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**ADMINISTRATOR JACKSON**

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**Mack Trucks, Inc. Signs on to National Greenhouse Gas Reduction Effort (*ForConstructionPros.com*)**

Posted: May 24th, 2010 09:47 AM GMT-05:00
WASHINGTON, DC - Denny Slagle, President and CEO of Mack Trucks, Inc., participated in an event at the White House during which President Obama signed a presidential memorandum aimed at reducing greenhouse gas emissions and improving the fuel efficiency of medium- and heavy-duty trucks and buses. The memorandum outlines principles agreed to by Mack, the U.S. Department of Transportation (DOT), the U.S. Environmental Protection Agency (EPA) and other heavy-duty truck and engine companies. Also joining the President today were DOT Secretary Ray LaHood and EPA Administrator Lisa Jackson.

"Participating in this effort is consistent with measures we already have in place to reduce greenhouse gas emissions from our operations and our products," Slagle said. "Mack joined the EPA's Climate Leaders Program in 2004 as one of the original charter companies. We originally pledged to reduce GHG emissions by 20% per unit from 2003 - 2010. As a result of the numerous energy efficiency projects that have been implemented at our manufacturing and administrative locations, we actually reduced GHG emissions from our operations by 42% per unit, and did it two years ahead of schedule. We've since recommitted to the program and are well on our way to meeting an ambitious new goal.

"In addition to the good work at our facilities, we've also reduced the carbon footprints of our products. Using less fuel is good for our customers' bottom lines as well as the environment. With the MACK ClearTech SCR technology we're using to meet the EPA 2010 emission requirements, we've improved the fuel economy of our trucks by 5% - or more in some applications.

"As part of a global company, we're pleased that the principles agreed upon here in Washington today call for worldwide alignment of GHG emission and fuel efficiency standards. We also fully support the provisions that any such standards applicable to medium- and heavy-duty vehicles must be established in a way that recognizes the commercial needs of the trucking industry and the demands of heavy-duty applications, takes into consideration technology improvement opportunities across the entire vehicle and its operation, is compatible with the complexities of the marketplace, and avoids unintended consequences."

Dedicated to quality, reliability, and total customer satisfaction, Mack Trucks, Inc. has provided its customers with innovative transportation solutions for more than a century. Today, Mack is one of North America's largest producers of heavy-duty trucks and

MACK trucks are sold and serviced through an extensive distribution network in more than 45 countries. Mack trucks and diesel engines sold in North America are assembled in the United States. Mack manufacturing locations are certified to the internationally recognized ISO 9001 standard for quality and ISO 14001 standard for environmental management systems. Mack is also a proud sponsor of Share the Road, an American Trucking Associations' public information campaign aimed at enhancing the safety of our nation's roadways.

Mack Trucks, Inc. is part of the Volvo Group, one of the world's leading manufacturers of trucks, buses and construction equipment, drive systems for marine and industrial applications, aerospace components and services, and is one of the world's leading producers of heavy-diesel engines (9-16 liter). The Group also provides complete solutions for financing and service.

The Volvo Group, which employs about 96,000 people, has production facilities in 19 countries and sells their products in more than 180 markets. Volvo Group sales for 2009 amounted to approximately $29 billion. The Volvo Group is a publicly-held company headquartered in Gothenburg, Sweden. Volvo Shares are listed on Nasdaq OMX Nordic Exchange and are traded OTC in the U.S.

For more information about Mack, visit www.macktrucks.com.

## EDITORIAL/COMMENTARY/OP ED/LETTERS

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### Fossil fuels fight back (*Los Angeles Times*)

Tougher fuel economy standards are being unfairly attacked, this time by the oil industry.
Detroit automakers fought successfully to fend off tougher fuel economy rules for nearly two decades, so it was a little disorienting to see them cheering last week as President Obama announced a new crackdown. But even if General Motors (now a partially owned subsidiary of the U.S. government) and its competitors are no longer against cleaner cars, another powerful lobby remains very much opposed, and isn't above issuing flagrant disinformation to achieve its goals: the fossil fuel industry.

Last year, the Obama administration announced new fuel standards covering model years 2012 to 2016 that will raise the average mileage of carmakers' fleets from 25 miles per gallon today to about 35.5 mpg in six years. On Friday, Obama directed regulators to work on rules that would lead to further improvements from 2017 to 2025, and announced plans to set fuel rules for heavy trucks for the first time. Environmentalists cheered, while the oil industry, via its proxies, fired its usual broadsides.

"Think tanks" funded by the fossil fuel industry have long attacked federal fuel economy rules. The reaction to Obama's announcement by the Institute for Energy Research, a Washington-based hotbed of **global warming** denial supported by oil and coal interests, fit the usual pattern. Among other specious claims, it posited that the existing 2016 standards would harm consumers by adding $1,000 to the price of a car, and that they would lead to smaller, lighter and therefore less safe vehicles. These statements are the very definition of half-truths.

According to the analysis of the new mileage rules by the **Environmental Protection Agency,** they will indeed add "less than $1,000" to the price of a new car in 2016. But it goes on to say that consumers will more than offset the higher price through lower fuel costs within three years.

The safety issue is more complicated, but again, opponents are telling only part of the story. Studies have shown that the first crackdown on fuel economy, starting in 1978, did produce more traffic fatalities as smaller cars hit the freeways. But this time, the standards are being applied differently. The new rules are based on the size of a vehicle's footprint -- big vehicles such as SUVs don't have to get nearly as many miles per gallon as small economy cars. This will probably result in lighter vehicles but not smaller ones. The effect on safety isn't known, but the federal analysis suggests that with proper materials and design, safety actually could be enhanced.

To recap the benefits of fuel economy: Consumers save money on gas; public health improves because cars emit fewer **toxic** pollutants; the nation becomes less reliant on foreign oil; and greenhouse gas emissions drop. According to the Institute for Energy Research, all this is bad for us. If you buy that, we've got some coastal real estate in Louisiana to sell you real cheap.

products are redacted because the information is regarded as a trade secret.

**AIR**

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**For parents: 6 facts about applying sunscreen (*Washington Post*)**

Tuesday, May 25, 2010; C10

-- Most sunscreens need time to react with substances in your skin before they become effective. Be sure to apply them at least 20 minutes before you go out in the sun.

-- Sunscreens containing *zinc oxide or titanium dioxide* create an invisible barrier to UV rays on top of your skin and start working immediately.

-- SPF stands for sun protection factor and determines how long that sunscreen will allow you to stay in the sun without burning. *Use at least an SPF 15.*

-- The Environmental Protection Agency puts out a national *UV index forecast map,* with sun protection advice, every day. You can even put in your own Zip code! Go to http://www.epa.gov/sunwise/uvindex.html.

-- *Sun-protective clothing,* which has a sunscreen in the fabric, really works (but can be expensive).

-- SunGuard is a *laundry additive* that gives your clothes long-lasting sun protection when you add a packet to your wash.

**Site violated air-quality permit rules (*USA TODAY*)**

May 25, 2010 Tuesday
FINAL EDITION
NEWS; Pg. 3A
Pa. orders coke plant to shut down;
BY: Blake Morrison
Pennsylvania regulators moved Monday to shut down a plant in Erie for repeatedly violating state environmental laws -- a step that, one state official said, stems from the company's "complete disregard for the health of our citizens."

In its order revoking the air-quality permit of Erie Coke Corp., the state Department of Environmental Protection (DEP) cited the company for failing to accurately report emissions of "numerous hazardous air pollutants" and for failing to remedy problems inspectors already identified.

Kelly Burch, the DEP's northwest regional director, called the move "very drastic" and cited the company's "pattern of defiant behavior and complete disregard for the health of our citizens." About 150 employees work at the facility, which turns coal into coke, a fuel used to melt iron ore for steel mills.

Messages left with Erie Coke were not returned Monday, but DEP spokeswoman Freda Tarbell said the company appealed the order hours after it was issued. The appeal is scheduled to be heard this week by a state panel of administrative law judges, she said. Meantime, the company will continue to operate.

In 2008, a USA TODAY investigation revealed high levels of at least two dangerous chemicals in the air outside a school just blocks from Erie Coke. The chemicals, benzene and naphthalene, are among those that Erie Coke emits, records show.

The federal government has classified "coke oven emissions" as carcinogens, and USA TODAY's tests found the two chemicals at concentrations that could increase the risk of

cancer for those exposed for long periods of time. Children are particularly vulnerable; they take in more air per pound than adults do, and their organs are still developing.

In response to USA TODAY's findings, regulators with the DEP took air samples outside Wayne School -- while Erie Coke operated at 50% capacity. The tests showed "no unsafe levels of air pollutants or metals," the DEP reported in early 2009.

Burch said Monday that the DEP stands behind its earlier conclusions, even though the order to close Erie Coke cites 108 violations of its air permit from October 2006 through March 2008. Indeed, in July 2008 -- a month before USA TODAY did its testing outside Wayne School -- Erie Coke told the DEP it previously had not accounted for emissions from 23 of its 58 coke ovens.

Burch said no one has studied the health of local residents enough to know whether the chemicals have caused higher rates of cancers or other illnesses.

Erie activist Dennis Stratton, however, said the DEP order reinforces what many local residents fear: that emissions near the facility pose health problems.

That's also the concern of Elena Craft, a toxicologist and air-quality specialist for the Environmental Defense Fund. She said the situation in Erie underscores why more extensive investigations into the health effects of **toxic** chemicals are necessary.

"I don't think we have a good handle on the true risk associated with these compounds," Craft said. "How can you say that that risk is acceptable or unacceptable? This is one great example of why we need to do" further study.

**BP SPILL**

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**BP told to cut back on toxic remedy (*Los Angeles Times*)**

A skeptical EPA calls for a sharp reduction in the company's use of an oil dispersant.

By Ashley Powers, Julie Cart and Bettina Boxall
May 25, 2010
Reporting from Port Fourchon, La. and Los Angeles
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In a sign of diminished confidence in BP's ability to manage the Gulf of Mexico oil spill, federal officials Monday said they intended to require the company to dramatically scale

back its use of oil dispersants and would initiate their own tests on the chemicals' effect on sea life.

With an oil spill of epic proportions looming offshore, Environmental Protection Agency Administrator Lisa P. Jackson — along with angry chorus of lawmakers — chided BP for its lack of transparency. She said that BP's response to federal directives last week to find a less toxic dispersant was "insufficient."

Even though the company's test results show that the dispersant, Corexit, is effective and not a risk to aquatic life, Jackson wants its use cut by 50% to 75%. She said there is no way to know the long-term effects of the unprecedented amount of chemicals.

Adding to BP's woes, Jackson said that the company is liable for environmental fines and penalties now that oil has reached land. And the Commerce Department declared a "fisheries disaster" for the waters off Alabama, Mississippi and Louisiana, making the company responsible for compensating losses to the fishing industry.

BP's dressing down came on a day when a bipartisan cast of lawmakers and federal officials voiced unstinting criticism of the company as toxic oil washed up on nearly 75 miles of Louisiana marshland.

In refusing to rely on BP's data on the toxicity of dispersants, Jackson said, "I'd rather have my own scientists do their own analysis."

More than 800,000 gallons of dispersant have been used in an attempt to break up the oil and speed its decomposition before the slick reaches shore. That is more than has ever been used in U.S. waters, spurring concern that dispersants' widespread application is magnifying the toxic effect of oil on sea life from the gulf surface to its muddy floor.

Last week the EPA told the oil giant to find less toxic alternatives to the two types of dispersant released on the surface and, to a lesser extent in the ocean depths near the damaged wellhead. BP said it is unable to find a more benign dispersant available in the necessary volumes.

On Monday, Jackson and Coast Guard Rear Adm. Mary Landry used frank language to describe a Sunday night meeting with BP officials.

"We are not satisfied that BP has done extensive analysis of other dispersant options," Jackson said. "They were more interested in defending their original decisions than studying other options."

A federal lab in Florida will begin testing the dispersant's effectiveness and toxicity.

Jackson said the unprecedented release of dispersants at an ocean depth of 5,000 feet have been effective and would continue. But the surface applications, in particular, would be decreased.

BP is finishing preparations to stop the flow of the blown-out oil well that that has poured millions of gallons of crude into the Gulf of Mexico since the April 20 Deepwater Horizon rig explosion that killed 11 workers.

Much is riding on the planned Wednesday morning "top kill" operation, which involves pumping heavy liquids into the wellhead to plug it. If the procedure works, the gush of oil from a broken pipe connected to the wellhead could end by Wednesday night.

If it doesn't, BP's badly tarnished reputation will dim further. And the Obama administration will run the risk of seeing the spill narrative shift from BP's failures to a questioning of the administration's competence in handling a growing environmental disaster.

"This is a BP mess. This is a horrible mess," declared Interior Secretary Ken Salazar at a Galliano, La. news conference, where he repeated his threat to put a "boot on the neck" of BP. Over the weekend, Salazar said the federal government was prepared to "push them [BP] out of the way appropriately" if the company proved unable to stem the oil leak spreading across the gulf.

But in a Monday news briefing at the White House, Adm. Thad Allen, U.S. Coast Guard commandant, conceded that the federal government is in no position to take over the job of stopping the leak.

"I know that, to work down there right now, you need remotely operated vehicles," he said. "You need to do very technical work at 5,000 feet. You need equipment and expertise that's not generally within the … federal government, in terms of competency, capability or capacity."

Asked about Salazar's tough stance toward BP, Allen said the Interior secretary was merely using "a metaphor."

In Port Fourchon, La., BP Chief Executive Tony Hayward repeatedly said he was "devastated" by the destruction in the gulf. The shoreline of Port Fourchon — which bills itself as "The Gulf's Energy Connection" — was dripping with liquid that could have been mistaken for chocolate and cherry syrup, if not for the stomach-churning smell.

"This is something I never wanted to see," said Hayward, adding that the company remained committed to stopping the leak, containing the oil and defending the coast. He announced that BP was launching a $500 million research program to study the spill.

BP and federal officials have been prepping for the top-kill effort since the first days after the spill, in large part because they've seen the method succeed in sealing gushing

wells in the past — most notably, in the burning Kuwaiti oil fields from the first Gulf War. But the depth at which the procedure will be executed greatly adds to the complexity.

"It has never been done in 5,000 feet of water," said Hayward, who put the odds of succeeding at 60% to 70%.

Under the technique, a very dense mixture of water and minerals called drilling mud will be pumped into the well from surface vessels to counter the upward force of the spouting oil and gas. Cement will be poured after the mud to seal the opening.

The heavier the mud, the more it will press down on the flow. But on the flip side, the harder it will be to pump into the well. The single biggest technical challenge of the operation will be getting the mud down the well hole and not into the riser pipe connected to the well, said BP Chief Operating Officer Doug Suttles.

If the drilling mud winds up in the riser pipe, it could further erode the pipe and increase the spill flow.

The longer the leak continues, the greater its political toll may be.

"For now, it's clear to everyone that the Obama administration didn't create the spill, and that it's been aggressively pressing BP to do its best to clean it up," said Donald F. Kettl, dean of the University of Maryland School of Public Policy. "But the more the oil oozes around the gulf, the more BP's problem becomes Obama's problem"

Even if the top kill succeeds and not another drop of BP crude escapes into the gulf, the scope of the disaster is already enormous.

"We still have a huge problem. It's a problem that is so wide in its dimension that we can't really say what the effects are likely to be," said Chris D'Elia, dean of the School of the Coast and Environment at Louisiana State University. "There has never been a spill of this magnitude, at this depth before. It's a three dimensional problem, and it's remarkable in scope."

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Staff writer Amina Kahn contributed to this report from Los Angeles.

Peter Nicholas, Richard Simon and Jim Tankersley contributed from Washington.

**Administration torn on getting tough with BP (*Washington Post*)**

May 25, 2010 Tuesday
Suburban Edition
A-SECTION; Pg. A01
Maryland
Administration torn on getting tough with BP;
Officials face reality that they need oil firm in order to stop spill

By Karen Tumulty and Steven Mufson

The tenuous alliance among the Obama administration, the oil firm BP and Gulf Coast officials was visibly fraying on Monday, with exasperation on all sides mounting as oil from a deep-water gusher began lapping at the region's environmentally fragile shoreline.

Meanwhile, the administration faced growing questions about whether it should be taking more control of the situation, rather than ceding so much of the decision-making about stopping the oil spill to the company that created it.

On the coast, local officials complained that Washington has been too slow in helping them hold back the oil. Louisiana Gov. Bobby Jindal (R) said that the administration has not provided enough equipment -- including booms, skimmers, vacuums and barges -- and that it has stood in the way of his proposal to erect artificial barrier islands. Federal officials say that latter plan needs more study.

"BP is the responsible party, but we need the federal government to make sure that they are held accountable and that they are indeed responsible. Our way of life depends on it," Jindal said at a news conference in Galliano, La., with Homeland Security Secretary Janet Napolitano and Interior Secretary Ken Salazar.

With the realization that images of spoiled beaches and oil-covered animals are likely to become much worse in the coming weeks, the administration is torn between a political imperative -- that it take a hard line with the oil giant -- and a practical one -- that it has no choice but to rely on the company to stop the flow.

Some administration officials have started taking a tougher stance with BP, with Salazar threatening on Sunday to "push them out" if the company did not perform.

But when Coast Guard Adm. Thad W. Allen, who is directing the government's disaster response, was asked about Salazar's comment during a briefing Monday at the White House, he dismissed it as "more of a metaphor." Allen added: "To push BP out of the way would raise the question of: Replace them with what?"

And BP Chief Operating Officer Doug Suttles told reporters on a conference call: "I don't know of anything else we could do, but if the government felt there were other things to

do, it is clearly within their power to do that."

Even in one of the few areas where the government has publicly tried to overrule BP -- over its choice of chemical dispersants -- it has not gotten its way. Last week, the **Environmental Protection Agency** told BP that it had 24 hours to find a less **toxic** alternative to the chemical it had been using to break up the oil. The company, however, replied that no alternatives are available in large enough quantities to deal with the spill.

On Monday, the **EPA** responded that BP should keep looking. In the meantime, the agency said, it would conduct its own tests on other chemical dispersants, which was an acknowledgment that it has no answer either.

Tensions are likely to grow if BP's next effort to stop the spill -- a "top kill," which involves pumping in heavy fluids and is scheduled for Wednesday -- does not succeed. That could be followed by another inventively named maneuver, a "junk shot," that would clog the opening with materials that include golf balls and pieces of tire and rope. Or, more likely, BP would try to attach a new funneling device or lower a new blowout preventer on top of the 450-ton one that failed.

But if those measures prove ineffective, it may be August before the leak is stopped through the completion of a relief well, Allen said.

Another flash point may come on Thursday, when Salazar is scheduled to give President Obama his report on the Deepwater Horizon oil rig explosion that caused the spill five weeks ago.

Ultimately, no matter how culpable BP is found to be, there will be questions about the government's responsibility as well.

It is now apparent that BP did not have an effective plan for dealing with a large spill, despite its assertion in a March 2009 exploration plan submitted to the Minerals Management Service that it could handle a "worst-case scenario" blowout that produced 300,000 gallons a day.

But it appears that no other company drilling in the deep waters of the Gulf of Mexico had such a plan, either, or it would have been brought in to stop the spill. That ultimately calls into question the rigor of the MMS, which could have required the stockpiling of the equipment that it has taken BP five weeks to assemble for Wednesday's effort to stop the spill at the well head. Such equipment could have been owned jointly by several companies or by the Coast Guard.

"Industry will have to come up with a different answer for that," said Andrew Gowers, a BP spokesman. "This is a game-changing event. It causes you to revise your thinking, including how many layers of redundancies and what if the blowout preventer fails at that depth and what do you have to contain it. All those things are up for debate now. I wouldn't be surprised if they were not issues the president wouldn't be talking about in

the not-so-distant future."

Since the oil rig exploded, the White House has tried to project a posture that is unflappable and in command.

But to those tasked with keeping the president apprised of the disaster, Obama's clenched jaw is becoming an increasingly familiar sight. During one of those sessions in the Oval Office the first week after the spill, a president who rarely vents his frustration cut his aides short, according to one who was there.

"Plug the damn hole," Obama told them.

The hole continues to spew, however, in quantities now thought to be three to five times the 5,000 barrels a day originally estimated.

That the blowout came only weeks after Obama announced a plan to expand offshore drilling is an accident of timing that is inconvenient politically, but also a point on which the president has expressed dismay internally. In announcing and defending his drilling decision, he repeatedly stressed that the technology the oil industry uses is safe. But from the beginning of the crisis, the administration has run into a different reality when it comes to the risks of deep-water drilling.

While the government may have made a mistake in relying on the oil industry and its assurances then, it finds it has little choice now.

"If you could control an oil spill with lawyers and regulation-writers, and by signing papers and obtaining court injunctions . . . then maybe the U.S. government could do something," said Byron W. King, an energy analyst at Agora Financial. "But really, Uncle Sam has almost no institutional ability to control the oil spill. For that, you need people with technical authority, technical skill and firms with industrial capabilities."

Staff writers David A. Fahrenthold in Washington and Juliet Eilperin on the Gulf Coast contributed to this report.

**The oil spill: The latest developments (*Washington Post*)**

May 25, 2010 Tuesday
Suburban Edition
A-SECTION; Pg. A04
Maryland
The oil spill: The latest developments
-- Obama administration officials expressed unhappiness with the slow pace of BP's efforts to stop the massive oil leak in the Gulf of Mexico but disagreed about what the government could do to hurry them.

-- BP officials said they would attempt to plug the leaking well with a "top kill," a high-pressure injection of mud, on Wednesday. BP chief executive Tony Hayward said that on a scale of one to 10, its chances of success are a six or a seven.

-- In Louisiana, oil penetrated farther into the state's vast system of coastal marshes, increasing worries about the impact on wildlife.

-- The head of the **Environmental Protection Agency** said she is instructing BP to decrease its use of chemical dispersants and to continue looking for a less-**toxic** alternative to one of its heavily used dispersants.

-- Federal officials still did not release a new estimate of how fast the oil is leaking.

By the numbers

316

Number of birds found dead.

41

Number of birds found alive but "oiled."

70

Miles of oiled shoreline in Louisiana.

-- David A. Fahrenthold

**White House on defensive on oil-spill response (*Washington Times*)**

May 25, 2010 Tuesday
A, POLITICS; Pg. 4
White House on defensive on oil-spill response;
Coast Guard chief stands by BP's lead role
By Kara Rowland THE WASHINGTON TIMES
The Obama administration was on the defensive Monday over its handling of the Gulf of Mexico oil spill, saying the federal government is doing all it can, even though the leak has not been capped, and a new opinion poll showing a majority of Americans doesn't approve of the president's management of the crisis.

Coast Guard Adm. Thad W. Allen, who is overseeing the U.S. government's response,

said oil giant BP has the expertise to plug the leak and shrugged off suggestions that the administration should push BP out of the way and take control of the operation.

"To push BP out of the way would raise the question: Replace them with what?" Adm. Allen told reporters at the White House.

More than one month after an explosion at the Deepwater Horizon rig killed 11 people and created an environmental disaster, the administration is struggling to convey that it's doing everything it can to assist in the containment effort while stressing that BP is still legally in charge of the situation.

"We are trying to do everything, as I've said, humanly and technologically possible, first to plug this leak and secondly to deal with what has spilled and both the environmental and economic impacts of that oil," White House press secretary Robert Gibbs said.

But in a CNN/Opinion Research poll released Monday, 51 percent of Americans say they disapprove of the way President Obama is handling the crisis, though even more - 76 percent - say they disapprove of BP's response to the spill.

The leak is complicated by the fact it's coming from a well 5,000 feet under water, meaning all efforts to plug it are being conducted by remote-controlled vehicles.

Adm. Allen said the ultimate solution will be the drilling of a relief well to take away some of the pressure, but that won't happen until August. "We don't want to wait that long," he said.

On Monday, BP's operating officer said his firm understands why people are frustrated that the massive leak has yet to be plugged, but insisted it has the resources to do so. He said the company hopes to use heavy cement and mud to plug the leak as soon as Wednesday, following several failed attempts to stop the oil from spewing into the sea.

"We want this as much as anyone," Doug Suttles said, the Associated Press reported.

Adm. Allen said he is "satisfied" with the coordination that's taking place between the government and the company, and told reporters that BP executives have been responsive to his requests.

But critics, including former Alaska Gov. Sarah Palin, have accused the administration of being too easy on BP. On "Fox News Sunday" this past weekend, the former Republican vice-presidential candidate suggested that Mr. Obama is being influenced by the $77,051 in political contributions he has received from the firm's employees.

Mr. Gibbs hit back at that assertion Sunday by noting Mr. Obama has proposed a windfall-profits tax on oil companies in the past, and mocked Mrs. Palin, saying she should "get slightly more informed as to what's going on in and around oil drilling in this country."

On Saturday, President Obama announced the creation of a commission to investigate the explosion, to be headed by former Florida Sen. Bob Graham and former Environmental Protection Agency Administrator William K. Reilly.

Last week, Interior Secretary Ken Salazar announced a plan to break up the regulatory agency that oversees offshore-drilling permits into three separate parts, arguing that its licensing authority conflicted with the Minerals Management Service's charge to collect royalties from oil companies. Mr. Salazar and other administration officials have said they plan to move ahead carefully on new offshore-drilling leases once an investigation into the Deepwater Horizon spill is completed.

Louisiana Gov. Bobby Jindal, a Republican, has repeatedly criticized the White House and BP, saying his requests for additional resources are not being met. He said 65 miles of Louisiana coastline have already been tarred as a result of the disaster.

**BP will try new method to close oil leak tomorrow (*Boston Globe*)**

May 25, 2010 Tuesday
NEWS; National; Pg. 5
Official says US can't take over cleanup duty;
BP will try new method to close oil leak tomorrow
By Greg Bluestein, Associated Press
COVINGTON, La. - The official leading the federal response to the Gulf oil spill rejected the notion of removing BP and taking over the cleanup operation, saying yesterday that the government has neither the company's expertise nor its deep-sea equipment.

``To push BP out of the way would raise a question: To replace them with what?'' Coast Guard Commandant Thad Allen said at a White House briefing.

The White House is facing increasing questions about why the government can't assert more control over the handling of the catastrophe, which unfolded after a BP offshore drilling rig blew up April 20.

BP's attempts to stop the leak have all failed, despite the company's use of submarine robots that can operate at depths no human could withstand. Millions of gallons of brown crude are now coating birds and other wildlife and fouling the Louisiana marshes.

BP is now pinning its hopes on yet another technique never tested 5,000 feet underwater: a ``top kill,'' in which heavy mud and cement would be shot into the blown-out well to plug it. The top kill could begin as early as tomorrow, with BP's chief executive, Tony Hayward, giving it a 60 percent to 70 percent chance of success.

Allen said federal law dictates that BP must run the cleanup, with the government overseeing its efforts.

``They're exhausting every technical means possible to deal with that leak,'' he said. ``I am satisfied with the coordination that's going on.''

Interior Secretary Ken Salazar suggested over the weekend that the government could intervene aggressively if BP wasn't delivering. ``If we find that they're not doing what they're supposed to be doing, we'll push them out of the way appropriately,'' he said.

But asked about that comment yesterday, Allen said: ``That's more of a metaphor.''

Allen said BP and the government are working closely together, with the government holding veto power and adopting an ``inquisitorial'' stand toward the company's ideas. The commandant also said the government has the authority to tell BP what to do, and such orders carry the force of law.

Homeland Security Secretary Janet Napolitano also took a more measured tone at a news conference yesterday in Galliano, La., with Salazar and six US senators who had flown over the coast to see the damage. ``We continue to hold BP responsible as the responsible party, but we are on them, watching them,'' she said.

BP said it is doing all it can to stop the leak. Its chief operating officer, Doug Suttles, made the rounds of network morning news shows to say that the company understands people are frustrated.

``Clearly Secretary Salazar is telling us that we need to do this as expediently as we can,'' Suttles said. ``And of course we are.''

Hayward walked along oil-soaked Fourchon Beach and said he had underestimated the possible environmental effects.

``I'm as devastated as you are by what I've seen here today,'' Hayward said after he spoke with cleanup workers in white overalls and yellow boots, some shoveling oily sand into garbage cans. ``We are going to do everything in our power to prevent any more oil from coming ashore, and we will clean every last drop up and we will remediate all of the environmental damage.''

In another source of tension between BP and the government, the company was still using a certain chemical dispersant yesterday to fight the oil despite orders from the Environmental Protection Agency to employ something less toxic.

``If we can find an alternative that is less toxic and available, we will switch to that product,'' Suttles said. ``To date, we've struggled to find an alternative either that had less risk to the environment or that was readily available.''

EPA Administrator Lisa Jackson called BP's response ``insufficient.''

Mark Kellstrom, an analyst with Summit, N.J.-based Strategic Energy Research, said time might be running out for BP to continue calling the shots. ``The rhetoric is growing up in Washington for the politicians to kick out BP and let the government take over,'' Kellstrom said, though he added that it would be a mistake.

BP had hoped to try a top kill earlier but needed more time to get equipment into place and test it. A top kill has worked on aboveground oil wells in Kuwait and Iraq but has never before been attempted so far underwater.

Suttles said the biggest technical challenge is that the fluid must be pumped in very quickly, and engineers need to make sure it goes into the well, not out through the leaking pipe, which could make the leak worse.

A containment device is on the seafloor, ready to be put in place if the top kill fails or makes the leak worse. It is a smaller version of a 100-ton box that BP lowered several weeks ago in hopes of capturing much of the oil.

**In wake of BP spill, will we save our oceans? (*USA Today*)**

05/24/2010

Just over a month ago, the ocean burned. The images of BP Deepwater Horizon in flames have led us to question both ocean industrialization and the anemic state of conservation. Not long ago, however, Americans were swept up in a wave of environmentalism spurred in part by two very different events.

First, in 1956, Jacques Cousteau released his film, *The Silent World*, upon an unsuspecting and soon awestruck public. Though hard to fathom now, few humans had ever glimpsed the beauty, grace and mystery just a few feet below the ocean's surface. The second, in 1969, came when Cleveland's Cuyahoga River caught fire. The image of a polluted river in flames was seared into the national consciousness. The United States would go on to pass the National Environmental Policy Act, the Clean Air Act, the Clean Water Act and other important protections.

The ocean has inspired millions, but our understanding of it is as shallow and shrouded as ever. Only the most intrepid divers descend below 150 feet or so. By 330 feet, sunlight fades. From there down, past the gushing BP well at 5,000 feet, the ocean is cast in darkness, but life exists to the very bottom.

**A month of anguish**

Many people think the ocean is unknowable — out-of-sight is out-of-mind. Communicating against such complacency is the greatest challenge of ocean conservation. As BP Deepwater Horizon shows, in images as grotesque as Cousteau's were gorgeous, we cannot let the ocean's mystery lull us into inaction.

Oil has been jetting into the Gulf of Mexico for more than a month now. One month of fear for coastal communities. One month of anguish for a nation. The quantity of oil will be left to the scientists and lawyers, but if new estimates are right, it could be as much as an Exxon Valdez every four days.

Unlike the Exxon Valdez spill in Alaska, however, the oil from BP Deepwater is coursing into mile-deep, near-freezing waters that may be changing the spill's character. Only recently did scientists discover a 10-mile plume below the surface. Such plumes could soak up oxygen needed for sea life to survive and deal a crippling blow to fisheries, wildlife and the economy.

**Oceans sustain us**

The presence of submerged oil might explain why what we see falls short of expectations of what an oil disaster looks like. Then again, much of what lies beneath the ocean's surface defies expectation. In those unseen depths is the source that sustains us with the food, oxygen and the climate we need to survive.

Now, more than ever, we need a new awakening of ocean environmentalism in America. We cannot let out-of-sight, out-of-mind shape public consciousness. We must stop polluting. We must stop exploiting. We must understand that, while the Gulf is under direct assault, the ocean's broader demise threatens every one of us.

Just over a month ago, the ocean burned. Will these images inspire a new generation of ocean activism? Or will America stand silent as the silent world crumbles?

How we answer these burning questions could be key to the very future of life on planet Earth.

*Vikki Spruill is president and CEO of Ocean Conservancy, advocates for the ocean since 1972, (www.oceanconservancy.org).*

**Following BP's Lead (*New York Times*)**

May 25, 2010 Tuesday
Late Edition - Final
Section A; Column 0; Editorial Desk; OP-ED COLUMNIST; Pg. 27
Following BP's Lead
By BOB HERBERT
Old Shell Beach, La.

I asked the sheriff of St. Bernard Parish, Jack Stephens, if he was at all optimistic about BP stopping the gusher of oil that is fouling the Gulf of Mexico in time to prevent a long-

term environmental catastrophe in the southern Louisiana wetlands.

The sun was high in the sky, and the day was hot. The sheriff was in a small boat, patrolling the waterways that wend their way through the delicate marshes. He thought for a long moment. Oil was already seeping into the marshes, getting into the soil and plant life and coating some of the wildlife.

"I'll tell you the truth," said Mr. Stephens. "It may already be too late."

Traveling along the Gulf Coast, past idled boats with names like Big Shrimp and Blessed Assurance, past dead trees and hurricane fortifications and other signs of the area's perpetual vulnerability, you can't help but wonder how a company like BP, with its awful record of incompetence and irresponsibility, was ever allowed to drill for oil a mile deep in the Gulf of Mexico.

It's not as if we didn't know that BP was a menace. On March 23, 2005, a series of explosions and fires at the BP Texas City refinery killed 15 people and injured 180 others in what was described by investigators as "one of the worst industrial disasters in recent U.S. history." John Bresland, the chairman of the U.S. Chemical Safety Board, reminded us in March, on the fifth anniversary of the tragedy, that an intensive investigation by the board had "found organizational and safety deficiencies at all levels of the BP Corporation."

The Texas City conflagration was just part of BP's execrable pattern. On Oct. 25, 2007, the U.S. Department of Justice issued the following announcement:

"British Petroleum and several of its subsidiaries have agreed to pay approximately $373 million in fines and restitution for environmental violations stemming from a fatal explosion at a Texas refinery in March 2005, leaks of crude oil from pipelines in Alaska, and fraud for conspiring to corner the market and manipulate the price of propane carried through Texas pipelines."

Nice outfit, this BP. Anyone who thought this London-based wrecking crew gave a rat's whisker about harming the Gulf of Mexico or threatening the environment of the Louisiana wetlands -- or the livelihoods of families living here -- has been inhaling way too much of BP's **toxic** fumes.

Yet there was our government not only giving BP's reprobates the go-ahead to drill for oil a mile deep in the gulf but also handing them a waiver, allowing them to avoid a detailed analysis of the effect of their operations on the surrounding environment. Giving an environmental waiver to a company as contemptuous of the environment as BP shows just whose side the government is on in the face-off between predatory giant corporations and the interests of ordinary American citizens.

BP got off much too easy with the fines it agreed to in 2007. And for some odd reason, it's being treated much too deferentially now. This crisis has gone on for more than a

month, and neither BP nor the Obama administration seems to know what to do.

No one has a handle on how much oil is gushing out of control into the gulf. No one understands the environmental impact of the hundreds of thousands of gallons of chemical dispersants that BP is injecting into the gulf. No one has any idea how far this awful stain on the environment will spread.

President Obama should have taken charge of the response to the oil spill -- which he called a "potentially unprecedented" environmental calamity -- from jump street. He should have called in the very best minds and operatives from the corporate and scientific worlds and imposed an emergency plan of action -- to be carried out by BP and all others who might be required. Instead, after all this time, after more than a month of BP's demonstrated incompetence, the administration continues to dither.

Incredibly, until The Times blew the whistle in an article on Monday, environmental waivers were still being offered for oil drilling in the gulf. What will it take for sanity to prevail? How many people have to die or face ruin, and how much of nature has to be despoiled before we rein in the cowboys of these runaway corporations?

Steadily increasing numbers of anxiety-ridden coastal residents are watching not just their livelihoods but an entire way of life slip away. Even as BP's lawyers are consumed with the task of limiting the company's liability, the administration continues to insist it has little choice but to follow the company's lead in fighting the spill. That is dangerous nonsense.

President Obama has an obligation to make it unmistakably clear that BP's interests are not the same as America's interests. He needs to stand shoulder to shoulder with the people who are taking the brunt of this latest corporate outrage. The oil has now stained nearly 70 miles of the Louisiana Coast. No one can say what terrible toll the gusher is taking in the depths of the gulf. And spreading right along with the oil is a pervasive and dismaying sense of helplessness from our leaders in Washington.

**In Standoff With Environmental Officials, BP Stays With an Oil Spill Dispersant (*New York Times*)**

May 25, 2010 Tuesday
Late Edition - Final
Section A; Column 0; National Desk; Pg. 17
In Standoff With Environmental Officials, BP Stays With an Oil Spill Dispersant
By ELISABETH ROSENTHAL
In a tense standoff, BP continued to spray a product called Corexit in the Gulf of Mexico on Monday to break up a vast oil spill despite a demand by federal regulators that it switch to something less toxic.

**The Environmental Protection Agency** had set a Sunday night deadline for BP to stop using two dispersants from the Corexit line of products. The oil company has defended its use of Corexit and taken issue with the methods the agency used to estimate its toxicity.

At a news conference Monday, the **E.P.A. administrator,** Lisa P. Jackson, said that she was "dissatisfied with BP's response" and had ordered the oil giant to take "immediate steps to scale back the use of dispersants."

Ms. Jackson called BP's safety data on dispersants insufficient and said government scientists would conduct their own tests to decide which dispersant was best to use. She said the amount of chemicals applied to control the oil spilling from the Deepwater Horizon well -- more than 700,000 gallons so far on the gulf's surface and a mile underwater at the leaking well head -- was "approaching a world record."

Ms. Jackson said that in theory, BP's deployment of dispersant directly onto the l well head, a novel use of the chemicals, would reduce the amount of oil on the surface and the need for application of dispersant there. She said the company could reduce its use by 50 percent to 75 percent, regardless of which dispersant was used.

Rear Adm. Mary E. Landry of the Coast Guard said that while the government had approved the use of dispersant beforehand, "no one anticipated that it would ever be used at this scale and this scope."

Admiral Landry said the preferred method of responding to oil on the ocean was to burn it or to soak it up with devices like absorbent booms. Dispersant applications should be a second line of defense, for when the weather is too severe to rely on other techniques, she said.

It was not clear how the environmental agency would enforce the demand that BP reduce its use of the dispersant.

"We are continuing to use Corexit while we're still working with **E.P.A**. on alternatives," Mark Salt, a spokesman for the oil company, said by telephone from Texas on Monday morning. Asked Monday evening about the request that the company at least reduce its use of the Corexit dispersant, he said he had not heard about the proposal and added, "Again, We're still working closely with **EPA**."

Representative Edward J. Markey, Democrat of Massachusetts, a leading critic of BP since the spill, and chairman of the House Select Committee on Energy Independence and **Global Warming,** welcomed the **E.P.A**.'s latest actions. "We know almost nothing about the potential harm from the long-term use of any of these chemicals on the marine environment in the Gulf of Mexico," he said, "and even less about their potential to enter the food chain and ultimately harm humans."

Last Wednesday evening the **E.P.A**. ordered BP to propose one or more alternative

dispersants to regulators within 24 hours. Once it received a response, it said, the company would have 72 hours to stop using Corexit and make a switch.

But it also said that if BP were "unable to identify available alternative dispersant products," it could provide a detailed description of the dispersants it had investigated and the reasons it did not believe they met the required standards.

On Thursday, BP invoked the second option. In a letter, it ticked off some of the alternative dispersants it considered and outlined why it believed each was problematic, often because of toxicity issues.

In the 12-page letter and in subsequent meetings with federal officials, BP contended that some of the dispersants that met the agency's criteria for being "less **toxic"** were in some ways more harmful than Corexit. The company said they contained molecules that could interfere with endocrine function and so affect sexual reproduction.

While the Corexit products, made by the Nalco company of Naperville, Ill., are the time-tested old faithfuls of oil spill treatment, they were developed in the 1980s and '90s, and critics say that less **toxic** and more effective products are now available.

Dispersants are detergents and at best are mildly **toxic**, so applying them requires a careful calculation about whether the dispersant-oil mixture will cause more or fewer problems than untreated crude oil would. Their effectiveness and the wisdom of their continued use can be assessed only by careful, ongoing measurements, experts say.

The purpose of the chemicals is to break up the oil into tiny droplets that sink and can be more readily dispersed by ocean currents, to diminish the oil's effect on sea life and shore habitats.

Complicating the standoff between the company and regulators, there are many methods for estimating the toxicity of chemical oil dispersants and no single standard prevails.

The Corexit dispersants were removed from a list of approved dispersants in Britain a decade ago because one type of test used in that country found them to be unduly dangerous to animals like limpets near rocky shores. But they are still approved for use in the United States and Canada, which rely on different types of testing.

Although the **E.P.A**. placed BP's letter on its Web site, many specifics about particular

**EPA Pressures BP To Reduce Toxic Dispersant (*NPR*)**

by David Schaper
May 25, 2010

Under increasing pressure from the federal government, oil giant BP is agreeing to reduce the amount of a chemical dispersant it is using in the Gulf of Mexico.

BP uses the dispersant Corexit to try to break up the massive amounts of oil gushing out of its blown out well in the Gulf, but there are questions about the long term impact of the chemical on marine wildlife and human health.

The Environmental Protection Agency raised concerns about the toxicity of Corexit last week, and told the oil company to use a different chemical agent to try to disperse the giant oil slicks.

"The answer we got back from BP to me seemed more like a defense of the current choice," says EPA Administrator Lisa Jackson. "It reminded me a little bit of that old commercial, 'I'd rather fight than switch'."

BP officials say their own testing finds the dispersant Corexit effective in breaking up oil and safe to aquatic life — adding it couldn't find large enough quantities of other dispersants to make the switch.

But Jackson isn't buying it, starting with the company's research.
A contractor operates an oil skimmer in Pass a Loutre, La.
Enlarge Geral Herbert/AP

A contractor operates an oil skimmer as EPA Administrator Lisa Jackson tours marshes impacted from the Deepwater Horizon oil spill in Pass a Loutre, La.
A contractor operates an oil skimmer in Pass a Loutre, La.
Geral Herbert/AP

A contractor operates an oil skimmer as EPA Administrator Lisa Jackson tours marshes impacted from the Deepwater Horizon oil spill in Pass a Loutre, La.

"We'll do it ourselves. We have a lab, EPA does, in Gulf Breeze, Fla., and we're going to set up a series of toxicity tests, biodegredations tests, to look at what's going on out there now and to look at whether there's a better choice out there," Jackson adds.

In the meantime, much still isn't known about the long term effects of Corexit.

BP has been using unprecedented amounts of the dispersant in the Gulf — tens or thousands of gallons every day for more than a month now.

Jackson says she met Sunday night with BP officials in southern Louisiana to step up the pressure and get the company to scale back its use of the chemical.

"I think we should see 50 to 75, maybe 80 percent reduction in the amount of dispersant used, while we continue to do these tests over the next days," she says.

Jackson says BP will reduce the use of the dispersant on the water surface mostly. She says injecting it underwater into the stream of oil spewing out the blown out well head, has shown to be more effective and less toxic.

BP's Chief Operating Officer Doug Settles, in a conference call with reporters Monday, appeared to be more willing to reduce the use of Corexit:

"As we stated to them (EPA), if we can find an alternative which is less toxic and as effective and as available — because many of these are not available in the quantities required — but if it's available we will switch to that product."

This flare up with EPA is just one of several instances in recent days.

Parish leaders in Southern Louisiana say the company is responding too slowly to getting booms out to protect marshes, wetlands, estuaries and islands.

They say BP, which is paying for and thus coordinating the response, sometimes disagrees with local leaders over which islands and wetlands to protect.

David Carmadelle, mayor of the oil inundated community of Grand Isle, says BP's decisions when deploying boom, are sometimes puzzling.

"They activated 11 fishermen day before yesterday from Grand Isle, sent 'em all the way here to Venice to get booms, when we got booms in Grand Isle. This is the kind of stuff we have to go through."

Everyone, from local fishermen to Gov. Bobby Jindal, appears to be getting more and more frustrated with BP.

"They will be held accountable," says Interior Secretary Ken Salazar, who visited the Gulf Coast Monday. "We will keep our boot on their neck until the job gets done."

But Salazar's suggestion over the weekend that BP might be pushed out the way if it can't get the job done, appears now to be little more than hyperbole.

At the White House Monday, Coast Guard Commandant Thad Allen, who is leading the administration's response, said the government doesn't have much choice but to stick with BP.

"To push BP out of the way would raise a question, to replace them with what?"

Allen defends BP, saying he's satisfied with the coordination, and that the company is exhausting every technical means possible to cap the blown out well and contain the oil.

BP Resists EPA’s Order to Use Less Toxic Dispersant

by Marian Wang, ProPublica - May 24, 2010 10:35 am EDT

**BP Told to 'Scale Back' Dispersants in Gulf, EPA Says (*Bloomberg Businessweek*)**

May 24, 2010, 6:39 PM EDT
(Adds Jackson's comments starting in second paragraph.)
By Kim Chipman

May 24 (Bloomberg) -- BP Plc will be ordered by the U.S. to immediately reduce the amount of dispersant chemicals used to break up oil from a spill in the Gulf of Mexico, Environmental Protection Agency Administrator Lisa Jackson said.

The Obama administration wants the company to "ramp down" the amount of chemicals to "no more than is necessary, especially at the surface," Jackson said on a conference call with reporters.

The U.S. must ensure that enough dispersant is available a month from now should the spill worsen, Jackson said. Using chemicals to break up the oil and reduce harm to the coasts is an "environmental tradeoff," she said. The effects on aquatic life remain unknown, Jackson said.

Jackson said BP's use of dispersant under water means the company needs less on the surface. "We expect to see a substantial reduction" in overall chemicals used, she said. Jackson estimated that the cut could be 50 percent to 80 percent while the EPA conducts independent tests and seeks a "better choice" of dispersant.

BP has applied the chemicals at a "world record" rate, Jackson said. The EPA administrator said the decision to use dispersants was the toughest she's ever made.

U.S. officials asked BP last week to find a dispersant less toxic than Nalco Holding Co.'s Corexit oil. About 785,000 gallons of chemicals have been applied so far, according to BP and government officials.

EPA Not Satisfied

EPA wasn't satisfied with BP's response to the U.S. request, which Jackson said showed BP was more interested in fighting to keep using Corexit than switch. BP told the agency in a May 20 letter that the chemical it is using is a "better choice" for subsea application than other alternatives.

The company has not found anything less toxic, as effective or sufficiently available as alternatives to Corexit, Doug Suttles, BP chief operating officer for exploration and production, said today on a conference call.

BP is working “through all the options” with the EPA, company spokesman Mark Salt said today. “We continue to work very closely with the EPA.”

So far, application of subsea dispersants is breaking up the oil below the surface and shows no “measurable” ecological impacts, said Jackson, who is in Louisiana as part of the administration’s efforts to monitor the spill.

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**BP Ordered to ‘Scale Back’ Dispersants Used in Gulf, EPA Says *(Bloomberg Businessweek*)**

May 24, 2010, 5:34 PM EDT
By Kim Chipman

May 24 (Bloomberg) -- BP Plc has been told to immediately reduce the amount of dispersant chemicals it’s using to break up the oil spill in the Gulf of Mexico, Environmental Protection Agency Administrator Lisa Jackson said today.

The U.S. wants BP to “scale back” the amount of chemicals it is using, especially on the water’s surface, Jackson said on a conference call. The use of subsea dispersants so far shows no “measurable” ecological impacts, she said.

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Posted on Mon, May. 24, 2010

**U.S. feeling pressure to do more on oil spill (*Miami Herald*)**

BY STEVEN THOMMA AND JOSEPH GOODMAN
McClatchy News Service
The unprecedented scope of the Gulf of Mexico oil spill is forcing federal officials to rethink the government's role in such a wide-scale disaster, the commandant of the Coast Guard said Monday.

``I'd say we're actually defining that as we go, because I've never dealt with a scenario like this,'' Adm. Thad Allen said. ``I've been dealing with oil spills, you know, for over 30 years. This is an unprecedented anomalous event.''

As Louisiana Republican Gov. Bobby Jindal on Monday again pressed the federal government to do more, Allen and other Obama administration officials faced growing questions about whether the federal government could or should take over the job of stopping the spill and leading the cleanup from energy giant BP.

``We need to make the federal government accountable,'' Jindal said Monday in Louisiana, with a top member of the Obama administration, Homeland Security Secretary Janet Napolitano, at his side.

Also Monday, Rep. Jerrold Nadler, D-N.Y., called on the Environmental Protection Agency to enforce an order it issued last week for BP to switch to a less toxic oil dispersant.

``EPA must stop the use of toxic chemical dispersants and force BP to the most responsible resolution to this environmental and economic disaster,'' said Nadler, a senior member of the House Transportation and Infrastructure Committee.

But in Lousiana, BP CEO Tony Hayward defended his company's use of a chemical agent used to disperse oil and said its use will continue.

The Environmental Protection Agency placed a Sunday deadline on the company to stop using Corexit 9500, a liquid used to break down crude oil. BP has used over 600,000 gallons of the chemical over the past month.

``Everything we do with dispersants is with the explicit approval with the EPA, both in terms of dispersant type and the quantity,'' Hayward said.

The EPA preapproved the use of Corexit 9500 after the oil spill in the Gulf but federal officials backtracked after the substance was identified as a moderate hazard to human health.

Asked on Monday on the beaches of Port Fourchon, La., if he was concerned about the possibility of a criminal investigation into his company, Hayward said, ``I think there will be all sorts of investigations and we will deal with them as they come.''

Allen insisted at the White House that the federal government is doing all it can do, given its equipment and expertise.

He brushed aside a weekend comment from Interior Secretary Ken Salazar suggesting that the government might ``push'' BP out of the way.

``To push BP out of the way would raise a question, to replace them with what?'' Allen said.

Sometime on Tuesday or Wednesday, BP plans an exercise called ``top kill'' that will shoot heavy mud and cement into the well to try to plug it. BP officials estimated the chance of success at 60 percent to 70 percent.

``They are pressing ahead. We are overseeing them. They're exhausting every technical means possible to deal with that leak,'' Allen said.

Allen dismissed suggestions that the federal government take over, noting that the government doesn't own the kind of equipment needed to operate at underwater depths of 5,000 feet. ``BP or the private sector are the only ones that have the means to deal with that problem down there.''

As critics such as former vice presidential candidate Sarah Palin accuse the White House of dragging its feet in the response, Allen said the Coast Guard started deploying equipment to the Gulf on April 21, the day after the Deepwater Horizon oil rig exploded and the day before it sank.

He acknowledged, however, that the Coast Guard is still flying in equipment from other sites, more than a month after the explosion.

The government has plans for oil spills that were written in 1990, a year after the Exxon Valdez spill in Alaska, Allen said. However, those plans didn't envision a spill of this magnitude or depth.

*Miami Herald staff writer Joseph Goodman reported from Port Fourchon, La.*

Read more: http://www.miamiherald.com/2010/05/24/v-print/1646326/us-feeling-pressure-to-do-more.html#ixzz0ovnyzkHw

**BP, Obama admin vent frustrations as 'top kill' delayed (*Greenwire)***

Katie Howell, E&E reporter
05/24/2010

Federal officials and BP PLC executives alike are expressing mounting frustration with the oil giant's failed attempts to stanch the flow of oil gushing into the Gulf of Mexico after a BP-hired rig exploded and capsized there more than a month ago.

Officials from both the government and the oil company seem to have reached a stalemate over who should be in charge of managing the spill.

Doug Suttles, BP's chief operating officer, this morning took the company's message to three of the major U.S. networks' morning talk shows, saying BP shares frustration over the failed attempts to quell the disaster but that the government could be in charge if it chooses to be.

"The federal government does have ultimate control of this event," Suttles said on CBS's "Early Show." "I don't know anything we could be doing that we aren't doing. ... So I think it's this huge sense of frustration that we haven't been able to stop it yet."

Suttles' comments came a day after Interior Secretary Ken Salazar berated BP in a news conference, saying the company responsible for paying for containment and cleanup of the spill had missed "deadline after deadline."

"I have no question that BP is throwing everything at the problem to try and resolve it because this is an existential crisis for one of the world's largest companies," Salazar told reporters yesterday outside BP's Houston offices. "Do I have confidence that they know exactly what they are doing? No, not completely."

But despite concerns over the potential disaster, some federal officials have indicated the government won't take a larger role in managing the day-to-day operations of the spill response.

Coast Guard Commandant Adm. Thad Allen, the U.S. official leading the response to the Gulf spill, said only BP had the expertise to plug the gaping hole.

"They have the eyes and ears that are down there. They are necessarily the modality by which this is going to get solved," Allen said on CNN's "State of the Union" program. "Our responsibility is to conduct proper oversight to make sure they do that."

President Obama has launched an independent commission to investigate the disaster. In remarks Saturday, he announced that he had appointed former U.S. EPA chief under Republican President George H.W. Bush, William Reilly, and a former Florida governor and senator, Bob Graham (D), to head up the commission.

"Folks on the Gulf Coast -- and across America -- are rightly demanding swift action to clean up BP's mess and end this ordeal," Obama said. "But they're also demanding to know how this happened in the first place, and how we can make sure it never happens again."

Obama has charged the commission with examining what caused the spill, the safety of offshore drilling and operations at the Minerals Management Service. A report is due in six months.

Democrats and environmentalists are applauding creation of the commission.

"I commend President Obama for creating this important commission. So far, BP has not been able to get to the bottom of what happened at the bottom of the ocean," said Rep. Ed Markey (D-Mass.) in a statement. "This commission will determine all of the facts, so we can know what actually happened, who is responsible and how we can make sure a disaster of this magnitude never happens again."

Obama is also sending some of his top advisers back to the Gulf Coast to monitor the on-the-ground response. EPA Administrator Lisa Jackson headed to Louisiana yesterday. Council on Environmental Quality Chairwoman Nancy Sutley joined her today. And Salazar and Homeland Security Secretary Janet Napolitano will also visit the state today with a bipartisan Senate delegation.

**Siphon estimates fall as 'top kill' is delayed again**

BP continues to siphon off oil leaking from a broken riser pipe 5,000 feet below the Gulf's surface, but in revised estimates released today, the company said those amounts are less than half the estimated oil leaking each day and well below previous estimates.

The company said the mile-long riser-insertion tube was capturing an average of 2,010 barrels per day, less than half the 5,000 barrels per day the company estimates is leaking into the Gulf. Last week, the company said it was managing to siphon off around 5,000 barrels per day.

The company continues to prepare for a "top kill" procedure to cap the spill, but the process will likely be delayed until Wednesday, Coast Guard Rear Adm. Mary Landry said in a conference call yesterday.

The technique would involve injecting heavy drilling fluids and cement into the wellbore to seal it. BP had originally planned to start the procedure early this week.

**BP sets up research program**

BP today pledged up to $500 million to launch a 10-year research program studying the effects of the Deepwater Horizon incident on the Gulf marine and shoreline environment.

"We must make every effort to understand that impact," said BP CEO Tony Hayward in a statement. "This will be a key part of the process of restoration and for improving the industry response capability for the future."

As part of the program, BP will fund research to examine a variety of topics, including how the oil, dispersed oil and dispersant are moving under the action of ocean currents. The research will also address how the oil, dispersed oil and dispersant behave on the seabed, in the water column, on the surface and on the shoreline and what their effect on those environments might be. Tropical storms' effect on the oil slick, natural seepages and technology research will also be studied.

"There is an urgent need to ensure that the scientific community has access to the samples and the raw data it needs to begin this work," Hayward said.

BP will build on its ongoing marine research programs in the Gulf and appoint an independent advisory panel to construct the long-term research program. The company has already awarded a first grant to Louisiana State University to obtain baseline data samples and assess immediate impacts.

"LSU has a significant amount of experience in dealing with the oil and gas industry and deep knowledge pertaining to the Gulf of Mexico across numerous topical disciplines," Christopher d'Elia, dean of the School of the Coast and Environment at LSU, said in a statement.

**Closing loopholes**

Democratic senators today announced legislation that would target a series of tax breaks related to drilling activities and revenues.

The legislation from Sens. Robert Menendez (D-N.J.), Bill Nelson (D-Fla.) and Jeff Merkley (D-Ore.) would recoup royalties that oil companies avoid paying for oil and gas production on public lands, prevent companies from using foreign tax rules to avoid paying full U.S. corporate taxes, and end a number of tax deductions and relief afforded to the industry.

"The flow of revenues to oil companies is like the gusher at the bottom of the Gulf of Mexico: heavy and constant," Menendez said in a statement. "Unlike the underwater geyser in the Gulf, we can shut down these loopholes quickly and permanently when we pass this legislation."

**Measuring methane**

As estimates vary broadly over how much oil is leaking into the Gulf of Mexico, a University of California, Santa Barbara, scientist has proposed computing the size by measuring the amount of natural gas spewing out along with the crude.

In an article published this week in the journal *Nature*, geochemist David Valentine said that dragging gas sensors through the waters near the spill could provide data on how much methane was in the ocean, and from that figure, the volume of oil could be derived.

The oil leaking from the Deepwater Horizon drilling rig riser pipe has high concentrations of associated methane -- perhaps as much as 40 percent by mass, Valentine said. But methane dissolves in water and can be measured empirically, unlike oil. And once the level of methane is determined, the amount of oil can be calculated. But using this method needs to occur quickly, he said, before the plumes disperse.

Valentine told the *Los Angeles Times* that he had floated the idea among spill officials to a favorable response, but "nobody said they were going to do it yet."

**Oil Leak Update: BP again delays "Top Kill" till Wednesday (*All Voices*)**

By RoyEisner send a private message
Barataria : LA : USA | May 24, 2010
Vets clean an oil-covered brown pelican in Buras Louisiana

As the oil leak disaster in the Gulf continues to grow larger, frustration keeps growing as well. Doug Suttles of BP admits it won't be a modest spill. The EPA had ordered the use of less toxic chemicals, which BP has ignored, and the man in charge of Coast Guard operations is "happy" with BP's response. BP is also putting off till Wednesday the "Top Kill" operation, which has more people mad and BP sounding more and more afraid to do it.

Let's start with BP's Doug Suttles. " Everyone is very very frustrated about why we haven't been able to bring this well to stop flowing so far" , said Suttles. He added that BP has the resources to stop the growing spill. Doug Suttles also said that the operation called "Top Kill" which will use heavy mud and cement to try to stop the leak will not happen until at least Wednesday. Originally it was going to be done last Sunday and changed to Tuesday.

BP's John Curry on why the operation has been delayed again. " Our goal, of course, is to succeed. We want this as much as anyone and our best chance of success is looking like Wednesday morning", said Curry. He said more time is needed to get equipment in place and test it.

After a fly-over of affected areas, Homeland Security Secretary Janet Napolitano had some tough words for BP. "We are going to stay on this and stay on BP until this gets done and it gets done the right way", said Napolitano. The Homeland Secretary also vowed that the Coast Guard would take greater control of the response to the Gulf disaster and added that "every federal resource that can be deployed is being deployed".

While BP's Doug Suttles sounded like he was apologizing for his 'modest spill" remark, BP continues to use the chemical that the EPA told them to stop using and they said they would. Suttles first: "It won't be very modest. It's not modest today. It's significant today. It's very very, very real to the people who live here. It's very, very real to me and the team who's helping me fight this thing."

If you are counting, that is the third time in this story, so far, that Doug Suttles has said "very, very". While Doug Suttles tries to talk the talk, BP is not walking the walk. BP is still using the banned in the UK chemical dispersant to fight the oil today, despite orders from the EPA to stop using it, and BP this weekend saying that it would stop using it. This chemical is called "Corexit 9500". Besides the fact that less harsh chemicals are available, at least five different kinds, BP's Doug Suttles said that they haven't found another dispersant that is both less toxic and readily available. This contradicts a report over the weekend that says a less harsh chemical IS available and sitting in a warehouse in Houston, Texas. Again, Doug Suttles contradicts that report by saying, " If we can find an alternative that is less toxic and available, we will switch to that product. To date, we've struggled to find an alternative either that had less risk to the environment or that was readily available", said Suttles.

The EPA said that the chemical being used by BP, Corexit 9500, has not been studied enough to know about long term effects. BP told the EPA it would switch to a less harsh chemical, and now they are saying that nothing else is available.

BP is still working on back-up plans if "Top Kill" doesn't work . The backup plan revealed today by Doug Suttles was that BP will try to cap the well with a containment dome. This has failed before. Suttles also said that BP is still considering shooting the "junk shot" which would contain shredded tires, golf balls, and even human hair.

BP also said today that they have spent $760 million so far, and this includes costs of drilling the relief wells to seal the the leak for good. The relief wells will not be ready until August.

Roger Helm is the chief of the U.S. Fish and Wildlife Service's contaminants division. Helms says the death toll on wildlife has been low because most of the oil remained out in the sea. In contrast, Helms sighted the Exxon Valdez spill in 1989 when hundreds of thousands of birds, otters and other animals were killed. Roger Helm added, "But, if the oil does really start fouling up the marshes, you can expect the numbers of oiled birds to go up significantly."

Last week it was reported that 264 birds, sea turtles, and dolphins had been found dead or stranded on the shore. That foul-up of the marshes that Roger Helm spoke of, is already happening. On Barataria Bay, Louisiana, some brown pelicans could only hobble around and they were jet black, covered in oil, as are some pelican eggs. Wildlife officials tried to rescue one of the pelicans and a number of them became scared and spooked. The officials are not sure they will attempt this again.

Also in Louisiana, Gov. Bobby Jindal had blasted the Feds about the delay in getting emergency permits so that sand berms can be built. The emergency permits in place, crews have begun work on a chain of berms made with sandbags and reinforced with containment booms, which the Governor had said yesterday were in short supply. "This oil threatens not only our coast and our wetlands, this oil fundamentally threatens our way of life in southeastern Louisiana", said Gov. Jindal.

The threat to wildlife is higher because this is mating season and a lot of wildlife heads into the Gulf. the pelicans, mentioned earlier, are especially vulnerable because they dive into the water to feed. The pelicans also might be feeding tainted fish to their young, and the pelicans could get hypothermia or drown with their oil soaked feathers. These pelicans were just taken off the federal endangered list six months ago.

Reports today are of oil reaching a 1,150 acre oyster ground. Cleanup crews were installing absorbant boom but large clumps of rust-colored oil were still floating in the oyster beds. Fisherman Dave Cvitanovich, who leases the 1,150 acre oyster grounds told the Associated Press that the mature oysters might be able to filter out the oil and become fit for sale, but this year's crop of young oysters will die.

In contrast to what everyone else is saying, Adm. Thad Allen, who President Obama picked to head the Coast Guard oversight of the disaster, is satisfied with BP. Allen said that coordination between BP and the Coast Guard was going well and he does not see the need to take over primary responsibility for the on-going operation from BP. Adm. Allen seems to be the only one happy with BP, although legally as we have learned, the U.S. can't take over the BP operation. As with this entire situation, there are conflicting reports, and viewpoints and there doesn't seem to be a unified opinion about anything.

On one hand we have Interior Secretary Ken Salazar not confident that BP knows what it is doing and is threatening to push BP out of the way if the government doesn't like the way BP is doing this operation. This conflicts with White House Press Secretary Robert Gibbs who cites a 1990 law that make it illegal for the federal government to take over an oil company operation during an oil leak disaster. Further confusing the messages coming from the federal government which is conflicting in itself, is Adm. Allen questioning Ken Salazar's threat to push BP aside. Allen wants to know what we would replace BP with.

As the oil leak grows larger, it seems that the words are getting harsher from both sides. BP responded today that it is doing everything possible to stop the leak, but the federal government has ultimate control. My question to BP is, if the fed's have control, why is BP still using a chemical the the government ordered them to stop using?

BP has stated that they are still using the "Corexit 9500" because nothing else is available, at least nearby. That conflicts with a weekend report saying that there is a warehouse full of the safer chemical in Houston, Texas.

Press Secretary Robert Gibbs is holding to his statements of last week and said again on Sunday that this is BP's show. But, BP's Doug Suttles is saying that the government could be in charge if it wants to be. One person who seems to know he is in charge of something is the mayor of Grand Isle, Louisiana who told the Coast Guard he didn't want unsightly containment booms used around the beach because it would be "unsightly" for beachgoers. Admiral Mary Landry said the Coast Guard has to respect the wishes of local leaders.

Transocean, the company that operated the oil rig is having a memorial service on Tuesday in Jackson, Miss. to honor the eleven men killed aboard the Deepwater Horizon.

Also this evening I learned that BP is cutting back on the toxic chemical, but still using it. Louisiana officials are getting ready to take matters in to their own hands. If BP continues to use this chemical, they will try one of the other ones later this week. The officials contend that besides being toxic, this chemical is not breaking down the oil just pushing it down from the surface so that the leak doesn't look as big when TV crews fly over it with cameras.

There is a feeling among even loyal democrats that President Obama is not handling this disaster the right way. Many are telling the President to demand that BP bring in the other oil companies to help, including drilling the relief wells, to leave BP free to work on the leak and containment.

**Secret formulas, data shortages fuel arguments over dispersants (*Greenwire*)**

Paul Quinlan, E&E reporter
05/24/2010
A dearth of information about the ingredients of various oil-dispersing formulas is complicating an increasingly rancorous debate over which, if any, is the best choice for cleaning up the catastrophic spill in the Gulf of Mexico.

As the quantity of dispersant that BP has sprayed on the spill surpassed 800,000 gallons last weekend, experts say the secret formulas, combined with the sparse water-quality data released by U.S. EPA, make an independent assessment of the dispersant strategy next to impossible.

Some scientists are calling for all dispersant use to be halted until the ingredients and effects are better understood.

"The data is horrible," said Carys Mitchelmore, an environmental chemist and toxicologist at the University of Maryland's Center for Environmental Science. A co-author of a 2005 National Academy of Sciences report on dispersants, she has testified

repeatedly on Capitol Hill over the gaping holes in the scientific knowledge regarding the chemicals.

"There's two frustrations," Mitchelmore said. "One, I don't know what's in them, and secondly, I really hope they are running toxicity tests with all of these right now to get a more robust scientific data set."

The company responsible for containing the spill, BP PLC, continued to spar with EPA over the company's decision to rely on two types of Corexit -- proprietary dispersant formulas manufactured by Nalco Holding Co., which has close ties to both BP and Exxon Mobil Corp.

EPA's own data indicate that Corexit may not be the least toxic or most effective option available, and last week, the agency ordered the company to switch to something less toxic within 24 hours.

On Saturday, BP rejected the order, citing an ingredient in a potential alternative formula, called Sea Brat #4, that could degrade into a nonylphenol, a class of chemicals believed to be disruptive to hormone systems.

BP's letter and accompanying analysis, which included numerous redactions, also said the company was unable to identify ingredients in other proprietary oil dispersants, concluding that Corexit remained the safest and most abundant option available.

"We're still using it because, as of today, it's still the best product available," said Doug Suttles, chief operating officer for BP, on CNN today. "It is on the approved list. It is safe to use. It is the most widely used."

Suttles said BP would continue to consult with EPA to determine whether to switch from Corexit. An EPA spokesman said the agency had not yet publicly responded to BP's decision.

"We're going to continue to study this with the EPA," Suttles said. "We're going to work with them every single day. We've met again last night with them; if there is a better product that's available, we'll use it."

Scientists, meanwhile, are stepping up their questions and criticisms concerning the use of dispersants, noting that the vast quantities being used to ensure the oil sinks into the ocean rather than washing up on beaches and coastal wetlands could wreak long-term havoc on the marine environment and ultimately complicate cleanup.

EPA Administrator Lisa Jackson has called the decision to allow BP to use dispersants a "trade off" between risking harm to a portion of the ocean and protecting the coast from a thick oil slick that could linger on shorelines for decades.

**Calls for halting dispersant use**

On Capitol Hill, two ocean experts told a House panel Friday that the use of the oil-dispersing chemicals should be halted until the ingredients and effects are better understood.

"Until we know more about the dispersants, I'd follow up with BP and EPA and tell them to stop, stop," legendary oceanographer Sylvia Earle told the Energy and Commerce Committee.

"It's not at all clear to me why we're dispersing the oil at all," said Carl Safina, president and co-founder of the Blue Ocean Institute. "It seems to me you would want it as thick and as concentrated so we can deal with it right there. We seem to be saying we're going to take this concentrated oil, and we're going to dissolve it. It's an out-of-sight, out-of-mind strategy. It's a PR stunt to dissolve this oil with dispersants. It's just to get it out of the way of the cameras on the shoreline."

Others criticized BP's written response for its redactions, saying the marked-out portions of the letter represented clear defiance of the Obama administration's calls for transparency.

"The administration demanded transparency from BP, and we got censored documents," said Jeremy Symons, the National Wildlife Federation's senior vice president. "BP cannot be trusted, and this is not acceptable. These toxic chemicals have been dumped in the Gulf for a month at levels never envisioned, and any information that sheds light on their effects and the potential for less toxic dispersants needs to be made public immediately."

Also on Friday, the National Science Foundation awarded a rapid-response grant to scientist David Valentine of the University of California, Santa Barbara, and colleagues to study how the use of dispersants will affect the ability of microbes to break down the oil.

**Cement failure widely thought to have caused explosion (*Greenwire*)**

05/24/2010
One month after the April 20 accident at the Deepwater Horizon oil rig, there is growing consensus among industry scientists and offshore drilling engineers that a problem with a cement encasement caused the explosion that has allowed millions of gallons of oil to spill into the Gulf of Mexico.

Multiple ongoing investigations could turn up a number of contributing factors in the accident, described by one engineer as "a confluence of unfortunate events." But engineers say BP PLC's design for the cement encasement used relatively little cement and made it more difficult to test for flaws, increasing the likelihood of the type of explosive surge that destroyed the rig.

Halliburton Co., the contractor on the rig, followed BP's design for the cementing job, which was intended to cap the well so oil could be produced later. Engineers pumped cement into the oil well to form a bond between drilling pipes and the seafloor, but BP made the "shocking" decision of only partially covering steel casings in cement, said Gene Beck, an associate professor of petroleum engineering at Texas A&M University who testified at congressional hearings.

"There is an art to it, and every well is a little different," Beck said, adding that a mistake can allow the buildup of pressurized gas.

After the crew pumped seawater into the well's riser, a resulting decrease in pressure seems to have allowed the gas surge that fueled the explosion, engineers say.

Alfred Eustes, an associate petroleum engineering professor at the Colorado School of Mines, said distinctive geological formations could have required BP to select this particular cementing design. The company declined to comment (Jill Leovy, *Los Angeles Times*, May 23). **-- GN**

**CLIMATE CHANGE/GLOBAL WARMING**
**==========**

**Climate Fears Turn to Doubts Among Britons (*New York Times*)**

May 25, 2010 Tuesday
Late Edition - Final
Section A; Column 0; Foreign Desk; Pg. 1
By ELISABETH ROSENTHAL
LONDON -- Last month hundreds of environmental activists crammed into an auditorium here to ponder an anguished question: If the scientific consensus on climate change has not changed, why have so many people turned away from the idea that human activity is warming the planet?

Nowhere has this shift in public opinion been more striking than in Britain, where **climate change** was until this year such a popular priority that in 2008 Parliament enshrined targets for emissions cuts as national law. But since then, the country has evolved into a home base for a thriving group of climate skeptics who have dominated news reports in recent months, apparently convincing many that the threat of warming is vastly exaggerated.

A survey in February by the BBC found that only 26 percent of Britons believed that "**climate change** is happening and is now established as largely manmade," down from 41 percent in November 2009. A poll conducted for the German magazine Der Spiegel found that 42 percent of Germans feared **global warming**, down from 62 percent four

years earlier.

And London's Science Museum recently announced that a permanent exhibit scheduled to open later this year would be called the Climate Science Gallery -- not the **Climate Change** Gallery as had previously been planned.

"Before, I thought, 'Oh my God, this **climate change** problem is just dreadful,' " said Jillian Leddra, 50, a musician who was shopping in London on a recent lunch hour. "But now I have my doubts, and I'm wondering if it's been overhyped."

Perhaps sensing that climate is now a political nonstarter, David Cameron, Britain's new Conservative prime minister, was "strangely muted" on the issue in a recent pre-election debate, as The Daily Telegraph put it, though it had previously been one of his passions.

And a poll in January of the personal priorities of 141 Conservative Party candidates deemed capable of victory in the recent election found that "reducing Britain's carbon footprint" was the least important of the 19 issues presented to them.

Politicians and activists say such attitudes will make it harder to pass legislation like a fuel tax increase and to persuade people to make sacrifices to reduce greenhouse gas emissions.

"Legitimacy has shifted to the side of the climate skeptics, and that is a big, big problem," Ben Stewart, a spokesman for Greenpeace, said at the meeting of environmentalists here. "This is happening in the context of overwhelming scientific agreement that **climate change** is real and a threat. But the poll figures are going through the floor."

The lack of fervor about **climate change** is also true of the United States, where action on climate and emissions reduction is still very much a work in progress, and concern about **global warming** was never as strong as in Europe. A March Gallup poll found that 48 percent of Americans believed that the seriousness of **global warming** was "generally exaggerated," up from 41 percent a year ago.

Here in Britain, the change has been driven by the news media's intensive coverage of a series of climate science controversies unearthed and highlighted by skeptics since November. These include the unauthorized release of e-mail messages from prominent British climate scientists at the University of East Anglia that skeptics cited as evidence that researchers were overstating the evidence for **global warming** and the discovery of errors in a United Nations climate report.

Two independent reviews later found no evidence that the East Anglia researchers had actively distorted climate data, but heavy press coverage had already left an impression that the scientists had schemed to repress data. Then there was the unusually cold winter in Northern Europe and the United States, which may have reinforced a

perception that the Earth was not warming. (Data from the National Oceanic and Atmospheric Administration, a United States agency, show that globally, this winter was the fifth warmest in history.)

Asked about his views on **global warming** on a recent evening, Brian George, a 30-year-old builder from southeast London, mused, "It was extremely cold in January, wasn't it?"

In a telephone interview, Nicholas Stern, a former chief economist at the World Bank and a **climate change** expert, said that the shift in opinion "hadn't helped" efforts to come up with strong policy in a number of countries. But he predicted that it would be overcome, not least because the science was so clear on the warming trend.

"I don't think it will be problematic in the long run," he said, adding that in Britain, at least, politicians "are ahead of the public anyway." Indeed, once Mr. Cameron became prime minister, he vowed to run "the greenest government in our history" and proposed projects like a more efficient national electricity grid.

Scientists have meanwhile awakened to the public's misgivings and are increasingly fighting back. An editorial in the prestigious journal Nature said climate deniers were using "every means at their disposal to undermine science and scientists" and urged scientists to counterattack. Scientists in France, the Netherlands and the United States have signed open letters affirming their trust in **climate change** evidence, including one published on May 7 in the journal Science.

In March, Simon L. Lewis, an expert on rain forests at the University of Leeds in Britain, filed a 30-page complaint with the nation's Press Complaints Commission against The Times of London, accusing it of publishing "inaccurate, misleading or distorted information" about **climate change,** his own research and remarks he had made to a reporter.

"I was most annoyed that there seemed to be a pattern of pushing the idea that there were a number of serious mistakes in the I.P.C.C. report, when most were fairly innocuous, or not mistakes at all," said Dr. Lewis, referring to the report by the United Nations Intergovernmental Panel on **Climate Change.**

Meanwhile, groups like the wildlife organization WWF have posted articles like "How to Talk to a Climate Skeptic," providing stock answers to doubting friends and relatives, on their Web sites.

It is unclear whether such actions are enough to win back a segment of the public that has eagerly consumed a series of revelations that were published prominently in right-leaning newspapers like The Times of London and The Telegraph and then repeated around the world.

In January, for example, The Times chastised the United Nations climate panel for an

errant and unsupported projection that glaciers in the Himalayas could disappear by 2035. The United Nations ultimately apologized for including the estimate, which was mentioned in passing within a 3,000-page report in 2007.

Then came articles contending that the 2007 report was inaccurate on a host of other issues, including African drought, the portion of the Netherlands below sea level, and the economic impact of severe storms. Officials from the climate panel said the articles' claims either were false or reflected minor errors like faulty citations that in no way diluted the evidence that **climate change** is real and caused by human activity.

Stefan Rahmstorf, a professor at the Potsdam Institute for Climate Impact Research, successfully demanded in February that some German newspapers remove misleading articles from their Web sites. But such reports have become so common that he "wouldn't bother" to pursue most cases now, he added.

The public is left to struggle with the salvos between the two sides. "I'm still concerned about **climate change,** but it's become very confusing," said Sandra Lawson, 32, as she ran errands near Hyde Park.

**Legislation must account for biomass emissions, 90 scientists urge Congress (*Greenwire*)**

Patrick Reis, E&E reporter
05/24/2010
Climate legislation must include a system to account for greenhouse gas emissions from biofuels and biomass electricity, a group of 90 scientists is urging the Democratic leadership in Congress.
Treating all biomass energy as carbon-neutral could undermine the bill's emission-reduction goals, the scientists wrote in the letter released today.

"Bioenergy can reduce atmospheric carbon dioxide if land and plants are managed to take up additional carbon dioxide beyond what they would absorb without bioenergy," the letter says. "On the other hand, clearing or cutting forests for energy, either to burn trees directly in power plants or to replace forests with bioenergy crops, has the net effect of releasing otherwise sequestered carbon into the atmosphere, just like the extraction and burning of fossil fuels.

"That creates a carbon debt, may reduce ongoing carbon uptake by the forest, and as a result may increase net greenhouse gas emissions for an extended time period and thereby undercut greenhouse gas reductions needed over the next several decades."

Unless land-use changes are accounted for, incentives to produce biomass energy could encourage international deforestation on a broad scale, the letter says. The letter is backed by scientists such as William Schlesinger, president of the Cary Institute of

Ecosystem Studies; Paul Ehrlich, a conservation biologist at Stanford University; and Donald Kennedy, a professor emeritus at Stanford and former editor in chief of the journal *Science*.

Biomass energy is treated as carbon-neutral in both the climate and energy bill passed last summer in the House and the Senate's "American Power Act," co-sponsored by Sens. John Kerry (D-Mass.) and Joe Lieberman (I-Conn.). In both bills, biomass energy sources are not required to buy allowances in a carbon credit system designed to cap the total amount of U.S. greenhouse gas emissions.

To qualify for the exemption, the energy sources must be produced using organic materials that meet the bills' definition of "renewable biomass."

Biomass energy advocates -- including many utilities, farm and forestry groups -- argue that the definition and other existing requirements ensure biomass will be carbon-neutral. The exemption from the cap-and-trade system for greenhouse gases makes a scientifically sound distinction between emissions from above-ground plants and underground fossil fuels.

Matt Hartwig, spokesman for the Renewable Fuels Association, challenged the scientists' conclusions on how the production of biofuels could increase carbon emissions by changing the way land is managed.

"The books ought not be cooked in any manner, such as penalizing biofuels like ethanol with the notion of indirect land-use change when the scientific community is nowhere near consensus on the 'science' behind it," he said.

Hartwig noted that U.S. EPA recently finalized a mechanism for accounting for carbon emissions from biofuels and said pending climate legislation would likely have more of an effect on biomass electricity.

Environmental groups are calling the exemption the "biomass loophole" and fumed after a late-hour amendment stripped the House bill of designs to track biomass emissions (*E&E Daily*, Sept. 22). A push to include an accounting system in the initial draft of the Senate bill fell short, as well (*E&E Daily*, May 13).

"There may be a public perception that all biofuels and bioenergy are equally good for the environment and are all lower in carbon emissions than fossil fuels, but that's not true," said William Schlesinger, president of the Cary Institute of Ecosystem Studies and a signatory to the letter. "If our laws and regulations treat high-carbon-impact bioenergy sources, like today's corn ethanol, as if they are low-carbon, we're fooling ourselves and undercutting the purpose of those same laws and regulations."

## FUEL

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### Truck Efficiency Standards Due by 2014 (*Transport Topics Online*)

President Barack Obama Friday directed the Department of Transportation and Environmental Protection Agency to develop standards for medium- and heavy-duty commercial trucks to improve fuel efficiency and reduce greenhouse gas emissions.

The standards will take effect with 2014 model-year trucks.

In a ceremony at the White House, president Obama also put into motion fuel economy standards for cars and light trucks to take effect in 2017 after the current standards are completed.

The presidential memorandum Obama signed also includes a push for developing electric-powered vehicles and requires the government to diversify the mix of fuels available, such as bio-fuels and natural gas, Bloomberg News reported.

Industry groups were generally in support of the proposal to improve fuel economy and reduce carbon emissions from commercial trucks.

“For several years, [American Trucking Associations] has supported the development of fuel economy standards for trucks,” ATA President Bill Graves said. “Reducing fuel consumption and CO2 production is good for the trucking industry and great for the environment.”

Obama said the government believes that “we can increase fuel economy by as much as 25% in tractor trailers using technologies that already exist today.”

The agencies have until July 30, 2011 to issue a final rule. Under that timeline, it is possible the agencies will issue a proposed rule sometime this summer.

*By Light & Medium Truck*

## HAZARDOUS WASTES

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### EPA files complaint against Gardnerville businessman for allegedly operating illegal waste disposal site (*Reno Gazette Journal*)

STAFF REPORT • May 24, 2010

The U.S. Environmental Protection Agency is charging a Gardnerville businessman with violating federal law regarding the safe handling and disposal of solid and hazardous waste.

The EPA said Reed Skenandore, who runs an auto dismantling business, is allegedly operating an un-permitted illegal waste disposal site that has resulted in open dumping and illegal disposal of hazardous waste on an 80-acre site on tribal lands near Gardnerville in Douglas County.

The site contains waste from the on-site dismantling of automobiles as well as large quantities of waste accepted off-site, including abandoned automobiles, trailers, tires, car batteries,
construction waste, used oil, used appliances, televisions and computer monitors, waste paint and
aerosol cans, according to the EPA.

“Open dumping is a problem in Indian Country and other rural areas with limited access to solid waste management programs,” Jared Blumenfeld, EPA’s Regional Administrator for the Pacific Southwest region, said in an e-mail. “When individuals choose to operate facilities that promote open dumping and the illegal disposal of hazardous waste, EPA will hold them accountable by vigorously enforcing federal laws to protect communities and the environment from harm.”

Car batteries and television monitors can release toxic lead into the environment if not managed and disposed of properly. Additionally, the EPA said, the facility did not properly manage automobile fluids and oil which can result in environmental contamination. Used oil must be properly contained, labeled, and sent off site for proper recycling.

The EPA complaint alleges Skenandore violated the federal Resource Conservation and Recovery Act by open dumping of solid waste, open buring of solid waste, failure to notify EPA of waste handling and to apply for an EPA identification number, failure to label containers of used oil and failure to respond to releases of oil to the environment.

Violations of the act can assess a civil penalty of up to $37,500 per day, per violation.

For more information on the Resource Conservation
and Recovery Act program, visit http://www.epa.
gov/compliance/cleanup/rcra/index.html.

**Texas plan to accept more radioactive materials under fire (*Greenwire*)**

05/24/2010

A coalition of environmentalists, geologists and residents are pushing back against a nuclear waste dumping plan that would allow three dozen states to ship their hazardous waste to a 1,340-acre site in a remote part of West Texas.

Under a plan originally devised between Vermont and Texas, the New England state would have been allowed to truck its low-level nuclear waste to a dump site owned by Waste Control Specialists LLC in West Texas. The deal had garnered the support of most area residents, who were eyeing the job opportunities from the move.

But a proposal to broaden the plan and allow 36 states to send their waste to the site is coming under fire. The commission overseeing the waste scheme has been fielding thousands of complaints blasting the plan for potentially harming the environment and leading to pollution of groundwater. More than a dozen state lawmakers have also jumped into the fray, saying the commission needs to slow down its approval process.

Critics maintain that the rules under consideration by the commission, which would address process, do not adequately address safety issues for trucking the waste along Texas roadways, nor do they detail to what extent the state would be held financially liable for the waste once it arrives (Betsy Blaney, AP/Yahoo News, May 22). **-- DFM**

**SUPERFUND**

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**Cleanup at Mont. asbestos site may end by 2013 (*Greenwire*)**

05/24/2010
Cleanup at a Superfund site in Western Montana that has dragged on for a decade may come to a close in the next few years.

U.S. EPA took action this month to begin wrapping up its cleanup of the city of Libby by 2012 or 2013, even as asbestos contamination continues to show up in schools, businesses and hundreds of houses.

Nearly 400 residents have died and many more have suffered from asbestos-related diseases as the result of vermiculite mining by W.R. Grace & Co. People were exposed to the asbestos when vermiculite insulation was used in their homes, dust was inhaled from workers' clothes, or kids played in waste piles dumped by the company behind the community baseball field.

After the cleanup began in 1999, U.S. EPA forecast that the work would be completed in two years at a cost of $5.8 million, but since then costs have ballooned to $333

million, 400 people have died, and the scope of the cleanup has been downsized from cleaning whole houses to just tackling attics.

More than 1,250 homes and businesses have been part of the cleanup, and 70,000 truckloads of contaminated soil have been removed (Matthew Brown, AP/*San Francisco Chronicle*, May 23). **-- DFM**

## TOXICS

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### EPA makes toxic chemical data searchable by location (*NewsOK.com*)

The U.S. Environmental Protection Agency has updated its online database, Enivrofacts. The update includes information on thousands of chemicals and chemical facilities that allow users to see what chemicals are being released into the environment in their area.

BY JOHN ESTUS Oklahoman
Published: May 25, 2010

It just got easier to find out whether kids live near arsenic transfer sites, among other things.

The federal Envirofacts database was updated last week with detailed data about the thousands of toxic chemicals that are regularly released into the environment.

Read more: http://www.newsok.com/epa-makes-toxic-chemical-data-searchable-by-location/article/3463622?custom_click=pod_headline_usnational-news#ixzz0ovlc2Fl2

The U.S. Environmental Protection Agency's website houses the database, which is searchable by address, allowing the public to learn which toxic chemicals are released into the air, water or land in their area.

For instance, Envirofacts data show the only major toxic chemical releases in Oklahoma's urban areas come from oil refineries in west Tulsa and nearby Sand Springs.

Most toxic chemicals here are released in rural areas.

Updated data include chemicals released, descriptions of the chemicals, who releases them and how often, aerial images of the facility, inspection reports and demographic information about the area.

Whether chemical facilities have broken EPA rules is also listed in the database.

"The addition to Envirofacts will provide the American people with unprecedented access to information about chemicals that are manufactured in their communities," said Steve Owens, assistant administrator for EPA's Office of Chemical Safety and Pollution Prevention.

The Oklahoma City metro area's only active toxic chemical discharger is the Xerox plant in Yukon, which regularly discharges nitrates, methanol and other chemicals into the air. The plant has remained in compliance with clean air standards, data show.

Last week's update included the addition of 6,300 chemicals and 3,800 chemical facilities nationwide. More updates are planned as part of the EPA's ongoing effort to disclose more of its data to the public.

Read more: http://www.newsok.com/epa-makes-toxic-chemical-data-searchable-by-location/article/3463622?custom_click=pod_headline_usnational-news#ixzz0ovlW7WEb

**FDA probes skin creams for toxin (*Greenwire*)**

05/24/2010
The U.S. Food and Drug Administration announced Friday it will probe skin-lightening creams for risky levels of mercury.

Following a *Chicago Tribune* investigation last week that found high levels of the toxic metal in some creams, the FDA said it planned to take action on potentially hazardous products and follow up with enforcement measures if necessary. The FDA banned mercury in skin-bleaching or -lightening creams in 1990, but the agency rarely tests for the metal, according to the newspaper.

"We didn't know there was that kind of a risk, and we believe now there is a level of risk," FDA spokesman Ira Allen said. "We are going to follow up." The agency's investigation may include testing samples of the creams and inspecting facilities, he said.

Last Wednesday, the newspaper reported that it had sent 50 creams used to lighten skin and fade age spots to a certified lab for testing. Six of the creams were found to contain amounts of mercury banned by federal law. Five of those six had levels of more than 6,000 parts per million of mercury -- enough to potentially cause kidney damage over time, according to a medical expert.

While sales for skin lighteners are strong in the United States and abroad, agency officials said concerns over tainted creams had not been an area of concern since 2006, when some products from the Dominican Republic were found to contain high amounts of mercury.

The six creams which tested high in mercury during the *Chicago Tribune* investigation were manufactured in Lebanon, China, India, Pakistan and Taiwan. Four of the manufacturers said the tainted products sold under their labels could be counterfeit (Gabler/Roe, *Chicago Tribune*, May 21). **-- DFM**

**Plea to Obama: Do more (*St. Petersburg Times*)**

Florida
May 25, 2010 Tuesday
A; Pg. 1A
Plea to Obama: Do more
BY CRAIG PITTMAN
Times Staff Writer
As Louisiana officials took reporters to see how a black tide of toxic chemicals has washed across 65 miles of their state's coastal wetlands this weekend, oil-coated pelicans flopped helplessly in the reeds.

"We need a leader and so far we don't have one," Billy Nungesser, president of Plaquemines Parish, complained.

Frustration continued mounting Monday over BP's failure to stop the millions of gallons of oil billowing out of pipes miles beneath the Gulf of Mexico's surface after 34 days of trying. People from both political parties were asking: Why is President Barack Obama leaving the effort to stop the spill in the hands of the people who are responsible for the mess?

The law on oil spills spells out that it's the president's job to make sure everything gets cleaned up.

"The president shall .?.?. ensure effective and immediate removal of a discharge, and mitigation or prevention of a substantial threat of a discharge, of oil or a hazardous substance," the **Clean Water Act** states.

Florida Chief Financial Officer Alex Sink - the front-runner for the Democratic nomination for governor - sent Obama a letter Monday demanding he push BP aside and take charge because "they have failed us at every turn."

"We are now more than a month out from this disaster, and Floridians want to know: Where is the federal government's leadership?" she wrote.

However, whenever there's a spill of any **toxic** waste, the government routinely requires the company responsible for the pollution to take charge of cleaning it up, pointed out Paul Boudreaux, an environmental law professor at Stetson University's College of Law. Oil is no different.

"Certainly the government could take over" the oil cleanup, he said. "But I'm not sure if the Coast Guard would have any more resources to deal with this than BP does."

Obama administration officials rejected the idea of a government takeover of the effort.

"To push BP out of the way would raise the question: to replace them with what?" Coast Guard Adm. Thad Allen said at a White House briefing. Right now BP is "exhausting every technical means possible" to deal with the spill, he said.

Obama administration officials continued to insist that the cleanup is BP's responsibility and that the federal government's job is to oversee BP's efforts.

Interior Secretary Ken Salazar told reporters that "this is a BP mess. It is a horrible mess. We will not rest until their job is done."

But officials said the law does give them the power to push BP to do the right thing.

BP seemed headed for a showdown with the **Environmental Protection Agency** after administrator Lisa P. Jackson told the company to look for less **toxic** chemical dispersants to spray on the spill, and BP responded by saying it would stick with the ones it already had on hand.

Jackson said Monday that the **Clean Water Act** gives the government the authority to order BP to stop spraying chemical dispersants on the spewing oil - but at this point she's not doing that.

Instead, she said she has told BP officials to cut back their dispersant use and to redouble their efforts to look for a less **toxic** version. She said BP has now agreed to take those steps.

And she promised the **EPA** will now begin doing its own tests, at a laboratory in the Florida Panhandle, to look for less **toxic** alternatives.

Without the unprecedented use of 700,000 gallons of dispersants, both on the surface and at the wellhead, a lot more oil would be washing ashore in Louisiana now, said Coast Guard Rear Adm. Mary Landry, who is the on-scene coordinator in charge of the cleanup.

But Landry acknowledged that it's a "troublesome" trade-off using the chemicals to protect beaches and marshes without knowing exactly what they might do to marine life

in the gulf.

"We live in a world where we make tough decisions based on little science," Jackson said.

But it's not just how BP is dealing with the spill that is drawing criticism of the Obama administration for being too deferential.

In her letter, Sink noted that some Panhandle hotels that have seen a decrease of more than 50 percent in occupancy are having trouble filing claims for damages through BP.

"Why must a small business owner looking for assistance through this crisis have to work through BP - why isn't the federal government handling claims of lost income and revenue?" she wrote.

The bottom line, she said in an interview, is that "BP is an oil drilling company. It's not a company that knows much about cleaning up an oil spill."

Information from McClatchy Newspapers, the Associated Press and Reuters was used in this report.

## WATER

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### EPA cites lots in Iowa, Kan., Neb. for violations (*Associated Press*)

**Story also appeared: *Chicago Tribune***

3:11 PM CDT, May 24, 2010
KANSAS CITY, Kan.
The Environmental Protection Agency has cited six beef feedlot operations in Kansas, Iowa and Nebraska for violating the federal Clean Water Act.

Jewell County Feeders of Mankato, Kan., was fined $10,800, and Platte Valley Feeders of Kearney, Neb., was fined $20,000 for not complying with federal discharge laws aimed at protecting area waterways.

The EPA also ordered four other feedlots to end unauthorized release of pollutants. Those feedlots are identified as Sandhill Farm, Inc., of Rock Valley Iowa; Kooima Custom Feed, of Rock Valley, Iowa; Albert Rens, Ireton, Iowa; Darwin Rus, also of Rock Valley, Iowa.

The EPA said in a release Monday that runoff from concentrated animal feeding operations carries several pollutants, including heavy metals, hormones and antibiotics.

**EPA tests show increased E. coli levels in Kansas City area streams (*Water Technology Online*)**

Monday, May 24, 2010
KANSAS CITY, KAN. — Recent tests by the US Environmental Protection Agency (EPA) showed increased levels of E. coli after recent rains in Kansas City area streams, according to a press release.
The tests are part of a year-long project by EPA to better understand water quality in the Kansas City area.

As part of this survey, samples will be analyzed to understand the relationship between bacteria and other water quality parameters, the release stated.

Rainfall washes bacteria into waters from sources such as runoff and combined sewers. Bacteria levels can rise rapidly as a result of rain, and in larger urban areas, generally drop back to normal levels within 48 to 72 hours.

Completed results from EPA's results of recent sampling will be available later this week, according to the release.

**EPA Quietly Crafts Guide On CAFOs 'Duty' To Seek Permits, Riling Industry (*Inside EPA*)**

Monday, May 24, 2010
As part of an upcoming legal settlement with environmentalists, EPA has crafted draft guidance on when concentrated animal feeding operations (CAFOs) have a "duty" to seek clean water act discharge permits, a controversial topic that industry says is moot because a federal appellate court ruled in 2005 that CAFOs have no duty to seek permits.

"EPA wants everybody to get a permit, but if the law doesn't require that, the law doesn't require it," one industry source says.

The draft guidance, "Concentrated Animal Feeding Operations Duty to Apply Guidance," was received by the White House Office of Management & Budget (OMB) May 7, according to the office's website.

One environmentalist not familiar with the document says it could be aimed at exploiting language in the 2005 ruling from the U.S. Court of Appeals for the 2nd Circuit,

*Waterkeeper Alliance v. EPA*. The case generally barred EPA from assuming CAFOs discharge but opened the door in a footnote to the agency creating a presumption that large CAFOs "actually" discharge and must therefore seek permits.

An EPA spokesman would not comment on the details of the guidance, saying in an e-mail response to questions that the guidance is "part of settlement on regulation litigation that is not yet public." The spokesman later added, "Developing guidance that provides additional explanation for how to implement regulations is a routine part of how EPA fulfills its responsibilities to carry out Clean Water Act programs."

Meanwhile, the agency is arguing in pending industry litigation in the 5th Circuit over the agency's 2008 CAFO rule, *National Pork Producers Council, et al. v. EPA, et al.*, that courts have granted agencies deference when making regulatory presumptions that, in this case, would require CAFOs to seek a permit.

"An agency need only articulate a rational basis for a regulatory presumption," the agency says in its March 1 brief, citing a 1997 ruling from the D.C. Circuit, *Chemical Manufacturers Association v. DOT*.

The brief generally argues that the livestock industry's argument in the case is essentially an attempt to avoid regulation. "The alternative regulatory regime envisioned by the petitioners is one in which CAFOs (and, presumably, any other point sources) avoid the scrutiny of the permit application process, avoid effluent limitations, avoid public review and participation, and thereby essentially avoid regulation of pollutant discharges altogether," EPA says.

As part of the litigation in the 5th Circuit, EPA is also negotiating a settlement with environmentalists that industry sources have expected would include new requirements governing pathogens -- a long-time concern for activists.

Another industry source raises concern that the guidance could be part of the settlement with environmentalists, which is due in early June. "The Obama administration is doing this kind of cloaked in secrecy and they're trying to do it right to the end so that we don't have time to object," the source says, "before they finalize the court agreement."

"It's really kind of a sneaky deal," the second industry source says, and accuses the administration of "trying to do it in a way that will hurt farmers and ranchers."

**Industry Reaction To Development Of Guidance**

Despite the pending settlement, industry stakeholders are especially piqued because they were not informed the draft guide was under development and say it violates the agency's policy for transparent and open actions. The source says industry officials were not informed of the document even though they met with EPA Administrator Lisa Jackson and Agriculture Secretary Tom Vilsack May 3, four day before OMB received it.

The source says industry stakeholders are “trying to get into OMB” for a meeting on the guidance.

But the environmentalist says activists “knew [EPA was] working on something” on CAFO permitting as part of ongoing settlement discussions between the agency and environmentalists who had sued EPA.

EPA also indicated in a separate settlement with environmentalists over CAFO discharges in the Chesapeake Bay that the agency will be developing new rules and guidance documents governing the facilities (*see related story*).

And the agency in February launched a new rulemaking to require smaller agricultural operations to apply for discharge permits and strengthen farms’ manure management plans in the Chesapeake Bay and possibly nationally as a way to reduce nutrient and sediment pollution that contaminates waterways, according to the agency’s list of new rulemakings.

At issue is EPA’s regulation governing discharges from CAFOs. A 2003 version of EPA’s rule put the onus on industry to demonstrate their facilities do not discharge or they must otherwise seek a permit. But the 2nd Circuit ruled in *Waterkeeper* that such an approach exceeds EPA’s statutory authority because Congress reserved EPA’s permitting authority for actual discharges and the agency must show that when requiring a permit.

“Because we find that EPA lacks statutory authorization to require potential dischargers to apply for [National Pollutant Discharge Elimination System (NPDES)] permits, we need not consider whether the record here supports the EPA’s determination that Large CAFOs may be reasonably be presumed to be such potential dischargers,” the court said in a footnote.

But the footnote hinted that EPA may have authority -- and an administrative record to support -- a presumption that large CAFOs “actually” discharge, which could allow the agency to require permits for the CAFOs.

“In our view, the EPA has marshaled evidence suggesting that such a prophylactic measure may be necessary to effectively regulate water pollution . . . given that Large CAFOs are important contributors to water pollution and that they have, historically at least, improperly tried to circumvent the permitting process.”

But the court said it had not considered whether EPA’s record supported such a presumption because the agency had not argued for such an outcome. “We also note that the EPA has not argued that the administrative record supports a regulatory presumption to the effect that Large CAFOs *actually* discharge. As such, we do not now consider whether, under the Clean Water Act as it currently exists, the EPA might properly presume that Large CAFOs -- or some subset thereof -- actually discharge,” the ruling said.

“The court invited EPA in a footnote to do a regulatory presumption,” the environmentalist source says. “I bet this is what [the guidance] is,” the environmentalist says.

And in its March 1 brief to the 5th Circuit, the agency argues for such a presumption, at least for enforcement purposes. “Where an unpermitted CAFO *actually discharges*, the circumstances of the discharge itself may be sufficient to establish a *prima facie* case that there was something inherent in the design, construction, operation or maintenance of the CAFO which made it inevitable that a discharge of pollutants to waters of the United States would occur,” the brief states.

Published online May 24, 2010

**EPA threatens to fine Promet Marine (*Providence Business News*)**

By Chris Barrett
PBN Staff Writer

PROVIDENCE – The U.S. Environmental Protection Agency is threatening to fine a Providence shipyard, alleging the business violated clean air and clean water laws.

The EPA said Monday that Promet Marine Services Corp. along Allens Avenue failed to secure the necessary permits before expanding its business and sent untreated runoff from its power-washing operations into the Providence River. The shipyard repairs Coast Guard, military and other marine vessels.

“Clearly we will be sitting down and discussing this with them and hopefully resolve our concerns and their concerns,” Proment Vice President Joel H. Cohen told Providence Business News on Monday.

Cohen, who owns the company along with his brother David, referred additional questions to the company’s lawyer, who was not immediately available for comment.

The EPA said Promet failed to apply for an operating permit required under the Clean Air Act and violated federal notification and recordkeeping rules. The EPA said it first issued a notice for violating the rules to Promet in June 2008 and gave the shipyard 120 days to comply. Promet came into compliance in November 2009 but still lacks required permits from the R.I. Department of Environmental Management, the EPA said.

Separately, the EPA said that prior to July 2008 the company discharged into the Providence River water runoff laden with copper, lead and zinc from hull washing and did so without a permit. The company has since installed a wastewater recycling system.

On Monday afternoon, Hugh Martinez, a senior enforcement counsel at the EPA's Boston office, said the potential fine could stretch into the millions of dollars. While the EPA has not calculated a specific fine, Martinez said the maximum penalty for violations under the Clean Water Act is $11,000 every day the violation occurs. The Clean Air Act brings maximum daily penalties up to $37,500.

"Some of these violations persisted for quite some time so you certainly can, by doing the math, multiply it out by very large numbers," Martinez said.

Martinez said Promet has 30 days to respond from when the EPA officially filed the complaint May 17. From there, the case will travel to EPA headquarters, which typically offers to work out a settlement with those facing violations, Martinez said. Alleged violators who fail to reach an agreement head to a formal hearing process.

In Providence, the Cohen brothers have been high-profile opponents of a city plan to rezone parts of the area to encourage a new mix of tourist-related uses. The brothers helped establish the Providence Working Waterfront Alliance, which has argued that the existing industry along the road provides good jobs and taxes for the city and the state.

The company also prevailed in a lengthy legal battle with the city in 2008 over its right to buy a waterfront parcel of land.

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