in the same historic Senate hearing last year.

"This is a devastating first decision under guidelines that had offered so much hope for Appalachian residents who thought the EPA was standing up for their health and water quality in the face of a horrific mining practice," said Amanda Starbuck of the Rainforest Action Network. "The grand words being spoken by Administrator Jackson in Washington are simply not being reflected in the EPA's actions on-the-ground. This continues the inconsistent and contradictory decisions that have plagued the EPA's process on mountaintop removal coal mining all along."

For West Virginia coal miner's widow Lorelei Scarbro and leader with the Alliance for Appalachia, who has met numerous times with the EPA, the decision is nothing less than an act of betrayal to the Appalachian people. In a personal letter to EPA administrator Lisa Jackson yesterday, Scarbro wrote:

I just finished reading what amounts to a green light by Region 3 EPA on the Pine Creek permit in Logan County, WV. I have to say that this disturbs me. I have been involved in the battle to stop, not regulate, mountaintop removal coal mining since the coal mine moved in next door to my home at the base of Coal River Mountain in Rock Creek, WV. I watched my husband die of black lung after 35 years as an underground union coal miner. I watch as people I love get sicker each day from contaminated water after raising their family in Prenter Hollow, WV.

I have left my very peaceful home 3 miles up in Rock Creek and traveled to DC many times in the past 2 years to help the powers that be to really see the face of coal. I hope that by telling the people on Capitol Hill how the decisions they make affect the lives of the people in the mountain communities they might begin to see us as valuable. Too often we are treated like collateral damage or just the price of doing business. I have been in many meetings with David Evans, Brian Fraizer and many others at EPA in DC and Region 3. I have met with CEQ, OSMRE and many other regulatory agencies and countless numbers of Senators and Congressmen trying to make a difference.

I was on the call on April 1 when you released the guidance for conductivity levels and I was very excited when I heard you say " You're talking about no or very few valley fills that are going to be able to meet standards like this." The release of this guidance and your words brought hope to many people that long ago lost it.

I have been very thankful for all of the steps this EPA has taken to improve life in the mountain communities of Appalachia, but I was heartbroken when I saw the decision on Pine Creek. Although I live about 1 ½ hours from this area I stand with the citizens there and I fear that this is just the beginning of many more permit releases. We believed you when you spoke about "zeroing out valley fills". Where I am from, sometimes all you have is your word. People here have historically made life altering decisions on nothing more than a handshake and their word.

I am a 54 year old widow of a coal miner and the most important thing to me is clean drinking water for my grandchildren. I don't believe that is possible if we continue to
destroy and cover head water streams in Appalachia. Once again, I have lost hope. Please don't let this be the final word on Pine Creek Surface Mine.

The EPA's pander is a wakeup call that nothing less than an act to abolish mountaintop removal operations, such as the Clean Water Protection Act, will bring this egregious human rights and environmental violation to an end.

To this end, the Alliance for Appalachia needs your help--they need donations to get this important ad on national TV to bring home the cost of the catastrophe of mountaintop removal and strip mining to coal-fired consumers--including Lisa Jackson and the EPA--across the nation.

WATER

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Passaic riverkeeper sees signs of hope despite the slow pace of cleanup (*Grist*)

by Mary Bruno

30 Jun 2010 10:58 AM
Andy Willner, activist and advocate of the Passaic.Photo courtesy of al-ICE g via FlickrOn Jan. 2, 1990, a leaking pipeline at Bayonne, New Jersey's Exxon Bayway oil refinery sent 567,000 gallons of heating fuel into the surrounding waterways and marsh. Andy Willner volunteered to help the affected wildlife. He wound up collecting a truckload of dead Canvasback ducks and driving them straight to the refinery. When a worker there tried to shoo him away, Willner threatened to drive the oily carcasses across the Hudson to the door of The New York Times. The worker acquiesced. An activist was born.

Not long after the Bayway spill Willner became the Executive Director of the N.Y./N.J. Baykeeper organization, the so-called "citizen guardian of Hudson-Raritan estuary ... the most urban estuary on Earth." The Passaic River is part of that estuarine system, and Willner has been one of the Passaic's most vocal advocates. Willner retired in 2009. But in 20-plus years as head of Baykeeper, he spent countless hours patrolling and pleading for the Lower Passaic. The final 17-mile stretch, from the Dundee Dam in Garfield, N.J. to the river's mouth in Newark, is home to the Diamond Alkali Superfund site, the oldest unresolved superfund site in the country. This last reach of river cuts through the most crowded and heavily industrialized part of the country, and the river has the scars to prove it. Willner has done more than anyone to call attention to those scars and to the people most responsible for inflicting them.

Q. How did you first get involved with the Passaic River?

A. The Passaic is one of the tributaries to New York Harbor. So when I first started the N.Y./N.J. Baykeeper organization back in the early 1990s, we took a hard look at the Passaic. It didn't seem like there were people either paying attention to the Lower Passaic or doing anything on the water. For a long time neither the federal Environmental Protection Agency -- which is in charge of Superfund and the Passaic, unfortunately, is a Superfund area -- nor the New Jersey Department of Environmental Protection was really doing very much about cleaning up the river. So the Passaic became a priority very early on.

Q. What did Baykeeper actually do about the Passaic?

A. Seeing as there was no one looking after the Passaic we took the challenge. And it became a very unique challenge. Here was a river that most people had forgotten. We had to build a river advocacy organization from scratch.

We formed a unique partnership with the Hackensack Riverkeeper and started having Passaic River patrols and canoe trips, all as a way to get people more aware, and to bring the river into focus for the institutions, for government agencies, for organizations that advocated for other rivers but not the Passaic, and for the citizens who lived along the river's banks.

We also had to get the government agencies aware that there was a huge problem and a big constituency that wanted to see the problem fixed. So we started taking government officials out on the river.

And very early on we became advocates for making the polluter -- which has evolved into a company called Occidental Chemical -- be the one who pays for both the cleanup and for the natural resource restoration of the Passaic.

Q. What did these Passaic River patrols do?

A. Let me start by saying that Baykeeper and other water keepers around the world are unique in that part of their mission is to be advocates for a particular water body. Our Baykeeper organization is an advocate for the bays and tributaries to New York Harbor.

So a patrol is a way of observing from the water and making note of anomalies, taking photographs, recording the latitude and longitude of a pipe that something smelly is coming out of, looking for nefarious activities, and also documenting the inherent beauty. It's a way to familiarize the organization's staff and members with a place. It's also a way to either assist government in prosecuting polluters by gathering evidence for that prosecution, or if the government is unwilling or unable to do that prosecution ourselves.

Q. How did river conditions change -- for better or worse -- in your 20 years with Baykeeper?

A. We see somewhat less debris floating in the river than we did when we first started patrolling. But I don't think things have changed significantly in terms of the legacy pollutants, the dioxin, and heavy metals. I'd say the biggest change has been the attitude of the people who live along the river. There are, all of a sudden, boating advocacy groups on the Passaic, people canoeing and kayaking regularly, even in the most industrial part of the river. There have always been competitive rowing groups and high schools with rowing programs -- and now they've become more popular. What's happened is the river hasn't changed very much but peoples' attitudes towards it have started to change and that's driving the government agencies to begin to make a change at the responsible party's -- Occidental Chemical's -- expense.

Q. I've heard you mention Moby Dick in the context of the Passaic. I wonder if you could explain why that classic novel about the hunt for a white whale is relevant?

A. It's relevant for anybody who lives anywhere near the water. I won't be able to quote this. But the first chapter is all about Manhattan. It talks about how people who live, particularly in port cities, move inevitably towards the water. Some go there to fish, some to look at the ships, some to just be in the salt air, but sometimes for no particularly obvious reason other than they're drawn to the water. And that's probably as true about the Passaic as it is about any tidal river in the world.

The Passaic River, one of the most polluted rivers in the nation and a Superfund area.
Q. Even despite its present condition?

A. Yeah, you know, it's not the river's fault. It's certainly not the fault of the people who are compelled to be near it. It's really the fault of the polluters and the government agencies that have failed to fix the problems.

Q. Let's talk about that, particularly in light of the failure of BP and of federal oversight that led to the massive Gulf oil spill. I realize that you've been retired for more than a year, but can you talk about the current status of the Passaic River cleanup?

A. There is now just the inkling of the beginning of a process that will have some pilot projects removing [dioxin-contaminated] sediments from the hottest spots in the river and monitoring whether there's any re-suspension of contaminants as a result of that removal. At the same time - and this is one of the things that Baykeeper has advocated for for close to 20 years -- the natural resource damages that occurred as a result of this pollution will be assessed and restoration projects will occur at the same time the cleanup is occurring. Whether that's marsh restoration or shoreline restoration or public walkways and boat launches, all that stuff will start happening, and has already started to happen, along with the cleanup.

It became obvious that you can't just keep people away from that river for another generation. That you had to do the remediation and the restoration and the restoration of public access all at the same time. It's an innovative approach.

I'm not sure you can compare the kind of legacy pollutants we have from a stubborn polluter [Occidental Chemical] to the extraordinary disaster that's happening in the Gulf, but I think there are some parallels:

One of the things that all major corporations who pollute do is try to diminish their individual liability. BP lied about how much oil was being discharged into the Gulf; Occidental tried to distance itself from the dioxin in the river.

When BP was shone for sure that there was more oil than they said there was, they said, well, it's a big ocean. When Occidental was confronted with irrevocable proof that [the dioxin in the Passaic] was their dioxin, they said, well, it's like a teaspoonful in a swimming pool. And so on, and so forth.

And the more time corporations can spend, and the more money they can spend on lawyers and public relations firms, the longer it will take. It took [Exxon] 25 years and five times in the Supreme Court, but they got the original $5 billion [Exxon Valdez] liability case against them reduced to $500 million dollars. That's really what big companies do best, they stall and stall and stall until some government agency with guts or an organization like Baykeeper just stands up to them and says you've got to start cleaning up now and if you don't we'll do everything within our power to make sure you do.

Q. What advice would you give someone who's concerned about their local urban river?

A. Don't give up. Be aware that if you take on a project to bring an urban river back you're not talking about six months or a year or even two years. You should be willing to spend a decade or two.

And you have to be at it all the time, and you have to engage people who live along the river's banks, and you have to tell the truth, and you have to expose the inability or unwillingness of

government to do anything, and you have to go right after the entity that polluted, and name names, and continue to do that over and over and over again until people start to say, "Oh yeah, it is them and they're the ones who have to pay to clean it up"

And you have to get to love that river, as tough as some of these rivers are to love. You really have to get to love it, have it in your being, or else you won't be an effective advocate.